AA.000000009 (24)

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 16, 2008 at 7:00 P.M. in the City Council Chamber located at 194 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: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, Planning and Development Director; Mika Elliott, Police Chief; Chris Hollifield, Public Works Director; Freddie Killough, Executive Director, Marion Business Association; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Tripp Muldrow, Arnett Muldrow & Associates; Rex Wood 746 Rutherford Road, Marion, NC; Delores Cable 575 State Street, Marion, NC; Randy Hintz, P.E., McGill Associates, 55 Broad Street, Asheville, NC; Danny Bridges, P.E., McGill Associates, 55 Broad Street, Asheville, NC; Johnny Mann, Marion, NC; Laurie Kehler 743 Rutherford Road, Marion, NC; Kellie Duncan 1354 Worley Road, Marion, NC; Charmain Daum, 772 Rutherford Road, Marion, NC; Jim Brady 754 Rutherford Road, Marion, NC.

CONSENT AGENDA: Upon a motion by Councilman Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – September 2, 2008 Regular Session Minutes

B. Receive Certificate of Sufficiency – McDowell Tech Annexation Petition:

CERTIFICATE OF SUFFICIENCY – MCDOWELL TECHNICAL COMMUNITY COLLEGE - 2008

To the City Council of the City of Marion:

I, J. Robert Boyette, City Clerk, do hereby certify that I have 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 16th day of September, 2008.

(Seal)

J. Robert Boyette, City Clerk

C. Receive Certificate of Sufficiency – Marion Travel Plaza Satellite Annexation Petition:

CERTIFICATE OF SUFFICIENCY – MARION TRAVEL PLAZA SATELLITE ANNEXATION - 2008

To the City Council of the City of Marion:

I, J. Robert Boyette, City Clerk, do hereby certify that I have 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-58.1.

In witness whereof, I have hereunto set my hand and affixed the seal of the City of Marion this the 16th day of September, 2008.

AA.00000010 (24)

(Seal)

J. Robert Boyette, City Clerk

D. Approve Resolution Fixing the Date of Public Hearing on the Question of Annexation – McDowell Tech Annexation:

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31 – MCDOWELL TECHNICAL COMMUNITY COLLEGE - 2008

WHEREAS, a petition requesting annexation of the contiguous 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 contiguous area described herein will be held at City Hall at 7:00 P.M. on Tuesday, October 21, 2008.

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

BEGINNING on an iron pin in the Southern margin of the right-of-way for Interstate Highway No. 40 and in the Western margin of U.S. Highway No. 226, and running thence from said beginning point along and with the Western margin of Highway No. 226 the following courses and distances: South 50 degrees 12 minutes East 534.3 feet to nail; South 40 degrees 10 minutes East 259.42 feet to a stake; South 33 degrees East 192.82 feet to a stake; South 29 degrees 29 minutes East 630.5 feet to an iron pipe near a sign; thence leaving said highway South 56 degrees 30 minutes West 989.3 feet to a nail in the center line of the Clinchfield Railroad Company tracks; thence with the center line of said railroad track, North 35 degrees 45 minutes West 1,114.1 feet to a nail in a cross-tie, in Kanipe's line; thence along and with Kanipe's line the following courses and distances: North 27 degrees East 210.2 feet to a pipe; North 6 degrees 10 minutes West 140.3 feet to a stake in the right-of-way of Interstate Highway No. 40; thence along and with the right-of-way line of Interstate Highway No. 40, the following courses and distances: North 37 degrees 28 minutes East 111.4 feet to a stake; North 37 degrees East 120 feet to a stake; North 32 degrees 55 minutes East 146.7 feet to a concrete monument; North 33 degrees 27 minutes East 311.9 feet to the Beginning, containing 31.7 acres, more or less.

Section 3. Notice of the public hearing shall be published once 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 the 16th day of September, 2008.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-08-09-16-1

E. Approve Resolution Fixing the Date of Public Hearing on the Question of Annexation – Marion Travel Plaza Satellite Annexation – Sugar Hill Road:

RESOLUTION FIXING DATE OF PUBLIC HEARING

AA.000000011 (24)

ON QUESTION OF ANNEXATION PURSUANT TO G. S. 160A-58.1 – MARION TRAVEL PLAZA – 2008

WHEREAS, a petition requesting annexation of the contiguous 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 City Council of the City of Marion, North Carolina:

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 contiguous area described herein will be held at City Hall at 7:00 P.M. on Tuesday, October 21, 2008.

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

Being located on Sugar Hill Road (SR 1001). In the Marion Township of McDowell County, North Carolina as shown on that certain unrecorded plat of survey prepared by R. L. Greene Surveying and Mapping, dated October 3, 2001, Map #MM1-176-B and being more fully described as follows: BEGINNING on an existing iron pin located on the South side of Sugar Hill Road (SR 1001) having a bearing of N=214,281.547 meters, E=334,448.353 meters and NAD 83, a common corner of the property owned by Fred A. Staton and wife, (McDowell Deed Book 172, Page 601) and the beginning corner of Deed Book 609, Page 7, said existing iron pin also being located South 46 degrees 12 minutes 22 seconds West 1,845.136 feet from N.C.G.S. Monument "Sugar Hill" having a bearing of N=214,670.701 meters, E=334,854.244 meters and NAD 83 and a grid distance from the monument to said corner of 562.306 meters, and from said beginning, running with the Staton line the following courses and distances; South 10 degrees 42 minutes 20 seconds East 260.67 feet to an existing iron pin, South 10 degrees 42 minutes 20 seconds East 5.00 feet to a 25 inch pine tree marked as a corner (the third corner of Deed Book 609, Page 7) South 42 degrees 16 minutes 56 seconds East 5.00 feet to an existing iron pin and South 42 degrees 16 minutes 56 seconds East 145.42 feet to a 5/8 inch solid iron pin set, a new corner; thence with a new line South 58 degrees 07 minutes 49 seconds West 614.92 feet to a 5/8 inch solid iron pin set in the line of the property owned by Clifford Ford Miller and wife, (McDowell deed Book 334, Page 167), a new corner; thence with the Clifford Ford Miller line the following course for the following two (2) distances: North 25 degrees 46 minutes 20 seconds West 408.87 feet to an existing iron pin near the public telephones and North 25 degrees 46 minutes 20 seconds west 51.91 feet to an unmarked point of the Southern boundary line of Sugar Hill Road; thence with the Southern boundary line of Sugar Hill Road,. North 65 degrees 40 minutes 24 seconds East 38.00 feet to an unmarked point; thence leaving the Southern boundary of Sugar Hill Road, the following four (4) courses and distances; South 38 degrees 44 minutes 31 seconds East 54.92 feet to an unmarked point, North 72 degrees 43 minutes 12 seconds East 11.96 feet to an unmarked point, North 29 degrees 10 minutes 19 seconds East 30.50 feet to an unmarked point, and North 62 degrees 05 minutes 19 seconds East 155.66 feet to an unmarked point near a chain link fence; thence running along he chain link fence with runs parallel to the Southern edge of Sugar Hill Road, North 58 degrees 42 minutes 15 seconds East 396.94 feet to the point of BEGINNING, containing approximately 5.58 acres.

AND BEING the same lands described in that certain deed dated May 23, 2007, from Everest Holding, Inc., a North Carolina Corporation to Sugar Hill Enterprises, Inc., a North Carolina Corporation, recorded in the Office of the Register of Deeds for McDowell County, NC, to which reference is hereby made.

AA.000000012 (24)

Section 3. Notice of the public hearing shall be published once 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 the 16th day of September, 2008.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-08-09-16-2

F. Approve Memorandum of Understanding with McDowell Technical Community College Regarding Law Enforcement Services:

Memorandum of Understanding between City of Marion and McDowell Technical Community College Regarding Law Enforcement Services

The City of Marion (hereafter called "City") has received a petition for voluntary annexation from McDowell Technical Community College (hereafter called "College").. As part of approval of the annexation request, the Marion City Council desires to clearly define the law enforcement services to be provided by the City to the College. It is agreed by the City and College that:

1. As of the effective date of the annexation of the College, the City Police Department will respond to calls and emergency situations at the College in the same manner as any other property in the City Limits.

2. The City Police Department will attempt to patrol the area in the same manner as the rest of the City; however, no specific level of patrol is promised and City patrols will generally be restricted to public roads.

3. The College will maintain its private security, which will take care of patrols of the College day and night while classes and activities are held.

4. The College, through its private security, will attempt to handle calls and incidents and only call the City Police Department when sworn law enforcement is needed or required.

5. The City Police Department will not be responsible for enforcing College rules or administrative actions.

This Memorandum of Understanding is approved as of this the _____ day of _____, 2008, as evidenced by the signatures below.

CITY OF MARION:

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

MCDOWELL TECHNICAL COMMUNITY COLLEGE:

_____

AA.00000013 (24)

ATTEST:

_____

G. Adopt Ordinance Regarding Issuance of Civil Citations:

ORDINANCE
AMENDING CHAPTER 3
ANIMALS
MARION CITY CODE

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

Section 1. That Chapter 3, Animals, of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Section 2. Chapter 3 is amended by deleting Section 3-4.3 in its entirety and replacing it with the following:

Sec. 3-4.3. Determination of dangerous or potentially dangerous dog or cat; appeal.

(a) Upon receipt of a complaint or observation that a dog or cat may have exhibited one or behaviors listed under the definition for "Dangerous Dog" or "Potentially Dangerous Dog", as found in Section 3-1 of this Chapter, sufficient to designate such dog or cat as dangerous or potentially dangerous, the animal control officer shall investigate the specific charges. If the animal control officer determines that the dog or cat is dangerous or potentially dangerous, the owner of the dog or cat shall be notified in writing by certified mail, return receipt requested, or by personal service. The notice shall include a civil citation in accordance with the provisions of Sec. 1-10 – 1-10.17 of the City Code and state that the owner's dog or cat has been determined by the City to be dangerous or potentially dangerous, list the reasons for the determination and list the steps that must be taken under this ordinance, including confinement requirements listed under Section 3-5, for the animal to remain in the City. Upon receipt of the notice of determination, the owner may appeal the determination by filing a written appeal stating his or her objections to the determination with the City Manager within three (3) days. Upon receipt of the appeal, the City Manager shall schedule a hearing with the Dangerous Animal Appeals Board within a reasonable time at a Regular City Council meeting. The City Council shall render a decision upholding or overturning the determination of the animal control officer within sixty (60) days after receiving said appeal. Any appeal from the City Council shall be taken to Superior Court, in accordance with N.C.G.S. 67-4.1(c).

(b) Upon receipt of a complaint or observation that a dog or cat previously determined to be dangerous or potentially dangerous may have again exhibited one or behaviors listed under the definition for "Dangerous Dog" or "Potentially Dangerous Dog" as found in Section 3-1 of this Chapter, or has been found at large in violation of Section 3-4 of this Chapter, the animal control officer shall investigate the charges. If the animal control officer determines that a dog or cat previously determined to be dangerous or potentially dangerous has again exhibited one or behaviors listed under the definition for "Dangerous Dog" or "Potentially Dangerous Dog" as found in Section 3-1 of this Chapter, or has been found at large in violation of Section 3-4 of this Chapter, the animal control officer shall issue a civil citation in accordance with the provisions of Sec. 1-10 – 1-10.17 of the City Code and transfer and impound the animal at the shelter designated as the McDowell County Animal Shelter. The police department will notify the owner of any animal transferred to the animal shelter, if the animal has a collar on which is written the name, address and phone number of the owner. The owner will not permitted to keep the animal within the City Limits of the City of Marion at any point in the future.

State law reference(s)—Dangerous Dogs, G.S. § 67-4.1 et seq.

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 16th day of September, 2008.

A. Everette Clark, Mayor

ATTEST:

AA.00000014 (24)

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-08-09-16-1

PUBLIC HEARING – ZONING MAP AMENDMENT:
Mayor Clark opened the Public Hearing.

Planning and Development Director Heather Cotton advised that a request had been submitted by Kehler Properties LLC to rezone property located at 734 Rutherford Road from R-2 General Residential to C-2 General Business. The property is contiguous to existing C-2 areas. Ms. Cottton stated that the property for which the rezoning is being requested is located on a main thoroughfare making it an ideal location to operate a business. The surrounding area has a mixture of commercial, industrial and residential uses. Ms. Cotton stated that, recently, residential and other surrounding properties have been converted or are being developed into commercial uses. The property is located in an area that has been identified on the Comprehensive Land Use Map as being developed into commercial. The commercial land use designation is not likely to change with future updates to the Comprehensive Land Use Plan.

Ms. Cotton advised that the Planning Board met on September 4 and unanimously recommended the approval of the request.

The following are graphic illustrations identifying both the existing and proposed zoning designations for the subject property.

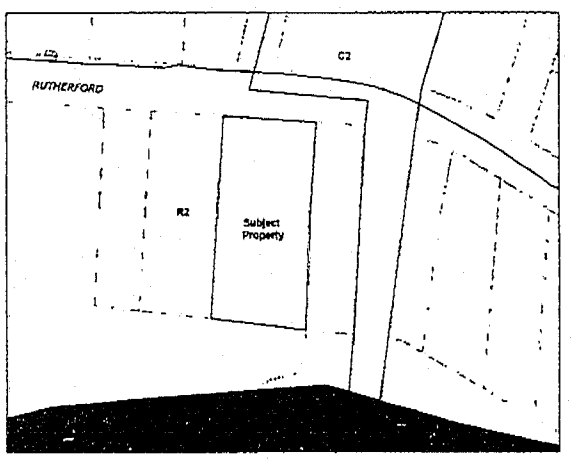


Figure One: Current Zoning

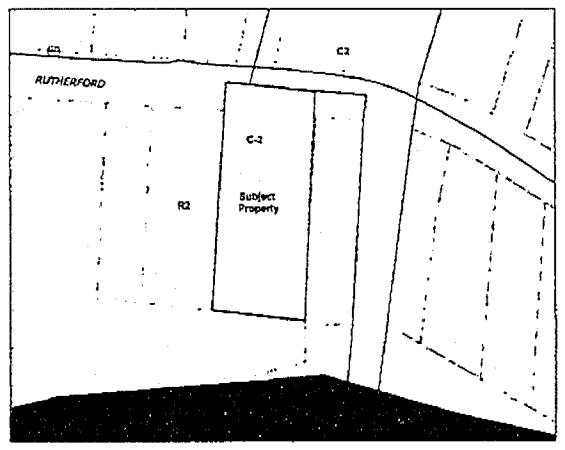


Figure Two: Proposed Zoning

There were several contiguous property owners present for this meeting.
Mr. Jim Brady of 772 Rutherford Road and Mr. Rex Wood of 746 Rutherford Road spoke and stated their support for the rezoning request and the opportunity for additional commercial development in the area.

Mayor Clark stated that the City has a Land Use Plan and that this request is moving the City toward the desired land use for Rutherford Road, which is commercial.

Mayor Clark closed the Public Hearing

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Ordinance amending Chapter 21 Zoning of the Marion City Code as follows:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE

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

AA.00000015 (24)

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2. The City of Marion is amending the Official Zoning District Map for property located 734 Rutherford Rd, and having the PIN 1701.00-84-8973 from the R-2 General Residential Zoning District to the C-2 General Business Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing on September 4, 2008.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective upon its adoption.

Adopted this the 16th day of September 2008.

A. Everette Clark
Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-08-09-16-2

PRESENTATION OF MARKETING AND BRANDING STUDY – ARNETT MULDROW: Ms. Freddie Killough, Executive Director of the Marion Business Association, advised that the City had contracted with Arnett Muldrow & Associates to complete a Marketing and Branding Study for the City. This study was funded with planning money from the N.C. STEP Program. Ms. Killough introduced Mr. Tripp Muldrow to present the results of the study.

Marion, NC
Market Study Findings

May 15, 2008

Mr. Muldrow gave a presentation as follows: ARNETTMULDROW & ASSOCIATES

AA.00000016 (24)

This Morning's Presentation

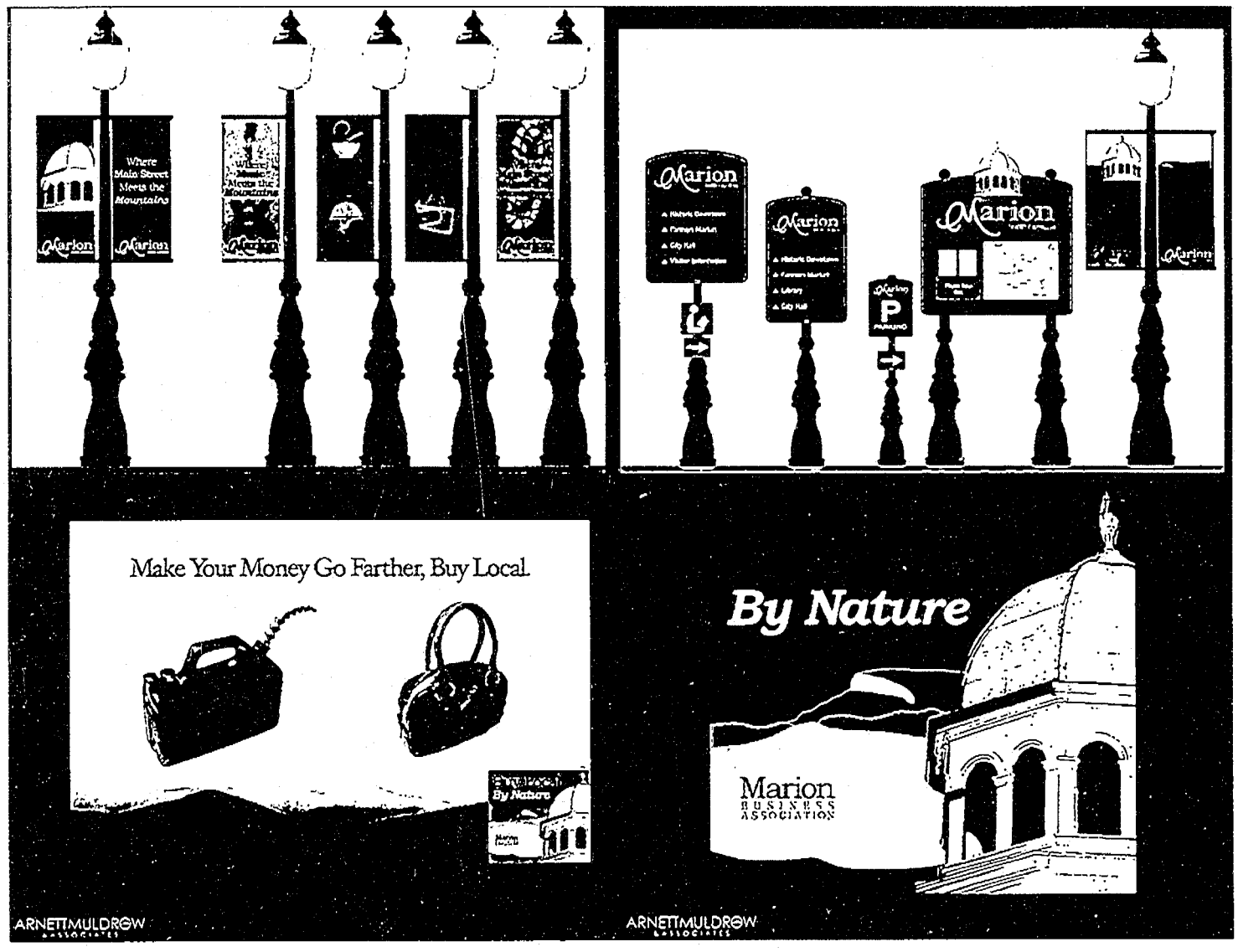
- *Zip Code Results*
- *Market Definition*
- *Trade Area Definition*
- *Retail Leakage Study*
- *Preliminary Opportunities*

ARNETTMULDROW

Market Analysis - Zip Code Survey

- *Survey Held Late February*
- *18 Businesses tallied*
- *1379 Recorded Visits*
- *59 Unique American Zip Codes*
- *12 Unique States*

ARNETTMULDROW



AA.000000017 (24)





Recommendations

- *Present the findings of this Market Study to groups in the community and region.*
- *Consider incentive package for retention/recruitment.*
  - *Façade Grant*
  - *Loan guarantees*
  - *Revolving loan*
- *Consider visit to ICSC.*
- *Consider catalyst projects for retail development:*
  - *Retail/arts incubator*
  - *Meeting facilities to drive traffic to the community*
  - *Farmers Market*

ARNETTMULDROW ASSOCIATES

The Co-Op Program

- *Matching "allocation" for ads that use the Marion brand style (we need to discuss amounts)*
- *Coordinated media buys twice yearly to avoid the door-to-door sales pitch.*
- *Tracking devices (not discounts) to check progress (particularly important to reconnect to markets that are targets)*

ARNETTMULDROW ASSOCIATES

Guerrilla Marketing Tactics

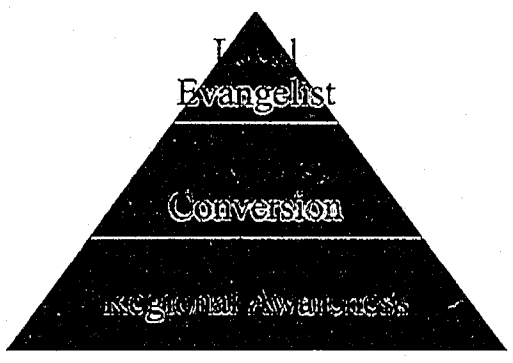
- *Work directly with the local developers to ensure that the community is promoted.*
- *Specific promotion of stores that are open on Sundays and late hours.*
- *Leverage dollars through co-op advertising program.*

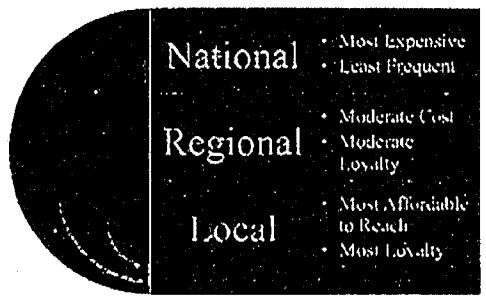
ARNETTMULDROW ASSOCIATES

Recommendations

- *Launch a cooperative advertising program.*
- *Develop guerilla marketing tactics.*
- *Provide business consultation services for existing businesses.*
- *Host quarterly retail roundtable.*

ARNETTMULDROW ASSOCIATES





Recommendations

- *Reinforce local loyalty campaign*
- *Create a shop local web site with downtown brand.*
- *Develop a banner program using the brand.*
  - *Focus on gateways and outlying districts*
- *Use brand for wayfinding system directing visitors to shopping districts.*
- *Develop shopping and dining guide using the brand.*

ARNETTMULDROW & ASSOCIATES

Key Opportunities

- *Furniture and Home Furnishings*
- *Clothing*
- *Gifts*
- *Books*
- *Jewelry*
- *Sporting Goods*
- *Full Service Dining*

ARNETTMULDROW & ASSOCIATES

Three Strategies for Marion

- Setting the Stage: Putting the Br...
- Retaining the Customer: Existing Busines...
- Expanding for the Future: Recruitme...

ARNETTMULDROW & ASSOCIATES

Secondary Trade Area

	Demand (Consumer Expenditures)	Supply (Retail Sales)	Opportunity Gap/Surplus
Sporting Goods, Hobby, Book, Music Stores-451	3,540,237	713,152	2,827,085
Sporting Goods, Hobby, Musical Inst Stores-4511	3,046,174	676,057	2,370,117
Sporting Goods Stores-45111	1,339,765	172,957	1,166,808
Hobby, Toys and Games Stores-45112	1,060,231	427,062	633,169
Sewing/Needlework/Piece Goods Stores-45113	313,775	0	313,775
Musical Instrument and Supplies Stores-45114	332,403	113,038	219,365
Book, Periodical and Music Stores-4512	493,547	36,094	457,453
Book Stores and News Dealers-45121	535,426	0	535,426
B. A. Stores-451211	541,617	0	541,617
News Dealers and Newsstands-451212	43,809	0	43,809
Prerecorded Tape, CD, and Record Stores-45122	316,653	112,114	204,539
General Merchandise Stores-452	14,137,551	6,245,391	7,892,160
Department Stores Excl Leased Depts-4521	11,711,376	0	11,711,376
Other General Merchandise Stores-4529	14,435,652	6,245,391	8,190,261
Warehouse Club and Supercenters-45291	12,945,174	8,251,376	4,693,798
All Other General Merchandise Stores-45299	1,490,478	1,794,985	-304,507
Miscellaneous Store Retailers-453	6,163,033	1,671,741	4,491,292
Florists-4531	411,672	59,072	352,600
Office Supplies, Stationery, Gift Stores-4532	2,395,597	0	2,395,597
Office Supplies and Stationery Stores-45321	1,381,419	0	1,381,419
Gift, Novelty and Souvenir Stores-45322	999,668	0	999,668
Used Merchandise Stores-4533	451,235	0	451,235
Other Miscellaneous Store Retailers-4539	2,904,529	1,612,669	1,291,860
Food Services and Drinking Places-722	10,902,859	4,676,376	6,226,483
Full Service Restaurants-7221	9,052,581	2,287,707	6,764,874
Limited Service Eating Places-7222	6,421,936	1,763,631	4,658,305
Special Foodservices-7223	1,025,274	0	1,025,274
Drinking Places -Alcoholic Beverages-7224	378,297	0	378,297

ARNETTMULDROW & ASSOCIATES

Secondary Trade Area

	Demand (Consumer Expenditures)	Supply (Retail Sales)	Opportunity Gap/Surplus
Food and Beverage Stores-445	37,077,004	9,227,267	19,349,799
Grocery Stores-4451	25,288,097	8,140,104	17,150,047
Supermarkets, Grocery (Ex Conv) Stores-44511	23,909,642	4,929,128	17,980,460
Convenience Stores-44512	1,378,542	1,210,976	167,566
Specialty Food Stores-4452	928,562	549,153	439,409
Beer, Wine and Liquor Stores-4453	1,799,531	0	1,799,531
Health and Personal Care Stores-446	10,911,791	3,117,448	7,811,343
Pharmacies and Drug Stores-44611	7,...,...	3,117,448	6,118,037
Cosmetics, Beauty Supplies, Perfume Stores-44612	475,103	0	475,103
Optical Goods Stores-44613	340,839	0	340,839
Other Health and Personal Care Stores-44619	847,109	0	847,109
Clothing and Clothing Accessories Stores-448	7,...,...	...,...	6,...,...
Clothing Stores-4481	6,260,296	52,457	6,207,839
Men's Clothing Stores-44811	414,791	0	414,791
Women's Clothing Stores-44812	1,597,972	0	1,597,972
Children's/Infants' Clothing Stores-44813	482,156	51,257	430,899
Family Clothing Stores-44814	3,391,743	0	3,391,743
Clothing Accessories Stores-44815	182,611	71,257	111,747
Other Clothing Stores-44819	410,899	0	410,899
Shoe Stores-4482	1,311,969	0	1,311,969
Jewelry, Luggage, Leather Goods Stores-4483	1,468,435	0	1,468,435
Jewelry Stores-44831	966,156	0	966,156
Luggage and Leather Goods Stores-44832	92,279	0	92,279

ARNETTMULDROW & ASSOCIATES

Secondary Trade Area

	Demand (Consumer Expenditures)	Supply (Retail Sales)	Opportunity Gap/Surplus
Total Retail Sales Incl Eating and Drinking Places	142,065,761	44,218,543	(97,847,218)
Furniture and Home Furnishings Stores-442	5,535,555	159,984	(5,375,571)
Furniture Stores-4421	2,687,129	0	(2,687,129)
Home Furnishings Stores-4422	2,847,430	159,984	(2,687,446)
Electronics and Appliance Stores-443	4,782,192	0	(4,782,192)
Appliances, TVs, Electronics Stores-44311	3,715,392	0	(3,715,392)
Household Appliances Stores-443111	892,121	0	(892,121)
Radio, Television, Electronics Stores-443112	2,823,271	0	(2,823,271)
Computer and Software Stores-44312	889,021	0	(889,021)
Camera and Photographic Equipment Stores-44313	177,819	0	(177,819)
Building Material, Garden Equip Stores-444	9,481,301	20,942,795	(5,771,494)
Building Material and Supply Dealers-4441	24,119,205	16,337,517	(7,781,688)
Home Centers-44411	8,958,919	6,199,130	(2,759,789)
Paint and Wallpaper Stores-44412	574,317	0	(284,317)
Hardware Stores-44413	4,729,734	0	(1,729,734)
Other Building Materials Dealers-44419	12,756,135	17,731,327	(4,975,192)
Building Materials, Lumberyards-444191	4,233,193	6,939,605	(1,906,256)
Lawn, Garden Equipment, Supplies Stores-4442	2,295,528	2,305,678	(10,050)
Outdoor Power Equipment Stores-44421	1,196,941	0	(1,196,941)
Nursery and Garden Centers-44422	1,915,555	2,305,678	(390,123)

ARNETTMULDROW & ASSOCIATES

Primary Trade Area

	Demand (Consumer Expenditures)	Supply (Retail Sales)	Opportunity Gap/Surplus
General Merchandise Stores-452	59,289,733	46,017,314	(13,272,419)
Department Stores Excl Leased Depts-4521	22,350,044	16,112,077	(6,237,967)
Other General Merchandise Stores-4529	27,957,709	29,905,255	(1,947,546)
Warehouse Clubs and Super Stores-45291	24,239,518	19,432,255	(4,807,263)
All Other General Merchandise Stores-45299	3,718,191	10,473,000	(6,754,809)
Miscellaneous Store Retailers-453	11,625,592	5,168,736	(6,456,856)
Florists-4531	785,767	221,938	(563,829)
Office Supplies, Stationery, Gift Stores-4532	4,396,583	2,924,996	(1,471,587)
Office Supplies and Stationery Stores-45321	2,510,170	2,459,000	(51,170)
Gift, Novelty and Souvenir Stores-45322	1,886,213	465,596	(1,420,617)
Used Merchandise Stores-4533	856,932	277,686	(579,246)
Other Miscellaneous Store Retailers-4539	5,584,534	1,716,516	(3,868,018)
Foodservices and Drinking Places-722	38,981,799	29,334,766	(9,647,033)
Full-Service Restaurants-7221	17,692,566	6,451,707	(11,240,859)
Limited-Service Eating Places-7222	16,409,041	10,029,981	(6,379,060)
Special Foodservices-7223	3,169,737	2,854,998	(314,739)
Drinking Places -Alcoholic Beverages-7224	1,710,451	0	(1,710,451)

ARNETTMULDROW & ASSOCIATES

Primary Trade Area

	Demand (Consumer Expenditures)	Supply (Retail Sales)	Opportunity Gap/Surplus
Health and Personal Care Stores-446	25,713,111	35,412,607	(9,699,496)
Pharmacies and Drug Stores-44611	23,420,801	34,727,547	(11,306,746)
Cosmetics, Beauty Supplies, Perfume Stores-44612	553,053	70,000	(483,053)
Optical Goods Stores-44613	646,563	0	(646,563)
Other Health and Personal Care Stores-44619	1,092,691	615,060	(477,631)
Clothing and Clothing Accessories Stores-448	16,246,301	8,095,615	(8,150,686)
Clothing Stores-4481	11,761,542	8,511,332	(3,250,210)
Men's Clothing Stores-44811	781,934	0	(781,934)
Women's Clothing Stores-44812	2,791,413	1,453,497	(1,337,916)
Children's, Infants' Clothing Stores-44813	726,563	1,075,636	(349,073)
Family Clothing Stores-44814	6,402,210	0	(6,402,210)
Clothing Accessories Stores-44815	546,692	189,431	(357,261)
Other Clothing Stores-44819	762,603	121,513	(641,090)
Shoe Stores-4482	2,405,343	1,929,001	(476,342)
Jewelry, Luggage, Leather Goods Stores-4483	1,973,013	1,511,782	(461,231)
Jewelry Stores-44831	1,801,445	629,588	(1,171,857)
Luggage and Leather Goods Stores-44832	171,734	0	(171,734)
Sporting Goods, Hobby, Book, Music Stores-451	6,729,333	1,704,726	(5,024,607)
Sporting Goods, Hobby, Musical Inst Stores-4511	5,004,941	627,129	(4,377,812)
Sporting Goods Stores-45111	2,533,951	291,513	(2,242,438)
Hobby, Toys and Games Stores-45112	1,939,950	0	(1,939,950)
Sewing/Needlework/Piece Goods Stores-45113	396,392	76,592	(319,800)
Musical Instruments and Supplies Stores-45114	456,103	56,618	(399,485)
Book, Periodical and Music Stores-4512	1,724,392	1,077,597	(646,795)
Book Stores and News Dealers-45121	1,126,024	613,501	(512,523)
Book Stores-451211	1,030,583	613,501	(417,082)
News Dealers and Newsstands-451212	95,493	0	(95,493)
Prerecorded Tape, CD, Record Stores-45122	598,419	464,101	(134,317)

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plan. preserve. promote.

Primary Trade Area

	Demand (Consumer Expenditures)	Supply (Retail Sales)	Opportunity Gap/Surplus
Total Retail Sales Incl Eating and Drinking Places	272,244,726	241,891,699	(30,352,727)
Furniture and Home Furnishings Stores-442	10,444,606	4,597,634	(5,846,972)
Furniture Stores-4421	5,076,620	2,253,597	(2,823,023)
Home Furnishings Stores-4422	4,759,576	2,684,027	(2,075,549)
Electronics and Appliance Stores-443	9,126,197	4,230,697	(4,895,499)
Appliances, TVs, Electronics Stores-44311	7,107,391	967,000	(6,140,391)
Household Appliances Stores-443111	1,702,000	0	(1,702,000)
Radio, Television, Electronics Stores-443112	5,405,391	967,000	(4,438,391)
Computer and Software Stores-44312	1,697,436	462,992	(1,234,444)
Camera and Photographic Equipment Stores-44313	333,370	0	(333,370)
Building Material, Garden Equip Stores-444	45,717,164	22,481,770	(23,235,394)
Building Material and Supply Dealers-4441	44,519,367	22,613,713	(21,905,654)
Home Centers-44411	16,163,153	0	(16,163,153)
Paint and Wallpaper Stores-44412	1,672,725	0	(1,672,725)
Hardware Stores-44413	3,231,072	0	(3,231,072)
Other Building Materials Dealers-44419	23,452,417	22,613,713	(838,704)
Building Materials, Lumberyards-444191	7,770,421	5,054,135	(2,716,286)
Lawn, Garden Equipment, Supplies Stores-4442	4,201,997	2,815,667	(1,386,330)
Outdoor Power Equipment Stores-44421	692,322	253,000	(439,322)
Nursery and Garden Centers-44422	3,509,675	2,562,667	(947,008)
Food and Beverage Stores-445	54,463,703	21,222,870	(33,240,833)
Grocery Stores-4451	43,394,346	10,153,143	(33,241,203)
Supermarkets, Grocery (Ex Conv) Stores-44511	40,827,660	39,076,109	(1,751,551)
Convenience Stores-44512	2,567,686	2,563,753	(3,933)
Specialty Food Stores-4452	1,919,935	1,076,629	(843,306)
Beer, Wine and Liquor Stores-4453	5,149,422	0	(5,149,422)

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Downtown Trade Area Statistics

- *PTA Selected Store Sales $241.8 million*
- *PTA Consumers spent $272.3 million*
- *Marion Primary Trade Area is LEAKING $30.5 million annually overall each year.*
- *STA Store Sales $47.2 million*
- *STA Consumers spend $142.1 million*
- *Secondary Trade Area is LEAKING sales in the amount of $94.8 million each year.*
- *Combined the two trade areas are LEAKING: $125.3 million annually.*

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Retail Leakage Study

A study to establish the retail dollars leaving or entering a community from its primary and secondary trade areas. This is more art than science.

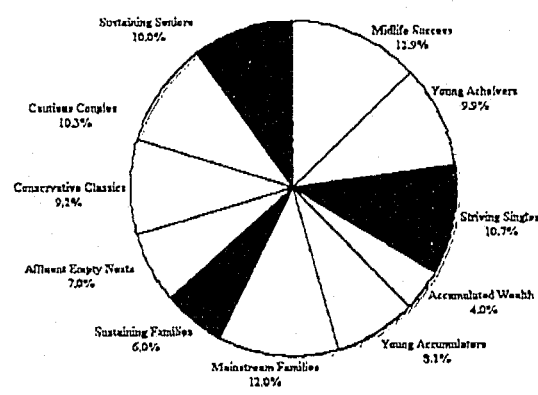
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Some Preliminary Observations

- *Strong local shopping among the strongest we have seen.*
- *Significant drop in customer loyalty as we move from the city limits.*
- *Relatively small visitor traffic.*
- *Income levels are OK... not overly impressive.*

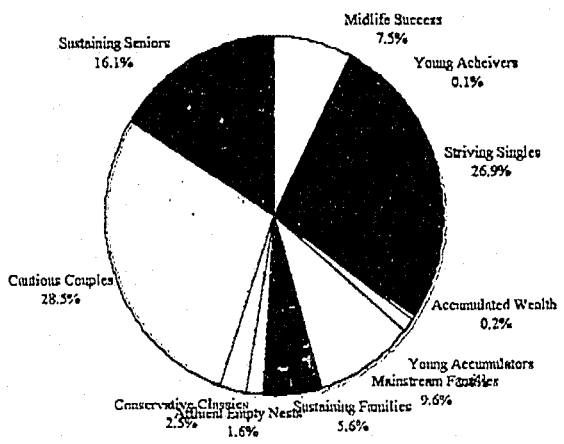
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Market Segmentation USA



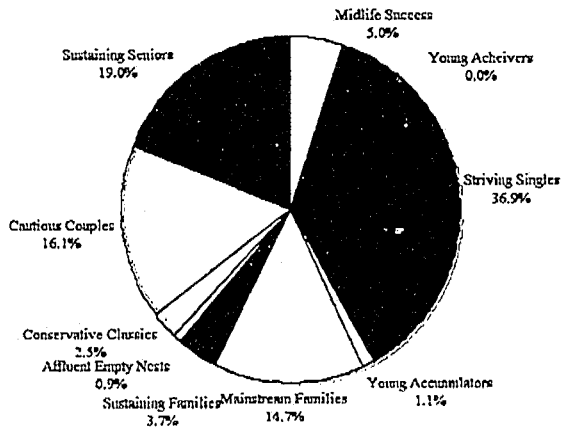
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Market Segmentation STA



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Market Segmentation PTA



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Population STA

- ***15,192*** ***2012 Projection***
- ***14,658*** ***2007 Estimate***
- ***13,932*** ***2000 Census***
- ***11,316*** ***1990 Census***

- ***3.64%*** ***Growth 2007-2012***
- ***5.21%*** ***Growth 2000-2007***
- ***23.12%*** ***Growth 1990-2000***

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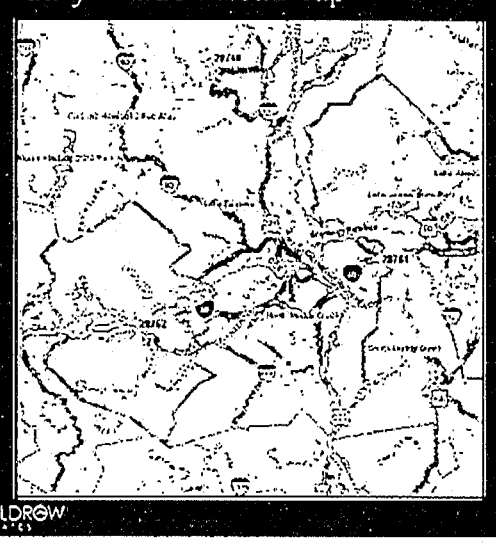
Population PTA

- ***29,749*** ***2012 Projection***
- ***29,378*** ***2007 Estimate***
- ***28,751*** ***2000 Census***
- ***24,745*** ***1990 Census***

- ***1.26%*** ***Growth 2007-2012***
- ***2.18%*** ***Growth 2000-2007***
- ***16.19%*** ***Growth 1990-2000***

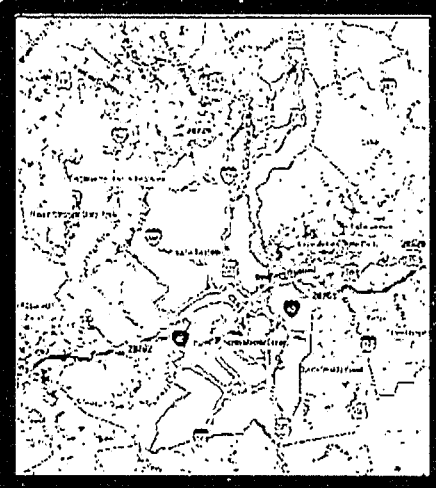
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Secondary Trade Area Map



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Primary Trade Area Map

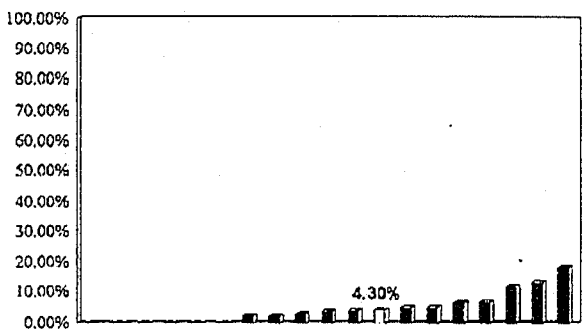


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The Trade Area Definition

Zip	Area	Population	Visits	Visits/1000 Pop
28752	Marion	29,894	950	31.78
28762	Old Fort	6,543	133	20.33
28761	Nebo	7,919	147	18.56
28167	Union Mills	2,933	19	6.48
28777	Spruce Pine	9,794	12	1.23
28655	Morganton	57,487	41	0.71
28752 In	Marion	7,079	349	49.30
28752 Out	Marion	22,815	592	25.95

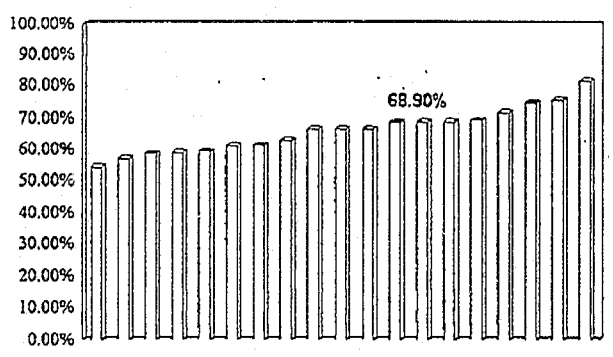
Percent "Visitor" by Business



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Percent Marion Zip Code by Business

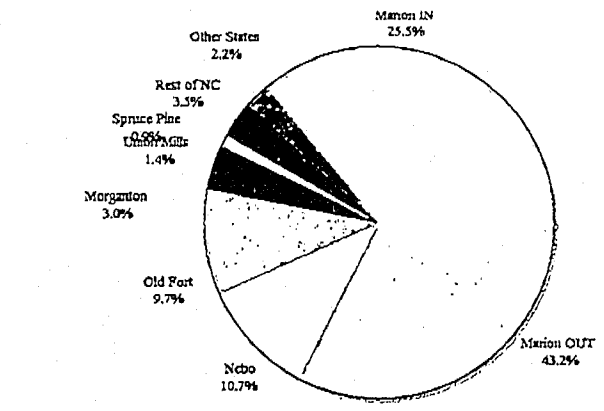


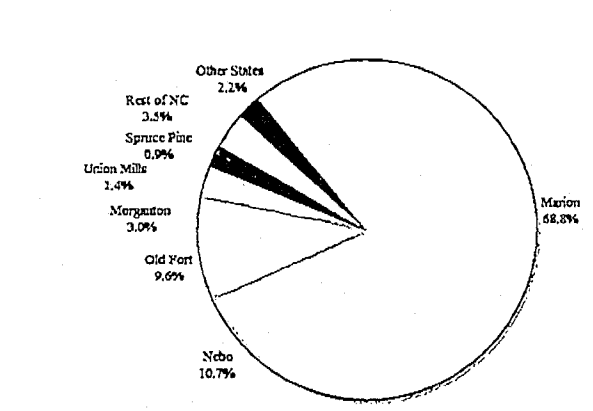
Percent Marion City by Business

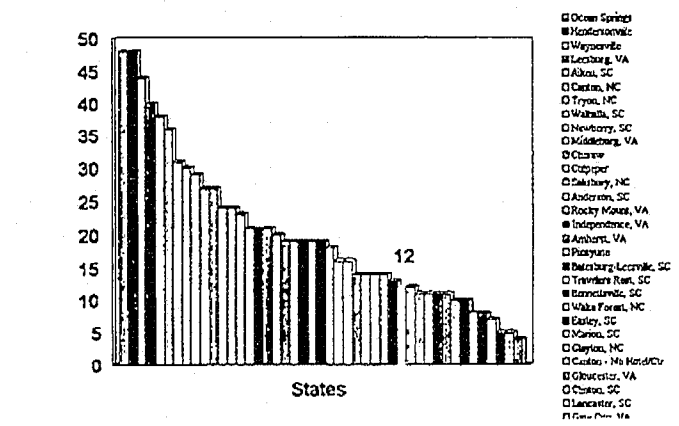
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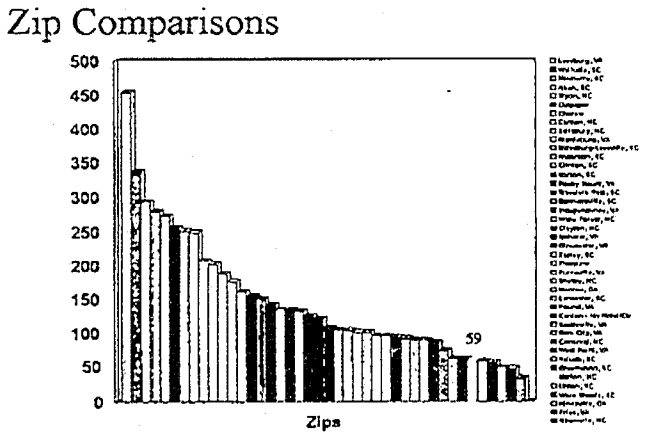
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Councilman Edwards asked if Mr. Muldrow how we would recommend that the City go about implementing the results of the Study. Mr. Muldrow stated that, while working in Marion, he felt a great sprit that he has not seen in other cities. Mr. Muldrow stated that he believes that the current N.C. STEP Program Committee is well equipped to help implement the Study. Mr. Muldrow mentioned the Depot, MACA and the Tailgate Market as tremendous assets that give the City a great start toward achieving even more economic success in the Downtown area.

The City Manager added that the N.C. STEP Program Committee would be presenting recommendations to Council in October regarding the use of the $200,000 Rural Center grant as part of the N.C. STEP Program and that many of the recommendations involved implementing facets of the Marketing and Branding Study.

Mayor Clark asked how we the City can attract visitors.

Mr. Muldrow stated that the City needs to take care of the locals first, since they represent the vast majority of local retail sales, and the visitors will then come.

Councilman Edwards stated that there are a lot of things happening in Marion, including the recent passage regarding liquor by the drink by the City voters. He stated that many businesses are weighing whether to offer malt and mixed beverages, based on some negative feedback from the public as well as threats of boycotts of specific businesses. Councilman Edwards asked Mr. Muldrow how businesses could deal with such prospects. Mr. Muldrow stated that current establishments expanding their beverage offerings probably run a greater risk or scrutiny and boycott than new establishments coming to Marion. He added that every location is different and that businesses ultimately must make the best choice based on their individual situation.

Mayor Clark stated that the Study clearly shows retail leakage out of the community. He advised that there are many items that everyone goes out of town to buy, because the items are not offered locally. Mayor Clark suggested that most people would buy items locally if they were available,

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particularly given high gas prices. Mr. Muldrow stated that the Mayor was correct and that this should be an important part of the local marketing strategy.

A citizen present during this discussion, Ms. Charmain Daum, stated that as a new community member, she has found Marion to be a close knit community. She said she has lived there for three years and has just recently found a map to assist them with what Marion and McDowell County have to offer.

No action was taken or required on this matter by Council.

UPDATE ON WASTEWATER IMPROVEMENTS PROJECT – McGILL ASSOCIATES:

The City Manager advised that the City embarked a few years ago on a project to make $6.1 million in improvements and repairs to the City's Wastewater Treatment System. The City Manager stated that these improvements were necessary, to avoid State fines and a possible moratorium on new wastewater connections. He added that the City has been very successful in obtaining $4 million in grant funds, as well as up to $3.162 million in State low interest loans, to fund the project. The City Manager stated that Randy Hintz and Danny Bridges of McGill Associates were here to give an update of the status of this major project.

Mr. Hintz gave an update on the Wastewater Improvements Project status as follows:

PRELIMINARY AND FUNDING PHASE (2005 – 2007)

_ Sewer Collection System Flow Monitoring and Smoke Testing
_ Wastewater Treatment Plant Evaluations
_ Special Orders by Consent (SOC) for Corpening Creek WWTP and Catawba River WWTP (September 2006, and May 2007 respectively)
_ Grant Applications – Clean Water Management Trust Fund (CWMTF) and North Carolina Rural Center
_ State Revolving Fund (SRF) Loan Application
_ Preliminary Engineering Reports

DESIGN AND REGULATORY APPROVAL PHASE (2007 – Current)

_ Sewer Collection System Rehabilitation Project: Design and Construction: Substantially Complete (SOC completion date: June 1, 2008)
_ Minor Improvements and Operational Modifications to Corpening Creek WWTP: Substantially Complete (SOC completion date: October 1, 2008)
_ Post-Construction Flow Monitoring: In progress
_ Catawba River WWTP Pump Stations and Force Main, and abandonment of Catawba River WWTP: Design Review by NCDWQ- Construction Grants & Loans Section in progress
_ Corpening Creek WWTP - Major Improvements: Design Review by NCDWQ-Construction Grants & Loans Section in progress

Mr. Hintz gave the following schedule for implementing the remainder of the project:

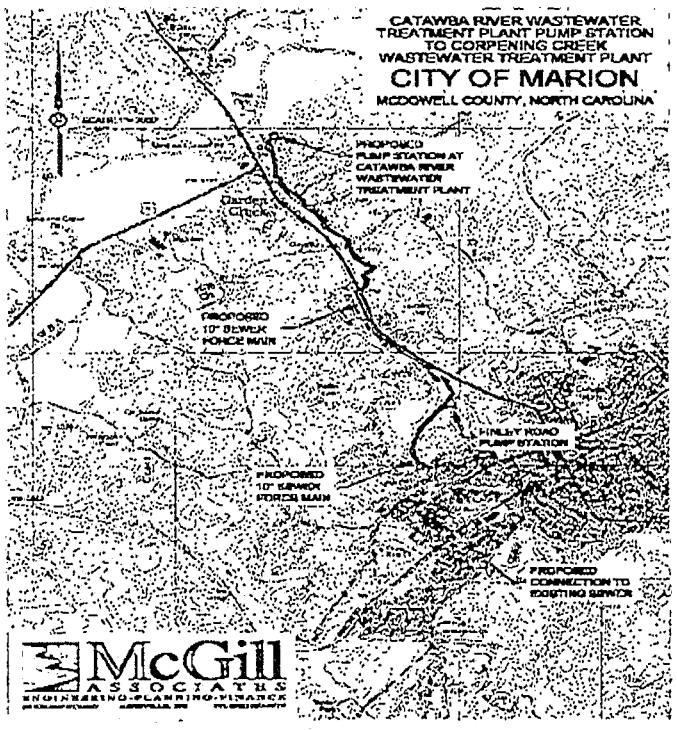
December 2008	Receive Plan Approval from NCDENR
December 2008	Advertise for Bids
January 2009	Receive Bids for Improvements/Award Construction Contracts
January 1, 2009	Achieve Compliance with Permit Limits at Corpening Creek WWTP
February 1, 2009	Begin Construction of Catawba River Pump Stations & force Main Improvements
February 2009	Begin Construction of Major Improvements – Corpening Creek WWTP

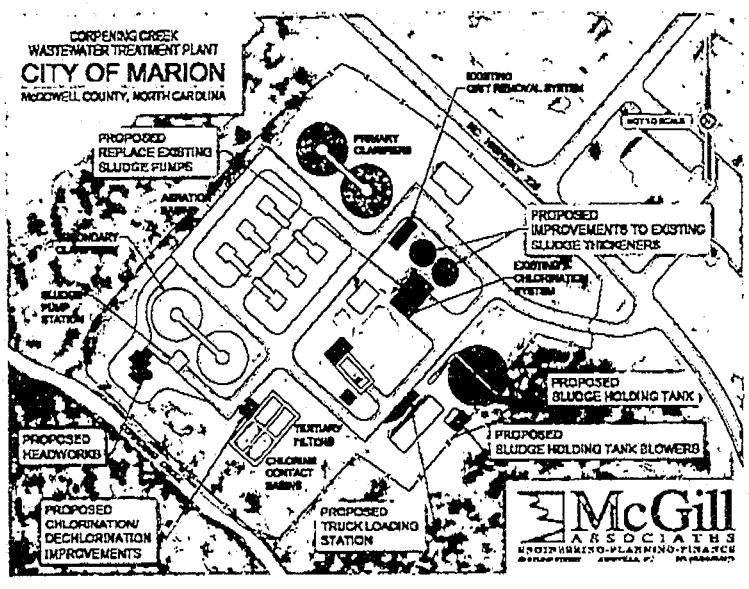
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January 2010	Complete Construction of Major Improvements – Corpening Creek WWTP
February 1, 2010	Complete Construction of Catawba River Pump Stations & Force Main Improvements
August 31, 2010	Rescind NPDES Permit for Catawba River WWTP

Project Revenues and Expenditures:

Estimated Project Cost	**$6,162,000.00**
Available Project Funding	
Clean Water Management Trust Fund Grant	$3,000,000.00
NC Rural economic Development Center Grant	$1,000,000.00
Low Interest State Revolving Fund Loan	$3,162,000.00
Total Project Funding Available	**$7,162,000.00**





Mayor Pro Tem Little stated that he had concerns about the City meeting the January 1, 2009 deadline for compliance with permit limits at the Corpening Creek Plant.

Mr. Hintz stated that the January date will absolutely not be a problem, as almost all of the work involved with meeting the permit limits at the Corpening Creek Plant has been completed. The City Manager added that much of the work planned for the Corpening Creek Plant is to accommodate the receipt of additional flow from the Catawba Plant and to modernize the Plant and that the threshold for meeting permit requirements at Corpening Creek was low and mainly

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involved some minor repairs as well as work to reduce inflow and infiltration in wastewater collection lines.

The City Manager stated that the City has been waiting to sign the low interest loan contract, due to a two percent closing fee being charged by the State on the loan. The City Manager asked Mr. Hintz to notify him as soon as he has a good comfort level of what contract prices may be so that the loan contract can be signed. The City Manager said that the receipt of the loan money is vital to avoid a possible cash flow problem in the Water and Sewer Fund.

The City Manager stated that City staff, particularly Public Works Director Chris Hollifield and Wastewater Treatment Superintendent Larry Carver, have worked closely with McGill on this project and that he appreciates their efforts. The City Manager stated that the completion of the project will be a welcome relief to staff.

Mr. Carver stated that the project is going well so far and that all plans and work are falling into place. Mr. Hintz stated that City staff, particularly Mr. Carver, have worked with McGill to provide input and that their information is valuable regarding what will work and what will not for the City of Marion.

Mayor Clark and Council members thanked Mr. Hintz and Mr. Bridges for updating Council about this project.

No action was taken or required on this matter by Council.

CONSIDER APPROVAL OF PERMIT TO OPERATE GAME ROOM AND POOL TABLES – GOOD TIMES FAMILY FUN CENTER: The City Manager stated that Ms. Monica Kellie Duncan has applied for a permit to operate the Good Times Family Fun Center in the former Fun Time Factory location in the Marion Manufacturing Facility on Baldwin Avenue. The business will have 3-4 pool tables and about 60 games. The City Manager advised that the City Code requires approval of a permit by City Council before a game room and/or establishment with pool tables can be opened. He added that a Criminal history check is required for this type of application and came back clean on Ms. Duncan.

Council was presented with a copy of the City's Pool Room/Game Ordinance for review.

Ms. Duncan appeared before Council and stated that she has worked with youth for many years and feels that this is an opportunity to work with them on a daily basis. As mother of three boys, Ms. Duncan stated that she struggles with where to take her children. Ms. Duncan presented Council with a Mission Statement she had prepared for the business that read as follows:

To provide the youth of McDowell County, a safe, smoke free, alcohol free and drug free environment, to gather for the purposes of entertainment, as well as provide a family friendly atmosphere for parents to plan and execute children's birthday parties. This center will be adequately supervised to maintain a reputable family fun center within the community, as well as to provide a place of "Good Times" for all ages.

Ms. Duncan stated that Mr. Ford Miller, owner of the Marion Manufacturing property, is assisting with the opening of this establishment and that she would be the manager. Ms. Duncan said that she hopes to open the business on September 26.

Ms. Duncan stated that the business will have fifty coin games, three pool tables, one inflatable for children, rooms for birthday parties and much more to come.

A brief discussion followed.

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Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, Council voted unanimously to approve the permit for Ms. Monica Kellie Duncan to operate the Good Times Family Fun Center, an establishment with coin operated games and pool tables, in the former Marion Manufacturing facility on Baldwin Avenue.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

CONSIDER APPEAL OF CIVIL CITATION: The City Manager advised that Ms. Delores Cable of 575 State Street had submitted a letter appealing a civil citation received on September 3, 2008 for her dog barking excessively in the City Limits. The City Manager stated that the Police Department received a call about the dog in question barking excessively and, when Officer Chad Bailey arrived, he observed the dog barking continually in violation of City Ordinances. The City Manager presented Council with a report from Officer Bailey, Sergeant Rusty Jenkins and a copy of the citation issued to Ms. Cable for their review, along with a copy of Section 3-8 of the City Code, which states that "it shall be unlawful for any dog owner to keep or have within the city a dog that habitually or repeatedly barks in such a manner or to such extent that it is a public nuisance."

Ms. Cable was present for this meeting and stated that when the officer came to her residence it was 11:00 p.m. She stated that she had not heard her dog barking, however, it was barking when the officer arrived, as most dogs would when a stranger is around. Ms. Cable also stated that there is another dog adjacent to her property and that perhaps it was that dog barking.

Ms. Cable stated that she has had her dog four years and has never had a complaint about him barking and feels that the Police Department has the wrong dog.

The City Manager stated that a complaint was received and tracked to Ms. Cable's residence by the sound of the dog barking, according to the officer's report.

Councilman Martin stated a warning might have been warranted due to this being the first complaint.

Councilman Edwards stated that there have been problems in the City with residents being bothered with barking dogs, which is why the City has ordinances prohibiting dogs that habitually bark. He said that he would not be opposed to waiving the penalty for a first offense, however.

Councilman Owenby stated that he would also not be opposed to waiving the penalty for this citation, but if there were further problems, Council will likely not be as forgiving.

A discussion followed.

Upon a motion by Councilman Owenby, seconded by Councilman Martin, Council voted unanimously to waive the $50.00 penalty for a citation issued to Ms. Delores Cable for a barking dog on September 3, 2008.

Mayor Clark stated that, for the record, he wanted it to be known that Council supported the City's Police Officers and that waiver of the citation was in no way a reflection on the actions of Officer Bailey.

CONSIDER APPROVAL OF GRANT CONTRACT – URBAN FORESTRY GRANT: The City Manager presented Council with a copy of a contract for the City's Urban Forestry Grant. This grant, which was recommended for approval by the Tree Board, provides $15,000 in State

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funding to pay for preparation of a tree inventory and master plan, preparation of a Tree Ordinance, training and education for City staff and the public and a year long celebration of the City's 20th year as a Tree City USA. The City Manager stated that the City's cash match for the project, which will need to be taken out of General Fund Balance, amounts to $9,540. Council approval of the grant contract is needed so that the City can accept the grant and proceed with the work included under the grant.

Planning and Development Director Heather Cotton gave an overview of the proposed activities to be funded by the grant.

A discussion followed.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, Council voted unanimously to approve the Urban Forestry Contract as presented. A copy of the contract is available at City Hall.

RECEIVE RECOMMENDATION FROM STREET COMMITTEE: The City Manager stated that the Street Committee met on September 4 and reviewed the request for a mirror at the intersection of Montevista and Fleming Avenues. The Street Committee recommended that a mirror be installed due to poor visibility at the intersection.

The City Manager also advised that, based on the Street Committee's input, staff has moved the no left turn sign on Fleming Avenue at the Marion Elementary School entrance closer to the school entrance and also placed a no left turn sign on the left side of Fleming Avenue.

A discussion followed.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the recommendation of the Street Committee and authorize the placement of a mirror at the intersection of Montevista Avenue and Fleming Avenue.

ADD ON ITEM - REQUEST APPROVAL – GUN SALUTE – MCDOWELL HOUSE CEREMONY: The City Manager advised that Ms. Carol Price with the McDowell County Tourism Development Authority had informed him that a gun salute by the Overmountain Men re-enactors is planned for the McDowell House Overmountain Victory Trail certification ceremony that is scheduled to be held on Sunday, September 28, 2008 at 2:00 P.M. at the McDowell House.

The City Manager stated that the City Code prohibits the discharge of firearms inside the City, but that Council has waived this requirement in certain situations.

A discussion followed.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the request for a gun salute by the Overmountain Men re-enactors to take place at the McDowell House Overmountain Victory Trial certification ceremony that is scheduled to be held on Sunday, September 28, 2008 at 2:00 P.M. at the McDowell House.

CITY MANAGER'S REPORT: The City Manager gave a brief report on Current Projects as follows:

The City Manager advised that Redmond Dill continues efforts to foreclose on properties for non-payment of taxes. He has collected $34,600.38 so far in delinquent taxes. Mr. Dill has had good luck getting buyers for foreclosed properties; however, the City recently had to take possession of the Cora Lee property on Wilhemenia Street when there was no buyer. The City

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Manager presented Council with a copy of a map showing City owned residential properties in West Marion, including the foreclosed properties plus parcels donated to the City a few years ago by Hill Evans. The City Manager stated that the City also was recently given two parcels on Morehead Road that had been seized by the U.S. Marshal's Service. The City Manager suggested that Council may wish to discuss again ways to dispose of these properties, and to get them back on the tax rolls and perhaps to bring some residential development to the City.

A discussion followed. It was the consensus of Council to consider marketing the residential properties through an open listing with realtors. The City Manager was directed to compile information on the properties and a proposal on the sale process and to present it back to Council for review.

The City Manager advised that signs have been placed at the entrance of each City park advising of the ban on sex offenders in City parks. The City Manager stated that a letter was sent to all 52 registered sex offenders in the County, advising them of the new ordinance.

The City Manager advised that the 2008-09 Budget contained $41,000 in funding for repainting the two water tanks on Summit Street, after the City delayed the painting for a couple of years. The City Manager advised that Water Plant Superintendent received a quote of $25,500 to paint the two tanks. The City Manager stated that he had asked Mr. Miller, based on direction from Council at the Budget Workshop, to price out options for painting lettering and/or our logo on the tanks. The City Manager stated that the painter could paint "City of Marion" on one tank for $2,600 and "Where Main Street Meets the Mountains" on the other tank for $6,700. The painter estimated a cost of $12,000-$24,000 to paint the City's color logo on the tanks. Given upcoming Water and Sewer Fund revenue losses and the City's overall financial situation, the City Manager stated that he would recommend that the City simply repaint the tanks without any wording.

Council agreed by consensus to forego any wording on the water tanks and to direct the City Manager simply to repaint the tanks. Councilman Edwards and Mayor Pro Tem Little suggested that a greenish color be chosen that would help the tanks blend in better with the surrounding environment. The City Manager stated that he would explore possible color choices and get back with Council.

The City Manager advised that options and prices for replacing the City Channel equipment with text only equipment like the City has had would cost between $1,787-$2,537, while upgrading to a system like the County has that could display text messages and play videos would cost between $8,922 -$9,672. The City Manager asked Council if it had direction at this time regarding the desired option, or whether the issue should be discussed at the September 27 Council Planning Session. It was the consensus of Council to discuss this matter in more detail at the September 27 Planning Session.

The City Manager stated that the City recently received word of the award of a $75,000 N.C. Recreational Trails Program (RTP) grant for the Catawba River Greenway project. A condition of the grant will be that the City conduct an archaeological survey of the site, as had been requested by the State Historic Preservation Office. The City Manager stated that bids were being sought for this work. The City Manager reported that the RTP grant award means that the City now has $242,300 of funding for the $334,000 greenway project. The value of the donated land counted as $32,000 toward the project, meaning that the City will have a local cash match of about $60,000. The McDowell Trails Association (MTA) has begun fundraising efforts and the City Manager stated that he would impress upon the MTA the urgency of the fundraising effort.

The City Manager advised that McGill had completed work on a revised site plan and proposal to present to the North Carolina Parks and Recreation Trust Fund (PARTF) in an attempt to keep the existing television towers on top of Mt. Ida. UNC-TV and other television stations are funding this work.

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The City Manager advised that the storm drains are being lowered and replaced on Broad Street that Councilman Cuthbertson noted had been knocked loose.

The City Manager reported that City staff trimmed the Bradford Pear trees overhanging Brown Drive, as noted by Councilman Edwards at the last meeting. The City Manager stated that staff trimmed the trees to the minimum degree necessary and will try to keep an eye on the trees.

The City Manager advised that the City will be repairing the capstones knocked loose off of the wall south of the Community Building, as mentioned by Mayor Clark at the last meeting.

The City Manager advised that he had received notice that the State has approved funding for the grant to clean and stabilize the stream bank south of Oak Grove Cemetery and to complete some water quality improvements at Public Works. The grant will pay for materials and City crews will provide most of the labor.

The City Manager reported that the Police Department has put Oak Grove Cemetery on extra patrols, given the complaint received from Ms. Padgett several weeks ago. He added that there was at least one incident where youths were found in the Cemetery and were asked to leave the property after receiving a warning.

The City Manager advised that the Mountain Glory Festival will be held on Saturday, October 11. He added that the Festival area will be extended to New Street this year, instead of stopping at Fort Street. The Police and Public Works Departments have worked out new detour routes. The City Manager stated that the extra block will provide room for 50-60 more booth spaces. He stated that the Festival Committee does not believe that all of the new spaces will be filled this year, so spaces will not be placed in front of downtown businesses that will be open the day of the Festival. The City Manager stated that the City cannot promise that spaces in front of businesses can be left open in future years, but that the Committee hopes this move will help businesses this year. He added that the Festival Committee does not believes it should not sacrifice on the quality of vendors, even if it means that all spaces are not filled.

The City Manager advised that the tower truck at the Fire Department has been taken out of service, due to failing inspection. He presented Council with information about the truck from Fire Chief Jim Neal, along with possible financial impacts of replacing the truck with a used truck. The City Manager stated that he has directed Chief Neal to explore any and all options for repairing the truck, which does not seem possible based on discussions with repairmen, or to possibly purchase a used truck. The City Manager stated that this is a terrible time to bring this issue up, given the sales tax situation with the County, but that the City has no choice but to discuss the matter since the tower truck is out of service.

Councilman Mike Edwards stated that he took issue with a paragraph in Chief Neal's memo quoting Jerry Stevens, the dealer who sold the City the current tower truck, as saying that the current tower truck was designed to last six or seven years and then be replaced by a new truck. Councilman Edwards stated that he would have never voted for the purchase of the current tower truck if he had known that the truck would last for such a short period of time. His recollection was that it was portrayed in 1994 that the tower truck would last for 20-30 years.

Mayor Clark stated that he was recently elected Vice Chairman of the Southern Municipal Conference and that, at the last meeting, presentations were made advising that a 20 year life is typical for a fire truck as far as the ISO rating is concerned. Mayor Clark stated that the tower truck does not need to be used if it is unsafe.

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Mayor Pro Tem Little stated that further discussion regarding the tower truck could be made during the September 27 Council Planning Session. Council agreed by consensus to discuss this matter in more detail at the September 27 Planning Session.

COUNCILMAN COMMENTS:

Councilman Cuthbertson stated that the sewer line appears to be sinking behind the property next door to his property on Broad Street. The City Manager asked Public Works Director Chris Hollifield to look at the location and how the sewer line can be stabilized.

Councilman Cuthbertson also stated that property on Willow Street is not being mowed again. Planning and Development Director Heather Cotton stated that she would deal with this property, along with many others for which she is pursuing enforcement action.

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

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in a Special Called Session on Tuesday evening, September 25, 2007 at 6:00 P.M. in the Conference Room located at 194 North Main Street for the purpose of conducting a Planning Session.

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

Mayor Pro Tem Steve Little and Councilman Mike Edwards could not be present for this Planning Session due to work conflicts.

OTHERS PRESENT: Bob Boyette, City Manager

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GUESTS PRESENT: Cliff McLarty, North Madison Street; Robert Hawkins, East Oak Street; and Mike Conley, News Reporter, McDowell News.

OPENING DISCUSSION: Mayor Clark opened the meeting and welcomed those who were present.

PLANNING SESSION: City Council held a Planning Session and discussed the following topics:

I. Growth/Annexation Priorities

II. Land Use/Comprehensive Plan and Zoning Issues

III. Downtown Streetscape/Traffic Flow Plan

IV. MACA Issues

V. Financial Overview – General and Water/Sewer Funds

VI. Fire District Tax/Funding

VII. Water and Sewer/Economic Grants – Rural Center
VIII. Community Building Park Improvements

IX. Parks and Recreation

a. Current and future maintenance burden/needed staffing levels

b. Future mini parks – Clinchfield and East Marion

c. Catawba River Greenway

d. McDowell House

e. Mt. Ida Park

X. Paving of Dirt Roads in City Limits

XI. Garbage/Recycling

XII. Future planning Sessions – Quarterly – November, February, May?

It was the consensus of Council to hold the next Planning Session in November or January, depending on the need for such session.

ADJOURNMENT: Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, those members of Council present voted to adjourn.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

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STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, October 7, 2008 at 7:00 P.M. in the City Council Chamber located at 194 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: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, Planning and Development Director; Chris Hollifield, Public Works Director; Mika Elliott, Police Chief; Mike Hensley, Police Sergeant; Freddie Killough and Bobbie Young, Marion Business Association; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Bill and Joanne Howle, Marion, NC; Kim Hensley, Marion, NC.

CITIZEN OF THE MONTH – SELECTED BY MAYOR A. EVERETTE CLARK: Mayor A. Everette Clark selected the Citizen's of the Month for October 2008.

W.W. (BILL) AND JOANNE HOWLE

Mayor Clark stated that he was proud to present W.W. (Bill) and Joanne Howle, a husband and wife who have both given so much to the citizens of Marion, as his Citizens of the Month. Mayor Clark stated that the Howles are unique in having both run successful businesses, with Mr. Howle running Marion Pharmacy and Mrs. Howle running Joanne Howle Realty.

Mr. and Mrs. Howle were married in 1953 and moved to Marion in 1960 with their three children ages 4, 2, and 6 weeks. Mr. and Mrs. Howle are active members of First Baptist Church. Their daughter Dawn is married to Freddie Rabon. Freddie has worked with Bill at Marion Pharmacy for thirty years. Their daughter Suzy is married to Tom McMahan. Tom has worked with Bill at Marion Pharmacy for twenty-three years. Their son Steve lives in Fort Lauderdale, Fl. The Howles also have four grandchildren.

Mr. Bill Howle grew up in Society Hill, South Carolina. He attended Spartanburg Methodist College, graduating in 1951 and the University of South Carolina (School of Pharmacy), graduating in 1954. Upon moving to Marion, Bill worked for a local pharmacy and after a few years opened Marion Pharmacy which is still in operation. Bill has assisted many young people through the years with positions in the pharmacy. Mr. Howle has served in various leadership positions in the community, including as a member of the School Board for many years and as a member of the Marion Rotary Club.

Ms. Joanne Howle was born in Cumberland, Maryland. She grew up in Virginia and Rock Hill, South Carolina where she met and married Bill. Mrs. Howle was a full time mother while her children where growing up until they went off to college, at which time she became one of the first women to open her own real estate office in McDowell County. Joanne Howle Realty has become very prominent, successful business through the years.

Mrs. Howle is a member of McDowell Board of Realtors, the North Carolina Association of Realtors and the National Association of Realtors. She has served as a Director, Vice-President and President of the McDowell Board of Realtors.

Mayor Clark stated that this couple together, as well as individually, have set an wonderful example through the years for all who have had the privilege of knowing them.

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Council members shared kind words about the Howles and congratulated them on their selection as Citizens of the Month.

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes - September 16, 2008 Regular Session and
September 27, 2008 Planning Session Minutes

B. Approve Agreement with Marion Travel Plaza Regarding Provision of Services

Agreement Between City of Marion and IT & K Enterprise/Marion Travel Plaza Regarding Provision of City Services to Area Proposed for Annexation by Petition

The City of Marion (hereafter called "City") has received a petition for voluntary annexation from IT & K Enterprise/Marion Travel Plaza (hereafter called "Marion Travel Plaza"). As part of the approval of the annexation request, the Marion City Council desires to clearly define the services the City intends to provide to Marion Travel Plaza. It is agreed by the City and Marion Travel Plaza that:

1. The City does not have sanitary sewer service available to the Marion Travel Plaza property and does not intend to extend such service to the property, since such an extension is not economically feasible due to the unique topography of the area. Therefore, as authorized by the North Carolina General Statutes, the City will provide septic tank maintenance and repair service in lieu of sanitary sewer service, upon request of the Marion Travel Plaza. Such septic tank maintenance and repair service shall be governed by the City of Marion Policy Regarding Maintenance of Septic Tanks in Areas where Sewer Service is not Feasible within the Marion City Limits.

2. The City of Marion does not have water service available to the Marion Travel Plaza property and does not intend to extend such service to the property in the next five years. If water service is desired at the Marion Travel Plaza property at any time in the future, the Marion Travel Plaza agrees to pay the City for the costs of such extension, unless an alternate arrangement is agreed to by the City and Marion Travel Plaza.

This Agreement is approved as of this the 7th day of October, 2008, as evidenced by the signatures below.

IT & K ENTERPRISE/MARION TRAVEL PLAZA

By: _____

CITY OF MARION, NORTH CAROLINA

By: _____
A. Everette Clark, Mayor

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL

I, _____ a notary public for the County and State aforesaid, certify that _____, _____ of **IT & K ENTERPRISE/MARION TRAVEL PLAZA**, personally appeared before me this day, and

a) _____ I have personal knowledge of the identity of the principal(s)

b) _____ I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a _____

c) _____ a credible witness has sworn to the identity of the principal(s)

each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

WITNESS my hand and seal this _____ day of _____, 2008.

_____
Notary Public
Printed Name: _____

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My Commission Expires: _____

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL

I, _____ a notary public for the County and State aforesaid, certify that **A. EVERETTE CLARK**, Mayor of the **CITY OF MARION, NC**, personally appeared before me this day, and

a) _____ I have personal knowledge of the identity of the principal(s)

b) _____ I have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a _____

c) _____ a credible witness has sworn to the identity of the principal(s)

each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

WITNESS my hand and seal this _____ day of _____, 2008.

_____
Notary Public
Printed Name: _____

My Commission Expires: _____

C. Approve Resolution Adopting Identity Theft Protection Plan

RESOLUTION
REGARDING SECURITY OF SENSITIVE AND CONFIDENTIAL INFORMATION AND BREACH RESPONSE PLAN

WHEREAS, the City of Marion, in its normal course of business collects identifying information from customers, employees, vendors, and other individuals, and

WHEREAS, this information is confidential, and failing to secure such information could be detrimental to such persons, and

WHEREAS, G.S 132-1 states the governing body has an obligation to secure and limit access to information involving customers and employees, and

WHEREAS, in accordance with the Federal Trade Commission's Fair and Accurate Credit Transaction Act of 2003, the Identity Protection Act of 2005, NCGS 75-60 of the Identity Theft Protection Act, NCGS 14-113.20 Identity Theft and NCGS 132-1.10 of the Public Records Act, the City is required to safeguard certain information of customers, employees, vendors, and other individuals who provide information to the City that is covered by the Act, and

WHEREAS, the Federal Trade Commission requires the adoption of identity theft programs in place by November 1, 2008

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Marion does hereby adopts this resolution and the attached Policy: Security of Sensitive and Confidential Information and Breach Response Plan the purpose of which is to communicate to employees and third parties their responsibility for protecting sensitive and confidential information pursuant to the Act and a response plan in the event that there is a breach of information subject to the Act.

ADOPTED this the 7th day of October, 2008.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk
Resolution Number: R-08-10-07-1

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City of Marion
Administrative Policy

Policy: Security of Sensitive and Confidential Information and Breach Response Plan

SECTION 1. Purpose

In accordance with the Federal Trade Commission's Fair and Accurate Credit Transactions Act of 2003, the Identity Protection Act of 2005, North Carolina General Statutes (N.C.G.S) 75-60 of the Identity Theft Protection Act, N.C.G.S 14-113.20 Identity Theft, and N.C.G.S 132-1.10 of the Public Records Act (together, the "Act"), the City is required to safeguard certain information of customers, vendors, employees, and other individuals who provide information to the City that is covered by the Act. The purpose of this policy is to communicate to employees and third parties their responsibility for protecting sensitive and confidential information pursuant to the Act and a response plan in the event that there is a breach of information subject to the Act.

SECTION 2. Definitions

Sensitive Information – Information that is identifying information according to the Act and through contractual obligations related to merchant services (credit card acceptance). The following are specifically identified as sensitive information:

1. Social security and employer taxpayer identification numbers
2. National and international identification
3. Drivers license, State identification card, or passport numbers
4. Credit card and debit card numbers
5. Savings and checking account numbers
6. Personal Identification (PIN) Code
7. Passwords
8. Electronic identification numbers, electronic mail names or addresses, internet account numbers, or internet identification names Customer credit information (credit history, pay arrangements, and financial transactions)
9. Parent's legal surname prior to marriage
10. Any other numbers or information that can be used to access a person's financial resources.
11. Digital signatures
12. Biometric data
13. Fingerprints
14. A persons first name or first initial and last name in combination with identifying information

Confidential information – Under State statute (N.C.G.S 132-1), the City also has an obligation to secure and limit access to other information involving customers and employees. The following are identified as confidential information, although this is not a complete listing:

1. Communication with legal counsel
2. State and local tax information that contain information about a taxpayer's income or receipts except as provided in G.S. 153A-148.1 and G.S. 160A-208.1.
3. Public enterprise billing information (utility customer data)
4. Records of criminal investigations conducted by public law enforcement agencies
5. Names, addresses, telephone numbers, or email addresses that are contained in the 911 database, emergency notification system, or reverse 911 system.
6. Emergency response plans
7. Economic development incentives

Security Breach – A breach is considered to have taken place if any sensitive or confidential information is suspected to have been stolen, viewed, copied, or otherwise compromised by an unauthorized individual or if it is suspected that information has been lost and could be accessed by unauthorized individual(s). A breach of information can occur physically or virtually via technology. Access and use of sensitive or confidential information by an employee or agent of the City for a legitimate purpose is not a security breach, provided that the sensitive or confidential information is not used for a purpose other than a lawful purpose and is not subject to further unauthorized disclosure.

SECTION 3. Responsibilities of Departments

3.1 Each department will develop and maintain a standard procedure to provide staff with specific guidance on the protection of sensitive and confidential information applicable to the department. Departmental procedures will supplement, but not supersede this policy or applicable laws.

3.2 Each department will ensure that service providers who are in contact with sensitive or confidential information are aware of security requirements, as well as the need for confidentiality, through proper contractual agreements and arrangements.

3.3 Department heads are responsible for determining which employees are authorized to access and handle sensitive and confidential information and the department head must

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ensure that the authorized employees are trained to handle such information in accordance with this policy.

3.4 All employees who manage and work with sensitive and confidential information are required to read and sign the Sensitive Information User Agreement which will be maintained in the employees personnel file.

3.5 All third party contractors who may have access to sensitive and confidential information are required to read and sign the Sensitive Information Service Agreement which will be maintained with the contract.

SECTION 4. Managing, maintaining, and storing sensitive and confidential information

4.1 Employees who have access to sensitive and confidential information are required to create, handle, maintain, and dispose of such information with prudent care in order to ensure proper security. Access to sensitive and confidential information will be limited and only provided in order for authorized employees and contractual third parties to perform essential tasks for City business.

4.2 The following procedures should be followed while creating, handling, maintaining, storing, and disposing of sensitive information.

1. Enter information directly to a final destination (i.e. computer system) and refrain from documenting the information in other areas.
2. If sensitive information is written on paper for reference, shred immediately upon recording the information in the final destination.
3. Electronic payment data should be handled by authorized personnel and only the last 4 digits of the customer's credit or debit account number should be visible on reports.
4. Sensitive information should not be included on e-mails.
5. Sensitive information should not be included on printed reports except as needed for the performance of essential tasks.
6. Maintain documents that contain sensitive information in a secured room and limit access to the area.
7. If possible, utilize encryption to secure information in the database or storage system.
8. Do not leave a computer unattended if sensitive information could be accessed by
9. unauthorized individuals. While away from the computer, log off or lock the workstation.
10. Do not store files with sensitive information on laptops or on flash drives unless the information and the device can be secured and not accessible to unauthorized individuals.
11. Take reasonable measures when destroying sensitive data that will prohibit the information from being read or reconstructed. Documents with sensitive data should be shredded by the individual who has authorized access to the data or by another employee while in the presence of the authorized employee. The City may enter into a written contract with a third party in the business of record destruction to destroy sensitive information in a manner consistent with this policy.

4.3 In order to protect sensitive and confidential information, the City will only release sensitive information to the account holder or individual(s) who own the information upon confirmation of personal identifying information or a valid picture ID. The confirmed account holder or individual may authorize the release of sensitive information to a third party. Confidential information will only be released in accordance with state statute. The only exception will be the release of specified information pursuant to a court order, warrant, subpoena or other requirement by law.

SECTION 5. Identify Theft Risk

5.1 The City has a responsibility to define high risk areas for identity theft and identify potential threats for identity theft known under the Act as red flags. The red flags are indicators that sensitive information is being fraudulently used. This policy in combination with department specific guidelines should help to detect a potential for identify theft and unauthorized use of information.

5.2 The following are red flags that have been identified as indicators that sensitive information is being used fraudulently. Red flags are most commonly associated with activity on customer accounts (utilities, taxes, activity registrations, vendors). Other red flags may exist that are unique to a department and should be included in departmental guidelines.

1. The customer or individual provides notice that they are a victim of identify theft
2. A consumer reporting agency or service provider has provided an alert, notification, or other warning
3. Unusual number of recent and significant inquiries
4. Unusual or significant change in recently established credit or financial relationships
5. Conflicting names on identification and other documentation

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6. Documents provided appear to have been altered or forged
7. Picture identification is not consistent with the appearance of the individual presenting the identification or the physical description on the identification does not match
8. Shortly after establishing an account, there is a request to change a mailing address or to add authorized users to the account
9. Personal identifying information provided is not consistent with other external information sources
    a. Social security number does not match or is listed on the Social Security Administration's death master file
    b. Address does not match or is fictitious, a mail drop, or prison
    c. The phone number is invalid or associated with a pager or answering service
    d. Authenticating information (i.e. PIN, password) provided is incorrect
    e. Name on credit card or check does not match name on account or names associated with the account.

5.3 Upon identification of a red flag indicating a potential risk of identify theft; staff should notify their immediate supervisor in person or by telephone to determine the validity of the red flag. Once an identify theft risk is confirmed, staff should respond in accordance with the breach response plan (Section 6).

SECTION 6. Sensitive and Confidential Information Breach Response Plan

6.1 Step 1. Identify that a breach of sensitive or confidential information has occurred.

Physical Breach - The following are indications that there has been unauthorized access to sensitive and confidential information via a physical breach. Other activities may occur that are also physical breaches that are not included in the listing.

a. Evidence of lock tampering on file cabinets or office doors
b. Evidence of unauthorized entry in an area where sensitive and confidential information is stored
c. Missing files or documents that contain sensitive information

Technology Breach - The following are indications that there has been unauthorized access to sensitive and confidential information via a technology breach. Other activities may occur that are also technological breaches that are not included in the listing.

a. Unknown or unauthorized name in the computer logon window
b. Disconnected computer cables or power cables
c. Missing computer equipment (desktop, laptop)
d. Evidence that electronic files have been accessed by unknown or unauthorized individuals or are missing
e. Devices or media attached to the computer that are not known or authorized
f. Unusual programs running, icons, or windows that appear that are not known and are not part of the normal work process
g. Any other suspicious activity which indicates an attempt to use technology without approval

6.2 Step 2. Notify the appropriate internal and external contacts.

Internal notification – Any City employee who becomes aware of a suspected or actual security breach must notify their immediate supervisor. The immediate supervisor will notify department management who is responsible for further investigation and notification. If the breach involves electronic equipment, the Information Systems Manager should be notified by telephone or in person.

External notification – The City is required to notify affected individuals of actual security breaches. Each suspected breach will be reviewed by the city manager's office, the department where the breach occurred, law enforcement, and Information Systems (if applicable) to determine the appropriate action that will include the following:

a. Notify the affected individuals without unreasonable delay providing information in general terms about the incident, the type of sensitive information that was subject to the unauthorized access, the actions that the City will take to protect the information from further access, a telephone number that the person may call for further information and assistance, and advice that directs the person to remain vigilant by reviewing account statements and monitoring free credit reports.
b. Providing affected individuals with information about how to alert credit agencies to potential fraud and identity theft.
c. Notice to affected individuals may be provided by one or more of the following methods:

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a. Written notice
b. Electronic notice for those individuals for whom the City has a valid email address and who have agreed to receive communications electronically
c. Telephonic notice provided the contact is made directly with the affected persons and appropriately documented by the City.

d. A substitute notice may be given if the cost of providing the notice exceeds $250,000, the number of affected persons is greater than 500,000, or the City does not have the necessary contact information to notify the individual in any of the aforementioned manners. A substitute notice will include posting a notice on the City's website and notifying major statewide media.
e. If a security breach involves more than 1,000 persons, the City will provide written notice of the timing, distribution, and content of the notice to the Consumer Protection Division of the North Carolina Attorney General's Office, as well as to all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined in 15 U.S. C. 1681a(p).
f. Notice may be delayed if law enforcement informs the City that disclosure of the breach would impede a criminal investigation or jeopardize national security. Such request by law enforcement must be documented in writing.

6.3 Step 3. Implement Plan

The City Manager will designate a security breach response team to investigate and handle the breach until such time that the threat has ended and affected individuals and agencies are notified.

Technology Breach Response – The Information Technology employee or contracted provider is responsible for the following response upon being notified of a technology security breach by the Finance Director or City Manager.

a. The Information Technology employee, Finance Director or City Manager will notify computer users that a technology breach has occurred and the breach response plan is being implemented
b. The Information Technology employee or contracted provider will secure the computer infrastructure as deemed appropriate which may include but is not limited to disconnecting network connections to outside locations, disconnecting servers or any other device on the network until the breach is isolated.
c. Information Technology employee or contracted provider will preserve evidence that may be needed by law enforcement for investigative purposes

6.5 At least annually, the City will review all incidents of potential or actual security breaches and report findings and recommendations to the City Council.

SENSITIVE INFORMATION USER AGREEMENT

I have read the Security of Sensitive and Confidential Information and Breach Response Plan policy for the City of Marion, North Carolina and understand how to properly manage, maintain, store, and dispose of sensitive and confidential information at the City of Marion, North Carolina. I will abide by the policy and will handle sensitive and confidential information with prudent care in order to ensure proper security of the information.

In the event of a suspected or actual breach of sensitive and confidential information, I will notify my immediate supervisor without delay and follow the breach response plan.

I understand that negligent handling or inappropriate use of the City's sensitive and confidential information will be subject to disciplinary action up to and including dismissal and may be criminally and civilly prosecuted as allowed by law.

I have read, understand, and agree to the conditions above.

Printed Name of Employee: _____

Department: _____

Signature of Employee: _____

Date Signed: _____

SENSITIVE INFORMATION SERVICE AGREEMENT

I, _____, an authorized representative of _____ ("Company"), hereby acknowledge that I have read and will adhere to the requirements listed below as they apply to the services procured by the City of Marion, North Carolina ("City").

1. The appointed representative(s) of the Company have read the City of Marion, North Carolina administrative policy III.14 Security of Sensitive and Confidential Information and Breach Response Plan.

2. The Company accepts responsibility for the security of sensitive and confidential information in their possession.

3. Data can only be used to complete the service as described by the City for which the Company was engaged to perform.

4. If the Company is providing service that is related to a key function of the City, the Company must assure business continuity in the event of a major disruption, disaster, or failure as provided for by contract.

5. If a security intrusion has been detected, the Company will notify the City immediately. If the Company has placed sensitive data on their system and the system has been breached, the Company will allow their system to be thoroughly reviewed at the Company's expense. This review may be conducted by the City or an appointed representative. In the event the intrusion is related to credit card numbers, the review may be conducted by a Payment Card Industry representative and will validate compliance with Payment Card Industry Security Standards for protecting cardholder data.

Name of Company: _____
Address: _____
_____

Name of Representative: _____
Title: _____

Signature: _____
Date: _____

PRESENTATION OF ADVANCED LAW ENFORCEMENT CERTIFICATE TO POLICE SERGEANT MIKE HENSLEY: Police Chief Mika Elliott commended Sergeant Mike Hensley for the hard work and dedication he has given to the City of Marion and presented him with an Advance Law Enforcement Certificate from the State of North Carolina that read as follows:

STATE OF NORTH CAROLINA
Department of Justice
Criminal Justice Education and Training
Standards Commission

To all to whom these presents may come

Greeting

Be it known that in recognition of the attainment of training and educational objectives commensurate with the role of a professional criminal justice officer and of personal devotion and service to the people of North Carolina, the Attorney General and the Chairman and Members of the North Carolina Criminal Justice Education ant Training Standards Commission, through the authority vested in them by the laws of the State, do hereby award to

MICHAEL SCOTT HENSLEY
this
ADVANCED LAW ENFORCEMENT CERTIFICATE
With all the rights and privileges thereunto belonging

In testimony whereof we fix our hand this 28th day of August, 2008 in the City of Raleigh in the State of North Carolina in the United States of America.

_____
Attorney General

_____
Commission Chairman

_____
Director, Criminal Justice
Standards Division

Chief Elliott advised that Sergeant Hensley was a credit to the department and that the City was fortunate to have such a fine officer. Mayor Clark and Council Members all commended Sergeant Hensley for this award and for the great job he does for the City.

PUBLIC APPEARANCE – MR. JAKE ASTA – DISCUSS PBA BOWLING TOURNAMENT AT LIGHTING LANES: The City Manager stated that Mr. Asta's daughter had contacted him to request that Mr. Asta be allowed to appear at this meeting to discuss a Professional Bowler's Association (PBA) Senior Tournament he intends to bring to Lightning Lanes.

Mr. Asta was not present and no action was taken.

PRESENTATION OF THE N.C. STEP PROGRAM INVESTMENT RECOMMENDATIONS – N.C. STEP PROGRAM LEADERSHIP COMMITTEE: Ms. Heather Cotton, Planning and Development Director gave a summary of recommendations of the N.C. STEP Program Leadership Committee. Ms Cotton advised that the Committee had recommended the following implementation projects be used for the $200,000 of Rural Center grant money for the project. The proposed implementation projects are as follows:

NC STEP ECONOMIC INITIATIVES

PROJECT ONE

PROMOTE "MADE IN MCDOWELL" BRANDING

DESCRIPTION
"Issues for Strategy Implementation"
Marion is a very close-knit community. Many residents can trace their lineage back to pioneers who first settled in the area. There is a strong desire to preserve and capitalize on this heritage in a changing economy. Many visitors pass through the region purchasing goods that are locally made and produced while taking advantage of natural and cultural activities that the area has to offer. In order to attract visitors, Marion must offer something unique and one way to do that is to create a brand that sets it apart from the rest of the region.

OBJECTIVES (1)
"Steps and Timeframe"
- Conduct a feasibility study to create a "Made in McDowell"Marketing Brand.(See Appendix D)
- Develop a marketing plan that interests visitor demographics who enjoy cultural-heritage activities.
- Assist local businesses with developing price points for products
- Create a web-based and print–based advertising campaign to promote "Made in McDowell" goods including locations, directions, biographies, and other information of interest.
- Establish a central vendor location for promoting and selling locally made and grown products that provides access and support services that will enhance business performance (i.e. internet access, advertising, marketing, etc)

DESIRED RESULT
"Outcome Metrics"
Create a destination for visitors based on "Agri-Cultural" tourism that

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promotes locally produced goods and ties Marion into the Blue Ridge National Heritage Area (BRNHA).

SUCCESS INDICATORS/ ACHIEVEMENTS "Implementation/ Milestones/Schedule"

- Develop "Made in McDowell" brand.
- Identify location and construct facilities to establish permanent location for farmer's market.
- Establish a website for Made in McDowell and print-media for advertising and promoting the area.
- Promote "Made in McDowell" through BRNHA and the State Tourism office.

CONVENING/LEADING ORGANIZATIONS & PARTICIPATING ORGANIZATIONS (See Appendix A for Roles and Responsibilities)

City of Marion
Marion Business Association
McDowell County Tourism Assoc.
McDowell Chamber of Commerce
McDowell Arts Council
NC Cooperative Extension Service
Old Fort Heritage Alliance

FUNDING NEEDS Funding will be needed to develop a brand as well as develop and produce advertising materials. $110,000

POTENTIAL FUNDING SOURCES

McDowell Tourism Association
NC Arts Council
NC Rural Center - Economic Stimulus Grant
Blue Ridge National Heritage Area (BRNHA)
United States Department of Agriculture (USDA)
North Carolina State University/North Carolina Extension Service

(1) The STEP Steering Committee recommended that remaining STEP planning funds be allocated to the first two objectives outlined in Initiative Four. The City of Marion and DBA have contracted Arnet & Molder to complete a Branding and Marketing Study for Marion.(See Appendix D)

PROJECT TWO

SUPPORT ENTREPRENEURIAL COMMUNITY THROUGH DEVELOPMENT

DESCRIPTION "Issues for Strategy Implementation"

Several organization offer small business assistance in Marion and McDowell County through specialized training programs such as REAL and the McDowell County Community College Small Business Center. Participants identified the need to expand entrepreneurial assistance and training in order to attract and retain business in the community.

OBJECTIVES "Steps and Timeframe"

- Create a market assessment and marketing plan as tool to assist local business owners.
- Develop incentive programs for small business startup such as rental/utility assistance, provide capital resources, and/or revolving loan program.
- Enhance existing façade grant program.
- Expand training opportunities.
- Develop a mentor program for one-on-one business assistance for specialized needs.
- Become a Certified Entrepreneurial Community (CEC) through Advantage West
- Provide entrepreneurial training opportunities and education for youth and retirees and mentorship/cross-training program.

DESIRED RESULT "Outcome Metrics"

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Build a community-wide network of services that foster and support entrepreneurial growth and success.

SUCCESS INDICATORS/ ACHIEVEMENTS "Implementation/ Milestones/Schedule"
- Training and mentoring opportunities increase and are utilized by business community.
- Small business retention increases and job creation grows unemployment rate decreases.
- Complete steps for and achieve CEC status through Advantage West.

CONVENING/LEADING ORGANIZATIONS & PARTICIPATING ORGANIZATIONS (See Appendix A for Roles and Responsibilities)
City of Marion
Marion Business Association
Advantage West
McDowell County
McDowell Chamber of Commerce
McDowell County Schools
McDowell Community College
NC Cooperative Extension Agency
Community Businesses

FUNDING NEEDS Estimated $50,000 to grow programs that would be self sustainable.

POTENTIAL FUNDING SOURCES
Advantage West
Blue Ridge National Heritage Area
United States Department of Agriculture
Appalachian Regional Commission

PROJECT THREE

ESTABLISH AND STRENGTHEN TECHNOLOGICAL INFRASTRUCTURE

DESCRIPTION "Issues for Strategy Implementation"
The City of Marion recognizes the need to strengthen technological infrastructure to compete in the global economy, create jobs, as well as attract and retain new enterprise.

OBJECTIVES "Steps and Timeframe"
- Assess current infrastructure (current access to broadband, bandwidth, affordability, etc.)
- Conduct feasibility and cost estimate to build and strengthen a network infrastructure for access to high-capacity broadband service.
- Establish infrastructure for wireless services within the downtown as an amenity and identify and partner with a local provider.
- Market "hot spots" areas that have wireless internet accessibility downtown.
- Provide training seminars on how and the advantage of promoting a business on the web.

DESIRED RESULT "Outcome Metrics"
A network system offering bandwidth capacity that supports current and future needs (100 Mbps +) and which places McDowell County in a competitive position to attract and retain businesses that rely on such infrastructure to compete in the global economy.

SUCCESS INDICATORS/ ACHIEVEMENTS

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**"Implementation/
Milestones/Schedule"**
- Increase in local business activity over the internet
- Wireless access to the internet from anywhere downtown
- Number of stakeholders and participating organizations increase to help achieve success.
- State and federal policies developed and periodically evaluated to offer continued support for the development of such infrastructure.

CONVENING/LEADING ORGANIZATIONS & PARTICIPATING ORGANIZATIONS (See Appendix A for Roles and Responsibilities)
City of Marion
Marion Business Association
McDowell County
McDowell Chamber of Commerce
McDowell County Schools
McDowell Community College
Town of Valdese

FUNDING NEEDS - A cost estimate for a high-capacity broadband shall be determined through a feasibility study. It is anticipated to be a multi-phased project requiring long-term investment.
- Estimated cost to establish a wireless network in the downtown is $30,000.
- It is not anticipated that training will require additional funding.

POTENTIAL FUNDING SOURCES
E-NC Authority, NC Rural Economic Development Center Appalachian Regional Commission (ARC)
United States Department of Agriculture (USDA)
North Carolina Rural Center

STRATEGIC PROJECT FOUR

21st CENTURY INNOVATOR COMMITTEE

DESCRIPTION
"Issues for Strategy Implementation"
The STEP Steering Committee recognizes that knowledge is the gateway to a sustainable economic future, and the more prepared the community is about long-range global trends the more successful it will be to adapt to economic change. The STEP Steering Committee would like to organize a community based committee of diverse forward-thinking individuals/ life-long learners with interest and/or experience in science, art, ecology, technology, business to identify and research global trends and share their thoughts and ideas with the community.

OBJECTIVES
"Steps and Timeframe"
- Identify, compile, and periodically update information on innovative research and development taking place globally.
- Establish methodology for evaluating the community's ability to adapt to new trends/conditions (e.g. ability to cross-train workforce for new technologies).
- Make presentation and/or recommendations to educate the community about future trends and its potential local impact (opportunities and concerns).
- Explore opportunities to utilize new technologies to reach people globally and network with other innovators from across the world to exchange information and build relationships.

DESIRED RESULT
"Outcome Metrics"
Create a community-based system that fosters open-minded innovative thinking, learning, and leadership; educates and prepares the community for global trends that have the potential to cause or create local transformations; and cultivates the development of new entrepreneurial innovations.

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SUCCESS INDICATORS/ ACHIEVEMENTS
"Implementation/ Milestones/Schedule"
- Business start-ups increase
- Decline in dramatic fluctuation in economic indicators evident in unstable economy.
- Increase in business diversity.

CONVENING/LEADING ORGANIZATIONS & PARTICIPATING ORGANIZATIONS (See Appendix A for Roles and Responsibilities)
McDowell Community College
McDowell County Schools
Marion Business Association
McDowell County Library
McDowell County Senior Center
City of Marion
Communities of the Future

FUNDING NEEDS Funding is not a critical element in the formation of the 21st Century Innovator Committee. However, a small pool of funding could be useful for hiring a Futurist Consultant to develop a framework for the committee as well as the development of an internet-based portal (website) for the exchange of information and communication.

POTENTIAL FUNDING SOURCES
Marion Business Association
City of Marion
McDowell County Library

PROJECT FIVE

IMPROVE WATER AND SEWER INFRASTRUCTURE

DESCRIPTION
"Issues for Strategy Implementation"
The City of Marion operates both a drinking water and wastewater utility. Facilities, in large part, were built to serve industries that are now gone. Most of the infrastructure for the water utility was constructed in the mid 1950's and is in need of improvements. In addition, the City's wastewater treatment facilities have not undergone any significant improvements since initial construction. The STEP Steering Committee recognizes that in order to support economic growth adequate public facilities must be in place.

OBJECTIVES
"Steps and Timeframe"
- Evaluate future adequacy of water supply and opportunities for off-stream impoundments for the development of emergency water intake on the Catawba River for use in drought conditions.
- Update the capital improvement plan.
- Encourage cooperative water and sewer systems throughout the county and extend water and sewer lines as necessary to accommodate future growth such as Sugar hill Road to I-40 interchange.
- Continue program to replace aging and undersized water and sewer lines.
- Implement the elimination and minimization of inflow and infiltration of wastewater system and reduce number of discharge points.
- Eliminate Catawba River WWTP, upgrade Corpening Creek WWTP to make the plant a true 3 million gallon a day facility capable of meeting current and future state and federal regulations.

DESIRED RESULT
"Outcome Metrics"
Make significant investment in wastewater facility improvements, as well as update the

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CIP and continue to evaluate, plan and implement projects to enhance the performance, reliability, and productivity of public facilities to ensure facilities are available for economic growth.

SUCCESS INDICATORS/ ACHIEVEMENTS
"Implementation/ Milestones/Schedule"
- Continue to make reductions in amount inflow and infiltration into waste water system.
- Make wastewater treatment plant upgrades.
- Enhance and extend water and sewer services to accommodate future growth.

CONVENING/LEADING ORGANIZATIONS & PARTICIPATING ORGANIZATIONS
(See Appendix A for Roles and Responsibilities)
City of Marion McDowell County
Old Fort

FUNDING NEEDS The estimated cost of water and sewer infrastructure improvements through the year 2030 is $40 million, with wastewater plant improvements projected to cost $6 million. The City has received partial funding for improvement for the wastewater system in
the amount of $ 4 million. The City has also completed a study for the Sugar Hill Road extension, which is estimated at $ 1.7 million.

POTENTIAL FUNDING SOURCES
North Carolina Department of Environment and Natural Resources (NCDENR) - Clean Water Management Trust Fund NC Rural Center – Water & Sewer Improvement Grant
- Economic Infrastructure Fund (EIF)

PROJECT SIX

DOWNTOWN DEVELOPMENT CENTER

DESCRIPTION
"Issues for Strategy Implementation"
The STEP Steering Committee would like to establish a development center that would provide business support services that focus on job creation, retention, and expansion as well as adaptable multi-use facilities to hold workshops, training seminars, conferences, and business meetings. In addition, the development center would provide cooperative facilities, marketing opportunities, and cost share equipment to help reduce startup costs for new and smaller businesses. The Steering Committee has recommended that the Development Center incorporate Strategic Project One "Made in McDowell" initiative The Marion Business Association in coordination with the NC Cooperative Extension Service is working on plans for a new farmer's market facility and the McDowell Arts Association is working on plans for a new cultural arts and heritage center. Both
plans include multi-use facilities and support services specifically tailored to meet the needs of these economic sectors. It is the committee's desire to support these plans in both arts and agriculture to create a creative climate attractive to other small businesses having the desire or need to benefit from the cooperative facilities and services.

OBJECTIVES
"Steps and Timeframe"
- Establish local over-sight committee.
- Conduct a feasibility study to identify market potential, versatility of retail use, location and cost.
- Support plans for farmer's market facility and cultural arts and heritage center.
- Develop regular training opportunities, co-op marketing and advertising opportunities, and technical assistance.

DESIRED RESULT
"Outcome Metrics"
Expand the number of retail businesses that are located downtown and provide them with supportive services to help them succeed.

SUCCESS INDICATORS/ ACHIEVEMENTS
"Implementation/ Milestones/Schedule"
- Number of new business start-ups are established.
- Empty storefronts are replaced by retail businesses
- Increase in sales and revenue downtown
- Job creation
- Enhanced support services and facilities

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CONVENING/LEADING ORGANIZATIONS & PARTICIPATING ORGANIZATIONS
(See Appendix A for
Roles and Responsibilities)
City of Marion
Marion Business Association
NC Cooperative Extension Agency
McDowell Arts Council Association
Advantage West
McDowell Community College

FUNDING NEEDS $10,000 dollars to be utilized as matching funds for development plans for cultural arts and heritage center and farmer's market facility.

POTENTIAL FUNDING SOURCES
Advantage West
Appalachian Regional Commission
North Carolina Rural Center
Blue Ridge national Heritage Center

PROJECT SEVEN

PROMOTE ADAPTIVE REUSE OF BROWNFIELD SITES

DESCRIPTION
"Issues for Strategy Implementation"
Vacant/underutilized industrial sites (84 acres) serve as a constant reminder of Marion's economic hardship. Marion needs to revitalize these areas to make them functional and productive again. In redeveloping sites, attention should be given to changes in the economy. Marion wants to be a destination for heritage tourism, a gateway community to the Blue Ridge Mountains. To be successful in this economic sector, Marion must protect the natural resources that attract visitors. The redevelopment of Marion's old textile mills provides opportunity to accommodate innovative new industry, small to mid-sized commercial and office space, as well as new residential housing while limiting the demand for new and expanding infrastructure, as well as limiting development encroachment on natural resources. The redevelopment of these sites has the potential to create new employment opportunities and support a cross-section of
entrepreneurial growth, benefit existing businesses, and supply housing for Marion's workforce with virtually no development impact and at a relatively low cost on infrastructure.

OBJECTIVES
"Steps and Timeframe"
- Identify and collect information on potential brownfield sites within Marion including an assessment of available funding opportunities, tax credits, and other applicable incentives.
- Promote Isothermal Regional Planning Commission's EPA Phase I Assessment grant opportunity through direct communication, community/civic meetings.
- Conduct feasibility study to identify market potential, versatility of use, location, risks, and cost.
- Identify and establish Public/Private partnership for funding and development within the parameters of the feasibility study.
- Public acquisition of site and prepare development plan.

DESIRED RESULT
"Outcome Metrics"
Provide support to interested parties to encourage the redevelopment of brownfield sites in an effort to make underutilized sites safe, productive, and active centers within the community again.

SUCCESS INDICATORS/ ACHIEVEMENTS
"Implementation/ Milestones/Schedule"
- Educate community of the benefits of brownfield redevelopment and available programs.
- Identify brownfield areas within Marion eligible for EPA Phase I Assessment assistance.
- Develop a pilot program and identify partnership to redevelop a brownfield site in Marion.
- Evaluate pilot program, make changes when needed and as necessary, and continue to promote the program until all sites have been redeveloped in fully functioning areas of economic and social activity.

CONVENING/LEADING ORGANIZATIONS & PARTICIPATING ORGANIZATIONS
(See Appendix A for
Roles and Responsibilities)
City of Marion
Isothermal Regional Planning Commission
Advantage West Preservation North Carolina
McDowell Community College
McDowell Chamber of Commerce
Marion Business Association

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McDowell County

FUNDING NEEDS Depending on the size, facilities and location there are several funding opportunities available to support such project. Project cost will be dependent upon each sites unique characteristics.

POTENTIAL FUNDING SOURCES
United Stated Department of Agriculture (USDA)
Appalachian Regional Commission (ARC)
North Carolina Rural Center
United States Environmental Protection Agency (EPA)
North Carolina and United States Department of Interior Historic Tax Credit programs

The City Manager commended Freddie Killough and Bobbie Young with the Marion Business Association and especially Ms. Cotton for the countless hours they have put into this project.

Mayor Clark stated that the NC STEP Program is still a new program and that the North Carolina Rural Center wants to have projects that create sustainable jobs.

A discussion followed.

Upon a motion by Councilman Owenby, seconded by Mayor Pro Tem Little, Council voted unanimously to approve the N.C. STEP Program investment recommendations as presented and recommended by the N.C. STEP Program Leadership Committee.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present for this meeting.

CONSIDER APPROVAL OF PERMIT TO OPERATE GAME ROOM AND POOL TABLES – CUE AND CUSHION – EAST COURT STREET: The City Manager stated that Mr. Jeremy McClellan has applied for a permit to operate the Cue and Cushion on East Court Street. The business would have ten pool tables and six games. The Police Department ran a criminal history check on the applicant and there were no items found on the State criminal history check.

The City Manager advised that local criminal records, which are readily available to anyone, came back showing misdemeanor convictions for Mr. McClellan for simple possession of drugs, driving with no operator's license, simple possession of marijuana, possession of drug paraphernalia, hit and run and two convictions for driving while impaired. Mr. McClellan had charges dismissed for speeding to elude arrest, for a red light violation, for having no insurance and for simple possession of marijuana. The status of 1997 charges for failure to return rental property and failure to appear in Court could not be determined from the local records. The City Manager stated that Mr. McClellan said he plans to purchase Cue and Cushion, but first wants to see if he can obtain the permit to operate the game room and pool tables.

The City Manager advised that under the City's Game Room/Pool Room ordinance, Council shall deny a permit to an applicant who has been convicted of unlawfully selling intoxicating liquors or narcotic drugs, is not a citizen and resident of the State, is an excessive user of intoxicating liquor or narcotic drugs or, who, as a result of the criminal background check, is deemed by Council to be unfit to conduct the business for which the license is applied. The City Manager stated that, as a result of the criminal background check, Mr. McClellan does not appear to have been convicted of illegally selling intoxicating liquors or narcotics and he appears to be a resident of North Carolina. The City Manager stated that whether Mr. McClellan is an excessive user of intoxicating liquors or narcotic drugs or is unfit to conduct the business for which the license is applied is a judgment call to be made by Council.

A copy of our Pool Room/Game Room ordinance was presented to Council for their review.

A discussion followed.

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Upon a motion by Councilman Edwards, seconded by Mayor Pro Tem Little, Council voted unanimously to deny the permit request of Mr. Jeremy McClellan to operate a Game Room and pool table at the Cue and Cushion on East Court Street.

CONSIDER DONATION OF PROPERTY TO MCDOWELL COUNTY RESCUE SQUAD: The City Manager advised that Council discussed at the September 27 Planning Session the idea of donating to the McDowell Rescue Squad the City owned property at 200 State Street that houses the Rescue Squad's old building. The City Manager stated that Council discussed donating the property subject to a provision in the deed stating that if the property is ever sold in the future, the City will be paid for the value of the land, with the Rescue Squad retaining the value of the building.

The City Manager stated that State law allows a City to donate property to a Rescue Squad upon adoption of a resolution after 10 days public notice. If Council approves, the City Manager stated that he could have the notice published and then have the resolution prepared for Council approval at a future meeting. A deed could then be prepared transferring the property to the Rescue Squad.

A discussion followed.

Upon a motion by Councilman Cuthbertson, seconded by Mayor Pro Tem Little, Council voted unanimously to approve the donation of the City owned property at 200 State Street to the McDowell County Rescue Squad, Inc. contingent upon the conditions of State law being met, including publication of notice of the proposed property donation and adoption of the required resolution, with the condition of the donation being that the City will be paid for the value of the land if the property is ever sold by the Rescue Squad in the future.

SCHEDULE CITY COUNCIL PLANNING SESSION: A discussion was held regarding the best date for the next City Council Planning Session.

Upon a motion by Councilman Cuthbertson, seconded by Mayor Pro Tem Little, Council voted to cancel the Regular City Council meeting on November 4 and to schedule the next City Council Planning Session for Thursday, November 6 at 6:00 p.m. at City Hall.

Council also decided to hold the one City Council Meeting in December on the regular meeting date of December 2, with the City Council Christmas Dinner being held on December 9.

DISCUSS VOLUNTEER FIREFIGHTER ISSUES: The City Manager advised that City Council had discussed at the September 27 City Council Planning Session the idea of volunteer firefighters staying overnight at the Fire Station to gain more experience. The City Manager advised that Council had stated that this was an administrative matter that the City Manager and Fire Chief could handle. The City Manager stated that, on the request of Councilman Edwards, he had placed this item on the agenda tonight for discussion.

The City Manager advised that, based on requests from volunteer firefighters, particularly newer volunteers, who wish to stay overnight to gain experience, Chief Neal proposed an approval form that the shift firefighter and Chief or Assistant Chief would need to sign prior to such overnight stay being allowed. The City Manager noted to Council that such allowance could mean that one volunteer firefighter who is a spouse of a paid firefighter might stay in the Fire Department with their spouse.

Councilman Edwards stated that he has problems with volunteers staying overnight at the Fire Station. He advised that, in his opinion, it is inappropriate for the City to allow a paid firefighter to be paid to sleep with their spouse when they are supposed to be on duty. Councilman Edwards questioned if this allowance might extend to family members and children as well.

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Councilman Edwards stated that he at times sees people gathering at the Fire Department at night, including children. He questioned whether the City has liability for this presence. Councilman Edwards stated that living across the street has also allowed him to hear shouting and loud noise at times coming from the Fire Department at night. He said that it bothers him to see this type of atmosphere at the Fire Department and even more the perception such activity gives to taxpayers. Councilman Edwards said that the Marion Fire Department had always been known for its professionalism and advised that some retired firefighters had mentioned to him that they did not like this activity.

A lengthy discussion followed.

The City Manager stated that his job was to follow the direction of Council, but that he saw no way to allow some volunteers to stay overnight at the Fire Station while not allowing others. He added that the request was only for volunteer firefighters to be allowed to stay overnight, not family members or others who are not volunteers.

Mayor Clark stated that this request did not come from Chief Neal or the paid staff; instead, it came from the volunteers of the Fire Department.

Councilman Edwards suggested that the fact that some volunteers were making the request should not be a factor.

Mayor Pro Tem Little stated that the Council does not need to get into micromanaging the operations of the Fire Department. He suggested that this issue should be handled by the Fire Chief.

Councilman Cuthbertson stated that Council is a policy making board and should not delve into administrative matters.

Councilman Edwards made a motion that a written policy be drafted and brought back to Council for review establishing guidelines for visitation and overnight stays at the Fire Department. The motion was seconded by Councilman Martin.

Councilman Martin stated that he did not have a problem with a policy being drafted and reviewed by Council.

Councilman Edwards stated that it would be better for staff to have a policy in place regarding this issue, since there were differing opinions among Council members. He stated that it would not be good for the City Manager to have to make decisions about this matter without a policy.

Mayor Pro Tem Little and Councilman Owenby both stated that they did not think a policy was needed as this was a matter that could be handled by staff.

The vote was as follows:

Councilman Edwards	Aye
Councilman Martin	Aye
Councilman Cuthbertson	Aye
Mayor Pro Tem Little	Nay
Councilman Owenby	Nay

The motion carried 3-2.

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The City Manager stated that he would work with Chief Neal to draft a policy that could be reviewed by Council and would also discuss the issues mentioned regarding noise and activity at the Fire Department at night.

ADD ON ITEM – REQUEST TO DESIGNATE PARKING SPACE ON SOUTH GARDEN STREET FOR HANDICAPPED/CURBSIDE VOTING: The City Manager advised that the Director of the McDowell County Board of Elections, Ms. Kim Welborn, is requesting permission to designate a parking space adjacent to the County Administration building on South Garden Street for handicapped/curbside voting during the One-Stop Voting Period between October 16 and November 1. The Board of Elections specifically requests that the parking space next to the handicapped space on South Garden Street be designated for handicapped/curbside voting.

A discussion followed.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, Council voted unanimously to approve this request and designate a parking space next to the handicapped space on South Garden Street adjacent to the County Administration Building for handicapped/curbside voting during the Early Voting Period October 16-November 1.

CITY MANAGER'S REPORT: The City Manager gave a brief report on current projects as follows:

The City Manager advised that he had recently researched economic factors affecting the City as part of the completion of the Management Discussion and Analysis for the City's annual audit. The City Manager stated that this research revealed that taxable retail sales in the City grew by 6.4 percent in 2007-08 over 2006-07 taxable retail sales, a rate much higher than growth experienced in the County and across the State. The City Manager reported that 67 percent of taxable retail sales in McDowell County in 2007-08 took place in the City of Marion.

The City Manager presented Council with a spreadsheet showing industrial closings since 1990, updated to include the recent Spectrum Dyed Yarns plant closing. The City Manager stated that 2,988 manufacturing jobs have now been lost since 1990 in the City and the City's utility service area, with a total utility revenue loss of $565,202 per year and a total property tax loss of $129,746 per year.

The City Manager advised that staff is working to have the desired Clinchfield Park and greenway parcel surveyed, to create a lot to be subdivided off of the 12.55 acre Huskins Trust property off of Hill Street in Clinchfield that Frank Boldon purchased in late July. Chamad, Inc. has signed the lease for their parking lot that will be used for the new Park. The City Manager stated that staff will be scheduling work on the new Park, but that such work may be delayed to avoid interference with the residential development plans of Mr. Boldon adjacent to the Park site.

The City Manager reported that it is more likely that work will begin first on the new Eastfield Park adjacent to Eastfield Elementary School.

The City Manager advised that the City continues to make improvements to the City website, www.marionnc.org. He added that staff has recently added content regarding over 20 current projects and/or newsworthy events involving the City. The City Manager asked Council to let him know if they have ideas for additional content. Mayor Pro Tem Little suggested that the news and current projects section be displayed more prominently on the website frontpage. The City Manager stated that he would have that change made.

The City Manager advised that the Mountain Glory Festival would take place on Saturday, October 11. He advised that the Festival will expand to a third block and that the Festival will

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have a few additional vendors, despite the poor economy, as well as having considerable room for growth in the future.

The City Manager showed Council a concrete block showing the light green paint color chosen at the Planning Session for the repainting of the City's water tanks. After discussion, the Mayor and City Council agreed by consensus that the light green color would not be appropriate and authorized the City Manager to have the water tanks repainted the same color as they are now.

COUNCILMAN COMMENTS:

Councilman Cuthbertson stated that a lot on Morgan Street with frontage on Willow Street still has high grass on the Willow Street side of the property. The City Manager advised that Planning and Development Director Heather Cotton had this lot on the enforcement list and that action should take place by mid to late October.

Councilman Cuthbertson stated that the Holland family was very complimentary of the Fire Department during the recent fire at one of their businesses on East Court Street.

Mayor Clark noted that the Water Plant monthly report reflected that over 700,000 gallons of water were used for flushing the County's Nebo water system that is maintained by the City. Mayor Clark stated that the value of this water, at standard outside water rates, is over $40,000 per year, which is about the same amount the City is receiving in revenue from all water customers combined on the Nebo water system. He stated that this is not a good situation for the City.

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

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.00000052 (24)

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, 2008 at 7:00 P.M. in the City Council Chamber located at 194 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: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, Planning and Development Director; Mika Elliott, Police Chief; Chris Hollifield, Public Works Director; Steve Miller, Water Plant Superintendent; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: John Morrow 774 Rutherford Road, Marion, NC; Patty Elliott 2465 Goose Creek Road, Marion, NC; Rex Wood, 746 Rutherford Road, Marion, NC; Dr. Bryan Wilson, 179 Devonwood Drive, Marion, NC; Matt Smith, 1105 Airport Road, Marion, NC; Sid Harkelrode, 845 Deepwoods Drive, Marion, NC; Sylvia Davis, 342 Forest Heights Drive, Marion, NC; Carroll Hemphill, Glenwood, NC; Charmane Davis 732 Rutherford Road Marion, NC; Jim Brady 754 Rutherford Road, Marion, NC.

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – October 7, 2008 Regular City Council Meeting Minutes

B. Select Voting Delegate for National League of Cities Conference: Council designated Mayor Clark as the City's voting delegate for the National League of Cities Congress of Cities in Orlando, Florida in November.

C. Approve Waiver of Civil Citation: Mr. Donald Good appealed a parking citation issued on October 9 in the Rose's parking lot for parking in a handicapped parking space without displaying a handicapped placard. Mr. Good provided evidence that he had a handicapped placard and simply failed to display it. Council approval was given to waive the $10.00 penalty for the citation.

D. Approve Longevity Pay/Purchase of Turkeys for City Employees

The 2008-09 budget included funds for longevity pay for City employees.

DEPARTMENTAL SUMMARY - LONGEVITY 2008

DEPARTMENT		GROSS AMOUNT
ADMINISTRATION	420	$5,421.20
PURCHASING	445	$750.64
PLANNING AND INSPECTIONS	500	$1,241.00
POLICE	510	$13,924.92
FIRE	530	$2,837.96
PUBLIC WORKS ADMINISTRATION	545	$231.84
FLEET MAINTENANCE	555	$1,155.92

AA.00000053 (24)

STREET	560		$4,480.36
SANITATION	580		$2,659.64
UTILITY MAINTENANCE	810		$4,762.76
WATER PLANT	812		$2,699.52
WASTE TREATMENT PLANT	816		4,959.52
		GRAND TOTAL	**$45,125.28**

Council authorization was given for the payment of the longevity pay and for the purchase of turkeys for full-time, part-time and contract employees. The longevity pay and turkeys are distributed the week of Thanksgiving.

E . Approve Tax Refund

The Gladys Hollifield property off of Highway 221 North Business, which was annexed in 2005, has been billed incorrectly for the past three years. Property outside the City was coded as inside the City and billed incorrectly for taxes. The approved refund amount is $2,534.55.

PRESENTATION OF AWARD FOR WATER PLANT PERFORMANCE FROM NORTH CAROLINA PUBLIC WATER SUPPLY SECTION:

The City Manager advised that the City recently received for the sixth year in a row an award from the State of North Carolina Public Water Supply Section for excellent performance at the Water Treatment Plant. Marion was one of only 16 water plants out of 189 in the State to receive this award. The City Manager stated that this award is indicative of the tremendous performance provided by Water Plant Superintendent Steve Miller and the Water Plant staff.

Mayor Clark presented Mr. Miller with the award, which read as follows:

NC Area Wide Optimization Program
Certificate of Facility
Turbidity Removal Optimization
2007
City of Marion – Water Treatment Facility

NC Public Water Supply Section
Division of Environmental Health

Mayor Clark and Council members commended Mr. Miller for the continued excellent performance of the Water Plant. Mayor Pro Tem Little noted that Marion has some of the best water in the country.

PRESENTATION OF NORTH CAROLINA WATERWORKS OPERATORS ASSOCIATION LIFE MEMBERSHIP AWARD TO WATER PLANT SUPERINTENDENT STEVE MILLER:

Mayor Clark presented Mr. Miller with a life membership award from the North Carolina Waterworks Operators Association that read as follows:

North Carolina Water Works Operators Association
Life Membership

This certificate of Achievement is Awarded to
Steven Miller

69th Annual Waterworks Operators School
Raleigh, North Carolina
September 24, 2008

Mayor Clark, Council Members and the City Manager all commended Mr. Miller on the great work he does for the City.

PRESENTATION OF GREEN CHALLENGE AWARD FROM NORTH CAROLINA LEAGUE OF MUNICIPALITIES: Mayor Clark stated that the City had recently been presented with a Green Challenge Award from the North Carolina League of Municipalities. Mayor Clark noted that Marion was one of 78 out of 542 total cities and towns in the State to receive this award. He added that the plaque itself was made out of recycled materials. The plaque read as follows:

NORTH CAROLINA LEAGUE OF MUNICIPALITIES
THE CITY OF MARION
HAVING COMMITTED TO EFFICIENT, ENERGY, SAVINGS OPERATIONS AND PRACTICES
HAS ACHIEVED
Level One
OF THE
NCLM Green Challenge
October 2008

The City Manager noted that the City received this recognition due to having a curbside recycling program, a commercial recycling program, an active tree planting and tree preservation program, conducting energy audits and improvements at City facility, promoting water conservation and preserving open space, among other activities.

PUBLIC HEARING – ADOPTION OF ORDINANCE – MCDOWELL TECHNICAL COMMUNITY COLLEGE ANNEXATION: Mayor Clark opened the Public Hearing.

The City Manager advised that this public hearing had been scheduled for the annexation of McDowell Technical Community College and surrounding property owned by McDowell County and North Carolina Forest Service. The City Manager stated that the property would be annexed effective October 31, 2008.

Dr. Bryan Wilson, President of McDowell Technical Community College, was present for this Public Hearing and stated that he appreciated Council considering this property for annexation, since the College is a tax exempt facility. He advised that the College is seeking annexation mainly due to the need for water and plans to hook the entire campus onto City water. Dr. Wilson noted that the College may also look into the City's dumpster and recycling services. He added that the City and College had previously reached agreement regarding law enforcement services and that the College did not want in any way to be a drain on City services.

Mayor Clark stated that he is glad the water service is available for the College campus and that the City is happy to be able to help out in any way possible.

Mayor Pro Tem Little stated that McDowell Technical Community College is a wonderful asset to the community and has contributed greatly to the education of people in the County and beyond.

Mayor Clark closed the Public Hearing.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, Council voted unanimously to adopt the following ordinance annexing the McDowell Technical Community College area, effective October 31, 2008, as follows:

AA.000000055 (24)

**AN ORDINANCE TO EXTEND
THE CORPORATE LIMITS OF THE
CITY OF MARION, NORTH CAROLINA –
MCDOWELL TECHNICAL COMMUNITY COLLEGE - 2008**

WHEREAS, the City Council has been petitioned under G.S. 160A-31 to annex the area described below; and

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

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at City Hall at 7:00 P.M. on Tuesday, October 21, 2008, after due notice by publication on Wednesday, October 8, 2008; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-31;

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

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the City of Marion as of October 31, 2008:

BEGINNING on an iron pin in the Southern margin of the right-of-way for Interstate Highway No. 40 and in the Western margin of U.S. Highway No. 226, and running thence from said beginning point along and with the Western margin of Highway No. 226 the following courses and distances: South 50 degrees 12 minutes East 534.3 feet to nail; South 40 degrees 10 minutes East 259.42 feet to a stake; South 33 degrees East 192.82 feet to a stake; South 29 degrees 29 minutes East 630.5 feet to an iron pipe near a sign; thence leaving said highway South 56 degrees 30 minutes West 989.3 feet to a nail in the center line of the Clinchfield Railroad Company tracks; thence with the center line of said railroad track, North 35 degrees 45 minutes West 1,114.1 feet to a nail in a cross-tie, in Kanipe's line; thence along and with Kanipe's line the following courses and distances: North 27 degrees East 210.2 feet to a pipe; North 6 degrees 10 minutes West 140.3 feet to a stake in the right-of-way of Interstate Highway No. 40; thence along and with the right-of-way line of Interstate Highway No. 40, the following courses and distances: North 37 degrees 28 minutes East 111.4 feet to a stake; North 37 degrees East 120 feet to a stake; North 32 degrees 55 minutes East 146.7 feet to a concrete monument; North 33 degrees 27 minutes East 311.9 feet to the Beginning, containing 31.7 acres, more or less.

Section 2. Upon and after October 31, 2008, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City of Marion. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Marion shall cause to be recorded in the office of the Register of Deeds of McDowell County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the McDowell County Board of Elections, as required by G.S. 163-288.1.

ADOPTED this the 21st day of October, 2008.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Approved As To Form:

City Attorney

Ordinance Number: O-08-10-21-1

PUBLIC HEARING/ADOPTION OF ORDINANCE – MARION TRAVEL PLAZA SATELLITE ANNEXATION: Mayor Clark opened the Public Hearing.

The City Manager advised that this public hearing had been scheduled for the satellite annexation of Marion Travel Plaza on Sugar Hill Road. The City Manager stated that the property would be annexed effective October 31, 2008.

The City Manager noted that the City had previously entered into a service agreement with Marion Travel Plaza regarding the provision of water and sewer service to the property.

There were no citizens present to discuss this annexation.

Mayor Clark closed the Public Hearing.

Upon a motion by Mayor Pro Tem Steve Little, seconded by Councilman Martin, Council voted unanimously to adopt the following ordinance to annex the Marion Travel Plaza property, effective October 31, 2008, as follows:

AN ORDINANCE TO EXTEND
THE CORPORATE LIMITS OF THE
CITY OF MARION, NORTH CAROLINA –
MARION TRAVEL PLAZA – SUGAR HILL ROAD - 2008

WHEREAS, the City Council has been petitioned under G.S. 160A-58.1 to annex the area described below; and

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

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at City Hall at 7:00 P.M. on Tuesday, October 21, 2008, after due notice by publication on Wednesday, October 8, 2008; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-58.1(b);

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

Section 1. By virtue of the authority granted by G.S. 160A-58.2, the following described territory is hereby annexed and made part of the City of Marion as of October 31, 2008:

Being located on Sugar Hill Road (SR 1001), in the Marion Township of McDowell County, North Carolina as shown on that certain unrecorded plat of survey prepared by R. L. Greene Surveying and Mapping, dated October 3, 2001, Map #MM1-176-B and being more fully described as follows: BEGINNING on an existing iron pin located on the South side of Sugar Hill Road (SR 1001) having a bearing of N=214,281.547 meters, E=334,448.353 meters and NAD 83, a common corner of the property owned by Fred A. Staton and wife, (McDowell Deed Book 172, Page 601) and the beginning corner of Deed Book 609, Page 7, said existing iron pin also being located South 46 degrees 12 minutes 22 seconds West 1,845.136 feet from N.C.G.S. Monument "Sugar Hill" having a bearing of N=214,670.701 meters, E=334,854.244 meters and NAD 83 and a grid distance from the monument to said corner of 562.306 meters, and from said beginning, running with the Staton line the following courses and distances: South 10 degrees 42 minutes 20 seconds East 260.67 feet to an existing iron pin, South 10 degrees 42 minutes 20 seconds East 5.00 feet to a 25 inch pine tree marked as a corner (the third corner of Deed Book 609, Page 7), South 42 degrees 16 minutes 56 seconds East 5.00 feet to an existing iron pin and South 42 degrees 16 minutes 56 seconds East 145.42 feet to a 5/8 inch solid iron pin set, a new corner; thence with a new line South 58 degrees 07 minutes 49 seconds West 614.92 feet to a 5/8 inch solid iron pin set in the line of the property owned by Clifford Ford Miller and wife, (McDowell deed Book 334, Page 167), a new corner; thence with the Clifford

Ford Miller line the following course for the following two (2) distances: North 25 degrees 46 minutes 20 seconds West 408.87 feet to an existing iron pin near the public telephones and North 25 degrees 46 minutes 20 seconds West 51.91 feet to an unmarked point of the Southern boundary line of Sugar Hill Road; thence with the Southern boundary line of Sugar Hill Road, North 65 degrees 40 minutes 24 seconds East 38.00 feet to an unmarked point; thence leaving the Southern boundary of Sugar Hill Road, the following four (4) courses and distances; South 38 degrees 44 minutes 31 seconds East 54.92 feet to an unmarked point, North 72 degrees 43 minutes 12 seconds East 11.96 feet to an unmarked point, North 29 degrees 10 minutes 19 seconds East 30.50 feet to an unmarked pint, and north 62 degrees 05 minutes 19 seconds East 155.66 feet to an unmarked point near a chain link fence; thence running along the chain link fence with runs parallel to the Southern edge of Sugar Hill Road, North 58 degrees 42 minutes 15 seconds East 396.94 feet to the point of BEGINNING, containing approximately 5.58 acres.

AND BEING the same lands described in that certain Deed dated May 23, 2007, from Everest Holdings, Inc., a North Carolina Corporation to Sugar Hill Enterprises, Inc., a North Carolina Corporation, recorded in the Office of the Register of Deeds for McDowell County, NC, to which reference is hereby made.

Section 2. Upon and after October 31, 2008, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City of Marion. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Marion shall cause to be recorded in the office of the Register of Deeds of McDowell County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the McDowell County Board of Elections, as required by G.S. 163-288.1.

ADOPTED this the 21st day of October, 2008.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Approved As To Form:

City Attorney

Ordinance Number: O-08-10-21-2

PUBLIC HEARING – ZONING MAP AMENDMENT – RUTHERFORD ROAD: Mayor Clark opened the Public Hearing.

Planning and Development Director Heather Cotton advised that a request has been submitted by Mr. Rex Wood to rezone property at 746 Rutherford Road from R-2 General Residential to C-2 General Business. Ms. Cotton stated that this property is contiguous to existing property that is zoned C-2, including property rezoned to the C-2 district by the City Council last month. Ms. Cotton reported that the property is located on a main thoroughfare making it an ideal location to operate a business. The surrounding area has a mixture of commercial, industrial and residential uses. Ms. Cotton stated that, recently, residential and other surrounding properties have been converted or are being developed into commercial uses. The property is located in an area that has been identified on the Comprehensive Land Use Map as being developed into commercial. The commercial land use designation is not likely to change with future updates to the Comprehensive Land Use Plan.

Ms. Cotton advised that the Planning Board voted unanimously at their meeting on October 2 to recommend the approval of this request.

AA.000000058 (24)

The following graphics illustrate both the existing and proposed zoning designations for the subject property.

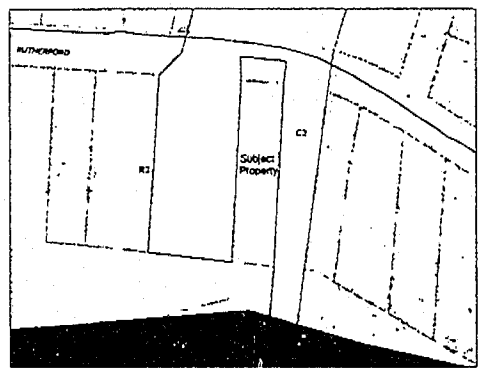


Figure One: Current Zoning

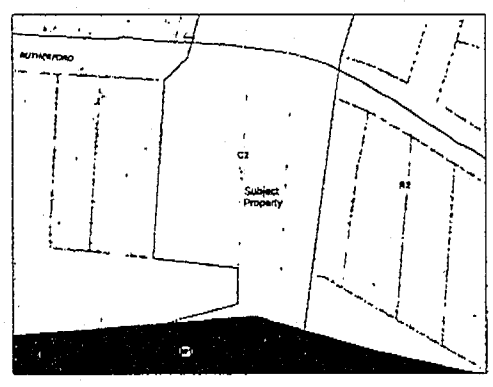


Figure Two: Proposed Zoning

Mr. Jim Brady, who owns several properties contiguous to Mr. Wood, stated that he supports the request. He suggested that perhaps Council would consider waiving zoning fees as an incentive to get other property owners in this area to rezone their properties to commercial zoning in compliance with the City's adopted Land Use Plan.

Mr. Brady stated that he would like to see this corridor turned into to a more commercial area in the next 10 to 20 years.

Mr. Rex Wood, the applicant, stated that City employees work in a very professional, efficient manner from the top of the staff to the bottom. He added that he was impressed with the variety of projects on which the City was working and with the way City Council conducted itself. Mr. Woods thanked Council for its consideration of his rezoning request.

Mayor Clark thanked Mr. Wood for his kind comments and stated that the motto he has always lived by is: whether the job is great or small, do it right or not at all. Mayor Clark stated that he and the City Council take pride in the City and appreciate the work that City employees do.

Mayor Clark closed the Public Hearing.

Upon a motion by Mayor Pro Tem Steve Little, seconded by Councilman Martin, Council voted unanimously to adopt the following ordinance to amend the Official Zoning District Map to rezone property located at 746 Rutherford Road from the R-2 General Residential Zoning District to the C-2 General Business Zoning District as follows:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2. The City of Marion is amending the Official Zoning District Map for property located 746 Rutherford Rd, and having the PIN 1701.16-84-9953 from the R-2 General Residential Zoning District to the C-2 General Business Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing on October 2, 2008.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

AA.000000059 (24)

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective upon its adoption.

Adopted this the 21st day of October 2008.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-08-10-21-3

PUBLIC COMMENT PERIOD: There were no unscheduled persons present for this meeting.

REVIEW PROPOSED ZONING TEXT AMENDMENT – HISTORIC PRESERVATION: The City Manager advised that as authorized by Council in July, Planning and Development Director Heather Cotton had drafted a proposed City Historic Preservation Ordinance as an amendment to the Zoning Ordinance. The Planning Board has reviewed the draft ordinance at their October 2 meeting and wanted to take more time before recommending approval. To make sure we are on the right track with the proposed ordinance, the City Manager asked that Ms. Cotton present the proposed ordinance to Council, to see if there were any parts of the ordinance that caused concern with Council.

Ms. Cotton stated that in August 2008, the City Council requested that staff draft an ordinance to protect and preserve historic resources in the City of Marion. Staff reviewed the North Carolina General Statutes and model ordinances from across the state to draft an ordinance that would meet the needs of Marion and comply with state requirements. Ms. Cotton stated that the draft ordinance was reviewed with the Planning Board at the September and October meetings. The Planning Board requested revisions to the ordinance at the October meeting and is recommending that the new Historic Preservation Commission receive training and that a community workshop be held prior to adoption of the ordinance.

The ordinance presented to Council is a draft of the ordinance currently being reviewed by the Planning Board.

Ms. Cotton displayed a map of current National Register of Historic Places Historic District that are in place in downtown Marion. The City Manager noted that Council may wish to follow the National Register Districts in setting the boundaries of the locally designated district(s), or could expand beyond the National Register districts to protect more of the historic integrity of the downtown area. The City Manager added that locally designated historic districts would bring guidelines and rules, but also protection of the historic district as a whole.

No action on this ordinance is being requested at this time.

Ms. Cotton stated again that the Planning Board wants to hold workshops with property owners and neighbors to be impacted by the new requirements.

A discussion followed.

Councilman Edwards noted that property values often go up when a property is made part of a historic district, which could be viewed as both a positive and negative.

AA.000000060 (24)

Mayor Clark and Council members stated no objections to the proposed ordinance, but did urge staff to proceed with holding workshops to educate property owners in the downtown about the proposed ordinance and to obtain input.

No action was taken by Council.

CONSIDER APPROVAL OF ORDINANCE TO REVISE WATER AND SEWER CONNECTION FEES: The City Manager advised that, as discussed at the September 27 Council Planning Session, he had drafted a proposed ordinance amending the water and sewer connection fees to make outside connection fees 2.5 times higher than inside connection fees. To create the differential, inside water and sewer connection fees were lowered, while outside fees were increased. The City Manager stated that, as an example, the combined water and sewer connection fees for a standard ¾" residential connection inside the City would decrease from $4,044 to $2,520, while the same outside connection fee would increase from $4,944 to $6,300.

In reviewing the ordinance, the City Manager stated that he would also propose creating outside fees that are 2.5 times higher than inside fees for backflow preventors (the outside fees go up from $20 to $25) and for fire protection/sprinkler connections (outside fees are currently 50 percent higher and will increase by two-thirds while inside fees remain the same).

The City Manager advised that water and sewer service deposits are not proposed for increase, even though outside deposits are only two times higher than inside deposits. The deposits could be increased to the 2.5 times differential if Council wants.

The City Manager stated that he would recommend making the ordinance effective January 1, since the City has some service applications that are pending and which have been quoted the current fees.

A discussion followed.

Councilman Owenby stated that he feels that the ordinance may contain too much of an increase for the outside rates.

Mayor Clark stated that the change in the sales tax distribution by the County has forced us the City concentrate on what is best for citizens inside the City rather than outside customers.

Mayor Pro Tem Little stated that he feels the ordinance is appropriate and is a good way to create incentives for development in the City Limits. He add that the purpose of a City is to provide benefits for people inside the City.

A discussion followed.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Ordinance establishing water and sewer rates as follows:

ORDINANCE
ESTABLISHING WATER/SEWER RATES, CONNECTION FEES, COST RECOVERY CHARGES AND OTHER MISCELLANEOUS CHARGES

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

Section 1. That new water/sewer rates, connection (tap fees) fees, cost recovery charges and other miscellaneous charges are hereby established as follows:

	INSIDE CITY	**OUTSIDE CITY**

Water Rates:	**$1.90 per 1,000 Gallons, plus $10.73 Service Charge per month**	**$4.75 per 1,000 Gallons, plus $26.82 Service Charge per month**
Minimum Rate for 2,000 gallons or less	**$11.95**	**$29.85**
Master Meter Rate	**$1.90 per 1,000 Gallons, plus $8.56 Service Charge per month**	**$4.75 per 1,000 Gallons, plus $21.40 Service Charge per month**
Master Meter Minimum Rate for 2,000 gallons Or less (per unit served)	**$9.75**	**$24.37**
	INSIDE CITY	**OUTSIDE CITY**
Sewer Rates:	**$1.90 per 1,000 Gallons, plus $10.73 Service Charge per month**	**$4.75 per 1,000 Gallons, plus $26.82 Service Charge per month**
Minimum Rate for 2,000 gallons or less	**$11.95**	**$29.85**
Master Meter Rate	**$1.90 per 1,000 Gallons, plus $8.56 Service Charge per month**	**$4.75 per 1,000 Gallons, plus $21.40 Service Charge per month**
Master Meter Minimum Rate for 2,000 gallons Or less (per unit served)	**$9.75**	**$24.37**
	INSIDE CITY	**OUTSIDE CITY**
Metered Sewer Rates for Private Wells	**$2.74 per 1,000 Gallons, plus $10.73 Service Charge per month**	**$6.85 per 1,000 Gallons, plus $26.82 Service Charge per month**

Important Notices:

All sewer charges are based on water meter readings, unless a sewer metering device approved by the City has been installed.

When more than one unit is served by a Master Meter, such as a mobile home park, shopping center or apartment complex, the monthly service charge is $9.75 for water and $9.75 for sewer in the City, and $24.37 for water and $24.37 for sewer outside the City, whether said units are occupied or not.

A residence using a private well, with no water meter, shall pay a flat rate of $29.85 per month per residential unit for sewer service, if located outside the City Limits. If the residence using a private well, with no water meter, is located inside the City Limits, a flat rate of $11.95 per month per residential unit shall be charged for sewer service.

AA.00000062 (24)

WATER SERVICE CONNECTION FEES (TAP FEES) AND COST RECOVERY CHARGES (CRC):

WATER METER SIZE	INSIDE CITY TAP FEE	INSIDE CITY CRC CHARGE	OUTSIDE CITY TAP FEE	OUTSIDE CITY CRC CHARGE
¾"	$ 540	$ 540	$ 1,350	$ 1,350
1"	630	1,620	1,575	4,050
1 ½"	1,260	3,240	3,150	8,100
2"	1,440	6,480	3,600	16,200
3"	3,060	12,960	7,650	32,400
4"	3,690	22,500	9,225	56,250
6"	5,940	54,000	14,850	135,000
8"	8,100	67,500	20,250	168,750
10"	10,800	90,000	27,000	225,000
12"	14,400	112,500	36,000	281,250

Tap Fees (Domestic Water Service):
The Charge listed for a ¾" domestic water service includes the cost of a back-flow preventor required by the City.

The charge to add a ¾" back-flow preventor to an existing domestic service is as follows:

INSIDE CITY	OUTSIDE CITY
$ 10.00	$ 25.00

CHARGES FOR CONNECTIONS FOR FIRE PROTECTION/SPRINKLER LINES IN RESIDENTIAL AND/OR COMMERCIAL DEVELOPMENTS

SIZE SERVICE	INSIDE CITY	OUTSIDE CITY
2" SERVICE	$ 1,100	$ 2,750
3" SERVICE	2,800	7,000
4" SERVICE	3,200	8,000
6" SERVICE	4,400	11,000
8" SERVICE	6,000	15,000
10" SERVICE	8,200	20,500
12" SERVICE	11,600	29,000

CHARGES FOR CONNECTIONS FOR FIRE PROTECTION/SPRINKLER LINES IN RESIDENTIAL AND/OR COMMERCIAL DEVELOPMENTS:

All connections to the city water system shall be equipped with a proper check-valve and/or back-flow preventor approved by the city public works director or city engineer prior to installation. It shall be the responsibility of the owner to have the approved check-valve or back-flow preventor installed. In addition, the owner of all properties connected to the city water system and using water for other than domestic services, shall submit a letter to the city water department on or before the first day of July each year certifying that the check-valve and/or back-flow preventor has been checked and is operating properly.

SEWER SERVICE CONNECTION FEES (TAP FEES) AND COST RECOVERY CHARGES (CRC):

WATER METER SIZE	INSIDE CITY TAP FEE	INSIDE CITY CRC CHARGE	OUTSIDE CITY TAP FEE	OUTSIDE CITY CRC CHARGE
¾"	$ 1,080	$ 360	$ 2,700	$ 900
1"	1,170	1,080	2,925	2,700
1 ½"	1,260	2,160	3,150	5,400
2"	1,350	3,600	3,375	9,000
3"	1,440	7,200	3,600	18,000
4"	1,530	10,800	3,825	27,000
6"	1,620	22,500	4,050	56,250
8"	1,710	36,090	4,275	90,225
10"	1,800	51,840	4,500	129,600
12"	1,890	69,840	4,725	174,600

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	INSIDE CITY	OUTSIDE CITY
RELOCATE WATER/ SEWER CONNECTION, (OWNERS REQUEST)	AT COST	COST PLUS 10%
INCREASE METER SIZE	DIFFERENCE IN TAP FEE AND COST RECOVERY CHARGES FOR WATER/SEWER	DIFFERENCE IN TAP FEE AND COST RECOVERY CHARGES FOR WATER/SEWER

DEPOSIT AND/OR PREPAYMENT FOR NEW ACCOUNTS:

RESIDENTIAL ACCOUNTS

	INSIDE CITY	OUTSIDE CITY
WATER DEPOSIT	$ 30.00	$ 60.00
SEWER DEPOSIT	$ 30.00	$ 60.00

In cases where an existing residential water and/or sewer customer has been a water and/or sewer customer of the city of Marion for a period of no less than five consecutive years, and has made no late payments in the previous twelve months, and moves to another location on the city's water and/or sewer system, the following procedure shall apply:

Any increase in the deposit required to be paid to bring the customer's deposit up to the current level listed above may be paid in three equal installments, to be added to the customer's first three water and/or sewer bills in the new location. If the customer fails to make any of the required payments, their service may be cut off pursuant to city policy.

COMMERCIAL, INDUSTRIAL AND MASTER METER ACCOUNTS

The water and/or sewer deposit for commercial, industrial, and master meter accounts shall be an amount equal to the average monthly charge for water and/or sewer service, but not less than the residential deposits. The initial deposits for commercial, industrial and master meter accounts shall be as follows:

INSIDE CITY

	WATER	SEWER	WATER AND SEWER
FAST FOOD/PIZZA RESTAURANTS	$100.00	$100.00	$ 200.00
OTHER RESTAURANTS (WITH SEATING)	$150.00	$150.00	$ 300.00
GROCERY STORES	$150.00	$150.00	$ 300.00
APARTMENT COMPLEXES (MASTER METER)	$150.00	$150.00	$ 300.00
CAR WASHES	$150.00	$150.00	$ 300.00
LAUNDRIES	$200.00	$200.00	$ 400.00

COMMERCIAL, INDUSTRIAL AND MASTER METER ACCOUNTS-continued:

INSIDE CITY

	WATER	SEWER	WATER AND SEWER
NURSING/FAMILY CARE HOMES	$200.00	$200.00	$ 400.00
INDUSTRY (50 OR MORE EMPLOYEES)	$500.00	$500.00	$1,000.00
INDUSTRY (LESS THAN 50 EMPLOYEES)	$200.00	$200.00	$ 400.00

AA:000000064 (24)

OTHER MASTER METER ACCOUNTS	$100.00	$100.00	$ 200.00
GENERAL BUSINESS	$ 50.00	$ 50.00	$ 100.00

OUTSIDE CITY

	WATER	SEWER	WATER AND SEWER
FAST FOOD/PIZZA RESTAURANTS	$ 200.00	$ 200.00	$ 400.00
OTHER RESTAURANTS (WITH SEATING)	$ 300.00	$ 300.00	$ 600.00
GROCERY STORES	$ 300.00	$ 300.00	$ 600.00
APARTMENT COMPLEXES (MASTER METER)	$ 300.00	$ 300.00	$ 600.00
CAR WASHES	$ 300.00	$ 300.00	$ 600.00
LAUNDRIES	$ 400.00	$ 400.00	$ 800.00
NURSING/FAMILY CARE HOMES	$ 400.00	$ 400.00	$ 800.00
INDUSTRY (50 OR MORE EMPLOYEES)	$1,000.00	$1,000.00	$2,000.00
INDUSTRY (LESS THAN 50 EMPLOYEES)	$ 400.00	$ 400.00	$ 800.00
OTHER MASTER METER ACCOUNTS	$ 200.00	$ 200.00	$ 400.00
GENERAL BUSINESS	$ 100.00	$ 100.00	$ 200.00

COMMERCIAL, INDUSTRIAL AND MASTER METER ACCOUNTS-continued:

The city manager shall determine the appropriate deposit for any commercial, industrial or master meter customer not listed in the preceding schedule. At the end of six months of service, the city will determine the average use by averaging the three highest months. The customer will be billed for any additional amount for the proper deposit. If the amount is not received in thirty days, the utility bill will be increased each month for twelve consecutive months until the proper deposit has been received. If the average monthly deposit is lower than the amount the city has received from the initial deposit, the city will credit the water account of the customer for the amount of the difference in the initial deposit and the average monthly bill.

OTHER MISCELLANEOUS CHARGES

	INSIDE CITY	OUTSIDE CITY	
CUT – OFF FEES:			
1 - 3 OCCURANCES	$ 15.00	$ 15.00	4 - 10 OCCURANCES $ 25.00
			$ 25.00
OVER 10 OCCURANCES	$ 50.00	$ 50.00	
RECONNECT SERVICE SUMMER/SEASONAL RESIDENT	$ 15.00	$ 37.50	
TEMPORARY SERVICE	$ 15.00	$ 37.50	
(SEVEN OR LESS DAYS)	PLUS ACTUAL WATER USAGE	PLUS ACTUAL WATER USAGE	
TRANSFER EXISTING ACCOUNT TO NEW ADDRESS	UPGRADE TO PROPER DEPOSIT (IF DEPOSIT IS ADEQUATE) CHARGE $ 15.00 TRANSFER FEE		

METER TAMPERING:		
1ST OFFENSE	$ 100.00	$ 100.00
2ND OFFENSE	$ 200.00	$ 200.00
3RD OFFENSE	$ 500.00	$ 500.00

AA.000000065 (24)

OTHER MISCELLANEOUS CHARGES-continued:

	INSIDE CITY	OUTSIDE CITY
RETURNED CHECK SERVICE CHARGE	$ 25.00 OR 10% OF CHECK, WHICHEVER IS GREATER	$ 25.00 OR 10% OF CHECK, WHICHEVER IS GREATER
BANK DRAFT CUSTOMER – CHARGE FOR CLOSED ACCOUNT	$ 25.00	$ 25.00
CUSTOMERS REQUEST TO CHECK WATER METER FOR ACCURACY ¾" AND 1" METERS	$ 25.00	$ 25.00
LARGER METERS	AT COST	AT COST
DETERMINATION OF FLOW AND SERVICE CAPABILITIES	AT COST	AT COST

Section 2. The Ordinance adopted on June 17, 2008 is rescinded upon the effective date of this Ordinance.

Section 3. All other ordinances, in conflict with this ordinance, are rescinded upon the effective date of this ordinance.

Section 4. This Ordinance shall become effective January 1, 2009.

ADOPTED this the 21st day of October, 2008.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number O-08-10-21-4

CONSIDER APPROVAL OF ORDINANCE TO REVISE COMMUNITY BUILDING MAIN LEVEL AND COMMUNITY BUILDING BASEMENT RATES: The City Manager advised that, as discussed at the September 27 Council Planning Session, Finance Director Harriett Thomas has prepared an ordinance to increase the Community Building Main Level and Community Building Basement rates, to make the building operation self supporting. The City Manager stated that the ordinance removes references to inside and outside rates in the ordinance, as directed by Council. Under the proposed ordinance, the basic charge for renting the Community Building Main Level (including the kitchen) increases from $150 (or from $100 for the rental of the Community Building Main Level without the kitchen) to $200. The rental charge for the Community Building Basement increases from $100 to $125, the Girl Scout Room rental charge increases from $25 to $40 and the civic club/non-profit rate increases from $25 to $30 under this ordinance. The ordinance also requires deposits to be paid 30 days in advance, instead of the current seven days, for ease of administration.

The City Manager stated that given that the Community Building and Depot lost approximately $12,000 in 2007-08, he would recommend that the ordinance be approved and takes effect on January 1.

AA.000000066 (24)

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following rules and regulations for City Owned Property as follows:

CITY OF MARION, NORTH CAROLINA
ORDINANCE
COMMUNITY BUILDING RATES

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

Section 1. The following rates shall be charged for the use of the Marion Community Building effective January 1, 2009.

PER DAY, PER EVENT CHARGE:
MAIN OR STREET LEVEL:

KITCHEN AND ASSEMBLY ROOM	$200.00
BASEMENT WITH KITCHEN	$125.00

DEPOSIT FOR EACH USE: $200.00
(ALL DEPOSITS MUST BE MADE AT LEAST 30 DAYS IN ADVANCE OF EVENT TO AVOID CANCELLATION)

CIVIC CLUBS AND NOT-FOR-PROFIT ORGANIZATIONS AUTHORIZED BY THE CITY COUNCIL TO USE THE BUILDING ON A REGULAR SCHEDULE AND AT SPECIAL RATE:
PER DAY, PER EVENT CHARGE $ 30.00
NO DEPOSIT IS REQUIRED.

GIRL SCOUT ROOM:
PER DAY, PER EVENT CHARGE $ 40.00
A CASH DEPOSIT OF $25.00 IS REQUIRED FOR EACH USE. (ALL DEPOSITS MUST BE MADE AT LEAST 30 DAYS IN ADVANCE OF EVENT TO AVOID CANCELLATION)

ADOPTED this the 21st day of October 2008.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-08-10-21-5

CONSIDER APPROVAL OF ORDINANCE TO REVISE DEPOT RATES The City Manager stated that, as discussed at the September 27 Council Planning Session, Finance Director Harriett Thomas prepared the attached recommended ordinance to increase the Depot rates. The City Manager reported that the ordinance removes references to inside and outside rates in the ordinance, as directed by Council. Under the proposed ordinance, the basic charge for renting the Depot (including the kitchen) increases from $150 to $200. The civic club/non-profit rate increases from $25 to $30 under this ordinance. The ordinance also requires deposits to be paid 30 days in advance, instead of the current seven days, for ease of administration.

Given that the Community Building and Depot lost approximately $12,000 in 2007-08, the City Manager stated that he would recommend that the ordinance take effect on January 1.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, Council voted unanimously to adopt the following Ordinance revising the Depot rates.

AA.000000067 (24)

CITY OF MARION, NORTH CAROLINA
ORDINANCE
DEPOT BUILDING RATES

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

Section 1. The following rates shall be charged for the use of the Marion Depot Building effective January 1, 2009.

PER DAY, PER EVENT CHARGE:
ASSEMBLY ROOM, KITCHEN AND COURTYARD $200.00

DEPOSIT FOR EACH USE: $200.00
(ALL DEPOSITS MUST BE MADE AT LEAST 30 DAYS IN ADVANCE OF EVENT TO AVOID CANCELLATION)

CIVIC CLUBS AND NOT-FOR-PROFIT ORGANIZATIONS AUTHORIZED BY THE CITY COUNCIL TO USE THE BUILDING ON A REGULAR SCHEDULE AND AT SPECIAL RATE:
PER DAY, PER EVENT CHARGE $ 30.00
NO DEPOSIT IS REQUIRED.

ADOPTED this the 21st day of October 2008.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-08-10-21-6

CONSIDER ADOPTION OF REVISED RULES AND REGULATIONS FOR THE COMMUNITY BUILDING MAIN LEVEL, COMMUNITY BUILDING BASEMENT AND DEPOT: The City Manager advised that at the September 27 Council Planning Session, Mayor Clark suggested that the City loosen restrictions on commercial activity at the Community Building and Depot, as part of the effort to generate more rentals and revenue for the two buildings. The City Manager stated that Finance Director Harriett Thomas has drafted proposed revisions to the Rules and Regulations for the Community Building Main Level, Community Building Basement and Depot to eliminate most restrictions on commercial activity. The prohibition against religious services taking place in the Community Building and Depot would continue, along with prohibitions against bingo games and alcohol use in both buildings. The City Manager stated that the following rules have been removed or revised:

Community Building Main Level:

- Rule #7, requiring an additional fee to be paid for use of the kitchen. Since the revised rental fee removes the option for renting the Community Building Main Level without the kitchen, this rule is no longer needed.
- Rule #8, which states that people renting the Community Building may not remove existing pots, pans, cutlery, dishes, glasses and utensils. These items are no longer stored in the kitchen since Ms. Walker's retirement, so this rule is no longer needed.

AA.00000068 (24)

- Rule #13, which prohibited commercial activity except in certain circumstances, has been removed. Therefore, commercial activity will be allowed.

Community Building Basement:

- Rule #9, which prohibited commercial activity except in certain circumstances, has been removed. Therefore, commercial activity will be allowed.

Depot:

- Rule #11, which prohibited commercial activity except in certain circumstances, has been removed. Therefore, commercial activity will be allowed.

The City Manager stated that he would recommend that the revisions take effect immediately, so that the City can begin to gauge whether the revised rules will help generate more revenue to offset the loss experienced with the operation of the two buildings.

A discussion followed.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin,
Council voted unanimously to approve the following rules and regulations for the Community Building Main Level, Community Building Basement and Depot.

CITY OF MARION, NORTH CAROLINA

RULES AND REGULATIONS
FOR THE
MARION COMMUNITY BUILDING MAIN LEVEL

REVISED OCTOBER 21, 2008

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

DAYS OF OPERATION

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

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

Marion Rotary Club	Every Thursday 7:00am to 2:00pm
Lions Club	1st and 3rd Thursday 2:00pm to 9:00pm
Kiwanis Club	Every Tuesday 1:00pm to 8:30pm
Christian Women's Club	3rd Monday 7:00am to 3:00pm
McDowell Ballroom Dancers	Last Saturday each month 1:00pm to 11:00pm
McDowell Board of Realtors	1st Tuesday 8:00am to 1:00pm

HOURS OF OPERATION

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

RULES AND REGULATIONS

Violations of any of these rules and regulations or any damages to the Facility may result in forfeiture of all or part of the security deposit held by the City.

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1. No one shall be permitted to use the building without first having made proper reservations and paying the required deposit and payment for the use of the building.

2. A cash deposit, as determined by the City Council, shall be required to insure compliance with the rules and regulations governing the use of the building. The deposit must be made at least thirty (30) days in advance of the event to avoid cancellation. The City may keep any or all of the deposit in the case of any violations of the rules and regulations or any damages to the Facility. In addition to the deposit, a valid credit card may also be required (see #13 below). Civic Clubs and Not–For–Profit organizations using the building on a regular basis shall be exempt from making a deposit.

3. All persons or groups renting the Marion Community Building must pay for the use of the building at the time reservations are made. No refunds will be made by the City should the renter not use the building on the date scheduled, unless a cancellation is made at least sixty (60) days in advance of the scheduled event, in which case a refund will be made, except for an administrative service charge of $25.00. In lieu of receiving a refund, a person or group canceling an event more than sixty (60) days in advance of the scheduled event may reschedule the building without additional cost at some other open date within the next twelve (12) months. A person or group canceling an event less than sixty (60) days in advance of the scheduled event may reschedule the building without additional cost at some other open date within the next twelve (12) months, but will not be eligible to receive a refund. Should the person or group fail to reschedule within the designated twelve (12) month period, the entire rental fee will be forfeited. Reservations must be made in person (no reservations by telephone, fax, e-mail or any other electronic means), no earlier than 9:00 A.M. local time and no earlier than the first day of the calendar month prior to the month one year in advance of the proposed use. (Example: if you wish to schedule the building in the month of October 2009, the earliest you can schedule the building is September 1, 2008). In the event two or more persons are at the counter at City Hall at 9:00 A.M., wishing to rent the building on the same day, the name of the one person representing each group shall have their name placed in a box and drawn to determine which person may rent the building on the desired day. In all other situations, reservations shall be accepted on a first come-first served basis. If the deposit is to be refunded, it will be issued by the City within ten (10) work days following the use of the building.

4. The person or group renting the Community Building may not sublet the building to another person or group.

5. No decorations of any kind, i.e., plaques, pictures, or any other objects shall be fastened to the walls, ceilings, windows or lighting fixtures by use of nails, tacks, screws, tape, etc. Any fixtures, furniture, displays or decorations provided by the user(s) must be removed from the building immediately following the use of the same, so the building will be ready for use for the next group. Failure to remove items shall be cause for revocation of part or all of the rental deposit.

6. The piano in the Community Building shall NOT be moved by anyone other than authorized City employees. If you need the piano moved, please ask that the City have the piano moved for you.

7. Each person or group of persons using the kitchen shall thoroughly clean the kitchen and all fixtures before leaving the building and shall clean and remove all food from the refrigerator. In addition, the stove must be cleaned and the floor mopped before leaving the building. At no time shall any of the kitchen appliances be unplugged or moved from their original location. All garbage and refuse shall be removed from the building and placed in the containers located outside the kitchen door.

8. Any person using the kitchen of the Community Building is responsible for checking the pilot lights on the gas range; located in the kitchen, to make sure they are burning. In the event they are not, Please call the Marion Police Department at 652-3231.

9. Barbeque grills or any outside cooking device shall only be used on the paved area of the Community Building. Any grease or cooking residue shall be cleaned from the area immediately following use.

10. No person(s), organization, etc. may use the Community Building for religious services.

11. No persons, firm or organization will be allowed to use the building for the purpose of offering bingo games to the general public.

12. Each person using the building will be held responsible for any damages to the walls, floors, windows, appliances and fixtures, furniture and outside areas. Cost for damages will be deducted from the security deposit and in the event the costs exceed the security deposit, the person responsible for renting the facility shall also be held responsible for the additional costs. In order to insure payment for any damages incurred that exceed the security deposit, a guarantee by valid credit card will be required at the time the rental reservation is

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made. THIS CREDIT CARD WILL ONLY BE USED IF DAMAGES ARE INCURRED THAT EXCEED THE SECURITY DEPOSIT. If damages occur and the card charged is deemed to be invalid and prompt payment is not made, the City will pursue legal action to collect such claims. If the person renting the facility has done so for at least three consecutive occasions without damages, the credit card requirement may be waived. In addition, the credit card requirement may be waived for churches, not-for-profit organizations and civic clubs using the facility on a regular basis.

13. Tables and chairs may be rearranged by persons using the building, but must be returned to their original positions after each use. The podium and the head tables at the Community Building are permanently installed. No attempt should be made to move them.

14. Once the area used has been cleaned and set in order, the Marion Police Department must be notified, at 652-3231, to come inspect and lock the building. Reports prepared by the Marion Police Department and reports from the cleaning agency will be used to determine if the security deposits shall be refunded.

15. The microphone for the sound system may be checked out and signed for through the Marion Police Department. When use of the microphone has been completed, it is to be returned to the Police Department immediately.

16. The volume for the speaker system is preset. A switch located on the backside of the podium will turn on the equipment. No other equipment, other than the microphone may be hooked to the sound system at any time.

17. The officers of the Marion Police Department have authority to enter the building at any time for the purpose on insuring compliance with all rules and regulations.

18. Officers of the Marion Police Department shall have authority to open or look in any ice chests and/or coolers on the premises, to monitor possible alcohol use or other improper activity.

19. It is unlawful for any person to consume any alcoholic beverage on any property owned or controlled by the City of Marion. Possession of alcohol or evidence of consumption of alcohol at the Community Building will result in immediate eviction from the premises, forfeiture of security deposit and may result in criminal charges, fines and penalties.

20. Persons or groups renting the Marion Community Building may request to place messages on the permanent sign in front of the building. In order to place a message, the person or group must legibly write out their desired message on a sheet of paper and turn it in at City Hall. Such request must be received at City Hall no later than 48 hours prior to the scheduled date of the event. The person responsible for scheduling the Community Building will forward the message to the Public Works Secretary, who will issue a work order for the message to be spelled out on the Community Building sign.

    The City reserves the right to edit any messages for length and/or content, in the case of language deemed obscene or objectionable. Messages shall contain only the purpose, date and location of the event and the name of the group sponsoring the event (for example: Downtown Business Association Annual Banquet Thursday night, 6:30 P.M.). Personal messages shall not be permitted. Messages advertising political events shall not endorse a specific candidate for any office, but may state the date and time and purpose of a campaign fundraising event held at the Community Building (for example: John Doe for Senate Campaign Dinner, Friday, 7:00 P.M.). In no case shall any message advertising an event not to be located at the Community Building be permitted, unless it is in conjunction with an event sponsored by the City of Marion.

    In no case shall the City display a message more than three business days before an event. If two or more persons or groups renting any part of the Community Building wish to have their message displayed at the same time, the person or group submitting their message to the front counter of City Hall first shall have priority in having their message displayed.

    Letters and keys for the Community Building sign and keys to the Community Building are not to be given out to persons or groups renting the Community Building, except under unique situations approved by the City Manager.

    No signs are permitted to be posted in front of or on the Community Building property, except for political signs posted on Election Day.

21. Animals are not permitted inside any part of the Community Building, with the exception of Seeing Eye dogs for legally blind individuals.

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22. If the Marion Police Department is called to the Community Building in reference to a disturbance or due to any violations of Federal, State or Local law, the event may be immediately suspended, all persons evicted from the building after applicable clean-up and the deposit revoked for the event.

23. No skateboards, in-line skates, roller skates or bicycles are allowed inside the Community Building or on the Community Building property.

These new regulations shall be effective upon adoption.

Adopted this the 21st day of October 2008.

A. Everette Clark, Mayor

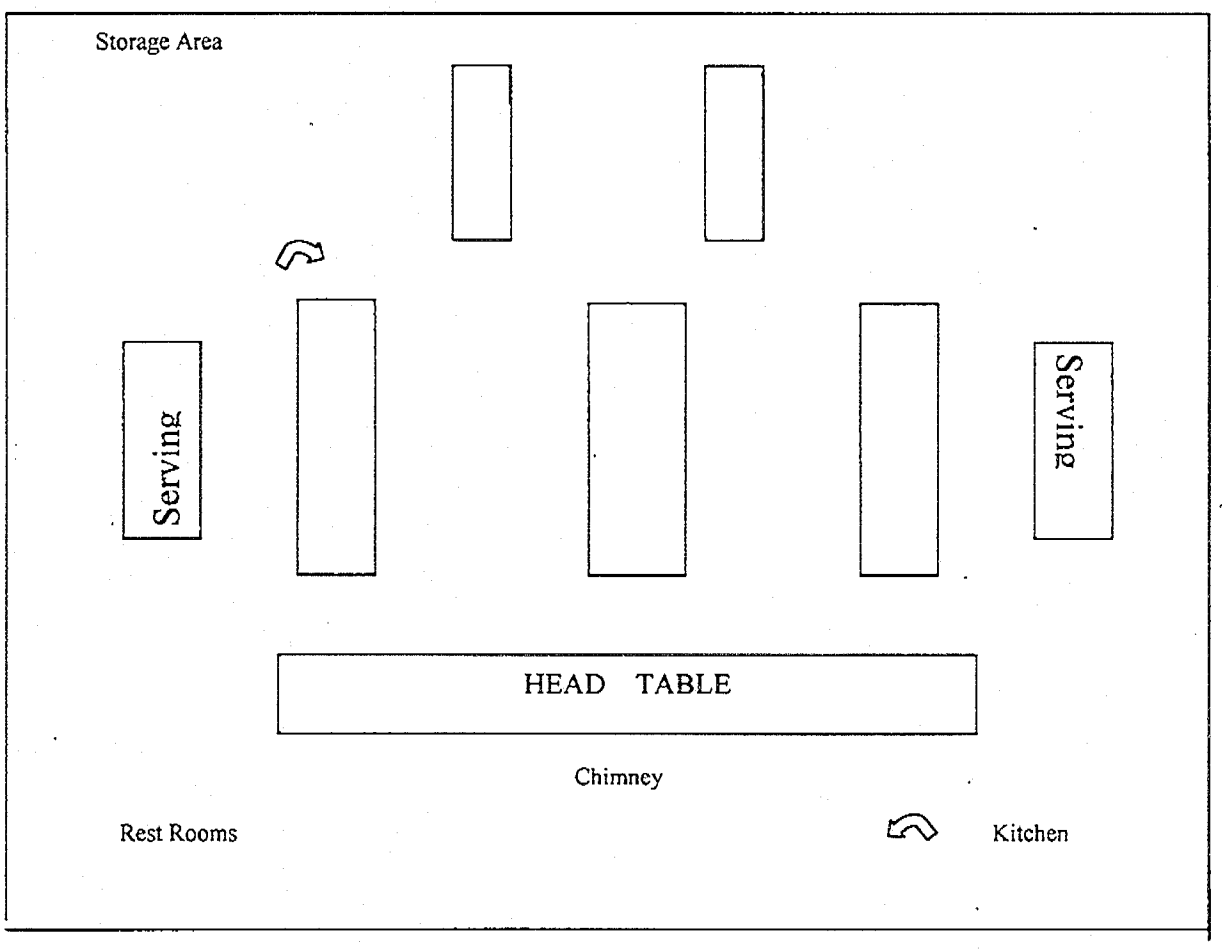
ATTEST:

I. Robert Boyette, City Manager/Clerk

MARION COMMUNITY BUILDING
TABLE ARRANGEMENT

Tables and chairs may be moved by person(s) using the building but must be left in the arrangement shown below. Head tables and podium may not be moved.

Additional tables and chairs are available in the storage area. If these are used, they must be returned to the storage area. Fire regulations prohibit no more than 210 people on the first floor of the Community Building. **Table Size 2 ½ X 8 or 30 ½ Wide by 96 ½ Long**



CITY OF MARION, NORTH CAROLINA

RULES AND REGULATIONS

FOR THE
MARION COMMUNITY BUILDING BASEMENT

REVISED OCTOBER 21, 2008

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

DAYS OF OPERATION

The Community Building Basement is available to be scheduled for use seven (7) days a week, on a year round basis.

HOURS OF OPERATION

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

RULES AND REGULATIONS

Violations of any of these rules and regulations or any damages to the Facility may result in forfeiture of all or part of the security deposit held by the City.

1. No one shall be permitted to use the building without first having made proper reservations, paying the required deposit and payment for the use of the building.

2. A cash deposit, as determined by the City Council, is required to insure compliance with the rules and regulations governing the use of the building. The deposit must be made at least thirty (30) days in advance of the date the building is to be used. The City may keep any or all of the deposit in the case of any violations of the rules and regulations or any damages to the Facility. In addition to the deposit, a valid credit card may also be required (see # 11 below). Civic Clubs and Not–For–Profit organizations using the building on a regular basis are exempt from making a deposit.

3. All persons or groups renting the Marion Community Building Basement must pay for the use of the building at the time reservations are made. No refunds will be made by the City should the renter not use the building on the date scheduled, unless a cancellation is made at least sixty (60) days in advance of the scheduled event, in which case a refund will be made, except for an administrative service charge of $25.00. In lieu of receiving a refund, a person or group canceling an event more than sixty (60) days in advance of the scheduled event may reschedule the building without additional cost at some other open date within the next twelve (12) months. A person or group canceling an event less than sixty (60) days in advance of the scheduled event may reschedule the building without additional cost at some other open date within the next twelve (12) months, but will not be eligible to receive a refund. Should the person or group fail to reschedule within the designated twelve (12) month period, the entire rental fee will be forfeited. Reservations must be made in person (no reservations by telephone, fax, e-mail or any other electronic means), no earlier than 9:00 A.M. local time and no earlier than the first day of the calendar month prior to the month one year in advance of the proposed use. (Example: if you wish to schedule the building in the month of October 2009, the earliest you can schedule the building is September 1, 2008). In the event two or more persons are at City Hall at 9:00 A.M., wishing to rent the building on the same day, the name of the one person representing each group shall have their name placed in a box and drawn to determine which person may rent the building on the desired day. In all other situations, reservations shall be accepted on a first come-first served basis. If the deposit is to be refunded, it will be issued by the City within ten (10) work days following the use of the building.

4. The person or group renting the Community Building Basement may not sublet the building to another person or group.

5. No decorations of any kind, i.e., plaques, pictures, or any other objects shall be fastened to the walls, ceilings, windows or lighting fixtures by use of nails, tacks, screws, tape, etc. Fixtures, furniture, displays or decorations provided by the user(s) must be removed from the building immediately following the use of the same, so the building will be ready for use for the next group. Failure to remove items shall be cause for revocation of part or all of the rental deposit.

6. Each person or group of persons using the kitchen shall thoroughly clean the kitchen and all fixtures before leaving the building and shall clean and remove all food from the refrigerator. In addition, the stove must be cleaned and the floor mopped before leaving the building. At no time shall any of the kitchen appliances be unplugged or moved from their original location. All garbage and refuse shall be removed from the building and placed in the containers located outside.

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7. Barbeque grills or any outside cooking device shall only be used on the paved area of the Community Building Basement. Any grease or cooking residue shall be cleaned from the area immediately following use.

8. No person(s), organization, etc. may use the Community Building Basement for religious services.

9. No persons, firm or organization will be allowed to use the building for the purpose of offering bingo games to the general public.

10. Each person using the building will be held responsible for any damages to the walls, floors, windows, appliances and fixtures, furniture and outside areas. Cost for damages will be deducted from the security deposit and in the event the costs exceed the security deposit, the person responsible for renting the facility shall also be held responsible for the additional costs. In order to insure payment for any damages incurred that exceed the security deposit, a guarantee by valid credit card will be required at the time the rental reservation is made. THIS CREDIT CARD WILL ONLY BE USED IF DAMAGES ARE INCURRED THAT EXCEED THE SECURITY DEPOSIT. If damages occur and the card charged is deemed to be invalid and prompt payment is not made, the City will pursue legal action to collect such claims. If the person renting the facility has done so for at least three consecutive occasions without damages, the credit card requirement may be waived. In addition, the credit card requirement may be waived for churches, not-for-profit organizations and civic clubs using the facility on a regular basis.

11. Tables and chairs may be rearranged by persons using the building, but must be returned to their original positions after each use.

12. Once the area used, has been cleaned and set in order, the Marion Police Department must be notified, at 652-3231, to come inspect and lock the building. Reports prepared by the Marion Police Department and reports from the cleaning agency will be used to determine if the security deposits shall be refunded.

13. The officers of the Marion Police Department have authority to enter the building at any time for the purpose on insuring compliance with all rules and regulations.

14. Officers of the Marion Police Department shall have authority to open or look in any ice chests and/or coolers on the premises, to monitor possible alcohol use or other improper activity.

15. It is unlawful for any person to consume any alcoholic beverage on any property owned or controlled by the City of Marion. Possession of alcohol or evidence of consumption of alcohol at the Community Building Basement will result in immediate eviction from the premises, forfeiture of security deposit and may result in criminal charges, fines and penalties.

16. Persons or groups renting the Marion Community Building Basement may request to place messages on the permanent sign in front of the building. In order to place a message, the person or group must legibly write out their desired message on a sheet of paper and turn it in at City Hall. Such request must be received at City Hall no later than 48 hours prior to the scheduled date of the event. The person responsible for scheduling the Community Building Basement will forward the message to the Public Works Secretary, who will issue a work order for the message to be spelled out on the Community Building Basement sign.

    The City reserves the right to edit any messages for length and/or content, in the case of language deemed obscene or objectionable. Messages shall contain only the purpose, date and location of the event and the name of the group sponsoring the event (for example: Marion Business Association Annual Banquet Thursday night, 6:30 P.M.). Personal messages shall not be permitted. Messages advertising political events shall not endorse a specific candidate for any office, but may state the date and time and purpose of a campaign fundraising event held at the Community Building Basement (for example: John Doe for Senate Campaign Dinner, Friday, 7:00 P.M.). In no case shall any message advertising an event not to be located at the Community Building Basement be permitted, unless it is in conjunction with an event sponsored by the City of Marion.

    In no case shall the City display a message more than three business days before an event. If two or more persons or groups renting any part of the Community Building wish to have their message displayed at the same time, the person or group submitting their message at City Hall first shall have priority in having their message displayed.

    Letters and keys for the Community Building sign and keys to the Community Building Basement are not to be given out to persons or groups renting the Community Building Basement, except under unique situations approved by the City Manager.

AA.000000074 (24)

No signs are permitted to be posted in front of or on the Community Building property.

17. Animals are not permitted inside any part of the Community Building Basement, with the exception of Seeing Eye dogs for legally blind individuals.

18. If the Marion Police Department is called to the Community Building Basement in reference to a disturbance or due to any violations of Federal, State or Local law, the event may be immediately suspended, all persons evicted from the building after applicable clean-up and the deposit revoked for the event.

19. No skateboards, in-line skates, roller skates or bicycles are allowed inside the Community Building Basement or on the Community Building property.

These new regulations shall be effective upon adoption.

Adopted this the 21st day of October 2008.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

CITY OF MARION, NORTH CAROLINA

RULES AND REGULATIONS

FOR THE
MARION DEPOT

REVISED OCTOBER 21, 2008

The Marion Depot is owned and operated by the City of Marion. This building is available to civic groups, organizations, and individuals needing a place to meet.

DAYS OF OPERATION

The Depot is available to be scheduled for use seven (7) days a week, on a year round basis.

HOURS OF OPERATION

The Depot may be opened as early as one desires; however, it is requested that the person or persons using the building be out by 12:00 Midnight.

RULES AND REGULATIONS

Violations of any of these rules and regulations or any damages to the Facilities may result in forfeiture of all or part of the security deposit held by the City.

1. No one shall be permitted to use the building without first having made proper reservations, paying the required deposit and payment for the use of the building.

2. A cash deposit, as determined by the City Council, shall be required to insure compliance with the rules and regulations governing the use of the building. The deposit must be made at least five (30) days in advance of the date the building is to be used. The City may keep any or all of the deposit in the case of any violations of the rules and regulations or any damages to the Facilities. In addition to the deposit, a valid credit card may also be required (see # 13 below). Civic Clubs and Not–For–Profit Organizations using the building on a regular basis shall be exempt from making a deposit.

3. All persons or groups renting the Marion Depot must pay for the use of the building at the time reservations are made. No refunds will be made by the City should the renter not use the building on the date scheduled, unless a cancellation is made at least sixty (60) days in advance of the scheduled event, in which case a refund will be made, except for an administrative service charge of $25.00. In lieu of receiving a refund, a person or group

canceling an event more than sixty (60) days in advance of the scheduled event may reschedule the building without additional cost at some other open date within the next twelve (12) months. A person or group canceling an event less than sixty (60) days in advance of the scheduled event may reschedule the building without additional cost at some other open date within the next twelve (12) months, but will not be eligible to receive a refund. Should the person or group fail to reschedule within the designated twelve (12) month period, the entire rental fee will be forfeited. Reservations must be made in person (no reservations by telephone, fax, e-mail or any other electronic means), no earlier than 9:00 A.M. local time and no earlier than the first day of the calendar month prior to the month one year in advance of the proposed use. (Example: if you wish to schedule the building in the month of October 2009, the earliest you can schedule the building is September 1, 2008). In the event two or more persons are at the counter at City Hall at 9:00 A.M., wishing to rent the building on the same day, the name of the one person representing each group shall have their name placed in a box and drawn to determine which person may rent the building on the desired day. In all other situations, reservations shall be accepted on a first come-first served basis. If the deposit is to be refunded, it will be issued by the City within ten (10) work days following the use of the building.

4. The Courtyard area of the Depot shall only be rented in conjunction with rental of the Depot. Persons renting the Depot have the authority to ask unauthorized Courtyard users to leave. Any damages to the Courtyard or surrounding landscaped areas will be the responsibility of the person renting the facility.
5. The person or group renting the Depot may not sublet the building or Courtyard to another person or group.
6. No decorations of any kind, i.e., plaques, pictures, or any other objects shall be fastened to the walls, ceilings, windows or lighting fixtures by use of nails, tacks, screws, tape, etc. Fixtures, furniture, displays or decorations provided by the user(s) must be removed from the building immediately following the use of the same, so the building will be ready for use for the next group. Failure to remove items shall be cause for revocation of part or all of the rental deposit.
7. Each person or group of persons using the kitchen in the facility shall thoroughly clean the kitchen and all fixtures before leaving the building and shall clean and remove all food from the refrigerator. In addition, the stove must be cleaned and the kitchen floor mopped before leaving the building. At no time shall any of the kitchen appliances be unplugged or moved from their original location. All garbage and refuse shall be removed from the building and placed in the containers located outside. Do not place garbage in refuse in the dumpster belonging to the neighboring business.
8. Barbeque grills or any outside cooking device shall only be used on the paved area of the Depot. Any grease or cooking residue shall be cleaned from the area immediately following use. At no time shall any barbeque grill or outside cooking device be placed on the Courtyard area of the Depot.
9. No motor vehicle of any kind shall be allowed on the Courtyard of the Depot at anytime. All unloading or loading shall be done at curbside.
10. No person(s), organization, etc. may use the Depot for religious services.
11. No persons, firm or organization will be allowed to use the building for the purpose of offering bingo games to the general public.
12. Each person using the building will be held responsible for any damages to the walls, floors, windows, appliances and fixtures, furniture and outside areas. Cost for damages will be deducted from the security deposit and in the event the costs exceed the security deposit, the person responsible for renting the facility shall also be held responsible for the additional costs. In order to insure payment for any damages incurred that exceed the security deposit, a guarantee by valid credit card will be required at the time the rental reservation is made. THIS CREDIT CARD WILL ONLY BE USED IF DAMAGES ARE INCURRED THAT EXCEED THE SECURITY DEPOSIT. If damages occur and the card charged is deemed to be invalid and prompt payment is not made, the City will pursue legal action to collect such claims. If the person renting the facility has done so for at least three consecutive occasions without damages, the credit card requirement may be waived. In addition, the credit card requirement may be waived for churches, not-for-profit organizations and civic clubs using the facility on a regular basis.
13. Tables and chairs may be rearranged by persons using the building, but must be returned to their original positions after each use.
14. Once the area used, has been cleaned and set in order, the Marion Police Department must be notified, at 652-3231, to come inspect and lock the building. Reports prepared by the Marion Police Department and the cleaning agency will be used to determine if the security deposits shall be refunded.

15. The microphone for the sound system may be checked out and signed for through the Marion Police Department. When use of the microphone has been completed, it is to be returned to the Police Department immediately.

16. The officers of the Marion Police Department have authority to enter the building at any time for the purpose on insuring compliance with all rules and regulations.

17. Officers of the Marion Police Department shall have authority to open or look in any ice chests and/or coolers on the premises, to monitor possible alcohol use or other improper activity.

18. It is unlawful for any person to consume any alcoholic beverage on any property owned or controlled by the City of Marion. Possession of alcohol or evidence of consumption of alcohol at the Depot will result in immediate eviction from the premises, forfeiture of security deposit and may result in criminal charges, fines and penalties.

19. No signs are permitted to be posted in front of or on the Depot property.

20. Animals are not permitted inside any part of the Depot, with the exception of Seeing Eye dogs for legally blind individuals.

21. If the Marion Police Department is called to the Depot in reference to a disturbance or due to any violations of Federal, State or Local law, the event may be immediately suspended, all persons evicted from the building after applicable clean-up and the deposit revoked for the event.

22. No skateboards, in-line skates, roller skates or bicycles are allowed inside the Depot, in the Courtyard area on anywhere on the Depot property.

These new regulations shall be effective upon adoption.

Adopted this the 21st day of October 2008.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

ADOPT RESOLUTION AUTHORIZING THE DONATION OF REAL PROPERTY OWNED BY THE CITY ON STATE STREET TO THE MCDOWELL COUNTY RESCUE SQUAD, INC. The City Manager advised that, at the October 7 Council meeting, Council stated its intent to donate real property owned by the City at 200 State Street to the McDowell County Rescue Squad, Inc. The McDowell News published notice of Council's intent to donate this property on October 10. The City Manager advised that, under State law, Council may adopt a resolution authorizing the donation of the City owned real property at 200 State Street to the Rescue Squad, as long as the notice was published at least 10 days in advance of the adoption of the resolution. The resolution states that the Rescue Squad must pay the City for the value of the land if the property is ever sold in the future.

The City Manager stated that, upon adoption of the resolution, the City Attorney can prepare a deed to transfer the property.

A brief discussion followed.

Mayor Clark suggested that the deed be presented to the Rescue Squad at a future Council meeting.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, Council voted unanimously to adopt the following Resolution authorizing the donation of City owned real property at 200 State Street to the McDowell County Rescue Squad, Inc.

AA.00000077 (24)

Resolution Authorizing the Sale of Certain Real Property Owned by the City of Marion to the McDowell County Rescue Squad, Inc.

WHEREAS, N.C.G.S. 160A-277 authorizes a city, by resolution adopted at a regular meeting of the council upon 10 days public notice by publication, upon such terms and conditions as it deems wise, with or without monetary consideration, to sell, lease or convey to a volunteer rescue squad any land or interest in land, for the purpose of constructing or expanding services or facilities, if the volunteer rescue squad provides rescue squad services in the city; and

WHEREAS, the City of Marion is the owner of property located at 200 State Street, McDowell County Parcel Identification Number 1701.12-86-0908, as described in Deed Book 141 Page 251; and

WHEREAS, the McDowell County Rescue Squad, Inc. has provided rescue services in the City and County since 1958; and

WHEREAS, the City has leased the property described above to the McDowell County Rescue Squad, Inc. since August 3, 1965; and

WHEREAS, the City Council desires to convey the property described above to the McDowell County Rescue Squad, Inc. without monetary consideration so that the Rescue Squad can use the property to continue rescue operations in the City and County in perpetuity.

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

1. The following described property is hereby declared to be surplus to the needs of the City of Marion: 200 State Street, McDowell County Parcel Identification Number 1701.12-86-0908, as described in Deed Book 141 Page 251 (the "Property").

2. The Property is to be conveyed to the McDowell County Rescue Squad, Inc. without monetary consideration but with the condition that if the Rescue Squad sells the Property it should be sold for fair market value and the portion of the net sales proceeds attributable to the land (not the improvements) is to be payable to the City of Marion.

3. Notice of the intent of the City Council to convey the property described above to the McDowell County Rescue Squad, Inc. without monetary consideration was published in the McDowell News, a newspaper having general circulation in the City of Marion on October 10, 2008, a date more than 10 days before the date of adoption of this resolution. Said notice described the property to be conveyed, stated the value of the property, the proposed lack of monetary consideration for the conveyance and the intent of the City Council to authorize the conveyance.

4. The City Manager is authorized and directed to execute a deed conveying the property described above to the McDowell Rescue Squad, Inc., with no monetary consideration paid to the City, but with the condition as hereinabove stated.

Adopted this the 21st day of October, 2008.

A. Everette Clark, Mayor

Attest:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-08-10-21-1

APPROVE WATER EXTENSION – CIRCLE DRIVE: Public Works Director Chris Hollifield advised that he has been approached by residents of Circle Drive in the Pleasant Gardens community about the possible extension of water service. Mr. Hollifield stated that 10 residents are currently using a community well that has a variety of problems. The residents have estimated that the cost to repair the current distribution failures would exceed $15,000.

AA.00000078 (24)

Mr. Hollifiedl stated that, under the City of Marion's Water Extension Policy Outside the City Limits, the City can extend 100 feet of six inch water line per service connection. Mr. Hollifield stated that nine residents have already make application and payment or arrangement of payment. A 10th customer is expected to commit to receiving water service.

Mr. Hollifield stated that these customers could be served with two 500 foot extensions off of Highway 70 West, with the line installation to be completed by City crews. He advised that he would recommend that the City install an extra 200 feet of water line to loop the system. Mr. Hollifield stated that he planned to install 6" DIP water line and fire hydrants, if the County and/or Pleasant Gardens Fire Department pays for the hydrants. He advised that he has spoken to Brad Ledbetter, Chief of the Pleasant Gardens Volunteer Fire Department and that Chief Ledbetter says he will obtain the necessary funding for the hydrants.

Mr. Hollifield added that the extension would make water service available to about 23 potential customers along Circle Drive.

A discussion followed.

Councilman Edwards stated that he would request to be excused from discussion and voting on this matter due to the fact that he owns property adjacent to the proposed water extension.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, Council voted unanimously to excuse Councilman Edwards from discussion and voting on this matter.

Upon a motion by Councilman Cuthbertson, seconded by Mayor Pro Tem Little, Council voted unanimously to approve two 600 foot water extensions off of Highway 70 West onto Circle Drive in the Pleasant Gardens Community.

REQUEST FOR WAIVER OF CIVIL CITATION The City Manager advised that Mr. John Hatfield, a courier for CLS, had submitted a written appeal of a $10.00 citation he received on October 14 for parking in the fire lane in front of Wal Mart. Mr. Hatfield notes that he must park in front of Wal Mart to deliver pharmaceutical products, due to Federal Drug Enforcement Agency (DEA) regulations prohibiting him from parking elsewhere.

The City Manager stated that he had spoke to Police Chief Elliott who felt that Mr. Hatfield's description of DEA regulations was not accurate. Chief Elliott stated that the DEA does not tell drivers where to park, but does expect delivery vehicles containing drugs to be secured.

A discussion followed.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to deny the request of Mr. John Hatfield to waive the $10.00 parking citation he received.

REVIEW/CONSIDER APPROVAL OF POLICY REGARDING OVERNIGHT STAYS AT FIRE DEPARTMENT: The City Manager presented Council with a proposed policy that he and Fire Chief Jim Neal had drafted to set requirements regarding overnight stays by volunteer firefighters at the Fire Station and regarding visitation at the Fire Station. The City Manager reviewed the details of the proposed policy.

Mayor Pro Tem Little made a motion acknowledging that the issue of overnight stays by volunteer firefighters and visitation at the Marion Fire Department had been addressed by the City Manager and Fire Chief and that no policy approved by Council would be necessary. The motion was seconded by Councilman Owenby.

A discussion followed.

AA.000000079 (24)

Councilman Edwards stated that what started out as a concern about this issue has ended up being portrayed in the media as a negative attack on the Fire Department, which was never his intent. He added that the concept was new to the City and that he had simply urged caution. Councilman Edwards stated that, with perception seemingly more important than reality, there was no way for Council to adopt a policy regarding this matter without it being portrayed in a negative manner. He added that the City Manager advised Council at the October 7 meeting that a policy should be considered on this matter, since Council had a divided opinion.

The City Manager stated that he would still intend for this policy to be implemented as an internal procedure, in the same manner as many other administrative procedures.

Council voted unanimously to acknowledge that the issue of overnight stays by volunteer firefighters and visitation at the Marion Fire Department had been addressed by the City Manager and Fire Chief and that no policy approved by Council would be necessary.

DISCUSS JOINT MEETING WITH COUNTY: The City Manager stated that the County Board of Commissioners have indicated their willingness to meet with Council in November, as requested. The Commissioners proposed an evening dinner meeting on Monday, November 17, Tuesday, November 18 or Monday, November 24. The City Manager noted that Tuesday, November 18 is the date of a regular City Council meeting. He added that the County proposed a 6:00 p.m. meeting time.

A discussion followed.

It was the consensus of Council to hold the joint meeting with the McDowell County Board of Commissioners on Monday, November 24 at 6:00 PM at Carolina Chocolatiers or another location.

REVIEW/CONSIDER APPROVAL OF OFFER TO PURCHASE REAL PROPERTY OWNED BY CITY OF MARION SUBJECT TO UPSET BID: The City Manager advised that Mr. Mark Shuman was here for this meeting and had to leave. The City Manager stated that Mr. Shuman had submitted an offer to purchase the City owned residential lot at the corner of Blue Ridge Street and West Henderson Street. Mr. Shuman's offer of $5,000 for the property is conditioned on receiving a free water and sewer connection and being allowed to place a singlewide mobile home on the property.

A discussion followed.

It was the consensus of Council that deed restrictions be placed on all residential lots to be sold by the City of Marion prohibiting the placement of singlewide manufactured homes on said lots.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, Council voted unanimously to reject the offer of Mr. Mark Shuman to purchase the City owned real property at the intersection of Blue Ridge and West Henderson Streets.

ADD ON – REQUEST TO WAIVE PERMIT FEES - FIRST BAPTIST CHURCH - MISSION PROJECT - HANDICAP RAMP INSTALLATION: Mayor Pro Tem Little stated that a group of volunteers from the First Baptist Church are building handicap ramps for elderly persons at two locations in the City, 40 Elizabeth Loop and 101 Pulliam Street, and have asked that Council waive the Building Permit fees.

The City Manager advised that the building permit fees would be $60.00 for each location.

A brief discussion followed.

Upon a motion by Councilman Owenby, seconded by Councilman Martin, Council voted unanimously to waive $120 in building permit fees for handicapped ramps being constructed at 40 Elizabeth Loop and 101 Pulliam Street by volunteers at First Baptist Church.

CITY MANAGER REPORTS: The City Manager advised that the Federal Surface Transportation Board (FSTB) approved the City's request to extend the negotiating period for the City's possible acquisition of the old Peavine Rail Line for another six months, through April 1, 2009. The City Manager stated that he would contact Norfolk Southern to discuss options for the Peavine now that the City has received notice of the six month extension from the FSTB.

The City Manager advised that the North Carolina Local Government Commission had sent information concerning the safety of local government investments. He stated that the City only invests money in banks that are collateralized and on the State's "pooling list" or in mutual funds such as the North Carolina Capital Management Trust that are specifically approved and monitored by the State, so the City's investments are very safe. The City Manager shared this information to assure Council of the safety of the City's investments. State regulations do not permit local governments to make risky investments.

The City Manager stated that this year's Mountain Glory Festival was a great success, with record crowds and great weather. The City Manager stated that he would like to publicly commend Ms. Freddie Killough, Ms. Bobbie Young and all the MBA volunteers, as well as the Public Works, Police and Fire Departments, for their efforts and hard work. He also noted that Heather Cotton and Dean Ollis manned the Tree Board/Recycling booth throughout the day for us, as part of the educational efforts the City agreed to make as part of the State Urban Forestry and Recycling Grants.

The City Manager advised that he had obtained approval from DOT to increase State funding for the McDowell Avenue Street extension from $350,000 to $455,000, thereby assuring full outside funding for the design and construction of the street extension.

The City Manager advised that the City's three water supplies are in excellent shape. With the recent closing of two textile plants and water demand being reduced in the fall and winter, the City Manager stated that, without objection from Council, he would discuss with the State the idea of rescinding the City's voluntary water conservation status.

The City Manager advised that Planning and Development Director Heather Cotton was working on having a few remaining overgrown lots mowed now that the mowing season was at a close.

COUNCILMAN COMMENTS:

Councilman Cuthbertson asked if anything had been done regarding the dead tree he reported at the Community Building. The City Manager stated that the tree had been determined to be dead and had been removed the previous week by City crews.

Councilman Cuthbertson stated that he would like to commend the McDowell News on a frontpage article that day regarding the laws prohibiting passing stopped school buses.

Mayor Clark stated that the City Manager did an excellent job at the North Carolina League of Municipalities Conference in Charlotte the previous week conducting a session on Citizen Informed Performance Measures and giving an overview of the City's participation in a Citizen Informed Performance Measurement Project in consultation with the League.

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

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.000000081 (24)

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in a Special Called Session on Thursday, November 6, 2008 at 6:00 P.M. in the Conference Room located at 194 North Main Street for the purpose of conducting a Planning Session.

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

OTHERS PRESENT: Bob Boyette, City Manager

PLANNING SESSION: City Council held a Planning Session and discussed the following topics:

I. Opportunity for Landscaping along NC 226 South

II. Agenda for November 24 Joint Meeting with the County Commissioners

III. Possible Grant Funding for Water and Sewer Projects

IV. Fire Tower Truck/Equipment Issues

V. City Channel Equipment Replacement

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

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.000000082 (24)

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 18, 2008 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

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

Mayor A. Everette Clark was not present for this meeting due to a scheduled medical procedure.

Mayor Pro Tem Little presided over this meeting in Mayor Clark's absence.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, Planning and Development Director; Mika Elliott, Police Chief; Chris Hollifield, Public Works Director; Dawn Penland, Accounting Assistant; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Chris Costner, Martin Starnes & Associates; Mark Shuman 391 East Court Street, Marion, NC; M. Kelly 163 McCoy Road, Marion, NC; Jake Asta 160 Lake Club Drive, Nebo, NC 28761.

CONSENT AGENDA: Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – October 21, 2008 Regular Session Minutes & November 6, 2008 City Council Planning Session Minutes

B. Approve Equal Employment and Procurement Plan

Equal Employment and Procurement Plan

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

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

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

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

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

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

Adopted by the City Council of the City of Marion this the 18th day of November, 2008.

A. Everette Clark, Mayor

Date

ATTEST:

J. Robert Boyette, City Manager/Clerk

Date

Policy Number: P-08-11-18-1

C. Approve Citizen of Participation Plan – Community Development Block Grant Infrastructure Hookup Grant

CITIZEN PARTICIPATION PLAN

City of Marion

This plan describes how The City of Marion will involve citizens in the planning, implementation, and assessment of the Community Development Block Grant (CDBG) program. The CDBG program provides funds to local units of government on a competitive basis. The funds must be used for project that benefit low and moderate-income persons and aid in the elimination and prevention of slum and blight. The program is intended to assist governments in understand neighborhood improvement. The CDBG regulations give ultimate responsibility for the design and implementation of the program to local elected officials and also require that citizens be given an opportunity to serve in a key advisory role to these elected officials.

ADVISORY COMMITTEE

To insure that residents in the City of Marion are given a full opportunity to participate in the program, a Neighborhood Area Committee will be established to function in an advisory capacity to the City of Marion Council Members regarding design, implementation, and assessment. This 5-member committee will consists of Five (5) residents, within McDowell County Community Development Project area, and One (1) member outside the project area . The members will be appointed by the City Manager, Robert Boyette. Citizens and civic organizations are urged to make recommendations for any additional appointments. The City of Marion is particularly interested in obtaining representation of low- and moderate-income persons, members of minority groups, the elderly, and the handicapped.

SCOPE OF CITIZEN PARTICIPATION

Citizens will be involved in all stages of the CDBG program, including program implementation, program amendments, close outs, assessment of performance, and design of changes in the Citizen Participation Plan. There will be three (3) general mechanisms for their involvement:

1. To serve as an advisory committee to the project;
2. To attend or hold public meetings or community meetings;
3. To provide individual citizen efforts in the form of comments, complaints, or inquiries submitted directly to the Program Administrator or designated City official (s).

The Program Administrators for The City of Marion County Community Development Block Grant/Infrastructure Category Project are – Robert Boyette, Harriett Thomas, Paula Kempton and Beth Pollard. The local contact person is Paula Kempton, Grant Services Assistant Manager.

PROGRAM IMPLEMENTATION

Citizen Participation in program implementation will occur primarily through consultation with the Advisory Committee. The Advisory Committee will be asked to review and comment on specific guidelines for approved projects. They will also meet to review any program amendments, budget revisions, and housing rehabilitation program

modifications. All such changes will be discussed with the Advisory Committee and their comments considered prior to the The City council members taking action. These meetings will be held on an as-needed basis. If program amendments require approval from the North Carolina Department of Commerce, Division of

Community Assistance, a public hearing shall be held specifically on the amendment. Citizens may also be in involved in implementation of projects specifically requiring citizen participation, such as self-help projects. Their roles will be defined as the project develops. Technical assistance will be available as needed.

PROGRAM ASSESSMENT

PUBLIC COMMENTS

"COMPLAINT PROCEDURE"

Program assessment activities by citizens will occur in a variety of ways. A performance meeting will be held thirty (30) days to sixty (60) days prior to the actual start-up of the rehabilitation program. Letters will be placed in the doors of all target area residents and forwarded to all Advisory Committee Members of notification of the meeting. The Advisory Committee will be asked to provide citizen commentary during this meeting.

As a part of the Orientation to the program offered at the public meeting, citizens will be notified of the "Complaint Procedure" in regards to all aspects of program performance during the project. Comments should be submitted in writing to: The City of Marion County Community Development Project. The Grants Administrator shall respond within ten (10) calendar days. If the citizen is still dissatisfied, he/she should write to North Carolina Department of Commerce, Division of Community Assistance – 4313 Mail Service Center – Raleigh, NC 27699-4313 – telephone (919) 733-2850, requesting an investigation of the problem. Program staff will also be available during normal business hours to respond to any citizen inquiries or complaints.

The "CITIZEN PARTICIPATION PLAN" will be subject to annual review and proposed revision by the City and/or the Advisory Committee, to occur in the period between the performance hearing and the first public hearing on the subsequent year's application.

TECHNICAL ASSISTANCE

Technical Assistance will be provided to citizens and groups of low- and moderate-income persons and to target area residents upon request to the Grants Administrator and/or by request to The City of Marion. In addition, Technical Assistance will be provided on an individual basis to household in order to assist the needs of that household. Such assistance will support citizen efforts to develop proposals, define policy, and organize for the implementation of the program. It is expected that such assistance will be provided directly to the Advisory Committee in response to their request. Assistance could be provided in the form of local presentations, information handouts, research of a specific issue, or other short-term efforts.

PUBLIC INFORMATION

Public information. The City of Marion will also undertake public information efforts to promote citizen participation. These efforts will include the following:

PUBLIC NOTICE OF ALL PUBLIC HEARINGS will be published in the non-legal section of the McDowell News at least ten (10) days before the scheduled hearing. These notices will indicate the date, time, location, and topics to be considered.

ORIENTATION INFORMATION will be provided at the first public hearing. The Program Administrator(s) will make a presentation which covers: the total amount of CDBG funds available and the competitive basis for award; the range of eligible activities; the planning process and the schedule for any meetings and/or hearings; the role of citizens in the program; and a summary of other program requirements, such as the environmental policies, fair housing provisions, and contracting procedures.

A PUBLIC FILE containing program documentation will be available for review at the Marion City Hall during normal business hours. Included will be copies of the Application and the Annual Performance Report. Other program documents are also available for citizen review on request at the Marion City Hall consistent with applicable State and Local laws regarding personal privacy and obligations of confidentiality.

HANDICAP ACCESSIBILITY

During all public hearings an interpreter will be provided if needed for all non-English speaking individuals and for the hearing impaired. The City of Marion has handicap accessibility for all individuals interested in participating in or attending meetings and public hearings.

ADOPTED by the City Council of the City of Marion this the 18th day of November, 2008

AA.00000085 (24)

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

(City Seal)

Policy Number: P-08-11-18-2

D. Approve Residential Anti-Displacement and Relocation Assistance Plan:

Residential Anti-Displacement and Relocation Assistance Plan

The City of Marion will replace all occupied and vacant occupiable low/moderate income dwellings units demolished or converted to a use other than as low/moderate income housing as a direct result of activities assisted with funds provided under the Housing and Community Development Act of 1974, as amended, as described in 24CFR 570.606(b)(1).

All replacement housing will be provided within three (3) years of the commencement of the demolition or rehabilitation relating to conversion. Before obligating or expending funds that will directly result in such demolition or conversion, The City of Marion will make public the following information in writing:

1. A description of the proposed assisted activity.

2. The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be demolished or converted to use other than as low/moderate income dwelling units as a direct result of the assisted activity.

3. A time schedule for the commencement and completion of the demolition or conversion.

4. The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be provided as replacement dwelling units.

5. The source of funding a time schedule for the provision of replacement dwelling units.

6. The basis for concluding that each replacement dwelling unit will remain a low/moderate income dwelling unit for at least ten (10) years from the date of initial occupancy.

The City of Marion will provide relocation assistance, as described in 570.606(b)(2), to each low/moderate income household displaced by the demolition of housing or by the conversion of a low/moderate income dwelling to another use as a direct result of assisted activities.

Consistent with the goals and objectives of activities assisted under the Act, The City of Marion will take the following steps to minimize the displacement of persons from their homes:

The City of Marion will attempt to renovate deteriorated units instead of demolishing them. Only units which are beyond economical repair will be demolished. Where feasible, The City will seek to locate community facilities and related development activities so as to minimize the impact of low/moderate occupied or vacant occupiable dwellings.

Adopted by the City Council of the City of Marion this the 18th day of November, 2008.

A. Everette Clark, Mayor

Date

AA.000000086 (24)

ATTEST:

J. Robert Boyette, City Manager/Clerk

Policy Number: P-08-11-18-3

E. Approve Budget Ordinance Amendments

CITY OF MARION, NORTH CAROLINA
2008-2009 BUDGET ORDINANCE
(Second Amendment)

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

Section 1. That the Budget Ordinance for the City of Marion, North Carolina for the fiscal year 2008-09 as adopted by the Marion City Council on the 17th day of June, 2008 is hereby amended as follows:

GENERAL FUND

a. General Fund Expenditures, Police, Account Number 10-510-3330, National Night Out Supplies is increased from $-0- to $2,730.

b. General Fund Expenditures, Powell Bill, Account Number 10-570-0400, Professional Services is increased from $1,000 to $14,350.

c. General Fund Expenditures, Non-departmental, Account Number 10-660-9000, Transfer to General Fund Capital Projects is increased from $-0- to $6,615.

d. General Fund Revenues, Account Number 10-334-1700, State Controlled Substance Revenue is increased from $-0- to $1,578.

e. General Fund Revenues, Account Number 10-342-1300, National Night Out Revenues is increased from $-0- to $1,450.

f. General Fund Revenues, Account Number 10-344-4000, County Contribution - Recycling is increased from $-0- to $1,125.

g. General Fund Revenues, Account Number 10-399-0000, Fund Balance Appropriated is increased from $453,768 to $ 472,310.

WATER AND SEWER FUND

a. Water and Sewer Fund Expenses, Non-departmental, Account Number 30-660-4500, Contracted Services - CDBG, is increased from $-0- to $9,000.

b. Water and Sewer Fund Expenses, Non-departmental, Account Number 30-660-8000, Transfer to Capital Projects, is increased from $248,090 to $650,000.

c. Water and Sewer Fund Revenues, Account Number 30-377-0500, CDBG/IS Hook-Up Grant is increased from $-0- to $17,073.

d. Water and Sewer Fund Revenues, Account Number 30-299-0000, Fund Balance Appropriated is increased from $228,127 to $621,964.

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 18th day of November 2008.

A. Everette Clark, Mayor

AA.000000087 (24)

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-08-11-18-1

F. Authorize Employee Assistance Program:

The City will begin an Employee Assistance Program (EAP) on or before January 1, 2009. The League of Municipalities offers grant monies to offset the cost of the EAP. The grant will provide for the 1st year money for the EAP provider contract. The remaining start-up expense would be minimal, possibly involving some supervisor training. On-going, the City would qualify for a total of $1,750.00 to fund training for the program. The expense to the City would be that on-going EAP provider contract. The Employee Assistance Network, one of the local vendors in our area contracts for a minimum of $2,500.00 annually (for employers with less than 100 employees).

WHAT IS AN EAP?

The goal of an Employee Assistance Program is to provide free, confidential, short-term problem-solving to troubled employees and their family members experiencing personal difficulties including, but not limited to: aging and/or sick parents, financial problems, legal issues, family and relationship difficulties, domestic abuse, parent/child conflicts, work-related issues, stress, drug or alcohol abuse.

It's also a great place for supervisors to talk to trained experts that will help to advise them in dealing most effectively with employee job performance issues. EAPs provide one of the best ways to help employees, supervisors, and managers to address personal problems that cost organizations thousands of dollars each year stemming from low worker productivity due to personal problems showing up on the job.

In addition to personal problems, the EAP provider is there to provide crisis debriefings following any act of violence or tragic accident occurring at the workplace. Debriefings are particularly valuable to Fire and Police personnel who often witness serious tragedies.

Recent surveys conducted show that groups not having an EAP reported more violence, weapons and more murder threats and attempts in the workplace, than groups with an EAP in progress.

The EAP would provide an excellent benefit for employees and another risk management tool for the employer, increasing employee productivity and saving employer dollars.

G. Approve Municipal Agreement with DOT – McDowell Avenue Street Extension:

Railroad: Norfolk Southern Railway Company	Milepost: S-98.98 S-99.40	County of McDowell

DEPARTMENT OF TRANSPORTATION	SUPPLEMENTAL CROSSING CLOSURE AGREEMENT
AND	
	10/2/08
CITY OF MARION	
AND	**Project ID: Y-4813 A**
NORFOLK SOUTHERN RAILWAY COMPANY	

THIS AGREEMENT is made and entered into on the last date executed, below, by and between the DEPARTMENT OF TRANSPORTATION, an agency of the State of North Carolina, hereinafter referred to as the "Department", the CITY OF MARION, a municipal corporation, hereinafter referred to as the "Municipality", and NORFOLK SOUTHERN RAILWAY COMPANY, a corporation of Virginia, hereinafter referred to as the "Railroad".

WITNESSETH:

AA.000000083 (24)

WHEREAS, the Department, Municipality and Railroad, on the 14th day of September, 2007, entered into an Agreement to make safety improvements at the grade crossings of the NS "S" Line located at Clay Street crossing (Crossing #729 469G) and Garden Street (Crossing #729 468A) both of which are part of the Municipal system in McDowell County under Project
Y-4813 A; and,

WHEREAS, the parties hereto now wish to supplement the aforementioned Agreement to reflect revisions in the existing provisions of the executed agreement and whereby the following provisions shall be amended:

2. To mitigate the closure of the Clay Street crossing, the Department will be responsible for providing funds for the actual costs, not to exceed $455,000 for design and construction of a one-block extension of McDowell Avenue to connect to Oak Avenue north of US 70. Construction funding shall be contingent upon environmental documentation/approvals as per the National Environmental Protection Act (NEPA). All work shall be performed by the Municipality in accordance with departmental standards, specifications, policies, procedures, and local codes and ordinances. Progress payments based upon actual costs, for periods of not less than one (1) month, may be made upon receipt of an itemized invoice, supported by documentation of costs from the Municipality. The Municipality agrees that it shall bear all costs of any item for which it is unable to substantiate actual costs. All invoices must be submitted within one (1) year of completion and acceptance of the project by the Department. Any invoices submitted after this time will not be eligible for reimbursement. Prior to final approval and payment by the Department, the Department and/or a representative of the Federal Highway Administration will be given the opportunity to make a final inspection of the completed work.

16. The Municipality shall complete construction of the McDowell Avenue extension project by September 1, 2009.

All other provisions shall remain the same.

Except at hereinabove provided, the Agreement heretofore executed by the Department, Municipality and Railroad on the 14th day of September 2007 is ratified and affirmed as therein provided.

L.S. CITY OF MARION

ATTEST:

BY: _____ BY: _____

TITLE: _____ TITLE: _____

DATE: _____ DATE: _____

Approved by City Council of the City of Marion as attested to by the signature of _____, Clerk of the City Council on _____.

(Date)

(SEAL)

ATTEST: **NORFOLK SOUTHERN RAILWAY COMPANY**

BY: _____ **BY:** _____
Assistant Secretary of the Company
AS ITS _____
DATE: _____

ATTEST: **DEPARTMENT OF TRANSPORTATION**

_____ _____
Secretary to the Board of Transportation Paul C. Worley
Director -Engineering & Safety
Rail Division

AA.000000089 (24)

DATE: _____

PRESENTED TO BOARD OF TRANSPORTATION ITEM O_____DATE

H. Approve Revised Water/Sewer Connection Fee/Rate Ordinance with Revised Effective Dates:

ORDINANCE

ESTABLISHING WATER/SEWER RATES, CONNECTION FEES, COST RECOVERY CHARGES AND OTHER MISCELLANEOUS CHARGES

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

Section 1. That new water/sewer rates, connection (tap fees) fees, cost recovery charges and other miscellaneous charges are hereby established as follows:

	INSIDE CITY	**OUTSIDE CITY**
Water Rates:	**$1.90 per 1,000 Gallons, plus $10.73 Service Charge per month**	**$4.75 per 1,000 Gallons, plus $26.82 Service Charge per month**
Minimum Rate for		
2,000 gallons or less	**$11.95**	**$29.85**
Master Meter Rate	**$1.90 per 1,000 Gallons, plus $8.56 Service Charge per month**	**$4.75 per 1,000 Gallons, plus $21.40 Service Charge per month**
Master Meter Minimum Rate for 2,000 gallons Or less (per unit served)	**$9.75**	**$24.37**
	INSIDE CITY	**OUTSIDE CITY**
Sewer Rates:	**$1.90 per 1,000 Gallons, plus $10.73 Service Charge per month**	**$4.75 per 1,000 Gallons, plus $26.82 Service Charge per month**
Minimum Rate for 2,000 gallons or less	**$11.95**	**$29.85**
Master Meter Rate	**$1.90 per 1,000 Gallons, plus $8.56 Service Charge per Month**	**$4.75 per 1,000 Gallons, plus $21.40 Service Charge per month**
Master Meter Minimum Rate for 2,000 gallons Or less (per unit served)	**$9.75**	**$24.37**
	INSIDE CITY	**OUTSIDE CITY**
Metered Sewer Rates for Private Wells	**$2.74 per 1,000**	**$6.85 per 1,000**

AA.00000090 (24)

Gallons, plus $10.73 Service Charge per month	**Gallons, plus $26.82 Service Charge per month**

Important Notices:

All sewer charges are based on water meter readings, unless a sewer metering device approved by the City has been installed.

When more than one unit is served by a Master Meter, such as a mobile home park, shopping center or apartment complex, the monthly service charge is $9.75 for water and $9.75 for sewer in the City, and $24.37 for water and $24.37 for sewer outside the City, whether said units are occupied or not.

A residence using a private well, with no water meter, shall pay a flat rate of $29.85 per month per residential unit for sewer service, if located outside the City Limits. If the residence using a private well, with no water meter, is located inside the City Limits, a flat rate of $11.95 per month per residential unit shall be charged for sewer service.

WATER SERVICE CONNECTION FEES (TAP FEES) AND COST RECOVERY CHARGES (CRC):

WATER METER SIZE	INSIDE CITY TAP FEE	INSIDE CITY CRC CHARGE	OUTSIDE CITY TAP FEE	OUTSIDE CITY CRC CHARGE
¾"	$ 540	$ 540	$ 1,350	$ 1,350
1"	630	1,620	1,575	4,050
1 ½"	1,260	3,240	3,150	8,100
2"	1,440	6,480	3,600	16,200
3"	3,060	12,960	7,650	32,400
4"	3,690	22,500	9,225	56,250
6"	5,940	54,000	14,850	135,000
8"	8,100	67,500	20,250	168,750
10"	10,800	90,000	27,000	225,000
12"	14,400	112,500	36,000	281,250

Tap Fees (Domestic Water Service):
The Charge listed for a ¾" domestic water service includes the cost of a back-flow preventor required by the City.

The charge to add a ¾" back-flow preventor to an existing domestic service is as follows:

INSIDE CITY	OUTSIDE CITY
$ 10.00	$ 25.00

CHARGES FOR CONNECTIONS FOR FIRE PROTECTION/SPRINKLER LINES IN RESIDENTIAL AND/OR COMMERCIAL DEVELOPMENTS

SIZE SERVICE	INSIDE CITY	OUTSIDE CITY
2" SERVICE	$ 1,100	$ 2,750
3" SERVICE	2,800	7,000
4" SERVICE	3,200	8,000
6" SERVICE	4,400	11,000
8" SERVICE	6,000	15,000
10" SERVICE	8,200	20,500
12" SERVICE	11,600	29,000

CHARGES FOR CONNECTIONS FOR FIRE PROTECTION/SPRINKLER LINES IN RESIDENTIAL AND/OR COMMERCIAL DEVELOPMENTS-continued:

All connections to the city water system shall be equipped with a proper check-valve and/or back-flow preventor approved by the city public works director or city engineer

AA.000000091 (24)

prior to installation. It shall be the responsibility of the owner to have the approved check-valve or back-flow preventor installed. In addition, the owner of all properties connected to the city water system and using water for other than domestic services, shall submit a letter to the city water department on or before the first day of July each year certifying that the check-valve and/or back-flow preventor has been checked and is operating properly.

SEWER SERVICE CONNECTION FEES (TAP FEES) AND COST RECOVERY CHARGES (CRC):

WATER METER SIZE	INSIDE CITY TAP FEE	INSIDE CITY CRC CHARGE	OUTSIDE CITY TAP FEE	OUTSIDE CITY CRC CHARGE
¾"	$ 1,080	$ 360	$ 2,700	$ 900
1"	1,170	1,080	2,925	2,700
1 ½"	1,260	2,160	3,150	5,400
2"	1,350	3,600	3,375	9,000
3"	1,440	7,200	3,600	18,000
4"	1,530	10,800	3,825	27,000
6"	1,620	22,500	4,050	56,250
8"	1,710	36,090	4,275	90,225
10"	1,800	51,840	4,500	129,600
12"	1,890	69,840	4,725	174,600

	INSIDE CITY	OUTSIDE CITY
RELOCATE WATER/ SEWER CONNECTION, (OWNERS REQUEST)	AT COST	COST PLUS 10%
INCREASE METER SIZE	DIFFERENCE IN TAP FEE AND COST RECOVERY CHARGES FOR WATER/SEWER	DIFFERENCE IN TAP FEE AND COST RECOVERY CHARGES FOR WATER/SEWER

DEPOSIT AND/OR PREPAYMENT FOR NEW ACCOUNTS:

RESIDENTIAL ACCOUNTS

	INSIDE CITY	OUTSIDE CITY
WATER DEPOSIT	$ 30.00	$ 60.00
SEWER DEPOSIT	$ 30.00	$ 60.00

In cases where an existing residential water and/or sewer customer has been a water and/or sewer customer of the city of Marion for a period of no less than five consecutive years, and has made no late payments in the previous twelve months, and moves to another location on the city's water and/or sewer system, the following procedure shall apply:

Any increase in the deposit required to be paid to bring the customer's deposit up to the current level listed above may be paid in three equal installments, to be added to the customer's first three water and/or sewer bills in the new location. If the customer fails to make any of the required payments, their service may be cut off pursuant to city policy.

COMMERCIAL, INDUSTRIAL AND MASTER METER ACCOUNTS

The water and/or sewer deposit for commercial, industrial, and master meter accounts shall be an amount equal to the average monthly charge for water and/or sewer service, but not less than the residential deposits. The initial deposits for commercial, industrial and master meter accounts shall be as follows:

INSIDE CITY

WATER

AA.000000092 (24)

	WATER	SEWER	AND SEWER
FAST FOOD/PIZZA RESTAURANTS	$100.00	$100.00	$ 200.00
OTHER RESTAURANTS (WITH SEATING)	$150.00	$150.00	$ 300.00
GROCERY STORES	$150.00	$150.00	$ 300.00
APARTMENT COMPLEXES (MASTER METER)	$150.00	$150.00	$ 300.00
CAR WASHES	$150.00	$150.00	$ 300.00
LAUNDRIES	$200.00	$200.00	$ 400.00

COMMERCIAL, INDUSTRIAL AND MASTER METER ACCOUNTS-continued:

INSIDE CITY

	WATER	SEWER	WATER AND SEWER
NURSING/FAMILY CARE HOMES	$200.00	$200.00	$ 400.00
INDUSTRY (50 OR MORE EMPLOYEES)	$500.00	$500.00	$1,000.00
INDUSTRY (LESS THAN 50 EMPLOYEES)	$200.00	$200.00	$ 400.00
OTHER MASTER METER ACCOUNTS	$100.00	$100.00	$ 200.00
GENERAL BUSINESS	$ 50.00	$ 50.00	$ 100.00

OUTSIDE CITY

	WATER	SEWER	WATER AND SEWER
FAST FOOD/PIZZA RESTAURANTS	$ 200.00	$ 200.00	$ 400.00
OTHER RESTAURANTS (WITH SEATING)	$ 300.00	$ 300.00	$ 600.00
GROCERY STORES	$ 300.00	$ 300.00	$ 600.00
APARTMENT COMPLEXES (MASTER METER)	$ 300.00	$ 300.00	$ 600.00
CAR WASHES	$ 300.00	$ 300.00	$ 600.00
LAUNDRIES	$ 400.00	$ 400.00	$ 800.00
NURSING/FAMILY CARE HOMES	$ 400.00	$ 400.00	$ 800.00
INDUSTRY (50 OR MORE EMPLOYEES)	$1,000.00	$1,000.00	$2,000.00
INDUSTRY (LESS THAN 50 EMPLOYEES)	$ 400.00	$ 400.00	$ 800.00
OTHER MASTER METER ACCOUNTS	$ 200.00	$ 200.00	$ 400.00
GENERAL BUSINESS	$ 100.00	$ 100.00	$ 200.00

COMMERCIAL, INDUSTRIAL AND MASTER METER ACCOUNTS-continued:

The city manager shall determine the appropriate deposit for any commercial, industrial or master meter customer not listed in the preceding schedule. At the end of six months of service, the city will determine the average use by averaging the three highest months. The customer will be billed for any additional amount for the proper deposit. If the amount is not received in thirty days, the utility bill will be increased each month for twelve consecutive months until the proper deposit has been received. If the average monthly deposit is lower than the amount the city has received from the initial deposit, the city will credit the water account of the customer for the amount of the difference in the initial deposit and the average monthly bill.

OTHER MISCELLANEOUS CHARGES

AA.000000093 (24)

		INSIDE CITY	OUTSIDE CITY
CUT – OFF FEES:	1 - 3 OCCURANCES	$ 15.00	$ 15.00
	4 - 10 OCCURANCES	$ 25.00	$ 25.00
	OVER 10 OCCURANCES	$ 50.00	$ 50.00

RECONNECT SERVICE SUMMER/SEASONAL RESIDENT	$ 15.00	$ 37.50
TEMPORARY SERVICE (SEVEN OR LESS DAYS)	$ 15.00 PLUS ACTUAL WATER USAGE	$ 37.50 PLUS ACTUAL WATER USAGE
TRANSFER EXISTING ACCOUNT TO NEW ADDRESS	UPGRADE TO PROPER DEPOSIT (IF DEPOSIT IS ADEQUATE) CHARGE $ 15.00 TRANSFER FEE	
METER TAMPERING:		
1ST OFFENSE	$ 100.00	$ 100.00
2ND OFFENSE	$ 200.00	$ 200.00
3RD OFFENSE	$ 500.00	$ 500.00

OTHER MISCELLANEOUS CHARGES-continued:

	INSIDE CITY	OUTSIDE CITY
RETURNED CHECK SERVICE CHARGE	$ 25.00 OR 10% OF CHECK, WHICHEVER IS GREATER	$ 25.00 OR 10% OF CHECK, WHICHEVER IS GREATER
BANK DRAFT CUSTOMER – CHARGE FOR CLOSED ACCOUNT	$ 25.00	$ 25.00
CUSTOMERS REQUEST TO CHECK WATER METER FOR ACCURACY ¾" AND 1" METERS	$ 25.00	$ 25.00
LARGER METERS	AT COST	AT COST
DETERMINATION OF FLOW AND SERVICE CAPABILITIES	AT COST	AT COST

Section 2. The Ordinance adopted on October 21, 2008 is rescinded upon the effective date of this Ordinance.

Section 3. All other ordinances, in conflict with this ordinance, are rescinded upon the effective date of this ordinance.

Section 4. This Ordinance shall be effective upon its adoption retroactive to November 1, 2008; however, the City will honor the lower water and sewer connection fees outside the City Limits in effect prior to the adoption of this ordinance until January 1, 2009.

ADOPTED this the 18th day of November, 2008.

A. Everette Clark, Mayor

ATTEST:

AA.000000094 (24)

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-08-11-18-2

I. Approve Resolution Directing the Clerk to Investigate the Sufficiency of a Petition for Voluntary Annexation – Garden Creek Road:

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-31 – GARDEN CREEK ROAD – HALL PROPERTY - 2008

WHEREAS, a petition requesting annexation of an area described in said petition was received on November 3, 2008 by the City of Marion; and

WHEREAS, 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 of his investigation.

Adopted this the 18th day of November, 2008.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Clerk

RESOLUTION NUMBER: R-08-11-18-1

AND ALSO BEING A PART OF THE PROPERTY described in a deed from Ellen J. Crawford to Mrs. Rena M. Hoyle by deed dated December 4, 1947, and recorded in Deed Book 100 at Page 435 of the McDowell County Deed Records, hereby incorporated by reference and to which reference is hereby made.

Each of said lots front on Old State Highway No. 19, now known as Garden Creek Road, twenty-five (25) feet and runs back to Garden Creek; except however, Lot No Thirty-Three (33) is 128 feet wide.

3. 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 previously acquired for the property. (If zoning vested rights are claimed, indicate below and attach proof.)

NAME/TITLE/ ORGANIZATION/ ADDRESS	DO YOU DECLARE VESTED RIGHTS? (Yes or No)	SIGNATURE
1. Kenneth Lee Hall 552 Cages Creek Church Rd Marion, N.C. 28752	Yes	
2. Frances C. Hall 552 Cages Creek Church Rd Marion, N.C. 28752	Yes	
3.		
4.		

J. Receive Certificate of Sufficiency – Petition for Voluntary Annexation – Garden Creek Road:

CERTIFICATE OF SUFFICIENCY – GARDEN CREEK ROAD - HALL PROPERTY ANNEXATION - 2008

To the City Council of the City of Marion:

I, J. Robert Boyette, City Clerk, do hereby certify that I have 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 18th day of November, 2008.

(Seal)

J. Robert Boyette, City Clerk

K. Approve Resolution Fixing the Date of Public Hearing on the Question of Annexation – Garden Creek Road - Voluntary Annexation Request:

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31 – GARDEN CREEK ROAD – HALL PROPERTY - 2008

AA.000000096 (24)

WHEREAS, a petition requesting annexation of the contiguous 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 contiguous area described herein will be held at City Hall at 7:00 P.M. on Tuesday, December 2, 2008.

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

TRACT I:

AND BEING THE SAME IDENTICAL PROPERTY described in Deed Book 250 at Page 826 of the McDowell County Deed Registry, hereby incorporated by reference as if fully set out and to which reference is hereby made and more fully described as follows:

Adjoining Garden Creek Road to the West, Grantor to the South, Garden Creek Road to the West, and Grantees to the North.

BEING LOT NOS. THIRTY-SEVEN (37) and THIRTY-EIGHT (38) in Block "C" of the J.L. Morgan Pleasant Gardens Farm, according to Map No. 4 of said property as recorded in McDowell County Map Book 1 on Page 54, hereby incorporated by reference as if fully set out and to which reference is hereby made.

BEING TWO OF THE LOTS CONVEYED by Ellen J. Crawford to Rena M. Hoyle by deed dated December 4, 1947, recorded in McDowell County Deed Registry in Deed Book 100 on Page 435, hereby incorporated by reference and to which reference is hereby made.

TRACT II:

AND BEING THE SAME IDENTICAL PROPERTY described in Deed Book 117 at Page 194 of the McDowell County Deed Registry, hereby incorporated by reference as if fully set out and to which reference is hereby made and more fully described as follows:

All those four (4) certain lots of land, known and designated Lot Nos. Thirty-Three (33), Thirty-Four (34), Thirty-Five (35) and Thirty-Six (36) in Block "C" of the J.L. Morgan property according to map of same, designated as Map Four (4) of the Pleasant Garden Farm and recorded in Map Book 1 at Page 54 of the McDowell County Map Records, hereby incorporated by reference as if fully set out and to which reference is hereby made.

AND ALSO BEING A PART OF THE PROPERTY described in a deed from Ellen J. Crawford to Mrs. Rena M. Hoyle by deed dated December 4, 1947, and recorded in Deed Book 100 at Page 435 of the McDowell County Deed Records, hereby incorporated by reference and to which reference is hereby made.

Each of said lots front on Old State Highway No. 19, now known as Garden Creek Road, twenty-five (25) feet and runs back to Garden Creek; except however, Lot No. Thirty-Three (33) is 128 feet wide.

Section 3. Notice of the public hearing shall be published once 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 the 18th day of November, 2008.

A. Everette Clark, Mayor

ATTEST:

AA.00000097 (24)

J. Robert Boyette, City Clerk

Resolution Number: R-08-11-18-2

L. Approve Capital Projects Ordinance – Catawba River Greenway Project – Phase I

CITY OF MARION, NORTH CAROLINA
GENERAL FUND CAPITAL PROJECTS FUND ORDINANCE –
CATAWBA RIVER GREENWAY PROJECT - PHASE I

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

Section 1. That the Budget Ordinance for the City of Marion, North Carolina for the fiscal year 2008-09 as adopted by the Marion City Council on the 17th day of June 2008 is hereby amended as follows to include the expenditures associated with General Fund Capital Projects by adopting the following General Fund Capital Projects Fund Ordinance:

GENERAL FUND CAPITAL PROJECTS FUND

a. General Fund Capital Projects Fund Expenditures, Catawba River Greenway Project, Greenway Building Costs, Account Number 11-500-0000, is increased from $-0- to $272,000.

b. General Fund Capital Projects Fund Expenditures, Catawba River Greenway Project, Greenway Contingency Costs, Account Number 11-500-0100, is increased from $-0- to $13,600.

c. General Fund Capital Projects Fund Expenditures, Catawba River Greenway Project, Greenway Land Costs, Account Number 11-500-0200, is increased from $-0- to $31,100.

d. General Fund Capital Projects Fund Expenditures, Catawba River Greenway Project, Greenway Engineering Costs, Account Number 11-500-0300, is increased from $-0- to $41,000.

e. General Fund Capital Projects Fund Expenditures, Catawba River Greenway Project, Greenway Flood Study, Account Number 11-500-0400, is increased from $-0- to $8,000.

f. General Fund Capital Projects Fund Revenues, Catawba River Greenway Project, Greenway PARTF Grant, Account Number 11-370-0000, is increased from $-0- to $167,300.

g. General Fund Capital Projects Fund Revenues, Catawba River Greenway Project, Greenway RTP Grant, Account Number 11-370-0100, is increased from $-0- to $75,000.

h. General Fund Capital Projects Fund Revenues, Catawba River Greenway Project, Greenway In-Kind Donation – Fishing Pier, Account Number 11-370-0200, is increased from $-0- to $10,000.

i. General Fund Capital Projects Fund Revenues, Catawba River Greenway Project, Greenway In-Kind Donation – Land, Account Number 11-370-0300, is increased from $-0- to $31,100.

j. General Fund Capital Projects Fund Revenues, Catawba River Greenway Project, Transfer from General Fund – Greenway, Account Number 11-381-0100, is increased from $-0- to $82,300.

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 18th day of November 2008.

A. Everette Clark, Mayor

ATTEST:
J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–08–11–18–3

M. Approve Volunteer Firefighter Relief Shift Honorariums:

AA.000000098 (24)

Chris Burnette 62 Lukin St. Marion, NC 28752	$312.00
Marty Coward 66 West Cross St Marion, NC 28752	$858.00
Julie Mace 283 Chestnut Oak Forest Dr. Nebo, NC 28761	$1,599.00
Bradley Styles Apt. # 324D 835 Spaulding Rd. Marion, NC 28752	$1,248.00
Terry Depoyster 69 Grove St Marion, NC 28752	$2,119.00
Scotty Radford Apt. # 207 C 838 Spaulding Rd. Marion, NC 28752	$312.00
Amy Hudgins * 136 Christopher Rd. Marion, NC 28752	$663.00

* This is for relief shifts Ms. Hudgins prior to being hired as a full-time firefighter.

PRESENTATION OF 2007-08 CITY AUDIT REPORT: Mr. Chris Costner of Martin Starnes and Associates was present for this meeting to present the 2007-08 City Audit Report.

Mr. Chris Costner gave a power point presentation that stated that as usual the City of Marion received an unqualified (clean) opinion and no findings.

Mr. Costner noted that the General Fund Balance decreased in 2007-08, due to the Powell Bill Fund being spent down for several large street projects such as North Madison Street and Forest Heights Drive that were carried over from 2006-07, the City fronting the money for the Mt. Ida property purchase and the unbudgeted $25,000 appropriation to the McDowell House project. The City Manager stated that the 2006-07 ending General Fund Balance was essentially inflated, due to few Powell Bill Funds being spent that year.

Council was presented with bound copies of the financial statements and audit report.

The City Manager commended Finance Director Harriett Thomas and her staff for all her hard work with the audit and for preparing almost all of the report. The City Manager noted that this is the third year in a row that the City auditor has not even issued a management letter with any suggestions on how the City's financial management could be improved, which is a testament to the great job Ms. Thomas does every day.

Ms. Thomas introduced Ms. Dawn Penland, Accounting Assistant for the City of Marion, and stated that she assists her daily and does a great job.

Councilman Edwards stated that he serves on the Local Firemen's Relief Fund Board and asked about accounting for Firemen's Relief Fund payments. Mr. Costner stated that expenditures from the Firemen's Relief Fund must be recorded as an expenditure with off-setting revenue shown.

AA.000000099 (24)

Ms. Thomas advised that the Fund is not controlled at all by the City, but still must be accounted for in the City financial statements, which can potentially cause an issue for the City.

Council members had no other questions for Mr. Costner. Mayor Pro Tem Little thanked Mr. Costner for his presentation.

PUBLIC HEARING – ZONING MAP AMENDMENT – 1525 RUTHERFORD ROAD:
Mayor Pro Tem Little opened the Public Hearing.

Planning and Development Director Heather Cotton advised that a request had been received by Turning Point Services to rezone their property at 1525 Rutherford Road from R-2 General Residential to C-2 General Business. Ms. Cotton stated that the property for which rezoning is being requested is located on a main thoroughfare making it an ideal location to operate a business. The surrounding area has a mixture of commercial and residential uses. Ms. Cotton stated that, recently, residential and other surrounding properties have been converted or are being developed into commercial uses. The property is located in an area that has been identified on the Comprehensive Land Use Map as being developed into commercial. The commercial land use designation is not likely to change with future updates to the Comprehensive Land Use Plan.

Ms. Cotton presented Council with graphic illustrations identifying both the existing and proposed zoning designations for the subject property.

Ms Cotton stated that the Planning Board recommended **Approval** of the Applicant's request to amend to the Official Zoning District Map to rezone the subject property to C-2 General Business Zoning District.

There were no citizens present to further discuss this item.

Mayor Pro Tem Little closed the Public Hearing.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, Council voted unanimously to adopt the following Ordinance amending the Official Zoning District Map for property located 1525 Rutherford Rd, and having the PIN 1711.13-23-4067 from the R-2 General Residential Zoning District to the C-2 General Business Zoning District.

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2. The City of Marion is amending the Official Zoning District Map for property located 1525 Rutherford Rd, and having the PIN 1711.13-23-4067 from the R-2 General Residential Zoning District to the C-2 General Business Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing on November 6, 2008.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective upon its adoption.

Adopted this the 18th day of November 2008.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-08-11-18-4

PUBLIC HEARING ZONING MAP AMENDMENT – 721 RUTHERFORD ROAD: Mayor Pro Tem Little opened the Public Hearing.

Planning and Development Director Ms. Heather Cotton advised that a request has been received from Mr. Mark McCracken to rezone property located at 721 Rutherford Road from the R-2 General Residential Zoning District to the C-2 General Business Zoning District

Ms. Cotton stated that the property for which a rezoning is being requested is located on a main thoroughfare making it an ideal location to operate a business. The surrounding area has a mixture of commercial and residential uses. Ms. Cotton reported that, recently, residential properties have been converted into commercial uses. The property is located in an area that has been identified on the Comprehensive Land Use Map as being developed into commercial. The commercial land use designation is not likely to change with future updates to the Comprehensive Land Use Plan.

Ms. Cotton presented Council with graphic illustrations identifying both the existing and proposed zoning designations for the subject property.

Ms. Cotton stated that the Planning Board recommended **Approval** of the Applicant's request to amend to the Official Zoning District Map to rezone the subject property to C-2 General Business Zoning District.

There were no citizens present to further discuss this item.

Mayor Pro Tem Little closed the Public Hearing

Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, Council voted unanimously to amend to the Official Zoning District Map to rezone the subject property to C-2 General Business Zoning District as follows:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

AA.00000101 (24)

Section 2. The City of Marion is amending the Official Zoning District Map for property located 721 Rutherford Rd, and having the PIN 1701.12-85-8222 from the R-2 General Residential Zoning District to the C-2 General Business Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing on November 6, 2008.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective upon its adoption.

Adopted this the 18th day of November 2008.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-08-11-18-5

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

REVIEW/CONSIDER APPROVAL OF OFFER TO PURCHASE REAL PROPERTY REAL PROPERTY OWNED BY CITY OF MARION SUBJECT TO UPSET BID: The City Manager advised that Mr. Mark Shuman was present for this meeting and that he had submitted an offer to purchase the City owned residential lot at the corner of Blue Ridge Street and West Henderson Street. Mr. Shuman's offer of $3,000 for the property is conditioned on being allowed to place a 28' X 70' doublewide manufactured home on the property and receiving a variance from the Board of Adjustment from the setback requirements to allow a 28' x 70' doublewide to be placed on the property. The offer does not request a free water or sewer connection.

The City Manager advised that, if Council wishes to accept the offer subject to upset bid, the City will need to publish notice of the acceptance of the offer and allow the opportunity for someone to submit an upset bid. Council could also reject the offer outright or make a counter offer.

Councilman Martin made a motion to accept the bid from Mr. Shuman in the amount of $3,000. The motion was seconded by Councilman Cuthbertson.

Councilman Edwards stated that he appreciated the offer from Mr. Shuman; however, he feels this Board should think more about this particular location and what will be lost in terms of appearance on one of the main entrances into downtown. Councilman Edwards advised that the lot is presently a wooded area, with many adjacent homes and property owner. As a citizen as well as a Council Member, he has concerns with the impact on the surrounding area and on property values.

Councilman Owenby stated that he agrees with Councilman Edwards.

AA.000000102 (24)

A discussion followed.

Mayor Pro Tem Little stated that there was a motion and second on the floor.

The vote was as follows:

Councilman Cuthbertson	Aye
Councilman Martin	Aye
Councilman Edwards	No
Councilman Owenby	No

The vote was tied, with two votes in favor of accepting the bid proposal of $3,000.00 from Mr. Shuman for the City owned property on Blue Ridge Street and two votes opposed to accepting the bid.

Mayor Pro Tem Little broke the tie and voted in opposition to accepting the offer.

The motion to accept the offer from Mr. Shuman to purchase the City owned property on Blue Ridge Street for $3,000 failed 3-2.

The City Manager stated that Council could consider taking this particular property off the market if it was not the desire of Council to sell the property. Council agreed to take that suggestion under advisement.

CONSIDER APPROVAL OF LICENSE TO OPERATE A PLACE OF AMUSEMENTS – LIGHTING LANES/IVAN'S: The City Manager advised that Mr. Jake Asta has applied for a game room/amusements license to operate Lightning Lanes/Ivan's off of Finley Road. The City's Game Room/Pool Room Ordinance technically requires license holders to reapply for their license each year.

The City Manager advised that the business has 20 games and 16 bowling lanes. A criminal history check was run on the applicant and there were no items found on the State or local criminal history check. The Police Department has further stated that they had not had any issues with alcohol or drugs at the bowling alley.

The City Manager stated that staff could determine no reason under the City's Game Room/Pool Room ordinance why a license should not be issued for this establishment.

Upon a motion by Councilman Owenby, seconded by Councilman Martin, Council voted unanimously to approve a license for Mr. Jake Asta to operate a game room/place of amusements at Lightning Lanes/Ivan's.

Councilman Cuthbertson suggested that future non-controversial license renewals be placed on the Consent Agenda for approval.

SCHEDULE TOWN MEETING DATE: Mayor Pro Tem Little advised that the Town Meeting has traditionally been held the third Thursday evening in January. The Lion's Club meets the third Thursday of each month at the Community Building, so the City Manager had suggested that the fourth Thursday, January 22, be chosen as the date for the Town Meeting, with Thursday, January 29 being a backup date in the event of inclement weather.

A discussion followed.

AA.000000103 (24)

It was the consensus of Council to schedule the Town Meeting for Thursday, January 22, at 7:00 p.m. at the Community Building, with Thursday, January 29, at 7:00 p.m. at the Community Building being a backup date in the event of inclement weather.

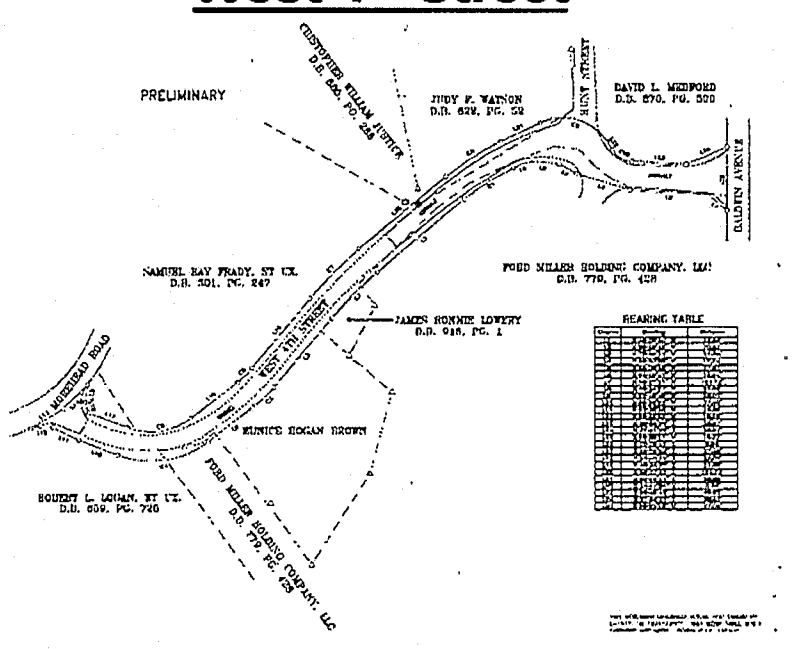
PRESENTATION OF OPTIONS FOR PAVING DIRT STREETS: The City Manager advised that Public Works Director Chris Hollifield was present to give a presentation on available right of ways and options for paving dirt streets in the City. The City Manager noted that the City had many years ago paved all City maintained streets in the City Limits, but the City had annexed areas such as the Eastfield Community and inherited some dirt and gravel streets.

Mr. Hollifield reported that, as previously authorized by Council, Larry Greene has surveyed the highest priority dirt streets as set by Council, to allow staff make recommendations regarding how to proceed and regarding the cost of paving said streets. Mr. Hollifield's presentation was as follows:

Dirt Roads within City Limits

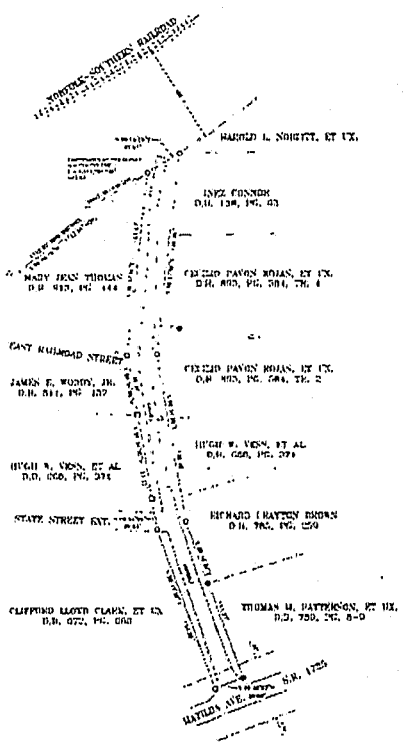
- Right of Way Issues -
E. Railroad St./Finley Ave.
W. Fourth St.
Florence Avenue

West 4th Street

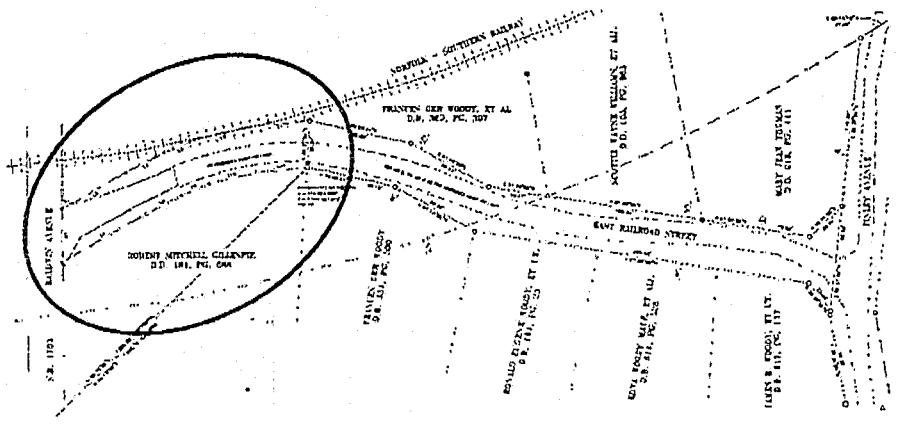


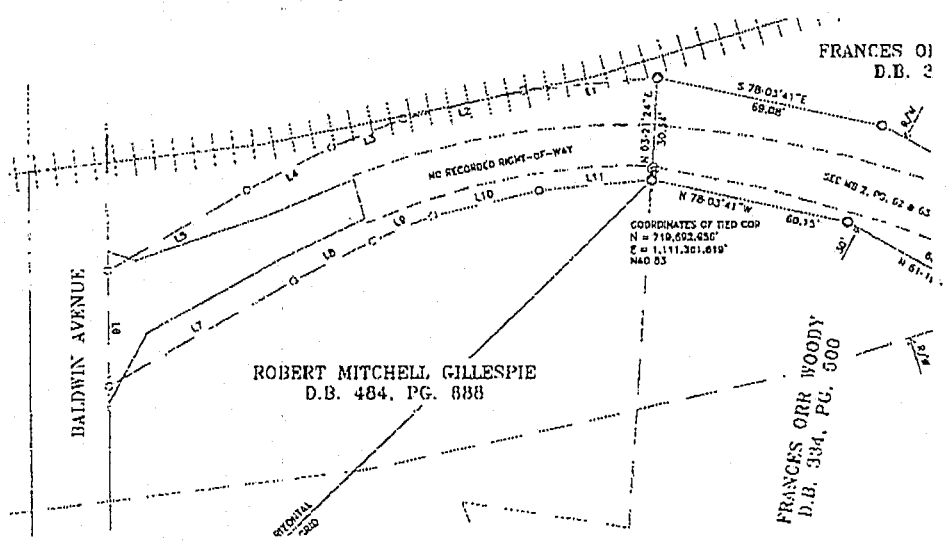
AA.00000104 (24)

Finley Avenue



East Railroad Street





AA.000000105 (24)

Right of Way (ROW) Issues

- West 4th Street — No Recorded ROW
- Finley Avenue — 30' ROW
- Florence Avenue — 25' ROW
- East Railroad Street — ROW terminates before road ends – no ROW at Baldwin intersection

Asphalt Costs

$13.00 / yd²

- West 4th Street — $10,400 Asphalt Cost
- East Railroad Street — $12,133 Asphalt Cost
- Florence Avenue — $14,100 Asphalt Cost
- Finley Avenue — $ 5,778 Asphalt Cost

These costs are for Asphalt surfacing only.
The substantial cost will be for grading
and establishing a road bed

Mr. Hollifield summarized by stating that asphalt costs had increased drastically in the past few months, causing the projected paving costs for the four streets to nearly double. Mr. Hollifield stated that he did not yet have estimated costs for grading or roadbed preparation for each street. He added that it was uncertain whether adjacent property owners on East Railroad and West Fourth Streets would be willing to donate right of way to allow the streets to be paved.

The City Manager stated that Council direction on prioritizing these streets was desired, so that the paving of one or more streets could be worked into the budget for the Spring Paving Project each year.

Mayor Pro Tem Little suggested that it would be helpful to have full costs for the grading and roadbed preparation for each street, along with the paving cost. The City Manager asked if it would also be helpful to know if property owners would donate right of way where necessary. Mayor Pro Tem Little and other Council members agreed by consensus to discuss this matter at a future meeting when full cost estimates for could be presented for the grading, roadbed preparation and paving for each street and when a report can be given on the ability of the City to obtain right of way as necessary from adjacent property owners.

DISCUSSION OF STREET REQUESTS: The City Manager advised that he had received a request from the West Court Baptist Church asking that NCDOT install a crosswalk on West

AA.000000106 (24)

Court Street between the church property and their parking lot across the street and to place crosswalk signs along West Court Street.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, Council voted unanimously to endorse this request and to forward it to NCDOT.

The City Manager advised that Councilman Owenby had reported that a resident of 6th street in East Marion has requested a curb replacement project on this street.

It was the consensus of Council to refer this request to the Street Committee.

CITY MANAGER'S REPORT: The City Manager gave a brief report on Current Projects as follows:

The City Manager advised that he had received a letter from DOT advising that needed repairs have been made to bridges on Highway 226 South to allow the previously agreed upon I-40 detour route along Highway 226 and Dysartsville Road to be used, instead of routing detour traffic through Downtown Marion. Downtown Marion will continue to be a backup I-40 detour route.

The City Manager advised that the one Regular City Council meeting in December will be held on Tuesday, December 2. The City Council Christmas Dinner will be held at Carolina Chocolatiers at 6:00 p.m. on Tuesday, December 9.

The City Manager advised that the joint meeting with the County Commissioners has been set for Monday, November 24, at 6:00 p.m. at Carolina Chocolatiers. The City Manager advised that he is working on the agenda for the meeting with the County Manager, as discussed at the November 6 Planning Session.

The City Manager advised that a contractor is scheduled to begin work on the sidewalk extension on West Henderson Street from Railroad Street to Ingle's the week after Thanksgiving. The contractor will charge $31,000 for the sidewalk work and railings. DOT will fund $20,000 of the cost, leaving a cost of $11,000 for the City.

The City Manager advised that Ms. Freddie Killough is pursuing some possible grants for a permanent farmer's market structure. As authorized by Council, the City will use N.C. STEP Program money as a match for grant money that is received.

The City Manager advised that the City had joined with the County and the Town of Old Fort to complete a Hazard Mitigation Plan in 2005. The Federal and State governments required local governments to adopt Hazard Mitigation Plans in order to be eligible for Federal and State disaster funding in the future. The Hazard Mitigation Plans must be redone every five years. The N.C. Division of Emergency Management is now promoting regional Hazard Mitigation Planning and advises that regional plans will stand a much better chance of State funding. McDowell County has been asked to join together with Yancey, Mitchell and Avery Counties to complete its required plans. Each County would retain its own identity in the plans and would essentially just be completing the plans together. The City Manager stated that the City will need to join in this effort, or else have to complete our own plan. Since the plan's most important purpose is frankly to meet a Federal and State mandate, The City Manager stated that he would propose, without objection, that the City join together in this regional effort to meet the Federal and State mandates.

Upon a motion by Councilman Martin, seconded by Councilman Owenby, Council voted unanimously to authorize the City Manager to work with McDowell, Yancey, Mitchell and Avery

AA.000000107 (24)

Counties to complete a required Regional Hazard Mitigation Plan, as had been recommended by the North Carolina Division of Emergency Management.

The City Manager stated that he had recently spoken with Mr. Frank Boldon regarding a request Mr. Boldon wished to make. The City Manager stated that Mr. Boldon was donating the land for the Clinchfield Park and had previously given a $2,000.00 donation toward the purchase of land for the park. The City Manager stated that Mr. Boldon would like to redirect the $2,000 donation and ask that the City use the funds toward purchasing a webcam on top of one of the buildings on Main Street, so that views of the Downtown area could continuously be broadcast on the City website.

The City Manager stated that the City can obtain the necessary equipment for less than $2,000 and perhaps partner with a downtown property owner to share a wireless connection and to receive permission to put the camera on top of the building. Mayor Pro Tem Little and other Council members agreed by consensus to authorize the City Manager to approve Mr. Boldon's request.

COUNCILMAN COMMENTS:

Councilman Owenby and Councilman Martin scheduled a date for the Street Committee meeting to review the request for curb replacement on 6th Street, East Marion. The meeting will be held on Friday at 2:00 p.m.

Mayor Pro Tem Little stated that he had seen other cities recently placing prominent signs at pedestrian crosswalks advising that it is a State law for motorists to yield to pedestrians. He suggested that such signs be explored for downtown, particularly at the Main and Court Street intersection. The City Manager stated that staff would look into the possibility and come back with some suggestions at a future meeting.

Councilman Cuthbertson advised that the stop light at State and Main is still not working properly and needs to be revisited by DOT. The City Manager advised that he had already contacted DOT once regarding this signal and that he would contact them again.

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

Stephen R. Little, Mayor Pro Tem

ATTEST:

J. Robert Boyette, City Manager

AA.00000108 (24)

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, December 2, 2008, at 7:00 P.M. in the City Council Chamber located at 194 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: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Mika Elliott, Police Chief; Chris Hollifield, Public Works Director/Engineer; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Virginia Kaye Allen, Marion, NC; Glenda Elam, 39 Sinclair Avenue, Marion, NC; Chris and Howard Edwards, Marion, NC; David Cable and Dean Wall, McDowell County Rescue Squad, Marion, NC; Jackie & Sandra Williams, Marion, NC; Mickey & Sherry Arrowood, 5518 Harmony Grove Road, Marion, NC; Kay, Tammy & Josh Willis 25 North Drive, Marion, NC; Paige, Brianna and James Duncan, 20 Bartlett Road, Marion, NC; Joe & Ruby Duncan, 5 West Glenview Street, Marion, NC; Traci Silver, 102 Park Terrace Drive, Belmont, NC 28012.

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the Consent Agenda as follows:

A. Approval of Minutes – November 18, 2008 City Council Minutes

B. Adopt Resolution Declaring Fire Tower Truck as Surplus and Authorizing its Sale

Resolution
Declaring Certain Items of Personal Property
Owned by the City of Marion as Surplus and Authorizing Their Sale

WHEREAS, N.C.G.S. 160A-266(b) authorizes cities to dispose of personal property valued at less than $30,000 by private negotiation and sale; and

WHEREAS, N.C.G.S. 160A-267 requires that when a City Council proposes to dispose of property by private sale, it adopt a resolution at a regular Council meeting authorizing an appropriate City official to dispose of the property by private sale at a negotiated price; and

WHEREAS, the City of Marion owns a 1968 Sutphen aerial fire truck; and

WHEREAS, this truck is no longer NFPA compliant, is unsafe to operate and it is not cost efficient to bring it up to current standards; and

WHEREAS, the City Council desires to sell this truck for the best possible price utilizing GovDeals.com.; and

WHEREAS, considering the age and condition of this vehicle it is believed to have an estimated value of less than $30,000.

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF MARION RESOLVES:

Section 1. The City Council of the City of Marion does hereby declare the "1968 Sutphen aerial fire truck" described above as surplus and authorizes the City Manager to dispose of this item by private sale.

Section 2. This vehicle shall be advertised on GovDeals.com, with pictures, full description and disclosure, and no sale shall be consummated until ten (10) days after its initial posting.

Section 3. This resolution shall be effective upon its adoption.

AA.000000109 (24)

Adopted this the 2nd day of December, 2008.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-08-12-02-2

PRESENTATION OF MEMORIAL RESOLUTIONS FROM NORTH CAROLINA LEAGUE OF MUNICIPALITIES: The City Manager advised that there were three presentations of Memorial Resolutions from the North Carolina League of Municipalities

Mayor Clark presented the following Memorial Resolutions from the N.C. League of Municipalities to the families of former City employees who have passed away in the past year.

Resolution
Of the
North Carolina League of Municipalities

WHEREAS, the North Carolina League of Municipalities notes with sadness the death of Donna M. Edwards who faithfully served the City of Marion for 24 years; and

WHEREAS, Donna M. Edwards made significant contributions to the City of Marion and its residents and contributed to the advancement of excellence in municipal government;

NOW, THEREFORE, BE IT RESOLVED by the membership of the North Carolina League of municipalities, meeting in Annual Conference on this 14th day of October 2008, expresses their sorrow at the passing of Donna M. Edwards, former Police Officer of the City of Marion, who made lasting contributions to municipal government and whose memory we are proud to honor.

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

S. Ellis Hankins, Executive Director Susan Burgess, President

Date: October 14, 2008

Resolution
Of the
North Carolina League of Municipalities

WHEREAS, the North Carolina League of Municipalities notes with sadness the death of Timothy J. Duncan who faithfully served the City of Marion for 2 years; and

WHEREAS, Timothy J. Duncan made significant contributions to the City of Marion and its residents and contributed to the advancement of excellence in municipal government;

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NOW, THEREFORE, BE IT RESOLVED by the membership of the North Carolina League of municipalities, meeting in Annual Conference on this 14th day of October 2008, expresses their sorrow at the passing of Timothy J. Duncan, former Police Officer of the City of Marion, who made lasting contributions to municipal government and whose memory we are proud to honor.

BE IT FURTHER RESOLVED that this resolution be made a part of the permanent records of the North Carolina League of Municipalities and that copies be forwarded to the family of Timothy J. Duncan and to the City of Marion.

S. Ellis Hankins, Executive Director Susan Burgess, President

Date: October 14, 2008

Resolution
Of the
North Carolina League of Municipalities

WHEREAS, the North Carolina League of Municipalities notes with sadness the death of Nora L. Arrowood who faithfully served the City of Marion for 16 years; and

WHEREAS, Nora L. Arrowood made significant contributions to the City of Marion and its residents and contributed to the advancement of excellence in municipal government;

NOW, THEREFORE, BE IT RESOLVED by the membership of the North Carolina League of Municipalities, meeting in Annual Conference on this 14th day of October 2008, expresses their sorrow at the passing of Nora L. Arrowood, former Police Officer of the City of Marion, who made lasting contributions to municipal government and whose memory we are proud to honor.

BE IT FURTHER RESOLVED that this resolution be made a part of the permanent records of the North Carolina League of Municipalities and that copies be forwarded to the family of Nora L. Arrowood and to the City of Marion.

S. Ellis Hankins, Executive Director Susan Burgess, President

Date: October 14, 2008

Council Members, Police Chief Mika Elliott, friends and family members shared kind words about all three of the honorees.

PRESENTATION OF PROPERTY DEED TO MCDOWELL COUNTY RESCUE SQUAD, INC: Mayor Clark advised that Cuity Council had recently voted to donate City owned property on State Street, on which the original Rescue Squad building is located, to the McDowell County Rescue Squad, Inc., Mayor Clark presented the property deed to Rescue Squad Chief David Cable, Rescue Squad member Dean Wall and other members of the Rescue Squad.

Mayor Clark advised that the City appreciated all the work of the Rescue Squad over the past 50 years and stated that the City was glad to have supported the Rescue Squad. Chief Cable and Mr. Wall stated that they appreciated the great assistance the Rescue Squad has received over the years from the City.

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Council members all commended the members of the Rescue Squad for all they do on a daily basis.

Mayor Pro Tem Steve Little stated that he wished to stand up in the presence of the Rescue Squad members and led the room in a round of applause in honor of the great service of the Rescue Squad.

SPECIAL PRESENTATION BY MAYOR CLARK: Mayor Clark stated that two Council Members have served for 15 years.

Mayor Clark presented Councilman Lloyd Cuthbertson and Councilman Mike Edwards with 15 year City Service Pins and thanked them for all the years they have given to the City.

PUBLIC HEARING – ADOPTION OF ANNEXATION REQUEST – GARDEN CREEK ROAD: Mayor Clark opened the Public Hearing.

The City Manager advised that this required Public Hearing is for a voluntary annexation request from the Hall family for their property on Garden Creek Road and that, if approved, the annexation would become effective on December 31, 2008.

There were no citizens present to discuss this request.

Mayor Clark closed the Public Hearing

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Ordinance:

AN ORDINANCE TO EXTEND
THE CORPORATE LIMITS OF THE
CITY OF MARION, NORTH CAROLINA –
GARDEN CREEK ROAD-HALL PROPERTY - 2008

WHEREAS, the City Council has been petitioned under G.S. 160A-31 to annex the area described below; and

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

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at City Hall at 7:00 P.M. on Tuesday, December 2, 2008, after due notice by publication on Friday, November 21, 2008; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-31;

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

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the City of Marion as of December 31, 2008:

TRACT I:

AND BEING THE SAME IDENTICAL PROPERTY described in Deed Book 250 at Page 826 of the McDowell County Deed Registry, hereby incorporated by reference as if fully set out and to which reference is hereby made and more fully described as follows:

Adjoining Garden Creek Road to the West, Grantor to the South, Garden Creek Road to the West, and Grantees to the North.

BEING LOT NOS. THIRTY-SEVEN (37) and THIRTY-EIGHT (38) in Block "C" of the J.L. Morgan

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Pleasant Gardens Farm, according to Map No. 4 of said property as recorded in McDowell County Map Book 1 on Page 54, hereby incorporated by reference as if fully set out and to which reference is hereby made.

BEING TWO OF THE LOTS CONVEYED by Ellen J. Crawford to Rena M. Hoyle by deed dated December 4, 1947, recorded in McDowell County Deed Registry in Deed Book 100 on Page 435, hereby incorporated by reference and to which reference is hereby made.

TRACT II:

AND BEING THE SAME IDENTICAL PROPERTY described in Deed Book 117 at Page 194 of the McDowell County Deed Registry, hereby incorporated by reference as if fully set out and to which reference is hereby made and more fully described as follows:

All those four (4) certain lots of land, known and designated Lot Nos. Thirty-Three (33), Thirty-Four (34), Thirty-Five (35) and Thirty-Six (36) in Block "C" of the J.L. Morgan property according to map of same, designated as Map Four (4) of the Pleasant Garden Farm and recorded in Map Book 1 at Page 54 of the McDowell County Map Records, hereby incorporated by reference as if fully set out and to which reference is hereby made.

AND ALSO BEING A PART OF THE PROPERTY described in a deed from Ellen J. Crawford to Mrs. Rena M. Hoyle by deed dated December 4, 1947, and recorded in Deed Book 100 at Page 435 of the McDowell County Deed Records, hereby incorporated by reference and to which reference is hereby made.

Each of said lots front on Old State Highway No. 19, now known as Garden Creek Road, twenty-five (25) feet and runs back to Garden Creek; except however, Lot No. Thirty-Three (33) is 128 feet wide.

Section 2. Upon and after December 31, 2008, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City of Marion. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Marion shall cause to be recorded in the office of the Register of Deeds of McDowell County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the McDowell County Board of Elections, as required by G.S. 163-288.1.

ADOPTED this the 2nd day of December, 2008.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Approved As To Form:

City Attorney

Ordinance Number: O-08-12-02-1

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present for this meeting to speak to Council.

APPROVE RESOLUTION – AUTHORIZING A GROSS RECEIPTS TAX ON THE SHORT-TERM RENTAL OR LEASE OF HEAVY EQUIPMENT TO REPLACE THE REPEALED AUTHORITY TO LEVY PROPERTY TAXES ON HEAVY EQUIPMENT:

The City Manager advised that as shown in the memo presented to Council, the General Assembly repealed the authority of municipalities to levy property taxes on heavy equipment. In lieu of property taxes, the General Assembly authorized municipalities to levy a 0.8 percent gross receipts tax on the short-term lease or rental of heavy equipment at retail. The City Manager reported that the definition of heavy equipment in the legislation is such that there may currently be no such activity that takes place in the City. However, the City Manager stated that he would

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recommend that Council adopt the following resolution to put the heavy equipment tax in place in the event that new businesses undertaking the lease or rental of heavy equipment locate in the City in the future. The new tax would take effect on January 1, 2009 and apply to tax years beginning after July 1, 2009.

A brief discussion followed.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Owenby, Council voted unanimously to adopt the following Resolution:

A RESOLUTION
LEVYING A TAX ON GROSS RECEIPTS DERIVED FROM
RETAIL SHORT-TERM LEASE OR RENTAL OF HEAVY EQUIPMENT

WHEREAS, the North Carolina General Assembly has ratified Senate Bill 1852, which has been designated as Session Law 2008-144 [the "Act"]; and,

WHEREAS, the Act repealed the property tax on certain heavy equipment leased or rented under retail short-term leases or rentals and authorized municipalities to replace the lost tax revenue through enactment of a local tax on gross receipts derived from the retail short-term lease or rental of that heavy equipment.

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

Section 1. Definitions. In addition to the common meanings of words, the following definitions shall be applicable herein:

(a) "Customer" shall mean any person that leases or rents heavy equipment on a short-term lease or rental basis.

(b) "Finance Officer" shall refer to that individual appointed pursuant to the provisions of the municipal charter to serve as finance officer (or other reasonably descriptive title as provided in G.S. § 159-24) for the City and any other person authorized to carry out the duties and functions of such individual.

(c) "General Statutes" shall refer to the North Carolina General Statutes and any reference to a particular section thereof shall include the same as may be from time to time amended, modified, supplemented, revised or superseded.

(d) "Gross receipts" shall mean the amount that is or would be reported as gross receipts on a business's state income tax return, or on the federal income tax return filed with the state income tax return if the state return does not separately state gross receipts for the most recently completed tax year. Taxes collected hereunder are not subject to the tax herein imposed and are not included in gross receipts.

(e) "Heavy equipment" shall mean earthmoving, construction, or industrial equipment that is mobile, weighs at least 1,500 pounds, and is either:

(i) A self-propelled vehicle that is not designed to be driven on a highway; or

(ii) Industrial lift equipment, industrial material handling equipment, industrial electrical generation equipment, or a similar piece of industrial equipment.

The term includes an attachment for heavy equipment, regardless of the weight of the attachment. [G.S. § 160A-215.2(a)(1)]

(f) "Lease or rental" shall mean a transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. The term does not include any of the following:

(i) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.

(ii) A transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not

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exceed the greater of one hundred dollars ($100.00) or one percent (1%) of the total required payments.

(iii) The providing of tangible property along with an operator for a fixed or indeterminate period of time if the operator is necessary for the equipment to perform as designed. For the purpose of this subparagraph, an operator must do more than maintain, inspect, or set up the tangible personal property.

[G.S. § 105-164.3(17)]

(g) "Long-term lease or rental" shall mean a lease or rental made under a written agreement to lease or rent property to the same person for a period of at least three hundred sixty-five (365) continuous days. [G.S. § 105-187.1(3)]

(h) "Person" shall mean any individual, trustee, executor, other fiduciary, corporation, unincorporated association, partnership, sole proprietorship, company, firm, or other legal entity.

(i) "Short-term lease or rental" shall mean any lease or rental that is not a long-term lease or rental. [G.S. § 160A-215.2(a)(2) and G.S. § 105-187.1(7)]

(j) "Taxpayer" means any person liable for the taxes imposed by this Resolution.

Section 2. Levy of Tax. A tax is hereby imposed and levied in an amount equal to eight tenths percent (0.8%) of the gross receipts derived from the short-term lease or rental of heavy equipment at retail. This tax on gross receipts is in addition to the privilege taxes authorized by G.S. § 160A-211. [G.S. § 160A-215.2(b)]

Section 3. Collection of the Tax. Every person whose principal business is the short-term lease or rental of heavy equipment at retail shall collect at the time of the lease or rental, or at the time of the payment of the consideration therefor, the tax herein levied. A person is not considered to be in the short-term lease or rental business if the majority of the person's lease and rental gross receipts are derived from leases and rentals to a person who is a related person as defined under G.S. § 105-163.010. The tax so collected shall be placed in a segregated account, and thereafter remitted to the Finance Officer in accordance with the provisions of this Resolution. The taxpayer shall include a provision in each retail short-term lease or rental agreement, or other documentation evidencing the transaction, stating that the percentage amount enacted by this Resolution of the total lease or rental price, excluding sales tax, is being charged as a tax on gross receipts. The amount of the tax shall be stated separately from the lease or rental and shown separately on the taxpayer's records. The tax shall be paid by the customer to the taxpayer as trustee for and on account of the (City)(Town)(Village). The taxpayer shall be liable for the collection thereof and for its payment to the Finance Officer and the taxpayer's failure to charge or to collect said tax from the customer shall not affect such liability. [G.S. § 160A-215.2(b)]

Section 4. Report and Payment of Tax. Taxes levied under this Resolution are due and payable when a return is required to be filed. Every taxpayer shall, within the time specified, submit a return to the Finance Officer on the form prescribed by the Finance Officer. A return must be signed by the taxpayer or the taxpayer's agent. Returns of taxpayers are due to the Finance Officer for each calendar quarter on or before the last day of the month following the end of the quarter in which the tax accrues. As provided in G.S. § 160A-208.1, a return shall not be considered a public record and information contained in a return may be disclosed only in accordance therewith. [G.S. § 160A-215.2(c)]

Section 5. Taxpayer to Keep Records. The taxpayer shall keep and preserve suitable records of the gross receipts received by such taxpayer in the conduct of business and such other books or accounts as may be necessary to determine the amount of the tax for which such taxpayer is liable under the provisions of this Resolution. It shall be the duty of the taxpayer to keep and preserve for a period of three years all such records of gross receipts and other books and accounts described. All records, books and accounts herein described shall be open for examination at all reasonable hours during the day by the Finance Officer or the Finance Officer's duly authorized agent.

Section 6. Tax Collector to Provide Forms. The Finance Officer shall design, prepare, print and make available to all taxpayers operating within the municipal boundaries of the (City)(Town)(Village) forms and instructions for filing returns to insure a full collection of and an accounting for taxes due. The failure of any taxpayer to obtain or receive forms shall not relieve such taxpayer from the payment of the tax at the time and in the manner provided.

Section 7. Situs. Gross receipts from the short-term lease or rental of heavy equipment are subject to the tax imposed by this Resolution if the place of business from which the heavy equipment is delivered is located within the municipal boundaries of the (City)(Town)(Village). [G.S. § 160A-215.2(b)]

Section 8. Penalties and Remedies. The provisions with respect to penalties and collection remedies that apply to the payment of sales and use taxes under Article 5 of Chapter 105 of the General Statutes shall be applicable in like manner to the tax authorized to be levied and collected under this Resolution, to the extent that the same are not inconsistent with the provisions hereof. The Finance Officer may exercise any power the Secretary of Revenue may exercise in imposing these penalties and remedies. [G.S. § 160A-215.2(d)]

Section 9. Severability. If any section, clause, or provision of this Resolution shall be found to be invalid, the validity of the remaining sections, clauses or provisions shall not be affected thereby.

Section 10. Authority. This Resolution is enacted pursuant to the provisions of G.S. § 160A-215.2.

Section 11. Effective Date. This Resolution and the taxes thereby levied and imposed shall become effective January 1, 2009.

Adopted this the 2nd day of December, 2008.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Resolution Number: R-08-12-02-1

REVIEW/CONSIDER APPROVAL OF OFFER TO PURCHASE REAL PROPERTY OWNED BY CITY OF MARION SUBJECT TO

UPSET BID: The City Manager stated that Mr. and Mrs. Ricky Frady had submitted an offer to purchase the two City owned residential lots on
Morehead Road. Mr. and Mrs. Frady offered $8,000 for the combined 0.56 acre property. A map of the property was presented to Council members along with a copy of the tax cards for the properties.

The City Manager stated that if Council wished to accept the offer subject to upset bid, the City will need to publish a notice of the acceptance of the offer and allow the opportunity for someone to submit an upset bid. Council could also reject the offer outright or make a counter offer.

A discussion followed.

Upon a motion by Councilman Owenby, seconded by Mayor Pro Tem Little,
Council voted unanimously to adopt the following resolution accepting the offer of Mr. and Mrs. Frady to purchase the two City owned lots on Morehead Road in the amount of $8,000, subject to upset bid:

Resolution Authorizing the Sale of Certain Property Owned by the City of Marion by Negotiated Offer and Upset Bid

WHEREAS, the City Council of the City of Marion desires to dispose of certain surplus property of the City; and

WHEREAS, N.C.G.S. 160A-269 authorizes a city to convey by negotiated offer and upset bid any real or personal property; and

WHEREAS, Rickey and Lisa Frady have submitted a bid in the amount of $8,000 for the purchase of approximately 0.56 acres of property owned by the City of Marion located on Morehead Road (McDowell County Parcel Identification Numbers 1711.09-06-8112 and 1711.09-06-8186).

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

1. The two parcels owned by the City of Marion on Morehead Road (McDowell County Parcel Identification Numbers 1711.09-06-8112 and 1711.09-06-8186) that are approximately 0.56 acres in size are hereby declared to be surplus to the needs of the City of Marion.

2. The City Council accepts the offer of Rickey and Lisa Frady to purchase the above described property for $8,000, subject to the upset bid process being followed as required by N.C.G.S. 160A-269.

3. The City Clerk shall notify Rickey and Lisa Frady of the acceptance of this offer, receive a five percent bid deposit from the bidder, and cause a notice of this resolution to be published in accordance with G.S. 160A-269. Such notice shall state that prospective bidders have ten days from the date the notice is published to offer an upset bid, pursuant to G.S. 160A-269.

4. Once the upset bid process is completed, in accordance with G.S. 160A-269, the City Manager is designated to dispose of the above described property to the bidder selected by City Council, for a minimum price of $8,000.

Adopted this the 2nd day of December, 2008.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-08-12-02-3

The City Manager stated that Mr. Kendrick Swepson had submitted an offer to purchase a City owned residential lots on West Grayson Street. Mr. Swepson offered $2,500 for the 0.29 acre property. A map of the property was presented to Council members along with a copy of the tax card for the property.

Councilman Martin asked that he be excused from the discussion and vote for this matter due to the fact that he is related to Mr. Swepson.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to excuse Councilman Martin from the discussion and vote for this matter.

The City Manager stated that if Council wished to accept the offer subject to upset bid, the City will need to publish a notice of the acceptance of the offer and allow the opportunity for someone to submit an upset bid. Council could also reject the offer outright or make a counter offer.

A discussion followed.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Owenby, Council voted unanimously to adopt the following resolution accepting the offer of Mr. Swepson to purchase the City owned lot on West Grayson Street in the amount of $2,500, subject to upset bid:

Resolution Authorizing the Sale of Certain Property Owned by the City of Marion by Negotiated Offer and Upset Bid

WHEREAS, the City Council of the City of Marion desires to dispose of certain surplus property of the City; and

WHEREAS, N.C.G.S. 160A-269 authorizes a city to convey by negotiated offer and upset bid any real or personal property; and

WHEREAS, Mr. Kendrick Swepson has submitted a bid in the amount of $2,500 for the purchase of approximately 0.29 acres of property owned by the City of Marion located on West Grayson Street (McDowell County Parcel Identification Number 1701.17-22-1168).

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

1. The parcel owned by the City of Marion on West Grayson Street (McDowell County Parcel Identification Number 1701.17-22-1168) that is approximately 0.29 acres in size is hereby declared to be surplus to the needs of the City of Marion.

2. The City Council accepts the offer of Mr. Kendrick Swepson to purchase the above described property for $2,500, subject to the upset bid process being followed as required by N.C.G.S. 160A-269.

3. The City Clerk shall notify Mr. Kendrick Swepson of the acceptance of this offer, receive a five percent bid deposit from the bidder, and cause a notice of this resolution to be published in accordance with G.S. 160A-269. Such notice shall state that prospective bidders have ten days from the date the notice is published to offer an upset bid, pursuant to G.S. 160A-269.

4. Once the upset bid process is completed, in accordance with G.S. 160A-269, the City Manager is designated to dispose of the above described property to the bidder selected by City Council, for a minimum price of $2,500.

Adopted this the 2nd day of December, 2008.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-08-12-02-4

Mayor Clark stated that property located at the intersection of Stroud Street and Sugar Hill Road is in an overgrown condition. He asked that City staff contact DOT to see if the City can acquire the property or have it cleaned. Public Works Director Chris Hollifield stated that he would contact DOT concerning this property.

DISCUSS STREET REQUESTS: The City Manager stated that the Street Committee met on November 21 and looked at the request for curb replacement on 6th Street in East Marion. The Street Committee and staff felt that the curb on 6th Street was in good shape, except for a few places where it has been worn down or damaged. The City Manager stated that the recommendation of the Street Committee is to replace the damaged sections late next year, after the City completes projects that have been scheduled over the next year, including sidewalk repairs and a sidewalk extension on Logan Street, Community Building Park improvements and work on the Clinchfield and Eastfield Parks. The City Manager reported that the vast majority of the curb on 6th Street is in good or excellent condition and would remain in place.

Mayor Pro Tem Little stated that he had recently walked on a section of Fort Street between Logan and Academy Street and that the sidewalk is bad on the Taylor and Brown office side of the street. Mayor Pro Tem Little suggested that this section of sidewalk also be added to the priority list for repair or replacement. The City Manager suggested that this curb replacement take place at the same time curb repairs and replacement occurs on Logan Street.

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Council Members agreed by consensus to add the replacement of deterioriated sections of the 6th Street, EM curb and the replacement of sidewalk on the north side of Fort Street between Logan and Academy Streets to the Street and Sidewalk priority list.

DISCUSS 2008-09 BUDGET ISSUES: The City Manager presented Council with a spreadsheet showing proposed expenditure cuts to the General Fund and the Water and Sewer Fund for the current year to compensate for revenue losses. In the General Fund, the City Manager stated that he projected that sales tax revenues may be $85,000 less than the budgeted amount for 2008-09. The City Manager stated that his goal was to identify expenditure cuts totaling two percent of the General Fund budget, or $108,750. Through delays in filling certain vacant positions, delayed capital outlay purchases and reductions in various line items in almost every department, the City Manager advised that departments identified $194,579 in General Fund expenditure cuts.

In the Water and Sewer Fund, the City Manager stated that he had estimated that the water and sewer revenue loss from the Swift Galey and Spectrum plant closings would be $72,435 for 2008-09. To be conservative, the City Manager stated the he wanted to plan for expenditure cuts totaling 2.5 percent of the Water and Sewer Fund, or $89,719. Through reductions to various line items in the Water and Sewer Fund departments, the City Manager reported that City staff was able to identify $90,000 in Water and Sewer Fund expenditure cuts.

The City Manager recommended that he be authorized to implement the listed expenditure cuts. If circumstances improve, he would release some of the listed expenditures, particularly capital outlay purchases.

Mayor Pro Tem Little stated that he wished to thank the City Manager and Department Heads for coming up with this unpleasant plan for dealing with the revenue shortfall for the current year in a responsible manner. He added that it takes strength of character to do this sort of thing.

Mayor Clark stated that the City is on the right path to deal with the expected revenue shortfall for the current year. He added that the City does not want to neglect its citizens, however.

Councilman Martin stated that he appreciates the Mayor's comments and that he feels the same way.

Mayor Clark stated that the bottom line is that the City exists only for the service of people.

The City Manager stated that the recommended cuts would not involve any layoffs or the elimination of any services. He stated that services could be slowed a bit, due to vacant positions being left unfilled, but that residents should not notice much difference in their service delivery.

The Mayor and Council Members agreed by consensus to authorize the City Manager to implement the recommended expenditure cuts for the current fiscal year.

REVIEW/CONSIDER AWARD OF BIDS – VEHICLE PURCHASE: Finance Director Harriett Thomas advised that, in the 2008-09 budget, the City included $68,000 for the purchase of two fully equipped marked patrol cars. City staff sent bid notices out to 10 automobile dealers and received three bids back. The low bid that met specifications came in from Ilderton Dodge in High Point in the amount of $68,382, which is $382 more than was budgeted. Ms. Thomas stated that the same two cars last year cost $66,780.

The City Manager stated that in a normal year, the increase of 2.4 percent would not be noteworthy. However, he said that he and Ms. Thomas were disappointed with the vehicle price going up at all given that the current economy and the fact that the City should

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enjoy a buyer's market this year with the problems in the automotive industry. Ms. Thomas stated that the vehicle price is comparable to last year, but that the equipment cost has risen.

The City Manager stated that Council could accept the bid from Ilderton Dodge or reject all bids and readvertise. He added that it is possible that the City will not receive a better price if we re-advertise, since dealerships may think that local governments purchasing police cars are a captive audience.

Councilman Edwards asked if the City could afford the purchase of these vehicles given the discussion previously in the agenda regarding the current budget situation.

The City Manager stated that, with the proposed $285,000 in expenditure cuts, the City should be able to afford these two vehicles. He cautioned against delaying the purchase of vehicles to next year if at all possible, since the 2009-10 budget year may be even more uncertain.

Mayor Pro Tem Little stated that he would suggest not accepting these bids and re-advertising.

Councilman Cuthbertson stated that perhaps we could negotiate the price down from the low bid and proceed if the price comes down.

A discussion followed.

Councilman Edwards stated that he is not convinced that we need to purchase these vehicles this year and does not feel comfortable with giving blanket approval for the purchase of the vehicles. He asked that staff bring back any negotiated prices to Council for review.

After additional discussion, it was agreed that City staff will attempt to negotiate a lower price for the vehicles with the low bidder and bring any new proposal back to Council in January for review.

ADD ON – APPOINTMENT TO McDOWELL ECONOMIC DEVELOPMENT ASSOCIATION BOARD: The City Manager advised that McDowell Economic Development Association (MEDA) Director Chuck Abernathy had reported that morning that all terms on the MEDA had expired as of July 1, 2008. Councilman Cuthbertson has served two terms on the MEDA Board and is eligible to serve another term if so desired by Council.

Councilman Cuthbertson stated that he would serve another term on the MEDA Board if Council wished.

Upon a motion by Councilman Owenby, seconded by Councilman Martin, Council voted unanimously to reappoint Councilman Cuthbertson to another term on the McDowell Economic Development Association Board.

ADD ON – DISCUSSION OF RECRUITMENT OF MEDIUM SECURITY PRISON: The City Manager stated that McDowell Economic Development Association (MEDA) Director Chuck Abernathy had reported that morning of the possibility of two 500 bed medium security prisons possibly being approved in the next session of the General Assembly. The City Manager stated that one of the prisons may be located in Western North Carolina and that Mr. Abernathy suggested that all local governments and organizations in the County endorse the recruitment of a prison.

Mayor Clark suggested that the City should not endorse anything regarding the recruitment of a new prison until the sales tax issue is resolved with McDowell County.

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It was suggested that this issue be discussed further at the next Council Planning Session.

CITY MANAGER'S REPORT: The City Manager stated that he would like to publicly commend Marion Business Association Director Freddie Killough, Police Chief Mika Elliott, Fire Chief Jim Neal and Public Works Director Chris Hollifield for the great work of their staff during the annual Christmas Parade held on November 23. The City Manager stated that the Parade seems to get bigger and better each year.

The City Manager advised that the work is complete on the water and sewer extension up Highway 221 North Business and on Hankins Road to Scotty's Mobile Village. He stated that the City has about $25,000 in leftover grant money, which will be used without objection to have the contractor install some additional water and/or sewer line up the old roadbed of Highway 221 toward the Bypass, to get the City closer to commercial sites on Highway 221 North.

The City Manager advised that Larry Greene is finishing work on the survey of the Clinchfield Park and greenway parcel, to create a lot to be subdivided off of the 12.55 acre Huskins Trust property off of Hill Street in Clinchfield that Frank Boldon purchased in late July. He added that City staff are developing a schedule for work on the new Park; however, due to Mr. Boldon planning to soon begin work on his residential development, the City may start on the Eastfield Park first.

The City Manager advised that the City's N.C. STEP Program investment proposal and final report had been submitted to the N.C. Rural Center. He added that the City has received word that we will soon receive the grant contract for $150,000 of the requested $200,000. If the City pursues a $50,000 loan pool, as was one option for the support to business item, the City will need to prepare some guidelines and obtain buy-in from local banks in order to receive approval from the Rural Center.

The City Manager advised that the City channel is back on the air. He commended Administrative Assistant Debi Sherlin for her hard work putting information about news and current projects on the City channel, adding that the City channel now had more information than ever.

The City Manager advised that Mr. Eugene Holland had contacted him asking for an extension of the loading zone on Railroad Street to include the area in front of his business, Marion Tire. Council agreed to refer this item to the Street Committee for review.

The City Manager commended the Police Department for assisting with the delivery of Thanksgiving meals to needy persons. Chief Elliott stated that the full-time officers and reserves enjoyed helping with this project and that he was proud of the officers for their efforts.

The City Manager advised that the next Council Planning Session is scheduled for Tuesday, December 8 at 7:00 PM at City Hall.

The City Manager stated that he had received a request from the County to expand the ban on registered sex offenders in City parks to include County owned parks in the City. The City Manager stated that he would bring appropriate language to Council for review after discussion once language is received from the County.

CLOSING COMMENTS:

Councilman Martin stated that he was glad to see the sidewalk on West Henderson Street between Railroad Street and the Ingle's Shopping Center being finished.

AA.00000121 (24)

Councilman Cuthbertson stated that the Street crews had solved the long-standing problem with a drain box on Morgan Street.

Councilman Cuthbertson stated that the turn signal at State and Main is still not working properly. The City Manager stated that he had DOT Division Engineer Mark Teague to return the signal to its original position on several occasions and had recently spoken again to Mr. Teague about the signal.

Councilman Owenby stated that holes on Montevista Avenue need to be patched if asphalt is avail able. Public Works Director Chris Hollifield advised that this work was scheduled for the following day.

CLOSED SESSION – UNDER N.C.G.S. 143-318.11(a)(6) TO DISCUSS PERSONNEL MATTERS: Upon a motion by Mayor Pro Tem Little. seconded by Councilman Owenby, Council voted unanimously to go into Closed Session in accordance to N.C.G.S. 143-318.11(a)(6) to discuss personnel matters.

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

Mayor Clark stated that no action was taken in Closed Session.

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

A. Everette Clark, Mayor

ATTEST:

I. Robert Boyette, City Manager

AA.000000122 (24)

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, 2009 at 7:00 P.M. in the City Council Chamber located at 194 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: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, Planning and Development Director; Mika Elliott, Police Chief; Chris Hollifield, Public Works Director; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Rex & Debbie Wood, 746 Rutherford Road, Marion, NC 28752; Charles & Bunnie Burgin, 186 Pleasant Meadows Drive, Marion, NC, Sharon Parker 75 Oakwood Drive, Marion, NC; Eugene Holland, Railroad Street, Marion, NC.

CITIZEN OF THE MONTH – SELECTED BY COUNCILMAN MIKE EDWARDS:
Councilman Mike Edwards selected the Citizen of the Month for January 2009.

CHARLES E. BURGIN

Councilman Edwards stated that Mr. Charles Burgin was born in McDowell County, growing up in the Pleasant Gardens community. He is married to Ellen Salsbury (Bunnie) Burgin and has two daughters, Ellen and Lucy.

Councilman Edwards stated the he had personally been witness to some of what Charles Burgin has done for Marion anad McDowell County as well as the state.

Mr. Burgin graduated from the University of North Carolina at Chapel Hill in 1961 and from Duke University School of Law in 1964.

Mr. Burgin served as Senior Partner of the Dameron and Burgin law firm from 1968 until his recent retirement.

Mr. Burgin has earned many honors through the years and been involved in many organizations, including:

Admission to the United States Supreme Court Bar
Fellow, American College of Trial Lawyers
Fellow, International Society of Barristers
The Best Lawyers in America – 1995-present
Fellow, American Bar Foundation
The American Bar Association
The North Carolina Bar Association
Defense Research Institute
American Society of Hospital Attorneys
Charter Member of the North Carolina – Legal Elite – Best Lawyers in Their Field
North Carolina Super Lawyers
North Carolina Lawyers Hall of Fame

Mr. Burgin's civic and other activities through the years have included:

McDowell County Mountain Rescue Team 1980-Present

AA.00000123 (24)

McDowell County Democratic Executive Committee 1973-1975 – Past Chairman
Member, McDowell Arts and Crafts Association 1980 – Present
Board of Trustees, South Mountain, Inc.
Board of Directors, McDowell County Recreation Commission
Chairman, "Outlook" Project
Organizer and Past Chairman of Committee of 100
Board of Directors of Shadowline, Inc., and much more.

Mayor Clark and Council Members all shared kind words about Mr. Charles Burgin and commended him for all he has given to the community.

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – November 24, 2008 Special City Council Meeting Minutes
December 2. 2008 Regular City Council Meeting Minutes
December 2, 2008 Closed Session Council Meeting Minutes
December 8 2008 Planning Session Minutes

B. Approve Waiver of Civil Citation – Handicapped Parking Violation - City Council approved a request from Ms. Celia H. Laughridge to waive the $10.00 penalty for a parking citation she received on November 20, 2008 for parking in a handicapped parking space in the Peeble's parking lot without displaying a handicapped placard. Ms. Laughridge provided proof that she has a valid handicapped placard.

C. Approve Waiver of Civil Citation – Jury Parking Violation – City Council approved a request from Ms. Rena Parker to waive a $10.00 penalty for a parking citation she received on December 8, 2008 for overtime parking on East Court Street. Ms. Parker provided evidence that she was serving on the McDowell County Grand Jury at the time she received the citation.

D. Adopt Resolutions of Intent - Annexation

A RESOLUTION STATING THE INTENT OF THE CITY COUNCIL OF MARION TO CONSIDER ANNEXATION OF THE AREA DESCRIBED HEREIN AND FIXING THE DATE OF A PUBLIC INFORMATIONAL MEETING AND A PUBLIC HEARING ON THE QUESTION OF ANNEXATION – EASTFIELD PHASE IV

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

Section 1. It is the intent of the City Council of the City of Marion to consider annexation of the following described territory pursuant to Chapter 160A, Article 4A, Part 3 of the General Statutes of North Carolina:

BEGINNING at a point at the northern corner of Lot 6045 Block 40 on the McDowell County Tax Map 1712.18; thence following the eastern boundary of said Lot 6045 and Lots 6947, and 6950 Block 49 on the McDowell County Tax Map 1711.06 in a generally southerly direction approximately 255.52 feet to the southeast point of said Lot 6950; thence following the southern boundary of said Lot 6950 in a westerly direction 60 feet to a point on the southern boundary of said Lot 6950, said point also being the northeast corner of Lot 5797; thence following the eastern boundary of said Lot 5797 in a southerly direction 222.28 feet to a point, thence following the southern boundary of said Lot 5797 in a westerly direction 174.16 feet to the southwest corner of said Lot 5797, said point also being a point on the boundary of the current Marion Corporate Limits; thence following the Marion Corporate Limits in a northerly direction approximately 413 feet to the point of BEGINNING.

AA.000000124 (24)

Section 2. A public informational meeting on the question of annexing the above described territory will be held at City Hall at 7:00 P.M. on February 24, 2009, at which time plans for extending services to said territory will be explained and all residents and property owners in said territory and all residents of the City of Marion will be given an opportunity to ask questions and receive answers regarding the proposed annexation.

Section 3. A public hearing on the question of annexing the above described territory will be held at City Hall at 7:00 P.M. on March 24, 2009, at which time plans for extending services to said territory will be explained and all residents and property owners in said territory and all residents of the City of Marion will be given an opportunity to be heard.

Section 4. A report of plans for extending services to the above described territory shall be made available for public inspection at the office of the City Clerk at least thirty (30) days prior to the date of the public informational meeting. The statement of financial impact contained in the report shall be delivered to the McDowell County Board of Commissioners at least thirty (30) days prior to the date of the public informational meeting.

Section 5. A legible map of the area to be annexed and a list of persons holding freehold interests in property in the area to be annexed who have been identified shall be posted in the office of the City Clerk at least thirty (30) days prior to the date of the public informational meeting.

Section 6. Notice of the public informational meeting and public hearing shall be given by publication and by first class mail, as required by G.S. 160A-49.

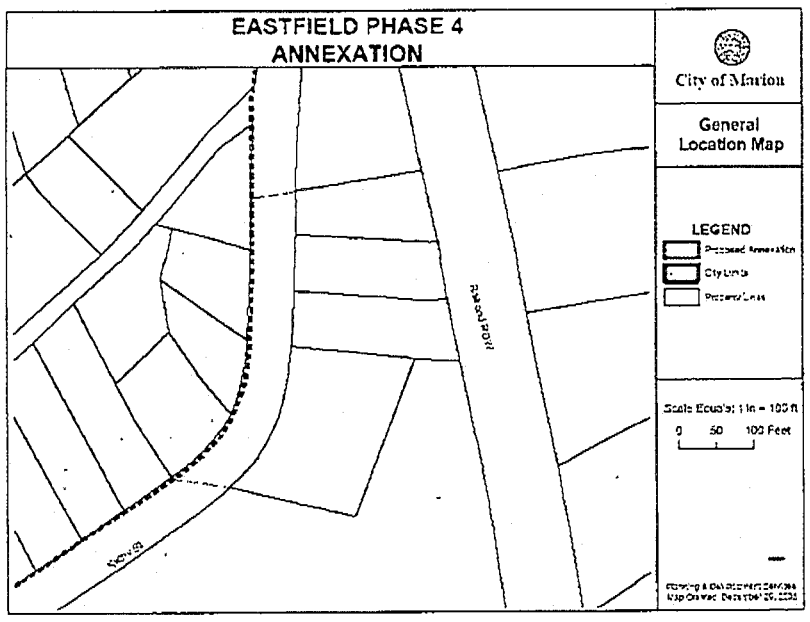
ADOPTED the 6th day of January, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, Clerk

RESOLUTION NUMBER: R-09-01-06-1



A RESOLUTION STATING THE INTENT OF THE CITY COUNCIL OF MARION TO CONSIDERANNEXATION OF THE AREA DESCRIBED HEREIN AND FIXING THE DATE OF A PUBLIC INFORMATIONAL MEETING AND A PUBLIC HEARING ON THE QUESTION OF ANNEXATION – EASTFIELD PHASE V

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

Section 1. It is the intent of the City Council of the City of Marion to consider annexation of the following described territory pursuant to Chapter 160A, Article 4A, Part 3 of the General Statutes of North Carolina:

AA.00000125 (24)

Section 2. A public informational meeting on the question of annexing the above described territory will be held at City Hall at 7:00 P.M. on February 24, 2009, at which time plans for extending services to said territory will be explained and all residents and property owners in said territory and all residents of the City of Marion will be given an opportunity to ask questions and receive answers regarding the proposed annexation.

Section 3. A public hearing on the question of annexing the above described territory will be held at City Hall at 7:00 P.M. on March 24, 2009, at which time plans for extending services to said territory will be explained and all residents and property owners in said territory and all residents of the City of Marion will be given an opportunity to be heard.

Section 4. A report of plans for extending services to the above described territory shall be made available for public inspection at the office of the City Clerk at least thirty (30) days prior to the date of the public informational meeting. The statement of financial impact contained in the report shall be delivered to the McDowell County Board of Commissioners at least thirty (30) days prior to the date of the public informational meeting.

Section 5. A legible map of the area to be annexed and a list of persons holding freehold interests in property in the area to be annexed who have been identified shall be posted in the office of the City Clerk at least thirty (30) days prior to the date of the public informational meeting.

Section 6. Notice of the public informational meeting and public hearing shall be given by publication and by first class mail, as required by G.S. 160A-49.

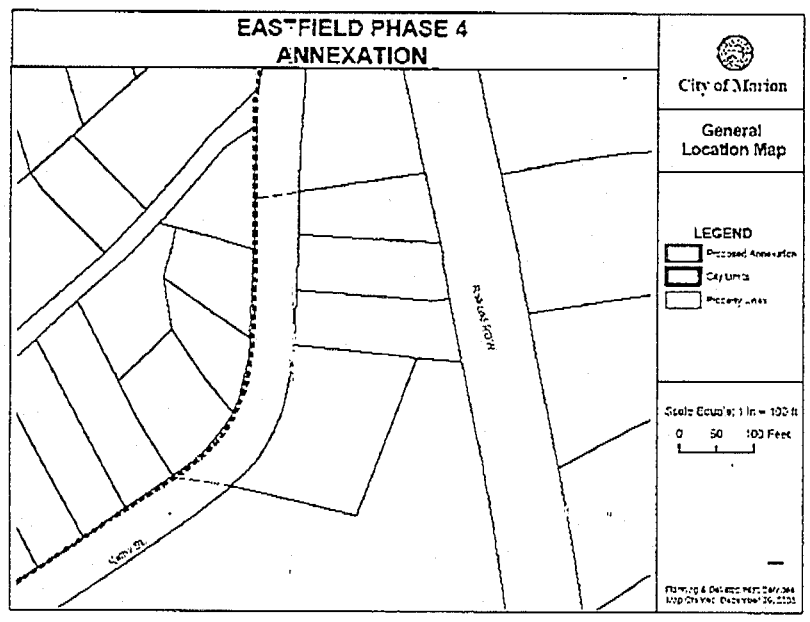
ADOPTED the 6th day of January, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, Clerk

RESOLUTION NUMBER: R-09-01-06-1



A RESOLUTION STATING THE INTENT OF THE CITY COUNCIL OF MARION TO CONSIDERANNEXATION OF THE AREA DESCRIBED HEREIN AND FIXING THE DATE OF A PUBLIC INFORMATIONAL MEETING AND A PUBLIC HEARING ON THE QUESTION OF ANNEXATION – EASTFIELD PHASE V

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

Section 1. It is the intent of the City Council of the City of Marion to consider annexation of the following described territory pursuant to Chapter 160A, Article 4A, Part 3 of the General Statutes of North Carolina:

AA.000000126 (24)

BEGINNING at a point at the northern corner of Lot 9159 Block 39 on the McDowell County Tax Map 1711.06; thence following the boundary of said Lot 9159 in a southeasterly direction 229 feet to an eastern point of said Lot 9159; thence following the eastern boundary of said Lot 9159 and Lot 8965 Block 48 on the McDowell County Tax Map 1711.06 in a southerly direction approximately 315 feet to a point on the eastern boundary of said Lot 896, said point also being the northwest corner of Lot 9891 Block 48 on the McDowell County Tax Map 1711.06; thence following the northern boundary of said Lot 9891 in an easterly direction 42 feet to the northeast corner of said Lot 9891; thence following the eastern boundary of said Lot 9891 in a generally southerly direction 219 feet to the southeast corner of said Lot 989, said point also being the northern boundary of Tunnel Street (SR 1729); thence following the northern boundary of Tunnel Street (SR 1729) in an easterly direction approximately 90 feet to a point on said boundary of Tunnel Street (SR 1729); thence crossing Tunnel Street (SR 1729) in a southerly direction 50 feet to a point on the southern boundary of Tunnel Street (SR 1729), said point also being the northeast corner of Lot 0601 Block 48 on the McDowell County Tax Map 1711.06; thence following the eastern boundary of said Lot 0601 and Lots 9595, 0439, 0422, and 0313 Block 48 on the McDowell County Tax Map 1711.06 in a southerly direction 432 feet to a point at the southeast corner of Lot 0313, said point also being the boundary of the current Marion Corporate Limits; thence following the Marion Corporate Limits first in a westerly direction approximately 1212 feet, thence in a northerly direction approximately 756 feet; and thence in a generally easterly direction approximately1342 feet to the point of BEGINNING.

Section 2. A public informational meeting on the question of annexing the above described territory will be held at City Hall at 7:00 P.M. on February 24, 2009, at which time plans for extending services to said territory will be explained and all residents and property owners in said territory and all residents of the City of Marion will be given an opportunity to ask questions and receive answers regarding the proposed annexation.

Section 3.. A public hearing on the question of annexing the above described territory will be held at City Hall at 7:00 P.M. on March 24, 2009, at which time plans for extending services to said territory will be explained and all residents and property owners in said territory and all residents of the City of Marion will be given an opportunity to be heard.

Section 4. A report of plans for extending services to the above described territory shall be made available for public inspection at the office of the City Clerk at least thirty (30) days prior to the date of the public informational meeting. The statement of financial impact contained in the report shall be delivered to the McDowell County Board of Commissioners at least thirty (30) days prior to the date of the public informational meeting.

Section 5. A legible map of the area to be annexed and a list of persons holding freehold interests in property in the area to be annexed who have been identified shall be posted in the office of the City Clerk at least thirty (30) days prior to the date of the public informational meeting.

Section 6. Notice of the public informational meeting and public hearing shall be given by publication and by first class mail, as required by G.S. 160A-49.

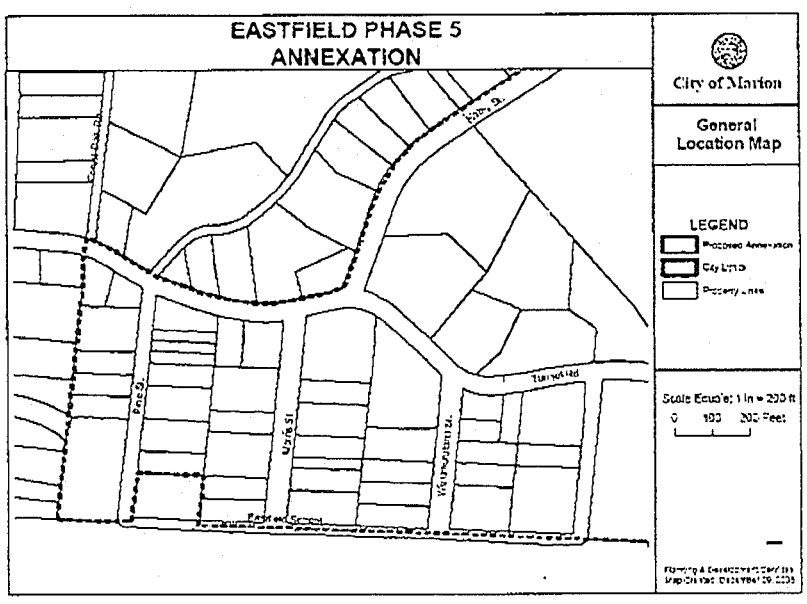
ADOPTED the 6th day of January, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, Clerk

RESOLUTION NUMBER: R-09-01-06-2



A RESOLUTION STATING THE INTENT OF THE CITY COUNCIL OF MARION TO CONSIDERANNEXATION OF THE AREA DESCRIBED HEREIN AND FIXING THE DATE OF A PUBLIC INFORMATIONAL MEETING AND A PUBLIC HEARING ON THE QUESTION OF ANNEXATION – HIGHWAY 226 SOUTH

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

Section 1. It is the intent of the City Council of the City of Marion to consider annexation of the following described territory pursuant to Chapter 160A, Article 4A, Part 3 of the General Statutes of North Carolina:

BEGINNING at a point at the southwest corner of Lot 9743 Block 25 on McDowell County Tax Map 1720.01; thence following boundary of said Lot in a northeasterly direction 917 feet, said boundary also being the boundary of the current Marion Corporate Limits; thence following boundary of said Lot in a northwesterly direction 523 feet; thence following the boundary of said Lot in a southwesterly direction 870 feet; thence following the boundary of said Lot in a southeasterly direction 507 feet to a point of BEGINNING.

Section 2. A public informational meeting on the question of annexing the above described territory will be held at City Hall at 7:00 P.M. on February 24, 2009, at which time plans for extending services to said territory will be explained and all residents and property owners in said territory and all residents of the City of Marion will be given an opportunity to ask questions and receive answers regarding the proposed annexation.

Section 3. A public hearing on the question of annexing the above described territory will be held at City Hall at 7:00 P.M. on March 24, 2009, at which time plans for extending services to said territory will be explained and all residents and property owners in said territory and all residents of the City of Marion will be given an opportunity to be heard.

Section 4. A report of plans for extending services to the above described territory shall be made available for public inspection at the office of the City Clerk at least thirty (30) days prior to the date of the public informational meeting. The statement of financial impact contained in the report shall be delivered to the McDowell County Board of Commissioners at least thirty (30) days prior to the date of the public informational meeting.

Section 5. A legible map of the area to be annexed and a list of persons holding freehold interests in property in the area to be annexed who have been identified shall be posted in the office of the City Clerk at least thirty (30) days prior to the date of the public informational meeting.

Section 6. Notice of the public informational meeting and public hearing shall be given by publication and by first class mail, as required by G.S. 160A-49.

ADOPTED the 6th day of January, 2009.

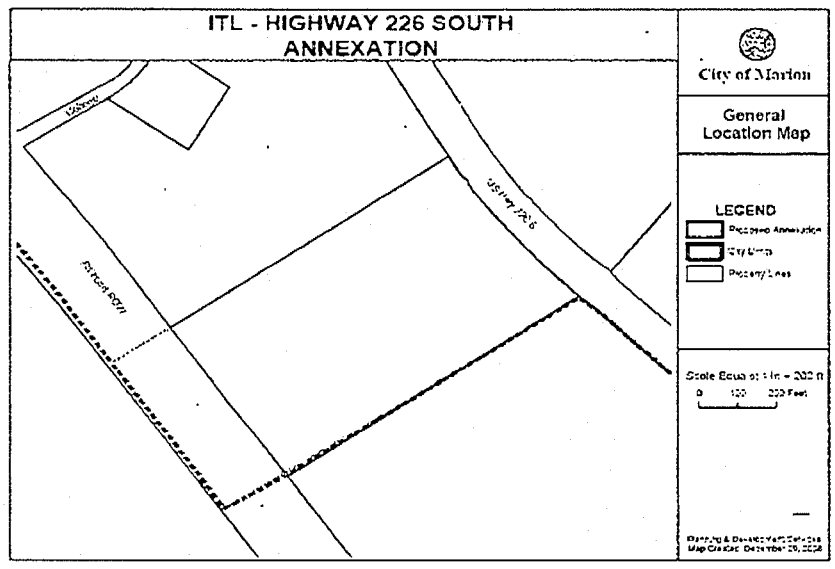
A. Everette Clark, Mayor

ATTEST:

AA.000000128 (24)

J. Robert Boyette, Clerk

RESOLUTION NUMBER: R-09-01-06-3



A RESOLUTION STATING THE INTENT OF THE CITY COUNCIL OF MARION TO CONSIDERANNEXATION OF THE AREA DESCRIBED HEREIN AND FIXING THE DATE OF A PUBLIC INFORMATIONAL MEETING AND A PUBLIC HEARING ON THE QUESTION OF ANNEXATION – HIGHWAY 221 NORTH/HANKINS ROAD

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

Section 1. It is the intent of the City Council of the City of Marion to consider annexation of the following described territory pursuant to Chapter 160A, Article 4A, Part 3 of the General Statutes of North Carolina:

BEGINNING at a point at the northeast corner of Lot 8500 Block 87 on McDowell County Tax Map 0792.00, said point also being a point on the current Marion Corporate Limits; thence following the boundary of the Marion Corporate Limits in an east and northeasterly direction approximately 1243 feet to a point at the intersection of the current Marion Corporate Limits and an eastern point of Lot 9202 Block 88 on the McDowell County Tax Map 0792.00; thence following the eastern boundary of said Lot 9202 in a northwesterly direction 206 feet to a point on the northeast corner of said Lot 9202, thence following the boundary of said Lot 9202 in a southerly direction 130 feet, thence following the boundary of said Lot 9202 in a northwesterly direction 146 feet to a point at the northwest corner of said Lot 9202, said point also being the eastern boundary of Hankins Road (SR 1501); thence crossing Hankins Road (SR 1501) in a straight line in a northwesterly direction 60 feet to a point on the western boundary of Hankins Road (SR 1501), said point also being a point on the eastern boundary of Lot 6412 Block 88 on the McDowell County Tax Map 0792.00; thence following the boundary of said Lot 6412 and Hankins Road (SR 1501) in a northerly direction approximately 80 feet to a point at the northeast corner of said Lot 6412, said point also being the southeast corner of Lot 7741 Block 88 on McDowell County Tax Map 0792.00, thence following the southern boundary of said Lot 7741 in a westerly direction 81 feet to a point at the southwest corner of said Lot 7741, thence following the western boundary of said Lot 7741 and Lot 7902 Block 88 on McDowell County Tax Map 0792.00 in a northerly direction 538 feet to a point at the northwest corner of said Lot 7902, said point also being the southern boundary of a private road; thence crossing said private road in a straight line in a northerly direction 20 feet to a point on the northern boundary of said private road, said point also being the boundary of the current Marion Corporate Limits; thence following the northern boundary of said private road and boundary of the Marion Corporate Limits in a northwesterly direction 196 feet to a point; thence crossing said private road in a strait line in a southerly direction 20 feet to a point on the southern boundary of the private road, said point also being the northwest corner of Lot 5711 Block 88 on McDowell County Tax Map 0792.00; thence following the western boundary of said Lot 5711 in a southerly direction 356 feet to a point, said point also being the eastern boundary of U.S. Highway 221 Business Extension; thence crossing U.S. Highway 221 Business Extension in a southerly direction approximately 90 feet to a point, said point being at the intersection of the western boundary of U.S. Highway 221 Business Extension and the eastern boundary of U.S. Highway 221 Bypass; thence following the eastern boundary of U.S. Highway 221 Bypass in a southern direction 491 feet to a point on said boundary of U.S. Highway 221 Bypass, said point also being on the western boundary of U.S. Highway 221 Business and the southwest corner of Lot 5060 Block 88 on McDowell County Tax Map

AA.000000129 (24)

0792.00, thence crossing U.S. Highway 221 Business in a southerly direction approximately 165 feet to a point of BEGINNING.

Section 2. A public informational meeting on the question of annexing the above described territory will be held at City Hall at 7:00 P.M. on February 24, 2009, at which time plans for extending services to said territory will be explained and all residents and property owners in said territory and all residents of the City of Marion will be given an opportunity to ask questions and receive answers regarding the proposed annexation.

Section 3. A public hearing on the question of annexing the above described territory will be held at City Hall at 7:00 P.M. on March 24, 2009, at which time plans for extending services to said territory will be explained and all residents and property owners in said territory and all residents of the City of Marion will be given an opportunity to be heard.

Section 4. A report of plans for extending services to the above described territory shall be made available for public inspection at the office of the City Clerk at least thirty (30) days prior to the date of the public informational meeting. The statement of financial impact contained in the report shall be delivered to the McDowell County Board of Commissioners at least thirty (30) days prior to the date of the public informational meeting.

Section 5. A legible map of the area to be annexed and a list of persons holding freehold interests in property in the area to be annexed who have been identified shall be posted in the office of the City Clerk at least thirty (30) days prior to the date of the public informational meeting.

Section 6. Notice of the public informational meeting and public hearing shall be given by publication and by first class mail, as required by G.S. 160A-49.

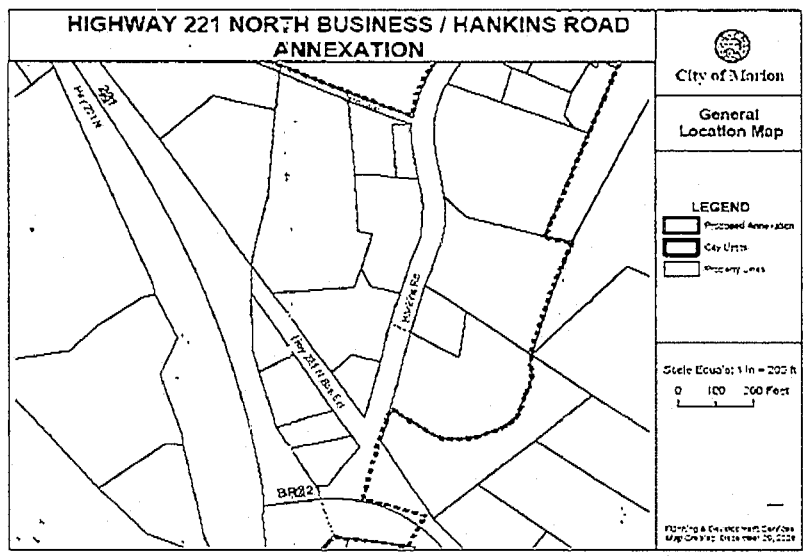
ADOPTED the 6th day of January, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, Clerk

RESOLUTION NUMBER: R-09-01-06-4



A RESOLUTION STATING THE INTENT OF THE CITY COUNCIL OF MARION TO CONSIDER ANNEXATION OF THE AREA DESCRIBED HEREIN AND FIXING THE DATE OF A PUBLIC INFORMATIONAL MEETING AND A PUBLIC HEARING ON THE QUESTION OF ANNEXATION – HIGHWAY 226 SOUTH-FAIRVIEW ROAD

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

AA.000000130 (24)

Section 1. It is the intent of the City Council of the City of Marion to consider annexation of the following described territory pursuant to Chapter 160A, Article 4A, Part 3 of the General Statutes of North Carolina:

BEGINNING at a point at the southeast corner of Lot 4290 Block 98 on the McDowell County Tax Map 1710.02; said point also being a point of the boundary of the current Marion Corporate Limits; thence following said boundary of Marion Corporate Limits in a northwesterly direction approximately 758 feet to a point, said point being the southwest corner of Lot 0660 Block 98 on the McDowell County Tax Map 1710.02; thence following western boundary of said Lot 0660 in a northeasterly direction 379 feet to the northwest point of said Lot 0660; thence following the northern boundary of said Lot 0660 in an easterly direction 190 feet to a point at the northeastern corner of said Lot 0660, said point also being on the western boundary of Lot 3671 Block 98 on the McDowell County Tax Map 1710.02; thence following the western boundary of said Lot 3671 in a generally northeasterly direction 226 feet to a point on the northeast corner of said Lot 3671; thence following the boundary of said Lot 3671 in a southeasterly direction 197 feet to a point on a southeast corner of said Lot 3671; said point also being the northwestern boundary of Fairview Road (SR 1741); thence following the boundary of said Lot 3671 and Fairview Road (SR 1741) in a southerly direction approximately 280 feet to a point; thence crossing Fairview Road (SR 1741) in a straight line 60 feet to a point on the southeastern boundary of Fairview Road (SR 1741), said point also being the northwest corner of Lot 3335 Block 98 on the McDowell County Tax Map 1710.02; thence following the northern boundary of said Lot 3335 in a southeasterly direction 136 feet to a point northeastern corner of said Lot 3335; said point also being a point on the western boundary of Lot 4248 Block 98 on the McDowell County Tax Map 1710.02; thence following the western boundary of said Lot 4248 in a northeasterly direction 189 feet; thence following the northern boundary of said Lots 4248 and 4290 in a generally southerly direction 151 feet to a point, said point also being the boundary of the Marion Corporate Limits, thence following the eastern boundary of said Lot 4290 and the Marion Corporate Limits 212 feet to the point of BEGINNING.

Section 2. A public informational meeting on the question of annexing the above described territory will be held at City Hall at 7:00 P.M. on February 24, 2009, at which time plans for extending services to said territory will be explained and all residents and property owners in said territory and all residents of the City of Marion will be given an opportunity to ask questions and receive answers regarding the proposed annexation.

Section 3. A public hearing on the question of annexing the above described territory will be held at City Hall at 7:00 P.M. on March 24, 2009, at which time plans for extending services to said territory will be explained and all residents and property owners in said territory and all residents of the City of Marion will be given an opportunity to be heard.

Section 4. A report of plans for extending services to the above described territory shall be made available for public inspection at the office of the City Clerk at least thirty (30) days prior to the date of the public informational meeting. The statement of financial impact contained in the report shall be delivered to the McDowell County Board of Commissioners at least thirty (30) days prior to the date of the public informational meeting.

Section 5. A legible map of the area to be annexed and a list of persons holding freehold interests in property in the area to be annexed who have been identified shall be posted in the office of the City Clerk at least thirty (30) days prior to the date of the public informational meeting.

Section 6. Notice of the public informational meeting and public hearing shall be given by publication and by first class mail, as required by G.S. 160A-49.

ADOPTED the 6th day of January, 2009.

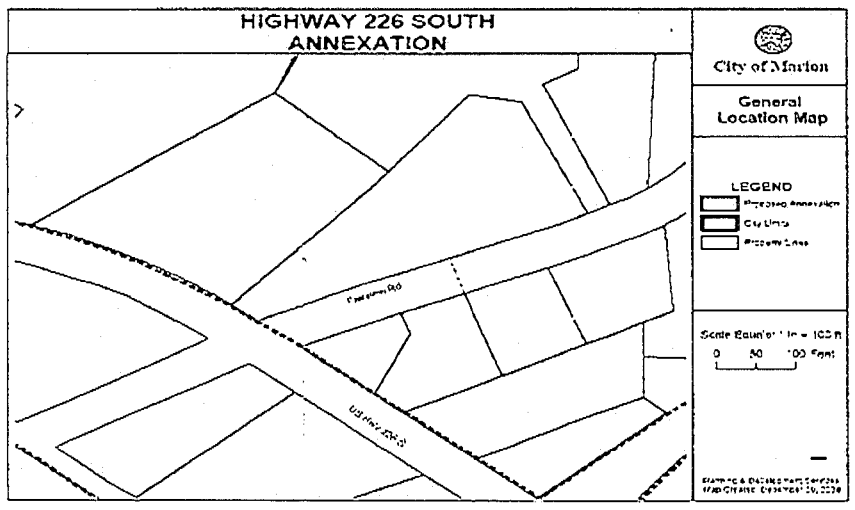
A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, Clerk

RESOLUTION NUMBER: R-09-01-06-5

AA.000000131 (24)



A RESOLUTION STATING THE INTENT OF THE CITY COUNCIL OF MARION TO CONSIDERANNEXATION OF THE AREA DESCRIBED HEREIN AND FIXING THE DATE OF A PUBLIC INFORMATIONAL MEETING AND A PUBLIC HEARING ON THE QUESTION OF ANNEXATION – AIRPORT ROAD

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

Section 1. It is the intent of the City Council of the City of Marion to consider annexation of the following described territory pursuant to Chapter 160A, Article 4A, Part 3 of the General Statutes of North Carolina:

BEGINNING at a point at the northern corner of Lot 3479 Block 50 on the McDowell County Tax Map 1702.19, said point also being the western boundary of Airport Road (SR 1500); thence following the said boundary of Airport Road (SR 1500) in a northwesterly direction approximately 100 feet; thence crossing boundary of said Airport Road (SR 1500) in an easterly direction approximately 40 feet to a point on the eastern boundary of Airport Road (SR 1500), said point also being the western point of Lot 6970 Block 50 on the McDowell County Tax Map 1702.19; thence following the northern boundary of said Lot 6970 in an easterly direction 604 feet to the northeast point of said Lot 6970; thence following the eastern boundary of said Lot 6970 in a southerly direction 150 feet to a point on the eastern boundary of said Lot 6970, said point also being the current Marion Corporate Limits; thence following the boundary of the Marion Corporate Limits in a westerly direction approximately 758.45 feet to the point of BEGINNING.

Section 2. A public informational meeting on the question of annexing the above described territory will be held at City Hall at 7:00 P.M. on February 24, 2009, at which time plans for extending services to said territory will be explained and all residents and property owners in said territory and all residents of the City of Marion will be given an opportunity to ask questions and receive answers regarding the proposed annexation.

Section 3. A public hearing on the question of annexing the above described territory will be held at City Hall at 7:00 P.M. on March 24, 2009, at which time plans for extending services to said territory will be explained and all residents and property owners in said territory and all residents of the City of Marion will be given an opportunity to be heard.

Section 4. A report of plans for extending services to the above described territory shall be made available for public inspection at the office of the City Clerk at least thirty (30) days prior to the date of the public informational meeting. The statement of financial impact contained in the report shall be delivered to the McDowell County Board of Commissioners at least thirty (30) days prior to the date of the public informational meeting.

Section 5. A legible map of the area to be annexed and a list of persons holding freehold interests in property in the area to be annexed who have been identified shall be posted in the office of the City Clerk at least thirty (30) days prior to the date of the public informational meeting.

Section 6. Notice of the public informational meeting and public hearing shall be given by publication and by first class mail, as required by G.S. 160A-49.

ADOPTED the 6th day of January, 2009.

AA.000000132 (24)

informational meeting. The statement of financial impact contained in the report shall be delivered to the McDowell County Board of Commissioners at least thirty (30) days prior to the date of the public informational meeting.

Section 5. A legible map of the area to be annexed and a list of persons holding freehold interests in property in the area to be annexed who have been identified shall be posted in the office of the City Clerk at least thirty (30) days prior to the date of the public informational meeting.

Section 6. Notice of the public informational meeting and public hearing shall be given by publication and by first class mail, as required by G.S. 160A-49.

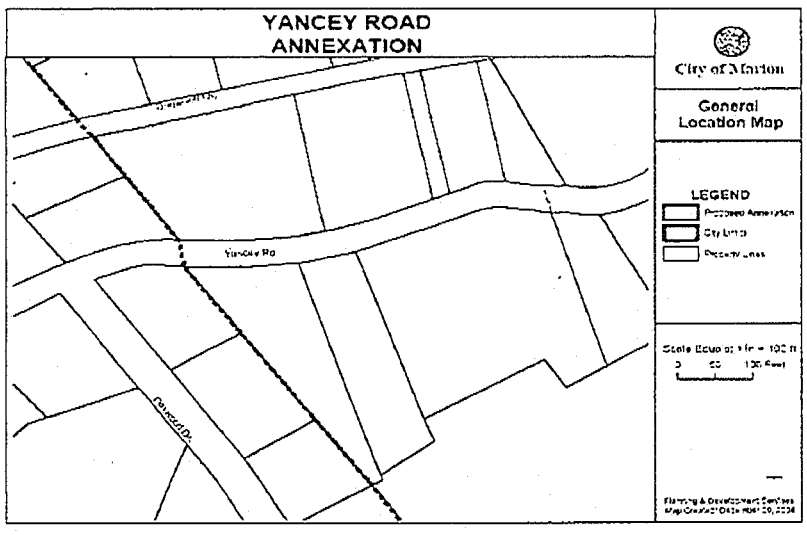
ADOPTED the 6th day of January, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, Clerk

RESOLUTION NUMBER: R-09-01-06-7



A RESOLUTION STATING THE INTENT OF THE CITY COUNCIL OF MARION TO CONSIDERANNEXATION OF THE AREA DESCRIBED HEREIN AND FIXING THE DATE OF A PUBLIC INFORMATIONAL MEETING AND A PUBLIC HEARING ON THE QUESTION OF ANNEXATION – VIRGINIA ROAD

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

Section 1. It is the intent of the City Council of the City of Marion to consider annexation of the following described territory pursuant to Chapter 160A, Article 4A, Part 3 of the General Statutes of North Carolina:

BEGINNING at a point at the southwest corner of Lot 8276 Block 92 on McDowell County Tax Map 1702.20, said point also being the current Marion Corporate Limit; thence following the eastern boundary of said Lot 8276 first in a northwesterly direction 301 feet, thence in a east-northeasterly direction 123 feet, thence in a southerly direction 98 feet, and finally in an easterly direction 200 feet to a point at the eastern corner of said Lot 8276, said corner also being the western boundary of Hill Street, thence crossing Hill Street in an easterly direction 40 feet to a point on the eastern boundary of Hill Street, said point also being on the western boundary of Lot 0568 Block 02 on McDowell County Tax Map 1712.13; thence following the western boundary of said Lot 0568 in a southerly direction 25 feet to a point at the southwest corner of Lot 0568, said point also being the northwest corner of Lot 1335 Block 02 on McDowell County Tax Map 1712.17; thence following the northern boundary of said Lot 1335 and Lot 2309 Block 02 on McDowell County Tax Map 1712.17 in an easterly direction 169 feet to a point at the northeast corner of Lot 2309, said point also being on the western boundary of Lot 1695 Block 02 on McDowell County Tax Map 1712.13, thence following the western boundary of said Lot 1695 in a northerly direction 407.5 feet to a point at the northwest corner of Lot 1695; thence following the northern boundary of said

AA.00000133 (24)

Lot 1695 in an easterly direction 211 feet to a point at the northeast corner of said Lot 1695; thence following the eastern boundary of said Lot 1695 in a southerly direction 518 feet to a point at the southeast corner of said Lot 1695, said point also being on the boundary of the current Marion Corporate Limits and the western Boundary of Virginia Avenue; thence crossing Virginia Avenue in an easterly direction 40 feet to a point on the eastern boundary of Virginia Avenue, said point also being the southwest corner of Lot 4534 Block 02 on McDowell County Tax Map 1712.13; thence following the western boundary of said Lot 4534 in a northerly direction 223 feet to a point at the northwest corner of said Lot 4534, thence following the northern boundary of said Lot 4534 and Lot 5503 Block 02 on McDowell County Tax Map 1712.13 in an easterly direction 146 feet to a point at the northeast corner of Lot 5503, thence following the eastern boundary of said Lot 5503 in a southerly direction 164.2 feet to a point at the southeast corner of said Lot 5503, said point also being on the boundary of the current Marion Corporate Limits and the western Boundary of Forsyth Street; thence crossing Forsyth Street in an easterly direction 30 feet to a point on the eastern boundary of Forsyth Street, said point also being the southwest corner of Lot 0923 Block 02 on McDowell County Tax Map 1712.13; thence following the southern boundary of said Lot 0923 in an easterly direction 68 feet to a point at the southeast corner of said Lot 0923, said point also being the southwest corner of Lot 6461 Block 02 on McDowell County Tax Map 1712.17; thence following the western boundary of said Lot 6461 in a northerly direction approximately 100 feet to a point on the western boundary of said Lot 646, said point being a western corner of Lot 7425 Block 02 on McDowell County Tax Map 1712.17; thence following the boundary of Lot 7425 first in a westerly direction 9 feet, thence in a northerly direction 20 feet, thence in a northeasterly direction 84, thence in a southeasterly direction 97 feet to a point at the southeast corner of said Lot 7425, said point also being the current Marion Corporate Limits; thence following the Marion Corporate Limits in a generally westerly direction approximately 1095 feet back to a point of BEGINNING.

Section 2. A public informational meeting on the question of annexing the above described territory will be held at City Hall at 7:00 P.M. on February 24, 2009, at which time plans for extending services to said territory will be explained and all residents and property owners in said territory and all residents of the City of Marion will be given an opportunity to ask questions and receive answers regarding the proposed annexation.

Section 3. A public hearing on the question of annexing the above described territory will be held at City Hall at 7:00 P.M. on March 24, 2009, at which time plans for extending services to said territory will be explained and all residents and property owners in said territory and all residents of the City of Marion will be given an opportunity to be heard.

Section 4. A report of plans for extending services to the above described territory shall be made available for public inspection at the office of the City Clerk at least thirty (30) days prior to the date of the public informational meeting. The statement of financial impact contained in the report shall be delivered to the McDowell County Board of Commissioners at least thirty (30) days prior to the date of the public informational meeting.

Section 5. A legible map of the area to be annexed and a list of persons holding freehold interests in property in the area to be annexed who have been identified shall be posted in the office of the City Clerk at least thirty (30) days prior to the date of the public informational meeting.

Section 6. Notice of the public informational meeting and public hearing shall be given by publication and by first class mail, as required by G.S. 160A-49.

ADOPTED the 6th day of January, 2009.

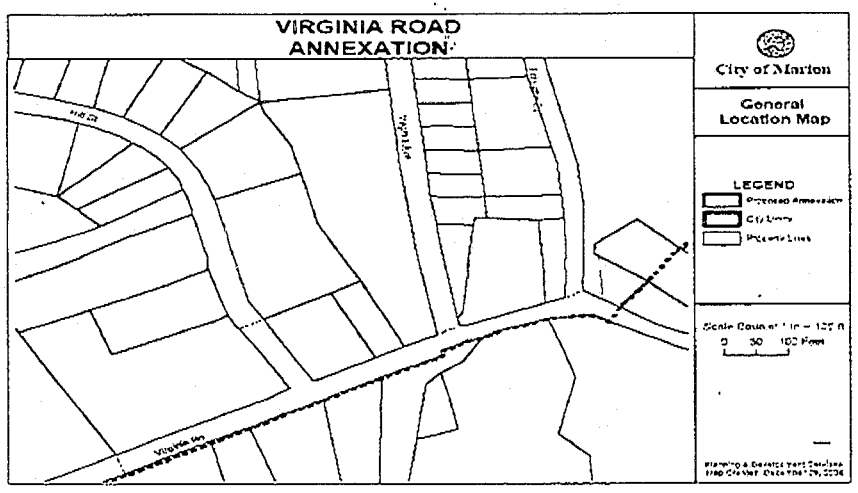
A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, Clerk

RESOLUTION NUMBER: R-09-01-06-8

AA.000000134 (24)



E. Approve Personnel Policy Amendments

City of Marion
Personnel Policy Amendment

The Personnel Policy of the City of Marion, as adopted on February 21, 2006, is hereby amended as follows:

Section 1. That Article X, Insurance/Retirement Benefits, add Section 7. Employee Assistance Program (EAP) as follows:

The City of Marion recognizes that a wide range of behavioral problems can affect an employee's job performance. Examples of such behavioral problems include alcohol and/or drug abuse, marital or family distress, emotional instability, financial or legal issues or other problems. Many times, these problems may result in deterioration of job performance or efficiency. In most instances, the employee will overcome such personal problems independently and job performance will return to an acceptable level. In some instances, supervisory assistance will serve as either motivation or guidance by which problems can be resolved. There may be times when both the efforts of neither the employee nor the supervisor have the desired effect on resolving personal problems and unsatisfactory employee performance persists over a period of time, either constantly or intermittently.

The purpose of the Employee Assistance Program is to help the employee to overcome his/her problem and to restore that employee to full job efficiency. The program is designed to identify the problem at the earliest stage, motivate the employee to seek help, and to direct the employee to the appropriate assistance.

The City of Marion believes it is in the interest of the employee, the employee's family, and the company, to provide an employee service which deals with such persistent problems. For the Employee Assistance Program to be successful, the following must be carried out:

1. Personal problems which affect work performance and attendance are legitimate concerns of management. Management recognizes that these behavioral problems can be successfully treated provided they are identified early and referral is made to the appropriate resource.
2. Personal problems requiring assistance include alcohol/drug abuse, marital or family distress, mental illness, emotional, financial or legal problems, along with many others.
3. The purpose of the EAP is to assure employees that if such personal problems are the cause of unsatisfactory job performance that they will receive an offer of assistance to help resolve such problems in an effective and confidential manner.
4. No employee will have his or her job security or promotional opportunities jeopardized for participating in the program.
5. Strict confidentiality of records is essential and will be maintained.
6. Employees are encouraged to use the EAP voluntarily when he or she needs professional help or guidance.
7. If an employee has not sought help independently for a personal problem, it will be the responsibility of the supervisor to follow a procedure which will insure that no employee with a behavioral disorder will fail to be offered the benefit of diagnosis and treatment.

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8. As for any illness, accrued sick leave will be granted in accordance with the Section titled Article VII – Leaves of Absence, Section 5. Sick Leave as it relates to medical appointments.
9. Any expense incurred in seeking assistance, beyond that covered by medical insurance, will be the responsibility of the employee.
10. It is the employee's responsibility to cooperated in the designated treatment or rehabilitation plan. After a reasonable opportunity for progress, disciplinary procedures, up to and including dismissal, may apply unless there is noticeable improvement in job performance.
11. The program is also available to family members living within the household of regular full time employees.

Section 2. This amendment shall become effective upon its adoption.

Adopted this the 6th day of January, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Policy Number: P-09-01-06-1

City of Marion
Personnel Policy Amendment

The Personnel Policy of the City of Marion, as adopted on February 21, 2006, is hereby amended as follows:

Section 1. That Article VII Leaves of Absence, Section 14. Educational Leave with Pay is amended by deleting the first paragraph in its entirety and replacing it with the following:

A leave of absence with pay during regular working hours will be granted to an employee to take courses required by the City as a condition of employment. The City shall reimburse the employee for tuition, fees, and books as well as the travel costs, as provided for Article VI Work Conditions and Expectations, Section 13. Travel and Expense Reimbursement, for the courses provided the employee submits a receipt for such expenses. However, if such course results in a certification that would possibly benefit the employee in employment elsewhere and the employee ends employment within twelve (12) months of such certification, the employee will reimburse the City for all costs associated with the certification.

Section 2. This amendment shall become effective upon its adoption.

Adopted this the 6th day of January, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Policy Number: P-09-01-06-2

F. Adopt Resolution Directing the Clerk to Investigate a Petition for Satellite Annexation – Sugar Hill Road/Gillani

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-58.1 – GILLANI – SUGAR HILL ROAD – 2009

WHEREAS, a petition requesting annexation of an area described in said petition was received on December 29, 2008 by the City of Marion; and

AA.000000136 (24)

WHEREAS, 160A-58.2 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 of his investigation.

Adopted this the 6th day of January, 2009.

A. Everette Clark, Mayor

Attest:

J. Robert Boyette, City Clerk

Resolution Number: R-09-01-06-11

G. Adopt Resolution Directing the Clerk to Investigate a Petition for Satellite Annexation – US 221 South/Dollar

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-58.1 – DOLLAR – U.S. 221 SOUTH – 2009

WHEREAS, a petition requesting annexation of an area described in said petition was received on December 31, 2008 by the City of Marion; and

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

WHEREAS, the 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 of his investigation.

Adopted this the 6th day of January, 2009.

A . Everette Clark, Mayor

Attest:

J. Robert Boyette, City Clerk

AA.00000137 (24)

Resolution Number: R-09-01-06-12

H. Adopt Resolution Directing the Clerk to Investigate a Petition for Annexation Marion Street/White

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-31 – MARION STREET – WHITE PROPERTY – 2009

WHEREAS, a petition requesting annexation of an area described in said petition was received on December 31, 2008 by the City of Marion; and

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

WHEREAS, the 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 of his investigation.

Adopted this the 6th day of January, 2009.

A. Everette Clark, Mayor

Attest:

J. Robert Boyette, City Clerk

Resolution Number: R-09-01-06-13

PRESENTATION OF TRAFFIC SAFETY AWARD FROM AAA CAROLINAS: Police Chief Mika Elliott announced that the City of Marion had received a 2nd place award for Traffic Safety in North Carolina from AAA Carolinas. The plaque read as follows:

AAA
Carolinas
Foundation for Traffic Safety's
2008
Outstanding North Carolina Traffic Safe Community
Population less than 10,000

Chief Elliott advised that he appreciated the hard work of his officers to keep the City safe and to allow the City to receive this award.

The City Manager reported that the City could receive free signs announcing this award to erect at the entrances into the City.

The signs to place at each entrance will read as follows:

2008 Outstanding North Carolina
Traffic Safe Community
CITY OF MARION

AA.000000138 (24)

AAA Foundation for Traffic Safety

The Mayor and City Council agreed by consensus to authorize staff to have the sign listed above placed at the entrances to the City.

Mayor Clark and Council members commended Chief Elliott on his department's efforts and for the receipt of this award.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

ADOPT RESOLUTION APPROVING FINAL SALE OF CITY OWNED PROPERTY ON WEST GRAYSON STREET: The City Manager stated that upon approval of the offer by Mr. Kendrick Swepson to purchase the City owned lot on West Grayson Street for $2,500 on December 2, the City published notice of the proposed sale on December 12 and invited the submittal of upset bids. The ten day upset bid period passed with no further bids being received. The City Manager stated that final adoption of a resolution by City Council was required to authorize the final sale of the property to Mr. Swepson.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, Council voted unanimously to adopt the following Resolution authorizing the final acceptance of an offer to purchase certain property owned by the City of Marion on West Grayson Street after solicitation of upset bids as follows:

Resolution Authorizing Final Acceptance of Offer to Purchase Certain Property Owned by the City of Marion After Solicitation of Upset Bids

WHEREAS, N.C.G.S. 160A-269 authorizes a city to convey by negotiated offer and upset bid any real or personal property; and

WHEREAS, Mr. Kendrick Swepson has submitted a bid in the amount of $2,500 for the purchase of approximately 0.29 acres of City property located on West Grayson Street (McDowell County Parcel Identification Number 1701.17-22-1168); and

WHEREAS, the City Council of the City of Marion adopted a resolution on December 2, 2008, in accordance with N.C.G.S. 160A-269, accepting the offer of Mr. Swepson to purchase the property, as described below, for a sum of $2,500; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion received a five percent bid deposit from Mr. Swepson; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion, on December 12, 2008, caused notice of the proposed sale of the property, as described below, to be published in The McDowell News; and

WHEREAS, the City of Marion has completed the ten day upset bid period required by N.C.G.S. 160A-269, without the receipt of any upset bids; and

WHEREAS, the City Council of the City of Marion desires to complete the sale of the property described below to Mr. Swepson.

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

1. The parcel owned by the City of Marion on West Grayson Street (McDowell County Parcel Identification Number 1701.17-22-1168) that is approximately 0.29 acres in size is hereby declared to be surplus to the needs of the City of Marion:

2. The City Council accepts the offer of Mr. Kendrick Swepson to purchase the above described property for $2,500 and directs the City Manager to proceed with the sale of said property, as authorized by N.C.G.S. 160A-269.

AA.000000139 (24)

Adopted this the 6th day of January, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-09-01-06-9

ADOPT RESOLUTION APPROVING FINAL SALE OF CITY OWNED PROPERTIES ON MOREHEAD ROAD: The City Manager stated that upon approval of the offer by Rickey and Lisa Frady to purchase the City owned lots on Morehead Road for $8,000 on December 2, the City published notice of the proposed sale on December 12 and invited the submittal of upset bids. The ten day upset bid period passed with no further bids being received. The City Manager stated that final adoption of a resolution by City Council was required to authorize the final sale of the property to Mr. and Mrs. Frady.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, Council voted unanimously to adopt the following resolution authorizing final acceptance of the offer to purchase certain property owned by the City of Marion on Morehead Road after solicitation of upset bids as follows:

Resolution Authorizing Final Acceptance of Offer to Purchase Certain Property Owned by the City of Marion after Solicitation of Upset Bids

WHEREAS, N.C.G.S. 160A-269 authorizes a city to convey by negotiated offer and upset bid any real or personal property; and

WHEREAS, Rickey and Lisa Frady have submitted a bid in the amount of $8,000 for the purchase of approximately 0.56 acres of City property located on Morehead Road (McDowell County Parcel Identification Numbers 1711.09-06-8112 and 1711.09-06-8186); and

WHEREAS, the City Council of the City of Marion adopted a resolution on December 2, 2008, in accordance with N.C.G.S. 160A-269, accepting the offer of Mr. and Mrs. Frady to purchase the property, as described below, for a sum of $8,000; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion received a five percent bid deposit from Mr. and Mrs. Frady; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion, on December 12, 2008, caused notice of the proposed sale of the property, as described below, to be published in The McDowell News; and

WHEREAS, the City of Marion has completed the ten day upset bid period required by N.C.G.S. 160A-269, without the receipt of any upset bids; and

WHEREAS, the City Council of the City of Marion desires to complete the sale of the property described below to Mr. and Mrs. Frady.

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

1. The two parcels owned by the City of Marion on Morehead Road (McDowell County Parcel Identification Numbers 1711.09-06-8112 and 1711.09-06-8186) that are approximately 0.56 acres in size are hereby declared to be surplus to the needs of the City of Marion:

2. The City Council accepts the offer of Rickey and Lisa Frady to purchase the above described property for $8,000 and directs the City Manager to proceed with the sale of said property, as authorized by N.C.G.S. 160A-269.

AA.00000140 (24)

Adopted this the 6th day of January, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-09-01-06-10

REVIEW/CONSIDER APPROVAL OF OFFER TO PURCHASE REAL PROPERTY ON BLUE RIDGE STREET OWNED BY CITY OF MARION SUBJECT TO UPSET BID: The City Manager stated that Mr. Scott Price had submitted an offer to purchase the City owned property at the corner of Blue Ridge Street and West Henderson Street for $3,900. The City Manager advised that Mr. Price indicates that he plans to construct a stick built home of 1,000 to 1,500 square feet, similar to the one he recently constructed on Ridgecrest Avenue. Mr. Price states that he will keep the existing buffer on the property but will need to grade the property to provide ample building space.

The City Manager stated that Mr. Price's offer is conditioned on the purchase price including free water and sewer connections, which now carry a value of $2,520.

Councilman Cuthbertson stated that the offer is only for $1,380, considering that Mr. Price wants a free water and sewer connection.

Upon a motion by Councilman Cuthbertson, seconded by Mayor Pro Tem, Council voted unanimously to reject this offer.

A discussion followed.

Councilman Martin stated that, in light of this property being very visible from one of the primary entrances to the downtown area, City Council would be best served to take the property off the market.

Councilman Edwards stated that he would agree that the property should be taken off the market.

Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, Council voted unanimously to direct the City Manager to take the City owned property on Blue Ridge Street off the market and not to consider selling the property.

CONSIDER APPROVAL OF ORDINANCE TO EXTEND LOADING ZONE ON RAILROAD STREET: The City Manager advised that, as reported at the December 2 City Council meeting, Mr. Eugene Holland of Marion Tire made a request to extend the loading zone currently in place in front of Jerry's Barber Shop and other buildings on Railroad Street farther eastward to include areas in front of Marion Tire.

The City Manager stated that the Street Committee met on December 5 and felt that the expanded loading zone area was needed for Marion Tire and would be no more unsafe than the current loading zone.

A brief discussion followed.

Councilman Cuthbertson asked that he be recused from this discussion due to a possible conflict of interest, since he is related to Mr. Holland.

AA.00000141 (24)

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, Council voted to recuse Councilman Cuthbertson, as requested, from the discussion and vote of this item.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, Council voted to adopt the following Ordinance to extend the loading zone on Railroad Street as follows:

ORDINANCE
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 18-239 is amended by deleting the following:

STREET NAME	REGULATION	REG. APPLICATION
RAILROAD STREET	LOADING ZONE	SOUTH SIDE, 135 FT. EAST OF SW CORNER OF MORGAN 75 FT. EASTERLY

Section 3. Section 18-239 is amended by adding the following:

STREET NAME	REGULATION	REG. APPLICATION
RAILROAD STREET	LOADING ZONE	SOUTH SIDE, BEGINNING 135 FT. EAST OF THE SOUTHEASTERN CORNER OF MORGAN STREET AND CONTINUING 135 FT. EASTERLY

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 6th day of January, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager

Ordinance Number: O-09-01-06-1

REVIEW/CONSIDER REJECTION OF BIDS – VEHICLE PURCHASE: The City Manager advised that, in the 2008-09 budget, the City $68,000 for the purchase of two fully equipped marked patrol cars. In November, City staff sent bid notices out to 10 automobile dealers and received three bids back, as shown in the information presented to Council. The low bid that met City specifications came in from Ilderton Dodge in High Point in the amount of $68,382, which was $382 more than we budgeted. The same two cars last year cost us $66,780. In a normal year, the increase of 2.4 percent would not be noteworthy. The City Manager stated

AA.000000142 (24)

that he was disappointed with the price going up at all given that we should have a buyer's market this year with the problems in the automotive industry.

The City Manager advised that, at the December 2 Council meeting, Council directed that staff seek to negotiate a lower price with the low bidder, Ilderton Dodge, for the purchase of these vehicles and to bring the revised price back to Council for review. The City Manager stated that Ilderton Dodge did reduce the cost per vehicle by about $900, almost all of which seemed to be due to adjustments in the specifications. The reduction in price of about $1,800 for the two vehicles would have brought the cost of the two vehicles below the budgeted amount and just below what we paid for two marked police cars in 2007-08. However, Ilderton Dodge would only guarantee this price through December 12, which was not an acceptable time frame.

The City Manager stated that the only choice the City seems to have at this point is to reject all initial bids and to rebid these cars with revised specifications. The City Manager suggested separating the bids for the cars and the equipment in an attempt to attract more bidders, especially locally.

The City Manager stated that therefore, he would recommend that Council reject all the initial bids for the purchase of two fully equipped marked police cars.

Councilman Cuthbertson suggested that the vehicle purchase be bid both as a turn key package and with the vehicle and equipment installation separated. The City Manager stated that he would make sure the vehicles were bid both ways.

Upon a motion by Councilman Cuthbertson, seconded by Mayor Pro Tem Little, Council voted unanimously to reject the previous bids for the purchase of two marked patrol cars and to rebid the vehicles.

CONSIDER APPOINTMENTS – ALTERNATE MEMBERS OF PLANNING BOARD AND BOARD OF ADJUSTMENT: The City Manager advised that Mr. John Morrow and Mr. Rex Wood, both residents of Rutherford Road, have recently expressed interest in becoming alternate members of the Planning Board/Board of Adjustment. The Planning Board recommended that Council consider these gentlemen for appointment.

The City Manager reported that the City currently has three alternate members of the Planning Board/Board of Adjustment. The City Code authorizes up to six alternate members. Having more alternate members gives us a greater likelihood of having a quorum at a meeting.

The City Manager stated that he would recommend that the terms of Mr. Morrow and Mr. Wood as alternate members of the Planning Board/Board of Adjustment expire on June 30, 2012.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to appoint Mr. John Morrow and Mr. Rex Wood as alternate members of the Planning Board/Board of Adjustment, said terms to expire June 30, 2012.

CONSIDER APPROVAL OF REQUEST FROM McDOWELL ARTS COUNCIL ASSOCIATION TO CLOSE MAIN STREET FOR THE 1ST ANNUAL HONEY BEE ARTS AND CRAFTS FESTIVAL ON SATURDAY, MAY 16, 2009: Ms. Heather Cotton, President of McDowell Arts Council Association (MACA) appeared before Council to request permission to close Main Street between Court and Henderson Streets on Saturday, May 16 for the first annual Honey Bee Arts and Crafts Festival. The proposed road closure would be between 7:00 a.m. and 6:00 p.m.

An application will be made to DOT for the road closure upon approval by Council.

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Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the request by the McDowell Arts Council Association to close Main Street between Court and Henderson Streets on Saturday, May 16 for the first annual Honey Bee Arts and Crafts Festival.

The City Manager suggested that MACA advise affected businesses in the block of the street closing about the planned event, to avoid any conflicts.

Councilman Owenby asked if they had considered having bluegrass music during the festival. Ms. Cotton stated that there had been discussion about music, but that MACA had decided not to have music this year.

Mayor Clark asked how the art and craft gallery is going in the MACA Building. Ms. Cotton stated that the gallery is off to a good start and that MACA hopes to make it bigger and better. Ms. Cotton provided a brief update of current MACA projects and initiatives.

ADD ON – RESCHEDULING OF MARCH 17TH COUNCIL MEETING: The City Manager advised that several members will be in Washington, D.C. at the time of the March 17 Regular City Council meeting for the National League of Cities Conference. The City Manager suggested rescheduling the meeting to March 24.

A brief discussion followed.

Upon a motion by Councilman Martin, seconded by Councilman Owenby, Council voted unanimously to reschedule the March 17 Regular City Council meeting to Tuesday, March 24 at 7:00 p.m.

DISCUSSION – PROPOSAL FROM MAYOR CLARK REGARDING OFFER OF PROPERTY FOR RECRUITMENT OF NEW PRISON AND/OR PRISON LAUNDRY: Mayor Clark stated that the City has owned the Old Waste Treatment Property (approximately 74 acres located off of College Drive near McDowell Technical Community College) and property across from the Water Plant (approximately 86 acres on Old Greenlee Road) for many decades.

Mayor Clark stated that he would like to propose that Council offer this property to the State for use for a proposed medium security prison or for a prison laundry, both of which the City hopes to recruit.

Mayor Clark presented Council with maps showing these properties. He added that the offer of the properties could show the City's commitment to new prison and/or prison laundry and interest the State enough to consider locating one or both facilities in Marion.

A brief discussion followed.

Mayor Pro Tem Little stated that he thought the Mayor's suggestion was a wonderful idea. He added that a new prison and/or prison laundry would provide no tax base, but would provide good jobs for the community and water and sewer revenue for the City.

Councilman Cuthbertson stated that the offer of the properties was something tangible that the City could offer toward the prison recruitment effort.

Mayor Pro Tem Little suggested offering the property to the State for a 12 month period. City Council could then evaluate the progress being made on the possible location of a new prison and/or prison laundry in Marion and extend the time period for the offer if necessary.

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Upon a motion by Councilman Owenby, seconded by Mayor Pro Tem Little, Council voted unanimously to offer the State of North Carolina approximately 74 acres of property owned by the City off of College Drive and approximately 86 acres of property owned by the City across from the Water Plant on Old Greenlee Road for use for a new prison and/or prison laundry, said offer to expire in 12 months, with City Council reserving the option to extend the offer.

Councilman Owenby stated that if the State does not want the land, City Council should make it available to anyone who would create jobs.

DISCUSSION - MAYOR CLARK – APPOINTMENT OF CITY COUNCIL COMMITTEES: Mayor Clark stated that Council members have served on the same committees for many years.

Mayor Clark presented Council with a list of proposed changes to the City Council committees. He asked members to look over the proposed appointments and to advise him if they have any questions, requests or changes they would like to make. Mayor Clark stated that he would like to finalize the committee assignments at the January 20 Council meeting if at all possible.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that City staff submitted the N.C. STEP Program investment proposal and final report to the Rural Center. The City received a contract for $150,000 of the requested $200,000. In a meeting held in early December, the Rural Center discouraged small towns from pursuing a revolving loan fund. Under the "Support to Business" category of the investment proposal, the City will need to develop another use for the remaining $50,000, such as façade grants, seed grants to new business and/or rent/utility assistance for new businesses. The City Manager advised that he, Freddie Killough and Bobbie Young had met with representatives from Mountain Biz Works on December 19. Mountain Biz Works is a non-profit organization based in Asheville that makes loans to small businesses in Western North Carolina. Mountain Biz Works made a proposal for the City to participate in their loan program. The City Manager noted that Mountain Biz Works makes loans to those who will not qualify for conventional bank loans at high interest rates.

Mayor Clark stated that loaning money to businesses at high interest rates would not help the City or new businesses.

The City Manager proposed discussing the use of the remaining $50,000 in N.C. STEP Program funds with the N.C. STEP Leadership Team later in January and then bringing a recommendation back to Council.

The City Manager advised that he had informed City departments of the budget cuts presented to Council on December 2 for the current year. These budget cuts totaled $285,000 in the General and Water and Sewer Funds. These funds will be held in reserve and released only if the economic climate improves and revenues come in better than expected.

The City Manager advised that Mr. Larry Greene had completed the survey of the Clinchfield Park and greenway parcel, to create a lot to be subdivided off of the 12.55 acre Huskins Trust property off of Hill Street in Clinchfield that Frank Boldon purchased in late July. On December 22, the Clinchfield Park parcel was transferred to the City and the deed recorded. The City Manager stated that City staff were working on a schedule for work on the new Park.

The City Manager advised that City staff are working with the North Carolina Public Water Supply Section staff, the State Division of Water Quality staff, County staff and the Lake Tahoma Homeowner's Association to develop a possible Buck Creek Watershed Plan. The City

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Manager stated that, without objection, he would propose that the City proceed with work on this plan, since the plan will not cost the City any money and since the plan can hopefully develop ideas on how to provide better protections for the City's Buck Creek water supply and watershed and address competitive issues the City has experienced with upstream agricultural water users on Buck Creek.

The City Manager advised that the State had been very slow in reviewing plans for the Wastewater Improvements Project, including the work to change the Catawba River Plant into a pump station and to complete upgrades to the Corpening Creek Plant. To provide the City with protection, the City submitted a request to extend the Special Order by Consent deadline for the Catawba River Wastewater Plant by a few months. The N.C. Division of Water Quality (DWQ) staff stated that they would fully support the City's extension request.

The City Manager further reported that the State did end up approving the construction plans in mid-December, so the project has now been advertised for bid. The bid opening for the project is scheduled for January 21. The City Manager stated that McGill Associates has advised of a few locations where the City will need easements. In addition, the City will need to acquire a small parcel from Ed Rankin (part of his Forest Road property that fronts on Finley Road) for a pump station location. Mr. Rankin has already verbally agreed to donate the necessary property.

The City Manager stated that he may need to offer money for these easements, since the City will not have sewer service to offer in certain locations such as Garden Creek Road.

The City Manager advised that Public Works Director Chris Hollifield will present options for the possible placement of more visible pedestrian crossing signs in the downtown area at the January 20 Council meeting, as had been suggested by Mayor Pro Tem Little.

The City Manager reported that Mr. Hollifield has asked NCDOT to maintain or turn over to the City for maintenance overgrown property at Sugar Hill Road and Stroud Street, as was requested by Mayor Clark. The City Manager stated that it appeared that DOT would clear the property and then turn it over to the City to mow.
The City Manager advised that the Planning Board workshop held a workshop on December 18 to discuss further the proposed Historic Preservation Ordinance drafted by Planning and Development Director Heather Cotton. Ms. Cotton plans to follow up with a workshop for affected property owners in January or February.

The City Manager advised that the County Manager has contacted him regarding the City's interest in restarting the Joint Utility Committee meetings. He asked Council for direction.

Mayor Pro Tem Little stated that these meetings have proven to be helpful in the past. Mayor Clark suggested that the meetings restart in February. Council members stated no objection to restarting the Joint Utility Committee meetings. Council members noted that the appointment of new Council members to serve on the Utility Committee would likely mean that the meeting time and date will need to change. Suggestions were also made that the County should involve its Chairman in the meetings. The City Manager stated that he would communicate these points and Council's desire to restart the meetings to the County Manager.

COUNCILMAN COMMENTS:

Councilman Martin stated that he would like to thank City staff for the recent completion of the new sidewalk on West Henderson Street between Railroad Street and the new Ingle's Shopping Center.

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Councilman Martin stated that the annual Dr. Martin Luther King, Jr. Day service would be held at Addie's Chapel United Methodist Church at 11:00 a.m. on Monday, January 19. Councilman Martin advised that he would not be able to attend this service, due to a work conflict.

Councilman Edwards stated that he had heard comments from the public that the City's Government Access Channel was preventing Charter Communications from transitioning the Marion cable system to high definition (HD) format. The City Manager stated that Charter had offered to launch three HD channels on a lineup of over 200 channels last year if the City and County combined their channels, but that the transition of all channels to HD format would require bandwidth far beyond just one channel. Council asked the City Manager to put notices to this effect on the City Channel.

Councilman Edwards asked if Mayor Pro Tem Little had a report from the State Fireman's Association concerning recent expenditures of the Firemen's Relief Fund Board. Mayor Pro Tem Little stated that he did not, however, he would contact Paul Miller with the State Fireman's Association and follow up on the matter.

Mayor Clark stated that the City Channel looks good and is full of information. The City Manager commended Administrative Assistant Debi Sherlin on her hard work to rebuild the information on the channel and to make it better that it was before it went off the air.

Mayor Pro Tem Little stated that the intersection of Court and Garden Streets continually collects debris and needs cleaning. Public Works Director Chris Hollifield stated that he would make sure this location was cleaned.

Mayor Pro Tem Little advised that the green light was burned out on the traffic signal at Garden and State Streets. Mr. Hollifield stated that he would report this location to DOT, which maintains the signal for the City.

Councilman Cuthbertson asked that staff look at installing end caps for the new retaining wall on Railroad Street. The City Manager asked Mr. Hollifield to look at the location and to determine what can be done.

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

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager

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STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, January 20, 2009 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

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

Mayor Pro Tem Little was not present for this meeting due to being out of the country on a mission trip to Belize.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, Planning and Development Director; Mika Elliott, Police Chief; Chris Hollifield, Public Works Director; Lisa Morgan, Police Officer; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Eugene Holland, 108 Railroad Street, Marion, NC; Penny Davis, 45 Crawford Terrace, Marion, NC; Sarah Wilson, 59 Crawford Terrace, Marion, NC; Tom Rector, 40 Crawford Terrace, Marion, NC; Ronnie Patel, 1814 North Main Street, Marion, NC; Mr. and Mrs. Mimoo Walter, 55 Hankins Road, Marion, NC.

CONSENT AGENDA: Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, those members of Council present voted to approve the consent agenda as follows:

A. Approval of Minutes – January 6, 2009 Regular City Council Meeting Minutes

B. Approve Budget Ordinance Amendments

CITY OF MARION, NORTH CAROLINA
2008-2009 BUDGET ORDINANCE
(Third Amendment)

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

Section 1. That the Budget Ordinance for the City of Marion, North Carolina for the fiscal year 2008-09 as adopted by the Marion City Council on the 17th day of June, 2008 is hereby amended as follows:

GENERAL FUND

a. General Fund Expenditures, Fleet Maintenance, Account Number 10-555-1100, Telephone is increased from $-0- to $1,400.

b. General Fund Expenditures, Powell Bill, Account Number 10-570-0400, Professional Services is increased from $14,350 to $15.900.

c. General Fund Revenues, Account Number 10-319-0000, Tax Penalties & Interest Revenue is increased from $16,000 to $20,500.

d. General Fund Revenues, Account Number 10-319-1000, Prior Year Taxes Revenue is increased from $40,000 to $41,250.

e. General Fund Revenues, Account Number 10-321-0000, Privilege License Revenue is increased from $21,000 to $25,000.

f. General Fund Revenues, Account Number 10-330-0000, Planning & Zoning Fees Revenues is increased from $4,000 to $5,000.

g. General Fund Revenues, Account Number 10-334-1700, State Controlled Substance Revenue is increased from $1,578 to $2,298.

h. General Fund Revenues, Account Number 10-336-0000, Rural Center – NCSTEP Grant Revenue is increased from $-0- to $10,000.

i. General Fund Revenues, Account Number 10-341-0500, Refunds /Reimbursements Revenue is increased from $1,200 to $2,500.

j. General Fund Revenues, Account Number 10-399-0000, Fund Balance Appropriated is decreased from $472,310 to $452,490.

WATER AND SEWER FUND

a. Water and Sewer Fund Expenses, Non-departmental, Account Number 30-660-5700, Miscellaneous, is increased from $5,000 to $5,600.

b. Water and Sewer Fund Expenses, Non-departmental, Account Number 30-660-8000, Transfer to Capital Projects, is increased from $650,000 to $800,000.

c. Water and Sewer Fund Revenues, Account Number 30-373-0900, Tank Truck Charges is increased from $1,500 to $7,600.

d. Water and Sewer Fund Revenues, Account Number 30-299-0000, Fund Balance Appropriated is increased from $621,964 to $766,464.

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 20th day of January 2009.

A.Everette Clark, Mayor

ATTEST:
J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–09–01–20–1

C. Approve Budget Ordinance Amendments – Hospital Pump Station Project:

CITY OF MARION, NORTH CAROLINA
2008-2009 BUDGET ORDINANCE
(Fourth Amendment)

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

Section 1. That the Budget Ordinance for the City of Marion, North Carolina for the fiscal year 2008-09 as adopted by the Marion City Council on the 17th day of June, 2008 is hereby amended as follows:

WATER & SEWER CAPITAL PROJECTS FUND

a. Water & Sewer Capital Projects Fund Expenditures, Hospital Pump Station Replacement Project, Engineering Design, Account Number 31-816-0400, is increased from $21,300 to $28,300.

b. Water & Sewer Capital Projects Fund Expenditures, Hospital Pump Station Replacement Project, Legal/Administrative, Account Number 31-816-0450, is increased from $-0- to $2,500.

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c. Water & Sewer Capital Projects Fund Expenditures, Hospital Pump Station Replacement Project, Property Acquisition/Easements, Account Number 31-816-4400, is increased from $-0- to $2,500.

d. Water & Sewer Capital Projects Fund Expenditures, Hospital Pump Station Replacement Project, Construction Costs, Account Number 31-816-4500, is decreased from $262,500 to $260,660.

e. Water & Sewer Capital Projects Fund Expenditures, Hospital Pump Station Replacement Project, Construction Contingency, Account Number 31-816-4600, is increased from $-0- to $26,170.

f. Water & Sewer Capital Projects Fund Expenditures, Hospital Pump Station Replacement Project, Construction Administration, Account Number 31-816-4700, is increased from $-0- to $16,000.

g. Water & Sewer Capital Projects Fund Expenditures, Hospital Pump Station Replacement Project, Testing During Construction , Account Number 31-816-4800, is increased from $-0- to $2,000.

h. Water & Sewer Capital Projects Fund Revenues, Hospital Pump Station Replacement Project, Loan Proceeds – Pump Station, Account Number 31-370-0300, is decreased from $260,500 to $-0-.

i. Water & Sewer Capital Projects Fund Revenues, Hospital Pump Station Replacement Project, Rural Center Grant – Pump Station, Account Number 31-370-0300, is increased from $-0- to $225,420.

j. Water & Sewer Capital Projects Fund Revenues, Hospital Pump Station Replacement Project, Transfer from Water and Sewer – Pump Station, Account Number 31-385-0400, is increased from $23,300 to $112,710.

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 20th day of January 2009.

A. Everette Clark, Mayor

ATTEST:

L. Robert Boyette, City Manager/Clerk

Ordinance Number: O–09–01–20–2

D. Approve Annexation Reports and Plan of Services

2009 ANNEXATION AREAS – ANNEXATION REPORT AND PLAN OF SERVICES

TABLE OF CONTENTS

INTRODUCTION TO ANNEXATION

DESCRIPTION OF PROPOSED ANNEXATION

SECTION I. SUMMARY OF REPORT

SECTION II. BOUNDARY DESCRIPTION

SECTION III. STATEMENT SHOWING THAT AREAS PROPOSED FOR ANNEXATION MEET THE LEGISLATIVE STANDARDS OF G.S. 160A-36

SECTION IV. STATEMENT SETTING FORTH PLANS FOR EXTENDING CITY SERVICES TO THE AREAS PROPOSED TO BE ANNEXED AND METHODS OF FINANCING THESE SERVICES

SECTION V. ESTIMATED REVENUES

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SECTION VI. REVENUES AND COST ESTIMATES

EXHIBITS

EXHIBIT A. GENERAL LOCATION/BOUNDARY MAP

EXHIBIT B. EXISTING LAND USE

EXHIBIT C. WATER LINES

EXHIBIT D. SEWER LINES

EXHIBIT E. STREET LIGHTS

INTRODUCTION TO ANNEXATION

North Carolina's Constitution (Art. VII, Sec. 1) directs the General Assembly to "...provide for the organization and government and the fixing of boundaries..." In response to this charge the General Assembly has provided three general law procedures to effect municipal annexations. Those procedures embody the principle that land development for urban purposes should be within an incorporated municipality.

Annexation is the procedure whereby the corporate limits of a municipality are extended to encompass additional land, which, in most cases, is "urban in character." In addition to providing urban services to people that need them, annexation is a tool to implement policies and plans adopted by the community. Annexation is one method of achieving the community's growth objective, which is balanced and directed growth. Annexation is also a method of strengthening the tax base of a municipality, which will allow the locality to provide an adequate level of services to its citizens.

The City of Marion has four (4) methods available to it for annexation; these are: (1) action by the General Assembly, (2) annexation of contiguous areas upon petition of all owners of real property by G.S. Chapter 160-A, Article 4A, Part 1 (G.S. 160A-31 and G.S. 160A-31.1, (3) annexation of non-contiguous (satellite) areas upon petition of all owners of real property by G.S. Chapter 160A, Article 4A, Part 4 (G.S. 160A-58 through G.S. 160A-58.8 and (4) by authority granted to municipalities under 5,000 population by G.S. Chapter 160A, Article 4A, Part 2 (G.S. 160A-33 through G.S. 160A-42).

Action by General Assembly. The General Assembly may at any time enlarge the boundaries of a municipality by special act. This method is especially useful in annexing territory that cannot be annexed under one of the general law procedures because of some local condition. It is thus an important method even though not often used.

Annexation of Contiguous Areas upon Petition of All Owners of Real Property. The governing body of any municipality may annex by ordinance any areas contiguous to its boundaries upon presentation to the governing board of a petition signed by the owners of all real property located within such area. (G.S. 160A-31 and 160A-31.1)

This procedure, first enacted in 1947 in a more restricted form, involves a public hearing and a finding that the petition and the area to be annexed meet the statutory requirements. The procedure is most often used to annex small areas, new subdivisions, and tracts with only a few property owners. Of all methods, this is the most frequently used.

Annexation of Non-Contiguous (Satellite) Areas Upon Petition of All Owners of Real Property. Upon petition signed by all owners of real property in the area, the governing body of a qualified municipality may annex by ordinance certain "satellite" areas whose boundaries do not at any point touch its primary corporate limits. The primary corporate limits consist of the boundaries of a municipality as defined in its charter and as enlarged by annexation of contiguous territory according to applicable laws or diminished by exclusion of contiguous territory of the General Assembly. (G.S. 160-58 through G.S. 160A-58.8)

Before July 1, 1974, the effective date of the general satellite annexation statute, eleven cities had secured satellite annexation authority by special acts, starting with Raleigh in 1967. The satellite procedure, although not often used, is typically employed when owners of satellite property want municipal services or regulations for their property – usually retail establishments, new subdivisions, and occasionally industry.

Annexation of Areas meeting Statutory Standards. On the recommendation of the Municipal Government Study Commission (created by the 1957 General Assembly) the 1959 General Assembly enacted a new and

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comprehensive municipal annexation statute. The statute defines "developed for urban purposes" and provides that such an area that is contiguous to a municipality's boundaries may be annexed by ordinance if the municipality can provide the area with services on the same basis that it provides services within its existing boundaries. Reports must be prepared that (1) show that urban development in the area proposed for annexation meets the statutory standards and (2) detail the municipality's plans for extending and financing services to the area upon annexation. A special examination of the proposed annexation's effect on any rural fire department must be made. Under some circumstances, arrangements to contract with these departments for services, to assist in meeting their financing needs, or to employ their personnel must be offered. The statute requires extensive notice to affected property owners and a public hearing. After following these steps and finding that all the statutory standards and requirements have been met, the municipal governing board may effect an annexation by ordinance. The statute includes extensive safeguards to assure that citizens in the areas that are annexed receive municipal services as planned. There is no requirement for a petition or a referendum, either within the area proposed for annexation or within the existing municipality. These annexations, based on statutory standards, are subject to the following requirements.

Standards the Area Must Meet Under G.S. 160A-36:

(1) Contiguity. The area must be contiguous to the existing municipal boundary. "Contiguous area" means any area which, at the time the annexation procedures are initiated, either abuts directly on the municipal boundary or is separated from the municipal boundary by a street pr street right-of-way, a creek or river, the right-of- way of a railroad or other public service corporation, or lands owned by the municipality, another political subdivision or the State. (G.S. 160A-41(1).

If the entire territory of a county water and sewer district created under G.S. 162A-86(b1) is being annexed, the annexation shall also include any non-contiguous pieces of the district so long as the largest part of the district is contiguous.

(2) One-Eighth Common Boundary. At least one-eighth (12.5%) of the total external boundary of the area must coincide with the municipal boundary.

(3) Unincorporated. No part of the area may be within another incorporated municipality.

(4) Developed to Urban Standards. The area must be "developed for urban purposes" under G.S. 160A-36(c) as of the time of the approval of the annexation report. That means the area must meet one of the tests set forth in (A) through (C) below. Note that areas of streets and street right-of-way may not be used to determine total acreage in making these calculations:

(A) Use + Subdivision Test. The area is developed such that it meets both of the following tests:

(1) Use Test. At least sixty percent (60%) of the total number of lots and tracts are used for residential, commercial, industrial, Institutional or governmental purposes; and

(2) Subdivision Test. The area is subdivided into lots and tracts such that at least sixty percent (60%) of the total acreage, not counting the acreage used at the time of annexation for commercial, industrial, governmental or institutional purposes, consists of lots and tracts three acres or less in size.

OR

Nonresidential Urban Areas. The area is developed such that at the time of the approval of the annexation report, all tracts in the area are used for commercial, industrial, governmental, or institutional purposes.

OR

(C) Water/Sewer District. The annexation area is the entire area of any county water and sewer district created under G.S. 162A-86(b1), so long as the municipality contracts with the district to operate the sewer system and the contract provides that the area is developed for urban purposes. The area of an abolished water and sewer district is still considered a water and sewer district even after its abolition under G.S. 162A-87.2(b).

(5) Boundaries. Recorded property lines and streets must be used in setting the boundaries of the annexation area. Some or all of the boundary of a county water and sewer district may be used when the entire district not already within corporate limits of a municipality is being annexed.

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ADVANTAGES OF ANNEXATION

Many of the property owners in the area proposed for annexation may feel that annexation offers no advantages for them. This assessment is only superficial, as the following advantages will prove:

Water and Sewer – Areas unserved by Marion's water and sewer system will be served within a reasonable time after annexation. These services are needed to protect the health and safety of the residents. Customers already served by City water and/or sewer will enjoy a 60 percent decrease in water and sewer rates.

Police Protection – Police protection would be provided by the Marion Police Department on a 24-hour basis. City police protection involves more frequent patrols and a more rapid response rate when emergencies arise. The McDowell County Sheriff's Department now provides protection to unincorporated areas of McDowell County.

Fire Protection – Usually a change in fire insurance ratings occurs when an area is annexed into the city limits. The City now has a Class 5 rating while areas outside the municipality have a Class 9 rating.

Some insurance companies will give a reduction in rates once the property has been annexed into the city limits and the class rating has been changed; however, the practice of a reduction in rates is not uniform among insurance companies.

Streetlights – Areas annexed by the City of Marion will be provided with streetlights, which help prevent crime and accidents.

Solid Waste Collection and Disposal – Marion will provide for the collection and disposal of solid waste (garbage and trash) for all newly annexed areas. The property owners now must dispose of their solid waste themselves or contract for this service from a private contractor.

Streets – The City of Marion will maintain all streets which meet City requirements except those which are continually maintained by the North Carolina Department of Transportation.

Right to Vote – Residents in the areas annexed by the City of Marion will be able to vote in City elections and hold City office.

Tax Exemption – Real and personal property taxes are an allowable exemption on both the State and Federal income tax forms.

Annexation will offer some advantages to the City of Marion also. These advantages are as follows:

Increased Revenues – The property tax levy would provide the largest source of new revenue from newly annexed areas. Revenues from water and sewer services would provide funds for general operation of those services.

Such revenues as utility franchise taxes, sales taxes, beer and wine taxes and Powell Bill funds are collected by the State and returned to the municipalities. The distribution of franchise taxes to the municipalities is based on the gross receipts from sales. Powell Bill funds are based on a combination of local street mileage and population.

Increased Tax Base – The new values of real and personal property will increase the appraised tax valuation for Marion. This will increase the City's debt limit and enable it to expand its borrowing capability, as well as its services and facilities.

Increased Population – The increased population will enhance Marion's desirability as a site for new commercial and industrial expansion and support new levels of community service. An increase in population quite often results in an increase in State and Federal funding.

SECTION I

SUMMARY OF REPORT

Pursuant to the authority vested in the City Council of the City of Marion by Part 2, Article 4A, Chapter 160-A of the General Statutes of North Carolina, a Resolution of Intent to consider annexation of the areas covered by this report was adopted by the City Council at a regular meeting held on January 6, 2009. A notice of the public

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informational meeting to be held on February 24, 2009 and the public hearing to be held on March 24, 2009 on the question of annexation is being published in accordance with legal requirements and the Resolution of Intent.

A municipality exercising its authority to annex shall make plans for the extension of services to the area proposed to be annexed and shall, prior to the public hearing provided for in G.S. 160A-35, prepare a report setting forth such plans to provide services to such areas. The report shall include:

Annexation Report and Services Plan
G.S. 160A-35

G.S. 160A-35 requires a detailed annexation report and services plan. The report must include the following information:

1. A map or maps of the municipality and the adjacent territory to show:

   A. The present and proposed boundaries.

   B. The present major trunk water mains and sewer interceptors and outfalls and any proposed extensions of water mains and sewer outfalls to serve the area to be annexed. The map must bear the seal of a registered professional engineer.

2. A statement showing that the area meets the standards of G.S. 160A-36.

3. A statement setting forth the plans for extending to the annexation area such major services performed within the municipality. The plan must specifically provide for:

   A. Police protection, fire protection, solid waste collections, street maintenance and street lighting services on substantially the same basis and in the same manner as provided in the rest of the municipality as of the effective date of the annexation. If a water distribution system is not available in the area to be annexed, the plans must provide for reasonably effective fire protection until such time as water lines are made available under existing municipal extension policies. A contract with a rural fire department is an acceptable method of providing fire protection, and a contract with a private solid waste collection firm is an acceptable method of providing solid waste collection services.

   B. Extension of major trunk water mains and sewer outfall lines so that property owners in the area will be able to secure public water and sewer service according to the municipal policies in effect for extending such services to individual lots or subdivisions. If requested in writing by any owner of an occupied dwelling unit or an operating commercial or industrial property no later than five (5) days after the public hearing, the report and plans must be amended, at the time of adoption of the ordinance to provide for the extension of water and sewer lines to the property or a point on a public street or road right-of-way adjacent to the property, in accordance with the current financial policies of the municipality for making such extensions. Where extension of water and sewer is necessary, the plans must set out a timetable for completion of construction as soon as possible but not more than two (2) years after the effective date of annexation. In areas where the installation of sewer is not economically feasible due to the unique topography of the area, the city must provide septic system maintenance and repair service until such time as sewer service is provided to properties similarly situated.

4. A statement of the method under which the municipality plans to finance extension of services to the annexed area.

5. A statement of the impact of the annexation on any rural fire department providing service in the area to be annexed and a statement of the impact of the annexation on fire protection and fire insurance rates in the area to be annexed, if the area is in an insurance district, a rural fire protection district or a county fire protection service district. The rural fire department is required to make available to the municipality within thirty (30) days following the municipality's written request, information within its possession or control necessary for preparation of the impact statement, including but not limited to operational, financial and budgetary information. If the rural fire department fails to respond within forty-five (45) days following receipt of a written request, it forfeits its rights to negotiate a contract to provide fire protection under G.S. 160A-37.1 or receive a proportionate share of debt payments under G.S. 160A-37.2. The city must include in its written request reference to the section containing the requirements [G.S. 160A-35(4)] or no forfeiture will occur.

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6. A statement showing how the proposed annexation will affect the city's finances and services, including city revenue change estimates. This statement must also be delivered to the clerk of the county board of commissioners at least thirty (30) days before the date of the public information meeting.

This report has been prepared by the City of Marion in compliance with the foregoing requirements and is available for public inspection at the office of the City Clerk.

SECTION II

BOUNDARY DESCRIPTIONS

EASTFIELD PHASE IV AREA

BEGINNING at a point at the northern corner of Lot 6045 Block 40 on the McDowell County Tax Map 1712.18; thence following the eastern boundary of said Lot 6045 and Lots 6947, and 6950 Block 49 on the McDowell County Tax Map 1711.06 in a generally southerly direction approximately 255.52 feet to the southeast point of said Lot 6950; thence following the southern boundary of said Lot 6950 in a westerly direction 60 feet to a point on the southern boundary of said Lot 6950, said point also being the northeast corner of Lot 5797; thence following the eastern boundary of said Lot 5797 in a southerly direction 222.28 feet to a point, thence following the southern boundary of said Lot 5797 in a westerly direction 174.16 feet to the southwest corner of said Lot 5797, said point also being a point on the boundary of the current Marion Corporate Limits; thence following the Marion Corporate Limits in a northerly direction approximately 413 feet to the point of BEGINNING.

EASTFIELD PHASE V AREA

BEGINNING at a point at the northern corner of Lot 9159 Block 39 on the McDowell County Tax Map 1711.06; thence following the boundary of said Lot 9159 in a southeasterly direction 229 feet to an eastern point of said Lot 9159; thence following the eastern boundary of said Lot 9159 and Lot 8965 Block 48 on the McDowell County Tax Map 1711.06 in a southerly direction approximately 315 feet to a point on the eastern boundary of said Lot 896, said point also being the northwest corner of Lot 9891 Block 48 on the McDowell County Tax Map 1711.06; thence following the northern boundary of said Lot 9891 in an easterly direction 42 feet to the northeast corner of said Lot 9891; thence following the eastern boundary of said Lot 9891 in a generally southerly direction 219 feet to the southeast corner of said Lot 989, said point also being the northern boundary of Tunnel Street (SR 1729); thence following the northern boundary of Tunnel Street (SR 1729) in an easterly direction approximately 90 feet to a point on said boundary of Tunnel Street (SR 1729); thence crossing Tunnel Street (SR 1729) in a southerly direction 50 feet to a point on the southern boundary of Tunnel Street (SR 1729), said point also being the northeast corner of Lot 0601 Block 48 on the McDowell County Tax Map 1711.06; thence following the eastern boundary of said Lot 0601 and Lots 9595, 0439, 0422, and 0313 Block 48 on the McDowell County Tax Map 1711.06 in a southerly direction 432 feet to a point at the southeast corner of Lot 0313, said point also being the boundary of the current Marion Corporate Limits; thence following the Marion Corporate Limits first in a westerly direction approximately 1212 feet, thence in a northerly direction approximately 756 feet; and thence in a generally easterly direction approximately1342 feet to the point of BEGINNING.

HIGHWAY 226 SOUTH/ITL AREA

BEGINNING at a point at the southwest corner of Lot 9743 Block 25 on McDowell County Tax Map 1720.01; thence following boundary of said Lot in a northeasterly direction 917 feet, said boundary also being the boundary of the current Marion Corporate Limits; thence following boundary of said Lot in a northwesterly direction 523 feet; thence following the boundary of said Lot in a southwesterly direction 870 feet; thence following the boundary of said Lot in a southeasterly direction 507 feet to a point of BEGINNING.

HIGHWAY 221 NORTH/HANKINS ROAD AREA

BEGINNING at a point at the northeast corner of Lot 8500 Block 87 on McDowell County Tax Map 0792.00, said point also being a point on the current Marion Corporate Limits; thence following the boundary of the Marion Corporate Limits in an east and northeasterly direction approximately 1243 feet to a point at the intersection of the current Marion Corporate Limits and an eastern point of Lot 9202 Block 88 on the McDowell County Tax Map 0792.00; thence following the eastern boundary of said Lot 9202 in a northwesterly direction 206 feet to a point on the northeast corner of said Lot 9202, thence following the boundary of said Lot 9202 in a southerly direction 130 feet, thence following the boundary of said Lot 9202 in a northwesterly direction 146 feet to a point at the northwest corner of said Lot 9202, said point also being the eastern boundary of Hankins Road (SR 1501); thence crossing Hankins Road (SR 1501) in a straight line in a northwesterly direction 60 feet to a point on the western boundary of Hankins Road (SR 1501), said point also being a point on the eastern boundary of Lot 6412 Block 88 on the McDowell County Tax Map 0792.00; thence following the boundary of said Lot

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6412 and Hankins Road (SR 1501) in a northerly direction approximately 80 feet to a point at the northeast corner of said Lot 6412, said point also being the southeast corner of Lot 7741 Block 88 on McDowell County Tax Map 0792.00, thence following the southern boundary of said Lot 7741 in a westerly direction 81 feet to a point at the southwest corner of said Lot 7741, thence following the western boundary of said Lot 7741 and Lot 7902 Block 88 on McDowell County Tax Map 0792.00 in a northerly direction 538 feet to a point at the northwest corner of said Lot 7902, said point also being the southern boundary of a private road; thence crossing said private road in a straight line in a northerly direction 20 feet to a point on the northern boundary of said private road, said point also being the boundary of the current Marion Corporate Limits; thence following the northern boundary of said private road and boundary of the Marion Corporate Limits in a northwesterly direction 196 feet to a point; thence crossing said private road in a strait line in a southerly direction 20 feet to a point on the southern boundary of the private road, said point also being the northwest corner of Lot 5711 Block 88 on McDowell County Tax Map 0792.00; thence following the western boundary of said Lot 5711 in a southerly direction 356 feet to a point, said point also being the eastern boundary of U.S. Highway 221 Business Extension; thence crossing U.S. Highway 221 Business Extension in a southerly direction approximately 90 feet to a point, said point being at the intersection of the western boundary of U.S. Highway 221 Business Extension and the eastern boundary of U.S. Highway 221 Bypass; thence following the eastern boundary of U.S. Highway 221 Bypass in a southern direction 491 feet to a point on said boundary of U.S. Highway 221 Bypass, said point also being on the western boundary of U.S. Highway 221 Business and the southwest corner of Lot 5060 Block 88 on McDowell County Tax Map 0792.00, thence crossing U.S. Highway 221 Business in a southerly direction approximately 165 feet to a point of BEGINNING.

AIRPORT ROAD AREA

BEGINNING at a point at the northern corner of Lot 3479 Block 50 on the McDowell County Tax Map 1702.19, said point also being the western boundary of Airport Road (SR 1500); thence following the said boundary of Airport Road (SR 1500) in a northwesterly direction approximately 100 feet; thence crossing boundary of said Airport Road (SR 1500) in an easterly direction approximately 40 feet to a point on the eastern boundary of Airport Road (SR 1500), said point also being the western point of Lot 6970 Block 50 on the McDowell County Tax Map 1702.19; thence following the northern boundary of said Lot 6970 in an easterly direction 604 feet to the northeast point of said Lot 6970; thence following the eastern boundary of said Lot 6970 in a southerly direction 150 feet to a point on the eastern boundary of said Lot 6970, said point also being the current Marion Corporate Limits; thence following the boundary of the Marion Corporate Limits in a westerly direction approximately 758.45 feet to the point of BEGINNING.

HIGHWAY 226 SOUTH AREA

BEGINNING at a point at the southeast corner of Lot 4290 Block 98 on the McDowell County Tax Map 1710.02; said point also being a point of the boundary of the current Marion Corporate Limits; thence following said boundary of Marion Corporate Limits in a northwesterly direction approximately 758 feet to a point, said point being the southwest corner of Lot 0660 Block 98 on the McDowell County Tax Map 1710.02; thence following western boundary of said Lot 0660 in a northeasterly direction 379 feet to the northwest point of said Lot 0660; thence following the northern boundary of said Lot 0660 in an easterly direction 190 feet to a point at the northeastern corner of said Lot 0660, said point also being on the western boundary of Lot 3671 Block 98 on the McDowell County Tax Map 1710.02; thence following the western boundary of said Lot 3671 in a generally northeasterly direction 226 feet to a point on the northeast corner of said Lot 3671; thence following the boundary of said Lot 3671 in a southeasterly direction 197 feet to a point on a southeast corner of said Lot 3671; said point also being the northwestern boundary of Fairview Road (SR 1741); thence following the boundary of said Lot 3671 and Fairview Road (SR 1741) in a southerly direction approximately 280 feet to a point; thence crossing Fairview Road (SR 1741) in a straight line 60 feet to a point on the southeastern boundary of Fairview Road (SR 1741), said point also being the northwest corner of Lot 3335 Block 98 on the McDowell County Tax Map 1710.02; thence following the northern boundary of said Lot 3335 in a southeasterly direction 136 feet to a point northeastern corner of said Lot 3335; said point also being a point on the western boundary of Lot 4248 Block 98 on the McDowell County Tax Map 1710.02; thence following the western boundary of said Lot 4248 in a northeasterly direction 189 feet; thence following the northern boundary of said Lots 4248 and 4290 in a generally southerly direction 151 feet to a point, said point also being the boundary of the Marion Corporate Limits, thence following the eastern boundary of said Lot 4290 and the Marion Corporate Limits 212 feet to the point of BEGINNING.

YANCEY ROAD AREA

BEGINNING at a point at the northwest corner of Lot 2351 Block 71 on McDowell County Tax Map 1702.19; thence following the boundary of said Lot 2351 in an easterly direction 280 feet to a point, thence following the boundary of said Lot 2351 in a southerly direction 200 feet to a point at the southeast corner of said Lot 2351, said point also being on the northern boundary of Yancey Road; thence following the northern boundary of

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Yancey Road in an easterly direction approximately 292 feet; thence crossing Yancey Road in a southerly direction 40 feet to a point; said point being the southern boundary of Yancey Road and the northeast corner of Lot 9102 Block 71 on the McDowell County Tax Map 1702.20; thence following the eastern boundary of said Lot 6102 in a southerly direction 245 feet to a point at the southeast corner of said Lot 6102; thence following the southern boundary of said Lot 6102 and Lots 4024 and 3034 Block 70 on McDowell County Tax Map 1702.19 in a generally westerly direction 375 feet to a point, said point being the current Marion Corporate Limits; thence following the Marion Corporate Limits in a northerly direction approximately 680 feet to a point of BEGINNING.

VIRGINIA ROAD

BEGINNING at a point at the southwest corner of Lot 8276 Block 92 on McDowell County Tax Map 1702.20, said point also being the current Marion Corporate Limit; thence following the eastern boundary of said Lot 8276 first in a northwesterly direction 301 feet, thence in a east-northeasterly direction 123 feet, thence in a southerly direction 98 feet, and finally in an easterly direction 200 feet to a point at the eastern corner of said Lot 8276, said corner also being the western boundary of Hill Street, thence crossing Hill Street in an easterly direction 40 feet to a point on the eastern boundary of Hill Street, said point also being on the western boundary of Lot 0568 Block 02 on McDowell County Tax Map 1712.13; thence following the western boundary of said Lot 0568 in a southerly direction 25 feet to a point at the southwest corner of Lot 0568, said point also being the northwest corner of Lot 1335 Block 02 on McDowell County Tax Map 1712.17; thence following the northern boundary of said Lot 1335 and Lot 2309 Block 02 on McDowell County Tax Map 1712.17 in an easterly direction 169 feet to a point at the northeast corner of Lot 2309, said point also being on the western boundary of Lot 1695 Block 02 on McDowell County Tax Map 1712.13, thence following the western boundary of said Lot 1695 in a northerly direction 407.5 feet to a point at the northwest corner of Lot 1695; thence following the northern boundary of said Lot 1695 in an easterly direction 211 feet to a point at the northeast corner of said Lot 1695; thence following the eastern boundary of said Lot 1695 in a southerly direction 518 feet to a point at the southeast corner of said Lot 1695, said point also being on the boundary of the current Marion Corporate Limits and the western Boundary of Virginia Avenue; thence crossing Virginia Avenue in an easterly direction 40 feet to a point on the eastern boundary of Virginia Avenue, said point also being the southwest corner of Lot 4534 Block 02 on McDowell County Tax Map 1712.13; thence following the western boundary of said Lot 4534 in a northerly direction 223 feet to a point at the northwest corner of said Lot 4534, thence following the northern boundary of said Lot 4534 and Lot 5503 Block 02 on McDowell County Tax Map 1712.13 in an easterly direction 146 feet to a point at the northeast corner of Lot 5503, thence following the eastern boundary of said Lot 5503 in a southerly direction 164.2 feet to a point at the southeast corner of said Lot 5503, said point also being on the boundary of the current Marion Corporate Limits and the western Boundary of Forsyth Street; thence crossing Forsyth Street in an easterly direction 30 feet to a point on the eastern boundary of Forsyth Street, said point also being the southwest corner of Lot 0923 Block 02 on McDowell County Tax Map 1712.13; thence following the southern boundary of said Lot 0923 in an easterly direction 68 feet to a point at the southeast corner of said Lot 0923, said point also being the southwest corner of Lot 6461 Block 02 on McDowell County Tax Map 1712.17; thence following the western boundary of said Lot 6461 in a northerly direction approximately 100 feet to a point on the western boundary of said Lot 646, said point being a western corner of Lot 7425 Block 02 on McDowell County Tax Map 1712.17; thence following the boundary of Lot 7425 first in a westerly direction 9 feet, thence in a northerly direction 20 feet, thence in a northeasterly direction 84, thence in a southeasterly direction 97 feet to a point at the southeast corner of said Lot 7425, said point also being the current Marion Corporate Limits; thence following the Marion Corporate Limits in a generally westerly direction approximately 1095 feet back to a point of BEGINNING.

SECTION III

STATEMENT SHOWING THAT THE AREAS PROPOSED TO BE ANNEXED MEETS THE LEGISLATIVE STANDARDS PRESCRIBED BY G. S. 160A-36

EASTFIELD PHASE IV AREA

The proposed annexation area meets the general standards of G. S. 160A-36 as follows:

The area is adjacent and contiguous, as defined by G. S. 160A-41(1) as of the 6th day of January, 2009, the date upon which this annexation proceeding was begun, and shown on the map included herein marked Exhibit A.

The aggregate external boundary line of the area to be annexed is 1,414 feet, of which 402 feet (or 28.43%), coincides with the City boundary, as shown on the map included herein marked Exhibit A. Therefore, at least one eighth (or 12.5%) of the said external boundary coincides with the City boundary.

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No part of the area to be annexed is included within the boundary of another incorporated municipality (See Exhibit B).

The area to be annexed is developed for urban purposes in that 100.00% of the total number of lots and tracts in said area are used for residential, commercial, industrial, institutional or governmental purposes as is shown below. 100.00% of the total of residential and vacant acreage consists of lots and tracts three (3) acres or less in size.

Total number of lots and tracts	3
Number of lots and tracts used for:	
Residential	3
Commercial	0
Industrial	0
Institutional	0
Governmental	0
Total	3
Percentage of lots and tracts developed for urban purposes	100.00%
Total Residential and Vacant Acreage	2.28
Total Residential and Vacant Acreage in lots and tracts three (3) acres or less	2.28
Percentage of Residential and Vacant Acreage in lots and tracts three (3) acres or less	100.00%

EASTFIELD PHASE V AREA

The proposed annexation area meets the general standards of G. S. 160A-36 as follows:

The area is adjacent and contiguous, as defined by G. S. 160A-41(1) as of the 6th day of January, 2009, the date upon which this annexation proceeding was begun, and shown on the map included herein marked Exhibit A.

The aggregate external boundary line of the area to be annexed is 5,080 feet, of which 3,554 feet (or 69.96%), coincides with the City boundary, as shown on the map included herein marked Exhibit A. Therefore, at least one eighth (or 12.5%) of the said external boundary coincides with the City boundary.

No part of the area to be annexed is included within the boundary of another incorporated municipality (See Exhibit B).

The area to be annexed is developed for urban purposes in that 68.89% of the total number of lots and tracts in said area are used for residential, commercial, industrial, institutional or governmental purposes as is shown below. 100.00% of the total of residential and vacant acreage consists of lots and tracts three (3) acres or less in size.

Total number of lots and tracts	45
Number of lots and tracts used for:	
Residential	31
Commercial	0
Industrial	0
Institutional	0
Governmental	0
Total	31
Percentage of lots and tracts developed for urban purposes	68.89%

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Total Residential and Vacant Acreage	15.77
Total Residential and Vacant Acreage in lots and tracts three (3) acres or less	15.77
Percentage of Residential and Vacant Acreage in lots and tracts three (3) acres or less	100.00%

HIGHWAY 226 SOUTH/ITL AREA

The proposed annexation area meets the general standards of G. S. 160A-36 as follows:

The area is adjacent and contiguous, as defined by G. S. 160A-41(1) as of the 6th day of January, 2009, the date upon which this annexation proceeding was begun, and shown on the map included herein marked Exhibit A.

The aggregate external boundary line of the area to be annexed is 3,175 feet, of which 2,640 feet (or 83.15%), coincides with the City boundary, as shown on the map included herein marked Exhibit A. Therefore, at least one eighth (or 12.5%) of the said external boundary coincides with the City boundary.

No part of the area to be annexed is included within the boundary of another incorporated municipality (See Exhibit B).

The area to be annexed is developed for urban purposes in that 100.00% of the total number of lots and tracts in said area are used for residential, commercial, industrial, institutional or governmental purposes as is shown below. All tracts in the area to be annexed are used for commercial, industrial, governmental, or institutional purposes.

Total number of lots and tracts	1
Number of lots and tracts used for:	
Residential	0
Commercial	0
Industrial	1
Institutional	0
Governmental	0
Total	1
Percentage of lots and tracts developed for urban purposes	100.00%
Percentage of lots and tracts used for commercial, industrial, governmental or institutional purposes	100.00%

HIGHWAY 221 NORTH/HANKINS ROAD AREA

The proposed annexation area meets the general standards of G. S. 160A-36 as follows:

The area is adjacent and contiguous, as defined by G. S. 160A-41(1) as of the 6th day of January, 2009, the date upon which this annexation proceeding was begun, and shown on the map included herein marked Exhibit A.

The aggregate external boundary line of the area to be annexed is 4,279 feet, of which 1,334 feet (or 31.18%), coincides with the City boundary, as shown on the map included herein marked Exhibit A. Therefore, at least one eighth (or 12.5%) of the said external boundary coincides with the City boundary.

No part of the area to be annexed is included within the boundary of another incorporated municipality (See Exhibit B).

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The area to be annexed is developed for urban purposes in that 87.50% of the total number of lots and tracts in said area are used for residential, commercial, industrial, institutional or governmental purposes as is shown below. 100.00% of the total of residential and vacant acreage consists of lots and tracts three (3) acres or less in size.

Total number of lots and tracts	8
Number of lots and tracts used for:	
Residential	2
Commercial	4
Industrial	0
Institutional	1
Governmental	0
Total	7
Percentage of lots and tracts developed for urban purposes	87.50%
Total Residential and Vacant Acreage	2.35
Total Residential and Vacant Acreage in lots and tracts three (3) acres or less	2.35
Percentage of Residential and Vacant Acreage in lots and tracts three (3) acres or less	100.00%

AIRPORT ROAD AREA

The proposed annexation area meets the general standards of G. S. 160A-36 as follows:

The area is adjacent and contiguous, as defined by G. S. 160A-41(1) as of the 6th day of January, 2009, the date upon which this annexation proceeding was begun, and shown on the map included herein marked Exhibit A.

The aggregate external boundary line of the area to be annexed is 2,017 feet, of which 1,065 feet (or 52.80%), coincides with the City boundary, as shown on the map included herein marked Exhibit A. Therefore, at least one eighth (or 12.5%) of the said external boundary coincides with the City boundary.

No part of the area to be annexed is included within the boundary of another incorporated municipality (See Exhibit B).

The area to be annexed is developed for urban purposes in that 66.67% of the total number of lots and tracts in said area are used for residential, commercial, industrial, institutional or governmental purposes as is shown below. 100.00% of the total of residential and vacant acreage consists of lots and tracts three (3) acres or less in size.

Total number of lots and tracts	3
Number of lots and tracts used for:	
Residential	2
Commercial	0
Industrial	0
Institutional	0
Governmental	0
Total	2
Percentage of lots and tracts developed for urban purposes	100.00%
Total Residential and Vacant Acreage	3.18

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Total Residential and Vacant Acreage in lots and tracts three (3) acres or less	3.18
Percentage of Residential and Vacant Acreage in lots and tracts three (3) acres or less	100.00%

HIGHWAY 226 SOUTH AREA

The proposed annexation area meets the general standards of G. S. 160A-36 as follows:

The area is adjacent and contiguous, as defined by G. S. 160A-41(1) as of the 6th day of January, 2009, the date upon which this annexation proceeding was begun, and shown on the map included herein marked Exhibit A.

The aggregate external boundary line of the area to be annexed is 2,715 feet, of which 990 feet (or 36.46%), coincides with the City boundary, as shown on the map included herein marked Exhibit A. Therefore, at least one eighth (or 12.5%) of the said external boundary coincides with the City boundary.

No part of the area to be annexed is included within the boundary of another incorporated municipality (See Exhibit B).

The area to be annexed is developed for urban purposes in that 100.00% of the total number of lots and tracts in said area are used for residential, commercial, industrial, institutional or governmental purposes as is shown below. 100.00% of the total of residential and vacant acreage consists of lots and tracts three (3) acres or less in size.

Total number of lots and tracts	6
Number of lots and tracts used for:	
Residential	4
Commercial	2
Industrial	0
Institutional	0
Governmental	0
Total	6
Percentage of lots and tracts developed for urban purposes	100.00%
Total Residential and Vacant Acreage	4.58
Total Residential and Vacant Acreage in lots and tracts three (3) acres or less	4.58
Percentage of Residential and Vacant Acreage in lots and tracts three (3) acres or less	100.00%

YANCEY ROAD AREA

The proposed annexation area meets the general standards of G. S. 160A-36 as follows:

The area is adjacent and contiguous, as defined by G. S. 160A-41(1) as of the 6th day of January, 2009, the date upon which this annexation proceeding was begun, and shown on the map included herein marked Exhibit A.

The aggregate external boundary line of the area to be annexed is 2,182 feet, of which 650 feet (or 29.79%), coincides with the City boundary, as shown on the map included herein marked Exhibit A. Therefore, at least one eighth (or 12.5%) of the said external boundary coincides with the City boundary.

No part of the area to be annexed is included within the boundary of another incorporated municipality (See Exhibit B).

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The area to be annexed is developed for urban purposes in that 100.00% of the total number of lots and tracts in said area are used for residential, commercial, industrial, institutional or governmental purposes as is shown below. 100.00% of the total of residential and vacant acreage consists of lots and tracts three (3) acres or less in size.

Total number of lots and tracts	4
Number of lots and tracts used for:	
Residential	4
Commercial	0
Industrial	0
Institutional	0
Governmental	0
Total	4
Percentage of lots and tracts developed for urban purposes	100.00%
Total Residential and Vacant Acreage	3.87
Total Residential and Vacant Acreage in lots and tracts three (3) acres or less	3.87
Percentage of Residential and Vacant Acreage in lots and tracts three (3) acres or less	100.00%

VIRGINIA ROAD AREA

The proposed annexation area meets the general standards of G. S. 160A-36 as follows:

The area is adjacent and contiguous, as defined by G. S. 160A-41(1) as of the 6th day of January, 2009, the date upon which this annexation proceeding was begun, and shown on the map included herein marked Exhibit A.

The aggregate external boundary line of the area to be annexed is 4,107 feet, of which 1,024 feet (or 24.93%), coincides with the City boundary, as shown on the map included herein marked Exhibit A. Therefore, at least one eighth (or 12.5%) of the said external boundary coincides with the City boundary.

No part of the area to be annexed is included within the boundary of another incorporated municipality (See Exhibit B).

The area to be annexed is developed for urban purposes in that 66.67% of the total number of lots and tracts in said area are used for residential, commercial, industrial, institutional or governmental purposes as is shown below. 100.00% of the total of residential and vacant acreage consists of lots and tracts three (3) acres or less in size.

Total number of lots and tracts	9
Number of lots and tracts used for:	
Residential	6
Commercial	0
Industrial	0
Institutional	0
Governmental	0
Total	6
Percentage of lots and tracts developed for urban purposes	66.67%
Total Residential and Vacant Acreage	4.75

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Total Residential and Vacant Acreage in lots and tracts three (3) acres or less	4.75
Percentage of Residential and Vacant Acreage in lots and tracts three (3) acres or less	100.00%

SECTION IV

STATEMENT SETTING FORTH PLANS FOR EXTENDING CITY SERVICES TO THE AREA PROPOSED TO BE ANNEXED AND METHODS OF FINANCING THESE SERVICES

City services will be provided to the areas proposed for annexation upon the effective date of annexation in accordance with the General Statutes of North Carolina as follows:

EASTFIELD PHASE IV AREA

POLICE PROTECTION

The Marion Police Department presently provides police services for all areas of the City of Marion including preventative and directed patrol, criminal response and investigation, traffic enforcement and other services such as funeral escorts, alarm response, vacation home checks, and animals running at-large. The full-time force is composed of the Chief of Police, 24 other sworn officers, 4 telecommunication officers and 1 police aide/ordinance enforcement officers. At least 1 telecommunication officer and 4 sworn officers are on duty at all times. All telephone calls are automatically tape-recorded. The telecommunication officer has direct communications capability with all City police cars as well as the McDowell County Sheriff's Office, McDowell County Rescue Squad, North Carolina Highway Patrol dispatch, City of Marion Public Works, and all law enforcement agencies in "Region C." The department is connected to the North Carolina Division of Criminal Information (DCI), which provides the department access to motor vehicle, boat, and airplane registration information, driver's license information, stolen property and wanted or missing persons. Network access is also available to the National Crime Information Center (NCIC), Interpol and out of state and Canada motor vehicle information.

Response time to the proposed area of annexation is zero (0) to ten (10) minutes, if a patrol vehicle is readily available. Every effort will be made to patrol the streets in this area three (3) times each 24 hours.

There is no additional street mileage for the proposed annexation area, since the area is already on the patrol route. Therefore, the estimated additional expenses to provide police services to the proposed area of annexation would be $0.00 per year.

No additional personnel will be required to provide service to this area.

The total annual cost to provide police protection to this area is estimated to be $0.00.

The City will ensure that on the effective date of annexation police protection will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

FIRE PROTECTION

The City of Marion is served by the fire department located at the intersection of West Court Street and Logan Street. The fire department is currently protecting an area ranging up to six miles from the station including the area to be annexed. Equipment from this station can respond to the area proposed for annexation in 1 to 4 minutes depending on traffic conditions. The route to this area is easily accessible to fire fighting equipment.

The fire department has two diesel-powered pumpers, one 1,000 GPM (gallons per minute) pumper and two 1,250 GPM pumpers. The department also has two diesel powered pumper/tankers that carry 1,000 gallons of water. The pump capacities of each truck are 1,250 GPM and 1,500 GPM, respectively. The department also has a four-wheel drive brush unit, an equipment van, a four wheel drive pickup truck and the Chief's car.

AA.000000163 (24)

There are six paid firefighters and at least one is on duty at all times. The duty firefighter and 26 volunteers are dispatched by the 911 County Emergency Operations Center. All firefighters have pagers and many have portable hand held radios. The fire department also maintains a fire inspections department that handles fire safety inspections of businesses and industries in the city. The fire department is also involved in the field of fire education.

Because of the proximity of the area to be annexed to the station, and because the area is located within the Marion Area Fire District which is already being served by this department, no additional personnel or equipment will be needed. There will be no additional cost as this area is already included in the present operating budget.

The annexation area is located in the Marion Area Fire District. The amount of Service District Tax paid by McDowell County to the City will be reduced by approximately $55.50 per year due to the annexation of this area. No other county volunteer fire departments will be affected as a result of the annexation of this area.

There should be no change in property insurance rating when the area is annexed into the city. Since the area to be annexed is already served by existing city water lines and fire hydrants, property owners in the area to be annexed should already be receiving the insurance rating in effect for the city. However, because of the difference in policies of insurance companies, individual property owners should check with their insurance representative to determine what effect, it any, annexation will have on their insurance rates.

The City will ensure that on the effective date of annexation fire protection will be provided in the area annexed on substantially the same basis and in the same manner as provided by the Marion Fire Department in the rest of the City.

WATER AND SEWER SERVICE

Within the proposed annexation area, there are 3 customers currently on City water and sewer service. Once the area is annexed, the loss in revenues due to water and sewer rates being decreased by 60 percent is estimated to be approximately $2,097.96 annually

Both water and sewer service is available to all properties located in the area proposed for annexation. No water or sewer improvements will be necessary.

The City will ensure that on the effective date of annexation water and sewer service will be provided in the area annexed on substantially the same basis as provided in the rest of the City. Water and sewer improvements will be completed in accordance with the time schedule in the General Statutes and provided within two (2) years of the effective date of the annexation.

Funds for water and sewer service will come from anticipated revenues in the area and be budgeted in the City's Water and Sewer Fund.

Exhibits C and D show the location of existing and proposed water and sewer lines.

STREET MAINTENANCE

All of the streets in the area proposed for annexation are paved. All streets in the annexation area are maintained by the State of North Carolina. It is proposed that the State of North Carolina will continue maintenance on the public streets in the area.

The City will ensure that on the effective date of annexation street maintenance service will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

STREETLIGHTS

To provide streetlights in the area proposed for annexation, the City will follow the current policy of a streetlight on every other pole in a residential or commercial area.

Exhibit E shows the location of the existing and proposed lights. Upon annexation, the City will work closely with Duke Energy to determine the best location for the lights.

AA.000000164 (24)

The area to be annexed will not require the installation of any streetlights, since streetlights are already in place.

The City will ensure that on the effective date of annexation streetlights will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

SOLID WASTE COLLECTION AND RECYCLING

Present City policy provides for solid waste collection and recycling collection once a week at each residence in the city.

For residential collection, the City is currently using a solid waste packer unit and three pickup trucks. Each truck is equipped with a 4 cubic yard capacity for the collection of solid waste. The trucks are able to collect solid waste from approximately 20 residences before unloading into the packer unit. There are approximately 2,500 residential units within the current City Limits. Each truck will average collecting solid waste from approximately 200 residences in a six to seven hour period. There are 3 residential units in the area proposed for annexation. A curbside recycling truck will be used to provide recycling pickup at each residence once each week.

No additional employees or equipment will be required to provide solid waste collection service to this area. It is estimated that there will be no annual costs to provide solid waste collection service as City solid waste vehicles are already passing the area to be annexed. One time costs, involving $22.50 for the purchase of recycling bins, will also be needed to serve the area to be annexed. Solid waste collection and recycling collection service is currently provided in the city by City of Marion personnel and equipment and will also be provided to the area to be annexed by City of Marion personnel and equipment. These funds for this service will come from revenues collected in this area and budgeted in the City's General Fund.

The City will attempt to contact any solid waste firm servicing the annexation area as required, or which has stated its interest in contracting with the City. If required by the General Statutes, the City will offer to contract with the solid waste firms or will pay such firms for their monetary loss in compliance with the General Statutes.

The City will ensure that on the effective date of annexation solid waste collection service will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

EASTFIELD PHASE V AREA

POLICE PROTECTION

The Marion Police Department presently provides police services for all areas of the City of Marion including preventative and directed patrol, criminal response and investigation, traffic enforcement and other services such as funeral escorts, alarm response, vacation home checks, and animals running at-large. The full-time force is composed of the Chief of Police, 24 other sworn officers, 4 telecommunication officers and 1 police aide/ordinance enforcement officers. At least 1 telecommunication officer and 4 sworn officers are on duty at all times. All telephone calls are automatically tape-recorded. The telecommunication officer has direct communications capability with all City police cars as well as the McDowell County Sheriff's Office, McDowell County Rescue Squad, North Carolina Highway Patrol dispatch, City of Marion Public Works, and all law enforcement agencies in "Region C." The department is connected to the North Carolina Division of Criminal Information (DCI), which provides the department access to motor vehicle, boat, and airplane registration information, driver's license information, stolen property and wanted or missing persons. Network access is also available to the National Crime Information Center (NCIC), Interpol and out of state and Canada motor vehicle information.

Response time to the proposed area of annexation is zero (0) to ten (10) minutes, if a patrol vehicle is readily available. Every effort will be made to patrol the streets in this area three (3) times each 24 hours.

Additional patrol street mileage for the proposed annexation area is approximately 0.37 miles, since part of the area is already on the patrol route. Assuming the area is patrolled a minimum of three (3) times a day, a 0.37 mile patrol route would require approximately 405 traveled miles per year. An estimate of 80 miles would be required to handle calls for this area. The patrol vehicles average ten (10) miles to a gallon of gas and $.09 per mile in maintenance cost.

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Using the figures above, the estimated additional expenses to provide police services to the proposed area of annexation would be $124.65 per year ($81.00 for gas and $43.65 for maintenance.) The funding for this additional expense will come from anticipated revenues in the area and be budgeted in the City's General Fund.

No additional personnel will be required to provide service to this area.

The total annual cost to provide police protection to this area is estimated to be $124.65.

The City will ensure that on the effective date of annexation police protection will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

FIRE PROTECTION

The City of Marion is served by the fire department located at the intersection of West Court Street and Logan Street. The fire department is currently protecting an area ranging up to six miles from the station including the area to be annexed. Equipment from this station can respond to the area proposed for annexation in 1 to 4 minutes depending on traffic conditions. The route to this area is easily accessible to fire fighting equipment.

The fire department has two diesel-powered pumpers, one 1,000 GPM (gallons per minute) pumper and two 1,250 GPM pumpers. The department also has two diesel powered pumper/tankers that carry 1,000 gallons of water. The pump capacities of each truck are 1,250 GPM and 1,500 GPM, respectively. The department also has a four-wheel drive brush unit, an equipment van, a four wheel drive pickup truck and the Chief's car.

There are six paid firefighters and at least one is on duty at all times. The duty firefighter and 26 volunteers are dispatched by the 911 County Emergency Operations Center. All firefighters have pagers and many have portable hand held radios. The fire department also maintains a fire inspections department that handles fire safety inspections of businesses and industries in the city. The fire department is also involved in the field of fire education.

Because of the proximity of the area to be annexed to the station, and because the area is located within the Marion Area Fire District which is already being served by this department, no additional personnel or equipment will be needed. There will be no additional cost as this area is already included in the present operating budget.

The annexation area is located in the Marion Area Fire District. The amount of Service District Tax paid by McDowell County to the City will be reduced by approximately $556.12 per year due to the annexation of this area. No other county volunteer fire departments will be affected as a result of the annexation of this area.

There should be no change in property insurance rating when the area is annexed into the city. Since parts of the area to be annexed are already served by existing city water lines and fire hydrants and unserved parts of the area are within 1,000 feet of a fire hydrant, property owners in the areas to be annexed should already be receiving the insurance rating in effect for the city. However, because of the difference in policies of insurance companies, individual property owners should check with their insurance representative to determine what effect, it any, annexation will have on their insurance rates. City water service will be extended to the area annexed and fire hydrants added if necessary on the same basis and in the same manner as provided in the rest of the City.

The City will ensure that on the effective date of annexation fire protection will be provided in the area annexed on substantially the same basis and in the same manner as provided by the Marion Fire Department in the rest of the City.

WATER AND SEWER SERVICE

Within the proposed annexation area, there are approximately 13 customers currently on City water and sewer service. Once the area is annexed, the loss in revenues due to water and sewer rates being decreased by 60 percent is estimated to be approximately $638.50 monthly or $7,662.00 annually

Sewer service is available to all properties located in the area proposed for annexation and water service is available to part of the area. A water extension of approximately 525 feet will be needed on Pine Street

AA.0000000166 (24)

and a water extension of approximately 680 feet will be required along Tunnel Road and Westmoreland Street. The estimated cost of the water extension is $16,039.

The City will ensure that on the effective date of annexation water and sewer service will be provided in the area annexed on substantially the same basis as provided in the rest of the City. Water and sewer improvements will be completed in accordance with the time schedule in the General Statutes and provided within two (2) years of the effective date of the annexation.

Funds for water and sewer service will come from anticipated revenues in the area and be budgeted in the City's Water and Sewer Fund.

Exhibits C and D show the location of existing and proposed water and sewer lines.

STREET MAINTENANCE

All of the streets in the area proposed for annexation are paved. All streets in the annexation area are maintained by the State of North Carolina or are private streets. It is proposed that the State of North Carolina will continue maintenance on the public streets in the area and that privately maintained streets will remain private.

The City will ensure that on the effective date of annexation street maintenance service will be provided in the area annexed on substantially the same basis as provided in the rest of the City.

STREETLIGHTS

To provide streetlights in the area proposed for annexation, the City will follow the current policy of a streetlight on every other pole in a residential or commercial area.

Exhibit E shows the location of the existing and proposed lights. Upon annexation, the City will work closely with Duke Energy to determine the best location for the lights.

The City will have approximately 4 streetlights installed in the area proposed for annexation. Duke Energy will install the streetlights. The City will be charged approximately $7.72 per month per streetlight.

The estimated cost for providing streetlights to the area proposed for annexation will be $370.56 annually.

The funds to provide streetlights in the annexation area will come from anticipated revenues in this area and be budgeted in the City's General Fund.

The City will ensure that on the effective date of annexation streetlights will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

SOLID WASTE COLLECTION AND RECYCLING

Present City policy provides for solid waste collection and recycling collection once a week at each residence in the city.

For residential collection, the City is currently using a solid waste packer unit and three pickup trucks. Each truck is equipped with a 4 cubic yard capacity for the collection of solid waste. The trucks are able to collect solid waste from approximately 20 residences before unloading into the packer unit. There are approximately 2,500 residential units within the current City Limits. Each truck will average collecting solid waste from approximately 200 residences in a six to seven hour period. There are 40 residential units in the area proposed for annexation. A curbside recycling truck will be used to provide recycling pickup at each residence once each week.

No additional employees or equipment will be required to provide solid waste collection service to this area. It is estimated that $1,000.00 will cover annual fuel cost. An additional $300.00 is estimated for vehicle maintenance for a total annual cost of $1,300.00 to provide solid waste and recyclable collections to the residential units. One time costs, involving $300 for the purchase of recycling bins, will also be needed to serve the area to be annexed. Solid waste collection and recycling collection service is currently provided in the city by City of Marion personnel and equipment and will also be provided to the area to be annexed by City of Marion personnel and equipment. These funds for this service will come from revenues collected in this area and budgeted in the City's General Fund.

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The City will attempt to contact any solid waste firm servicing the annexation area as required, or which has stated its interest in contracting with the City. If required by the General Statutes, the City will offer to contract with the solid waste firms or will pay such firms for their monetary loss in compliance with the General Statutes.

The City will ensure that on the effective date of annexation solid waste collection service will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

HIGHWAY 226 SOUTH/ITL AREA

POLICE PROTECTION

The Marion Police Department presently provides police services for all areas of the City of Marion including preventative and directed patrol, criminal response and investigation, traffic enforcement and other services such as funeral escorts, alarm response, vacation home checks, and animals running at-large. The full-time force is composed of the Chief of Police, 24 other sworn officers, 4 telecommunication officers and 1 police aide/ordinance enforcement officers. At least 1 telecommunication officer and 4 sworn officers are on duty at all times. All telephone calls are automatically tape-recorded. The telecommunication officer has direct communications capability with all City police cars as well as the McDowell County Sheriff's Office, McDowell County Rescue Squad, North Carolina Highway Patrol dispatch, City of Marion Public Works, and all law enforcement agencies in "Region C." The department is connected to the North Carolina Division of Criminal Information (DCI), which provides the department access to motor vehicle, boat, and airplane registration information, driver's license information, stolen property and wanted or missing persons. Network access is also available to the National Crime Information Center (NCIC), Interpol and out of state and Canada motor vehicle information.

Response time to the proposed area of annexation is zero (0) to ten (10) minutes, if a patrol vehicle is readily available. Every effort will be made to patrol the streets in this area three (3) times each 24 hours.

There is no additional street mileage for the proposed annexation area, since the area is already on the patrol route. Therefore, the estimated additional expenses to provide police services to the proposed area of annexation would be $0.00 per year.

No additional personnel will be required to provide service to this area.

The total annual cost to provide police protection to this area is estimated to be $0.00.

The City will ensure that on the effective date of annexation police protection will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

FIRE PROTECTION

The City of Marion is served by the fire department located at the intersection of West Court Street and Logan Street. The fire department is currently protecting an area ranging up to six miles from the station including the area to be annexed. Equipment from this station can respond to the area proposed for annexation in 1 to 4 minutes depending on traffic conditions. The route to this area is easily accessible to fire fighting equipment.

The fire department has two diesel-powered pumpers, one 1,000 GPM (gallons per minute) pumper and two 1,250 GPM pumpers. The department also has two diesel powered pumper/tankers that carry 1,000 gallons of water. The pump capacities of each truck are 1,250 GPM and 1,500 GPM, respectively. The department also has a four-wheel drive brush unit, an equipment van, a four wheel drive pickup truck and the Chief's car.

There are six paid firefighters and at least one is on duty at all times. The duty firefighter and 26 volunteers are dispatched by the 911 County Emergency Operations Center. All firefighters have pagers and many have portable hand held radios. The fire department also maintains a fire inspections department that handles fire safety inspections of businesses and industries in the city. The fire department is also involved in the field of fire education.

AA.000000168 (24)

Because of the proximity of the area to be annexed to the station, and because the area is located within the Marion Area Fire District which is already being served by this department, no additional personnel or equipment will be needed. There will be no additional cost as this area is already included in the present operating budget.

The annexation area is located in the Marion Area Fire District. The amount of Service District Tax paid by McDowell County to the City will be reduced by approximately $865.97 per year due to the annexation of this area. No other county volunteer fire departments will be affected as a result of the annexation of this area.

There should be no change in property insurance rating when the area is annexed into the city. Since the area to be annexed is already served by existing city water lines and fire hydrants, property owners in the area to be annexed should already be receiving the insurance rating in effect for the city. However, because of the difference in policies of insurance companies, individual property owners should check with their insurance representative to determine what effect, it any, annexation will have on their insurance rates.

The City will ensure that on the effective date of annexation fire protection will be provided in the area annexed on substantially the same basis and in the same manner as provided by the Marion Fire Department in the rest of the City.

WATER AND SEWER SERVICE

Within the proposed annexation area, there is 1 customer currently on City water and sewer service. Once the area is annexed, the loss in revenues due to the reduction in water and sewer rates by 60 percent is estimated to be approximately $957.94 monthly or $11,495.28 annually

Both water and sewer service is available to all properties located in the area proposed for annexation. No water or sewer improvements will be necessary.

The City will ensure that on the effective date of annexation water and sewer service will be provided in the area annexed on substantially the same basis as provided in the rest of the City. Water and sewer improvements will be completed in accordance with the time schedule in the General Statutes and provided within two (2) years of the effective date of the annexation.

Funds for water and sewer service will come from anticipated revenues in the areas and be budgeted in the City's Water and Sewer Fund.

Exhibits C and D show the location of existing and proposed water and sewer lines.

STREET MAINTENANCE

There are no streets in the area to be annexed. The City will ensure that on the effective date of annexation street maintenance service will be provided in the area annexed on substantially the same basis as provided in the rest of the City.

STREETLIGHTS

To provide streetlights in the area proposed for annexation, the City will follow the current policy of a streetlight on every other pole in a residential or commercial area.

Exhibit E shows the location of the existing and proposed lights. Upon annexation, the City will work closely with Duke Energy to determine the best location for the lights.

The annexation will not require the installation of any streetlights, since no streets are included in the annexation.

The estimated cost for providing streetlights to the area proposed for annexation will be $0.00 annually.

The City will ensure that on the effective date of annexation streetlights will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

SOLID WASTE COLLECTION AND RECYCLING

AA.000000169 (24)

Present City policy provides for solid waste collection and recycling collection once a week at each residence in the city.

For residential collection, the City is currently using a solid waste packer unit and three pickup trucks. Each truck is equipped with a 4 cubic yard capacity for the collection of solid waste. The trucks are able to collect solid waste from approximately 20 residences before unloading into the packer unit. There are approximately 2,500 residential units within the current City Limits. Each truck will average collecting solid waste from approximately 200 residences in a six to seven hour period. There are no residential units in the area proposed for annexation. A curbside recycling truck will be used to provide recycling pickup at each residence once each week.

No additional employees or equipment will be required to provide solid waste collection service to this area. Since there are no residential units in the annexation area, there will be no costs for solid waste service to the area.

The City will attempt to contact any solid waste firm servicing the annexation area as required, or which has stated its interest in contracting with the City. If required by the General Statutes, the City will offer to contract with the solid waste firms or will pay such firms for their monetary loss in compliance with the General Statutes.

The City will ensure that on the effective date of annexation solid waste collection service will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

HIGHWAY 221 NORTH/HANKINS ROAD AREA

POLICE PROTECTION

The Marion Police Department presently provides police services for all areas of the City of Marion including preventative and directed patrol, criminal response and investigation, traffic enforcement and other services such as funeral escorts, alarm response, vacation home checks, and animals running at-large. The full-time force is composed of the Chief of Police, 24 other sworn officers, 4 telecommunication officers and 1 police aide/ordinance enforcement officers. At least 1 telecommunication officer and 4 sworn officers are on duty at all times. All telephone calls are automatically tape-recorded. The telecommunication officer has direct communications capability with all City police cars as well as the McDowell County Sheriff's Office, McDowell County Rescue Squad, North Carolina Highway Patrol dispatch, City of Marion Public Works, and all law enforcement agencies in "Region C." The department is connected to the North Carolina Division of Criminal Information (DCI), which provides the department access to motor vehicle, boat, and airplane registration information, driver's license information, stolen property and wanted or missing persons. Network access is also available to the National Crime Information Center (NCIC), Interpol and out of state and Canada motor vehicle information.

Response time to the proposed area of annexation is zero (0) to ten (10) minutes, if a patrol vehicle is readily available. Every effort will be made to patrol the streets in this area three (3) times each 24 hours.

Additional patrol street mileage for the proposed annexation area is approximately 0.10 miles, since part of the area is already on the patrol route. Assuming the areas are patrolled a minimum of three (3) times a day, a 0.10 mile patrol route would require approximately 1.10 traveled miles per year. An estimate of 20 miles would be required to handle calls for this area. The patrol vehicles average ten (10) miles to a gallon of gas and $.09 per mile in maintenance cost.

Using the figures above, the estimated additional expenses to provide police services to the proposed area of annexation would be $37.70 per year ($26.00 for gas and $11.70 for maintenance.) The funding for this additional expense will come from anticipated revenues in the area and be budgeted in the City's General Fund.

No additional personnel will be required to provide service to this area.

The total annual cost to provide police protection to this area is estimated to be $37.70.

The City will ensure that on the effective date of annexation police protection will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

AA.000000170 (24)

FIRE PROTECTION

The City of Marion is served by the fire department located at the intersection of West Court Street and Logan Street. The fire department is currently protecting an area ranging up to six miles from the station including the area to be annexed. Equipment from this station can respond to the area proposed for annexation in 1 to 4 minutes depending on traffic conditions. The route to this area is easily accessible to fire fighting equipment.

The fire department has two diesel-powered pumpers, one 1,000 GPM (gallons per minute) pumper and two 1,250 GPM pumpers. The department also has two diesel powered pumper/tankers that carry 1,000 gallons of water. The pump capacities of each truck are 1,250 GPM and 1,500 GPM, respectively. The department also has a four-wheel drive brush unit, an equipment van, a four wheel drive pickup truck and the Chief's car.

There are six paid firefighters and at least one is on duty at all times. The duty firefighter and 26 volunteers are dispatched by the 911 County Emergency Operations Center. All firefighters have pagers and many have portable hand held radios. The fire department also maintains a fire inspections department that handles fire safety inspections of businesses and industries in the city. The fire department is also involved in the field of fire education.

Because of the proximity of the area to be annexed to the station, and because the area is located within the Marion Area Fire District which is already being served by this department, no additional personnel or equipment will be needed. There will be no additional cost as this area is already included in the present operating budget.

The annexation area is located in the Marion Area Fire District. The amount of Service District Tax paid by McDowell County to the City will be reduced by approximately $228.92 per year due to the annexation of this area. No other county volunteer fire departments will be affected as a result of the annexation of this area.

There should be no change in property insurance rating when the area is annexed into the city. Since the area to be annexed is already served by existing city water lines and fire hydrants, property owners in the area to be annexed should already be receiving the insurance rating in effect for the city. However, because of the difference in policies of insurance companies, individual property owners should check with their insurance representative to determine what effect, it any, annexation will have on their insurance rates.

The City will ensure that on the effective date of annexation fire protection will be provided in the area annexed on substantially the same basis and in the same manner as provided by the Marion Fire Department in the rest of the City.

WATER AND SEWER SERVICE

Within the proposed annexation area, there are no customers currently on City water and sewer service, as City water and sewer service have just been extended to the area.

Once the area is annexed, the loss in revenues due to the reduction in water and sewer rates by 60 percent is estimated to be $0.00 annually

Both water and sewer service is available to all properties located in the area proposed for annexation. No water or sewer improvements will be necessary.

The City will ensure that on the effective date of annexation water and sewer service will be provided in the area annexed on substantially the same basis as provided in the rest of the City. Water and sewer improvements will be completed in accordance with the time schedule in the General Statutes and provided within two (2) years of the effective date of the annexation.

Funds for water and sewer service will come from anticipated revenues in the area and be budgeted in the City's Water and Sewer Fund.

Exhibits C and D show the location of existing and proposed water and sewer lines.

STREET MAINTENANCE

AA.00000171 (24)

All of the streets in the area proposed for annexation are paved. All streets in the annexation area are maintained by the State of North Carolina. It is proposed that the State of North Carolina will continue maintenance on the public streets in the area.

The City will ensure that on the effective date of annexation street maintenance service will be provided in the area annexed on substantially the same basis as provided in the rest of the City.

STREETLIGHTS

To provide streetlights in the area proposed for annexation, the City will follow the current policy of a streetlight on every other pole in a residential or commercial area.

Exhibit E shows the location of the existing and proposed lights. Upon annexation, the City will work closely with Duke Energy to determine the best location for the lights.

The City will have approximately 2 streetlights installed in the area proposed for annexation. Duke Energy will install the streetlights. The City will be charged approximately $7.72 per month per streetlight.

The estimated cost for providing streetlights to the area proposed for annexation will be $185.28 annually.

The funds to provide streetlights in the annexation area will come from anticipated revenues in this area and be budgeted in the City's General Fund.

The City will ensure that on the effective date of annexation streetlights will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

SOLID WASTE COLLECTION AND RECYCLING

Present City policy provides for solid waste collection and recycling collection once a week at each residence in the city.

For residential collection, the City is currently using a solid waste packer unit and three pickup trucks. Each truck is equipped with a 4 cubic yard capacity for the collection of solid waste. The trucks are able to collect solid waste from approximately 20 residences before unloading into the packer unit. There are approximately 2,500 residential units within the current City Limits. Each truck will average collecting solid waste from approximately 200 residences in a six to seven hour period. There are 11 residential units in the area proposed for annexation. A curbside recycling truck will be used to provide recycling pickup at each residence once each week.

No additional employees or equipment will be required to provide solid waste collection service to this area. It is estimated that $275.00 will cover annual fuel cost. An additional $137.50 is estimated for vehicle maintenance for a total annual cost of $412.50.00 to provide solid waste and recyclable collections to the residential units. One time costs, involving $82.50 for the purchase of recycling bins, will also be needed to serve the area to be annexed. Solid waste collection and recycling collection service is currently provided in the city by City of Marion personnel and equipment and will also be provided to the area to be annexed by City of Marion personnel and equipment. These funds for this service will come from revenues collected in this area and budgeted in the City's General Fund.

The City will attempt to contact any solid waste firm servicing the annexation area as required, or which has stated its interest in contracting with the City. If required by the General Statutes, the City will offer to contract with the solid waste firms or will pay such firms for their monetary loss in compliance with the General Statutes.

The City will ensure that on the effective date of annexation solid waste collection service will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

AIRPORT ROAD AREA

POLICE PROTECTION

The Marion Police Department presently provides police services for all areas of the City of Marion including preventative and directed patrol, criminal response and investigation, traffic enforcement and

AA.000000172 (24)

other services such as funeral escorts, alarm response, vacation home checks, and animals running at-large. The full-time force is composed of the Chief of Police, 24 other sworn officers, 4 telecommunication officers and 1 police aide/ordinance enforcement officers. At least 1 telecommunication officer and 4 sworn officers are on duty at all times. All telephone calls are automatically tape-recorded. The telecommunication officer has direct communications capability with all City police cars as well as the McDowell County Sheriff's Office, McDowell County Rescue Squad, North Carolina Highway Patrol dispatch, City of Marion Public Works, and all law enforcement agencies in "Region C." The department is connected to the North Carolina Division of Criminal Information (DCI), which provides the department access to motor vehicle, boat, and airplane registration information, driver's license information, stolen property and wanted or missing persons. Network access is also available to the National Crime Information Center (NCIC), Interpol and out of state and Canada motor vehicle information.

Response time to the proposed area of annexation is zero (0) to ten (10) minutes, if a patrol vehicle is readily available. Every effort will be made to patrol the streets in this area three (3) times each 24 hours.

There is no additional street mileage for the proposed annexation area, since the area is already on the patrol route. Therefore, the estimated additional expenses to provide police services to the proposed area of annexation would be $0.00 per year.

No additional personnel will be required to provide service to this area.

The total annual cost to provide police protection to this area is estimated to be $0.00.

The City will ensure that on the effective date of annexation police protection will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

FIRE PROTECTION

The City of Marion is served by the fire department located at the intersection of West Court Street and Logan Street. The fire department is currently protecting an area ranging up to six miles from the station including the area to be annexed. Equipment from this station can respond to the area proposed for annexation in 1 to 4 minutes depending on traffic conditions. The route to this area is easily accessible to fire fighting equipment.

The fire department has two diesel-powered pumpers, one 1,000 GPM (gallons per minute) pumper and two 1,250 GPM pumpers. The department also has two diesel powered pumper/tankers that carry 1,000 gallons of water. The pump capacities of each truck are 1,250 GPM and 1,500 GPM, respectively. The department also has a four-wheel drive brush unit, an equipment van, a four wheel drive pickup truck and the Chief's car.

There are six paid firefighters and at least one is on duty at all times. The duty firefighter and 26 volunteers are dispatched by the 911 County Emergency Operations Center. All firefighters have pagers and many have portable hand held radios. The fire department also maintains a fire inspections department that handles fire safety inspections of businesses and industries in the city. The fire department is also involved in the field of fire education.

Because of the proximity of the area to be annexed to the station, and because the area is located within the Marion Area Fire District which is already being served by this department, no additional personnel or equipment will be needed. There will be no additional cost as this area is already included in the present operating budget.

The annexation area is located in the Marion Area Fire District. The amount of Service District Tax paid by McDowell County to the City will be reduced by approximately $115.32 per year due to the annexation of this area. No other county volunteer fire departments will be affected as a result of the annexation of this area.

There should be no change in property insurance rating when the area is annexed into the city. Since the area to be annexed is already served by existing city water lines and fire hydrants, property owners in the area to be annexed should already be receiving the insurance rating in effect for the city. However, because of the difference in policies of insurance companies, individual property owners should check with their insurance representative to determine what effect, it any, annexation will have on their insurance rates.

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The City will ensure that on the effective date of annexation fire protection will be provided in the area annexed on substantially the same basis and in the same manner as provided by the Marion Fire Department in the rest of the City.

WATER AND SEWER SERVICE

Within the proposed annexation area, there is 1 customer (4 apartments) currently on City water and sewer service. Once the area is annexed, the loss in revenues is estimated to be approximately $123.45 monthly or $1,481.40 annually

Both water and sewer service is available to all properties located in the area proposed for annexation. No water or sewer improvements will be necessary.

The City will ensure that on the effective date of annexation water and sewer service will be provided in the area annexed on substantially the same basis as provided in the rest of the City. Water and sewer improvements will be completed in accordance with the time schedule in the General Statutes and provided within two (2) years of the effective date of the annexation.

Funds for water and sewer service will come from anticipated revenues in the area and be budgeted in the City's Water and Sewer Fund.

Exhibits C and D show the location of existing and proposed water and sewer lines.

STREET MAINTENANCE

All of the streets in the area proposed for annexation are paved. All streets in the annexation area are maintained by the State of North Carolina or are already City streets. It is proposed that the State of North Carolina will continue maintenance on the portion of the public street in the area not maintained by the City.

The City will ensure that on the effective date of annexation street maintenance services will be provided in the area annexed on substantially the same basis as provided in the rest of the City.

STREETLIGHTS

To provide streetlights in the area proposed for annexation, the City will follow the current policy of a streetlight on every other pole in a residential or commercial area.

Exhibit E shows the location of the existing and proposed lights. Upon annexation, the City will work closely with Duke Energy to determine the best location for the lights.

The area to be annexed will not require the installation of any streetlights, since streetlights are already in place.

The City will ensure that on the effective date of annexation streetlights will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

SOLID WASTE COLLECTION AND RECYCLING

Present City policy provides for solid waste collection and recycling collection once a week at each residence in the city.

For residential collection, the City is currently using a solid waste packer unit and three pickup trucks. Each truck is equipped with a 4 cubic yard capacity for the collection of solid waste. The trucks are able to collect solid waste from approximately 20 residences before unloading into the packer unit. There are approximately 2,500 residential units within the current City Limits. Each truck will average collecting solid waste from approximately 200 residences in a six to seven hour period. There are 4 residential units in the area proposed for annexation. A curbside recycling truck will be used to provide recycling pickup at each residence once each week.

No additional employees or equipment will be required to provide solid waste collection service to this area. It is estimated that there will be no annual costs to provide solid waste collection service as City solid waste vehicles are already passing the area to be annexed. One time costs, involving $22.50 for the purchase of recycling bins, will also be needed to serve the area to be annexed. Solid waste collection and

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recycling collection service is currently provided in the city by City of Marion personnel and equipment and will also be provided to the area to be annexed by City of Marion personnel and equipment. These funds for this service will come from revenues collected in this area and budgeted in the City's General Fund.

The City will attempt to contact any solid waste firm servicing the annexation area as required, or which has stated its interest in contracting with the City. If required by the General Statutes, the City will offer to contract with the solid waste firms or will pay such firms for their monetary loss in compliance with the General Statutes.

The City will ensure that on the effective date of annexation solid waste collection service will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

HIGHWAY 226 SOUTH AREA

POLICE PROTECTION

The Marion Police Department presently provides police services for all areas of the City of Marion including preventative and directed patrol, criminal response and investigation, traffic enforcement and other services such as funeral escorts, alarm response, vacation home checks, and animals running at-large. The full-time force is composed of the Chief of Police, 24 other sworn officers, 4 telecommunication officers and 1 police aide/ordinance enforcement officers. At least 1 telecommunication officer and 4 sworn officers are on duty at all times. All telephone calls are automatically tape-recorded. The telecommunication officer has direct communications capability with all City police cars as well as the McDowell County Sheriff's Office, McDowell County Rescue Squad, North Carolina Highway Patrol dispatch, City of Marion Public Works, and all law enforcement agencies in "Region C." The department is connected to the North Carolina Division of Criminal Information (DCI), which provides the department access to motor vehicle, boat, and airplane registration information, driver's license information, stolen property and wanted or missing persons. Network access is also available to the National Crime Information Center (NCIC), Interpol and out of state and Canada motor vehicle information.

Response time to the proposed area of annexation is zero (0) to ten (10) minutes, if a patrol vehicle is readily available. Every effort will be made to patrol the streets in this area three (3) times each 24 hours.

There is no additional street mileage for the proposed annexation area, since the area is already on the patrol route. Therefore, the estimated additional expenses to provide police services to the proposed area of annexation would be $0.00 per year.

No additional personnel will be required to provide service to this area.

The total annual cost to provide police protection to this area is estimated to be $0.00.

The City will ensure that on the effective date of annexation police protection will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

FIRE PROTECTION

The City of Marion is served by the fire department located at the intersection of West Court Street and Logan Street. The fire department is currently protecting an area ranging up to six miles from the station including the area to be annexed. Equipment from this station can respond to the area proposed for annexation in 1 to 4 minutes depending on traffic conditions. The route to this area is easily accessible to fire fighting equipment.

The fire department has two diesel-powered pumpers, one 1,000 GPM (gallons per minute) pumper and two 1,250 GPM pumpers. The department also has two diesel powered pumper/tankers that carry 1,000 gallons of water. The pump capacities of each truck are 1,250 GPM and 1,500 GPM, respectively. The department also has a four-wheel drive brush unit, an equipment van, a four wheel drive pickup truck and the Chief's car.

There are six paid firefighters and at least one is on duty at all times. The duty firefighter and 26 volunteers are dispatched by the 911 County Emergency Operations Center. All firefighters have pagers and many have portable hand held radios. The fire department also maintains a fire inspections

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department that handles fire safety inspections of businesses and industries in the city. The fire department is also involved in the field of fire education.

Because of the proximity of the area to be annexed to the station, and because the area is located within the Marion Area Fire District which is already being served by this department, no additional personnel or equipment will be needed. There will be no additional cost as this area is already included in the present operating budget.

The annexation area is located in the Marion Area Fire District. The amount of Service District Tax paid by McDowell County to the City will be reduced by approximately $165.35 per year due to the annexation of this area. No other county volunteer fire departments will be affected as a result of the annexation of this area.

There should be no change in property insurance rating when the area is annexed into the city. Since the area to be annexed are already served by existing city water lines and fire hydrants, property owners in the area to be annexed should already be receiving the insurance rating in effect for the city. However, because of the difference in policies of insurance companies, individual property owners should check with their insurance representative to determine what effect, it any, annexation will have on their insurance rates.

The City will ensure that on the effective date of annexation fire protection will be provided in the area annexed on substantially the same basis and in the same manner as provided by the Marion Fire Department in the rest of the City.

WATER AND SEWER SERVICE

Within the proposed annexation area, there are 3 customers currently on City water and sewer service. Once the area is annexed, the loss in revenues is estimated to be approximately $61.93 monthly or $743.16 annually.

Water service is available to all properties located in the area proposed for annexation and sewer service is available to part of the area. A sewer extension of approximately 510 feet will be needed along Scott Drive and Highway 226 South. The estimated cost of the sewer extension is $28,080.

The City will ensure that on the effective date of annexation water and sewer service will be provided in the area annexed on substantially the same basis as provided in the rest of the City. Water and sewer improvements will be completed in accordance with the time schedule in the General Statutes and provided within two (2) years of the effective date of the annexation.

Funds for water and sewer service will come from anticipated revenues in the area and be budgeted in the City's Water and Sewer Fund.

Exhibits C and D show the location of existing and proposed water and sewer lines.

STREET MAINTENANCE

All of the streets in the area proposed for annexation are paved. All streets in the annexation area are maintained by the State of North Carolina. It is proposed that the State of North Carolina will continue maintenance on the public streets in the area.

The City will ensure that on the effective date of annexation street maintenance services will be provided in the area annexed on substantially the same basis as provided in the rest of the City.

STREETLIGHTS

To provide streetlights in the area proposed for annexation, the City will follow the current policy of a streetlight on every other pole in a residential or commercial area.

Exhibit E shows the location of the existing and proposed lights. Upon annexation, the City will work closely with Duke Energy to determine the best location for the lights.

The area to be annexed will not require the installation of any streetlights, since streetlights are already in place.

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The City will ensure that on the effective date of annexation streetlights will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

SOLID WASTE COLLECTION AND RECYCLING

Present City policy provides for solid waste collection and recycling collection once a week at each residence in the city.

For residential collection, the City is currently using a solid waste packer unit and three pickup trucks. Each truck is equipped with a 4 cubic yard capacity for the collection of solid waste. The trucks are able to collect solid waste from approximately 20 residences before unloading into the packer unit. There are approximately 2,500 residential units within the current City Limits. Each truck will average collecting solid waste from approximately 200 residences in a six to seven hour period. There are 5 residential units in the area proposed for annexation. A curbside recycling truck will be used to provide recycling pickup at each residence once each week.

No additional employees or equipment will be required to provide solid waste collection service to this area. It is estimated that there will be no annual costs to provide solid waste collection service as City solid waste vehicles are already passing the area to be annexed. One time costs, involving $37.50 for the purchase of recycling bins, will also be needed to serve the area to be annexed. Solid waste collection and recycling collection service is currently provided in the city by City of Marion personnel and equipment and will also be provided to the area to be annexed by City of Marion personnel and equipment. These funds for this service will come from revenues collected in the area and budgeted in the City's General Fund.

The City will attempt to contact any solid waste firm servicing the annexation area as required, or which has stated its interest in contracting with the City. If required by the General Statutes, the City will offer to contract with the solid waste firms or will pay such firms for their monetary loss in compliance with the General Statutes.

The City will ensure that on the effective date of annexation solid waste collection service will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

YANCEY ROAD AREA

POLICE PROTECTION

The Marion Police Department presently provides police services for all areas of the City of Marion including preventative and directed patrol, criminal response and investigation, traffic enforcement and other services such as funeral escorts, alarm response, vacation home checks, and animals running at-large. The full-time force is composed of the Chief of Police, 24 other sworn officers, 4 telecommunication officers and 1 police aide/ordinance enforcement officers. At least 1 telecommunication officer and 4 sworn officers are on duty at all times. All telephone calls are automatically tape-recorded. The telecommunication officer has direct communications capability with all City police cars as well as the McDowell County Sheriff's Office, McDowell County Rescue Squad, North Carolina Highway Patrol dispatch, City of Marion Public Works, and all law enforcement agencies in "Region C." The department is connected to the North Carolina Division of Criminal Information (DCI), which provides the department access to motor vehicle, boat, and airplane registration information, driver's license information, stolen property and wanted or missing persons. Network access is also available to the National Crime Information Center (NCIC), Interpol and out of state and Canada motor vehicle information.

Response time to the proposed area of annexation is zero (0) to ten (10) minutes, if a patrol vehicle is readily available. Every effort will be made to patrol the streets in this area three (3) times each 24 hours.

There is no additional street mileage for the proposed annexation area, since the area is already on the patrol route. Therefore, the estimated additional expenses to provide police services to the proposed area of annexation would be $0.00 per year.

No additional personnel will be required to provide service to this area.

The total annual cost to provide police protection to this area is estimated to be $0.00.

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The City will ensure that on the effective date of annexation police protection will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

FIRE PROTECTION

The City of Marion is served by the fire department located at the intersection of West Court Street and Logan Street. The fire department is currently protecting an area ranging up to six miles from the station including the area to be annexed. Equipment from this station can respond to the area proposed for annexation in 1 to 4 minutes depending on traffic conditions. The route to this area is easily accessible to fire fighting equipment.

The fire department has two diesel-powered pumpers, one 1,000 GPM (gallons per minute) pumper and two 1,250 GPM pumpers. The department also has two diesel powered pumper/tankers that carry 1,000 gallons of water. The pump capacities of each truck are 1,250 GPM and 1,500 GPM, respectively. The department also has a four-wheel drive brush unit, an equipment van, a four wheel drive pickup truck and the Chief's car.

There are six paid firefighters and at least one is on duty at all times. The duty firefighter and 26 volunteers are dispatched by the 911 County Emergency Operations Center. All firefighters have pagers and many have portable hand held radios. The fire department also maintains a fire inspections department that handles fire safety inspections of businesses and industries in the city. The fire department is also involved in the field of fire education.

Because of the proximity of the area to be annexed to the station, and because the area is located within the Marion Area Fire District which is already being served by this department, no additional personnel or equipment will be needed. There will be no additional cost as this area is already included in the present operating budget.

The annexation area is located in the Marion Area Fire District. The amount of Service District Tax paid by McDowell County to the City will be reduced by approximately $119.46 per year due to the annexation of this area. No other county volunteer fire departments will be affected as a result of the annexation of this area.

There should be no change in property insurance rating when the area is annexed into the city. Since the area to be annexed is already served by existing city water lines and fire hydrants, property owners in the area to be annexed should already be receiving the insurance rating in effect for the city. However, because of the difference in policies of insurance companies, individual property owners should check with their insurance representative to determine what effect, if any, annexation will have on their insurance rates.

The City will ensure that on the effective date of annexation fire protection will be provided in the area annexed on substantially the same basis and in the same manner as provided by the Marion Fire Department in the rest of the City.

WATER AND SEWER SERVICE

Within the proposed annexation area, there are 4 customers currently on City water and sewer service. Once the area is annexed, the loss in revenues due to the reduction in water and sewer rates by 60 percent is estimated to be approximately $137.98 monthly or $1,655.76 annually.

Both water and sewer service is available to all properties located in the area proposed for annexation. No water or sewer improvements will be necessary.

The City will ensure that on the effective date of annexation water and sewer service will be provided in the area annexed on substantially the same basis as provided in the rest of the City. Water and sewer improvements will be completed in accordance with the time schedule in the General Statutes and provided within two (2) years of the effective date of the annexation.

Funds for water and sewer service will come from anticipated revenues in the area and be budgeted in the City's Water and Sewer Fund.

Exhibits C and D show the location of existing and proposed water and sewer lines.

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STREET MAINTENANCE

All of the streets in the area proposed for annexation are paved. All streets in the annexation area are maintained by the State of North Carolina. It is proposed that the State of North Carolina will continue maintenance on the public streets in the area.

The City will ensure that on the effective date of annexation street maintenance services will be provided in the area annexed on substantially the same basis as provided in the rest of the City.

STREETLIGHTS

To provide streetlights in the area proposed for annexation, the City will follow the current policy of a streetlight on every other pole in a residential or commercial area.

Exhibit E shows the location of the existing and proposed lights. Upon annexation, the City will work closely with Duke Energy to determine the best location for the lights.

The City will have approximately 1 streetlight installed in the area proposed for annexation. Duke Energy will install the streetlights. The City will be charged approximately $7.72 per month per streetlight.

The estimated cost for providing streetlights to the area proposed for annexation will be $92.64 annually.

The funds to provide streetlights in the annexation area will come from anticipated revenues in this area and be budgeted in the City's General Fund.

The City will ensure that on the effective date of annexation streetlights will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

SOLID WASTE COLLECTION AND RECYCLING

Present City policy provides for solid waste collection and recycling collection once a week at each residence in the city.

For residential collection, the City is currently using a solid waste packer unit and three pickup trucks. Each truck is equipped with a 4 cubic yard capacity for the collection of solid waste. The trucks are able to collect solid waste from approximately 20 residences before unloading into the packer unit. There are approximately 2,500 residential units within the current City Limits. Each truck will average collecting solid waste from approximately 200 residences in a six to seven hour period. There are 4 residential units in the area proposed for annexation. A curbside recycling truck will be used to provide recycling pickup at each residence once each week.

No additional employees or equipment will be required to provide solid waste collection service to this area. It is estimated that $100.00 will cover annual fuel cost. An additional $30.00 is estimated for vehicle maintenance for a total annual cost of $130.00 to provide solid waste and recyclable collections to the residential units. One time costs, involving $30.00 for the purchase of recycling bins, will also be needed to serve the area to be annexed. Solid waste collection and recycling collection service is currently provided in the city by City of Marion personnel and equipment and will also be provided to the area to be annexed by City of Marion personnel and equipment. These funds for this service will come from revenues collected in this area and budgeted in the City's General Fund.

The City will attempt to contact any solid waste firm servicing the annexation area as required, or which has stated its interest in contracting with the City. If required by the General Statutes, the City will offer to contract with the solid waste firms or will pay such firms for their monetary loss in compliance with the General Statutes.

The City will ensure that on the effective date of annexation solid waste collection service will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

VIRGINIA ROAD AREA

POLICE PROTECTION

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The Marion Police Department presently provides police services for all areas of the City of Marion including preventative and directed patrol, criminal response and investigation, traffic enforcement and other services such as funeral escorts, alarm response, vacation home checks, and animals running at-large. The full-time force is composed of the Chief of Police, 24 other sworn officers, 4 telecommunication officers and 1 police aide/ordinance enforcement officers. At least 1 telecommunication officer and 4 sworn officers are on duty at all times. All telephone calls are automatically tape-recorded. The telecommunication officer has direct communications capability with all City police cars as well as the McDowell County Sheriff's Office, McDowell County Rescue Squad, North Carolina Highway Patrol dispatch, City of Marion Public Works, and all law enforcement agencies in "Region C." The department is connected to the North Carolina Division of Criminal Information (DCI), which provides the department access to motor vehicle, boat, and airplane registration information, driver's license information, stolen property and wanted or missing persons. Network access is also available to the National Crime Information Center (NCIC), Interpol and out of state and Canada motor vehicle information.

Response time to the proposed area of annexation is zero (0) to ten (10) minutes, if a patrol vehicle is readily available. Every effort will be made to patrol the streets in this area three (3) times each 24 hours.

There is no additional street mileage for the proposed annexation area, since the area is already on the patrol route. Therefore, the estimated additional expenses to provide police services to the proposed area of annexation would be $0.00 per year.

No additional personnel will be required to provide service to this area.

The total annual cost to provide police protection to this area is estimated to be $0.00.

The City will ensure that on the effective date of annexation police protection will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

FIRE PROTECTION

The City of Marion is served by the fire department located at the intersection of West Court Street and Logan Street. The fire department is currently protecting an area ranging up to six miles from the station including the areas to be annexed. Equipment from this station can respond to the area proposed for annexation in 1 to 4 minutes depending on traffic conditions. The route to this area is easily accessible to fire fighting equipment.

The fire department has two diesel-powered pumpers, one 1,000 GPM (gallons per minute) pumper and two 1,250 GPM pumpers. The department also has two diesel powered pumper/tankers that carry 1,000 gallons of water. The pump capacities of each truck are 1,250 GPM and 1,500 GPM, respectively. The department also has a four-wheel drive brush unit, an equipment van, a four wheel drive pickup truck and the Chief's car.

There are six paid firefighters and at least one is on duty at all times. The duty firefighter and 26 volunteers are dispatched by the 911 County Emergency Operations Center. All firefighters have pagers and many have portable hand held radios. The fire department also maintains a fire inspections department that handles fire safety inspections of businesses and industries in the city. The fire department is also involved in the field of fire education.

Because of the proximity of the area to be annexed to the station, and because the area is located within the Marion Area Fire District which is already being served by this department, no additional personnel or equipment will be needed. There will be no additional cost as this area is already included in the present operating budget.

The annexation area is located in the Marion Area Fire District. The amount of Service District Tax paid by McDowell County to the City will be reduced by approximately $119.50 per year due to the annexation of this area. No other county volunteer fire departments will be affected as a result of the annexation of this area.

There should be no change in property insurance rating when the area is annexed into the city. Since the area to be annexed is already served by existing city water lines and fire hydrants, property owners in the area to be annexed should already be receiving the insurance rating in effect for the city. However, because of the difference in policies of insurance companies, individual property owners should check

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with their insurance representative to determine what effect, it any, annexation will have on their insurance rates.

The City will ensure that on the effective date of annexation fire protection will be provided in the area annexed on substantially the same basis and in the same manner as provided by the Marion Fire Department in the rest of the City.

WATER AND SEWER SERVICE

Within the proposed annexation area, there are 4 customers currently on City water and sewer service. Once the area is annexed, the loss in revenues due to water and sewer rates being decreased by 60 percent is estimated to be approximately $1,179.60 annually

Both water and sewer service is available to all properties located in the area proposed for annexation. No water or sewer improvements will be necessary.

The City will ensure that on the effective date of annexation water and sewer service will be provided in the area annexed on substantially the same basis as provided in the rest of the City. Water and sewer improvements will be completed in accordance with the time schedule in the General Statutes and provided within two (2) years of the effective date of the annexation.

Funds for water and sewer service will come from anticipated revenues in the area and be budgeted in the City's Water and Sewer Fund.

Exhibits C and D show the location of existing and proposed water and sewer lines.

STREET MAINTENANCE

All of the streets in the area proposed for annexation are paved. All streets in the annexation area are already maintained by the City.

The City will ensure that on the effective date of annexation street maintenance service will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

STREETLIGHTS

To provide streetlights in the area proposed for annexation, the City will follow the current policy of a streetlight on every other pole in a residential or commercial area.

Exhibit E shows the location of the existing poles and proposed lights. Upon annexation, the City will work closely with Duke Energy to determine the best location for the lights.

The City will have approximately 1 streetlight installed in the area proposed for annexation. Duke Energy will install the streetlights. The City will be charged approximately $7.72 per month per streetlight.

The estimated cost for providing streetlights to the area proposed for annexation will be $92.64 annually.

The funds to provide streetlights in the annexation area will come from anticipated revenues in this area and be budgeted in the City's General Fund.
The City will ensure that on the effective date of annexation streetlights will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

SOLID WASTE COLLECTION AND RECYCLING

Present City policy provides for solid waste collection and recycling collection once a week at each residence in the city.

For residential collection, the City is currently using a solid waste packer unit and three pickup trucks. Each truck is equipped with a 4 cubic yard capacity for the collection of solid waste. The trucks are able to collect solid waste from approximately 20 residences before unloading into the packer unit. There are approximately 2,500 residential units within the current City Limits. Each truck will average collecting solid waste from approximately 200 residences in a six to seven hour period. There are 6 residential units

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in the area proposed for annexation. A curbside recycling truck will be used to provide recycling pickup at each residence once each week.

No additional employees or equipment will be required to provide solid waste collection service to this area. It is estimated that there will be no annual costs to provide solid waste collection service as City solid waste vehicles are already passing the area to be annexed. One time costs, involving $45.00 for the purchase of recycling bins, will also be needed to serve the area to be annexed. Solid waste collection and recycling collection service is currently provided in the city by City of Marion personnel and equipment and will also be provided to the area to be annexed by City of Marion personnel and equipment. These funds for this service will come from revenues collected in this area and budgeted in the City's General Fund.

The City will attempt to contact any solid waste firm servicing the annexation area as required, or which has stated its interest in contracting with the City. If required by the General Statutes, the City will offer to contract with the solid waste firms or will pay such firms for their monetary loss in compliance with the General Statutes.

The City will ensure that on the effective date of annexation solid waste collection service will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

SECTION V

ESTIMATED REVENUES

EASTFIELD PHASE IV AREA

PROPERTY TAXES

Based on tax listings at the beginning of January 2009, it is estimated that the proposed annexation will bring in the following tax revenues based on the current City tax rate of $.51 per $100.00 of property value.

Current Taxable Value	$138,750.00
Estimated Property Taxes	707.63

WATER AND SEWER REVENUES

Almost all structures in the area to be annexed are already connected to City water and sewer. The annexation of this area will result in water and sewer rates being reduced by 60 percent, resulting in a savings for residents and property owners and a revenue loss for the City of an estimated $2,097.96 per year.

OTHER REVENUES

Because of changes in distribution formulas from year to year estimates on the following revenues may fluctuate. These estimates are based on formulas and information received from the North Carolina Department of Commerce (Division of Community Assistance), North Carolina Department of Transportation, North Carolina Department of Revenue, Isothermal Planning and Development Commission, North Carolina Office of Budget and Management and Duke Energy.

Local Sales Tax	$289.84
Powell Bill Revenue	150.72
Utility Franchise Tax	36.00
Beer and Wine Tax	27.66

POPULATION INCREASE

The City's current population is based on the 2000 Census and annual population certifications from the State of North Carolina. Annexation of this area and other proposed annexations to take effect on June 30, 2009 will increase the population by approximately 160 people for a population of 7,462.

EASTFIELD PHASE V AREA

PROPERTY TAXES

Based on tax listings at the beginning of January 2009, it is estimated that the proposed annexation will bring in the following tax revenues based on the current City tax rate of $.51 per $100.00 of property value.

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Current Taxable Value	$1,390,300.00
Estimated Property Taxes	7,090.53

WATER AND SEWER REVENUES

Some structures in the area to be annexed are already connected to City water and sewer. The annexation of this area will result in water and sewer rates being reduced by 60 percent, resulting in a savings for residents and property owners and a revenue loss for the City of an estimated $7,662.00 per year.

OTHER REVENUES

Because of changes in distribution formulas from year to year estimates on the following revenues may fluctuate. These estimates are based on formulas and information received from the North Carolina Department of Commerce (Division of Community Assistance), North Carolina Department of Transportation, North Carolina Department of Revenue, Isothermal Planning and Development Commission, North Carolina Office of Budget and Management and Duke Energy.

Local Sales Tax	$2,600.66
Powell Bill Revenue	2,210.56
Utility Franchise Tax	1,440.00
Beer and Wine Tax	405.68

POPULATION INCREASE

The City's current population is based on the 2000 Census and annual population certifications from the State of North Carolina. Annexation of this area and other proposed annexations to take effect on June 30, 2009 will increase the population by approximately 160 people for a population of 7,462.

HIGHWAY 226 SOUTH/ITL AREA

PROPERTY TAXES

Based on tax listings at the beginning of January 2009, it is estimated that the proposed annexation will bring in the following tax revenues based on the current City tax rate of $.51 per $100.00 of property value.

Current Taxable Value	$2,164,920.00
Estimated Property Taxes	11,041.09

WATER AND SEWER REVENUES

Almost all structures in the area to be annexed are already connected to City water and sewer. The annexation of this area will result in water and sewer rates being reduced by 60 percent, resulting in a savings for residents and property owners and a revenue loss for the City of an estimated $11,495.28 per year.

OTHER REVENUES

Because of changes in distribution formulas from year to year estimates on the following revenues may fluctuate. These estimates are based on formulas and information received from the North Carolina Department of Commerce (Division of Community Assistance), North Carolina Department of Transportation, North Carolina Department of Revenue, Isothermal Planning and Development Commission, North Carolina Office of Budget and Management and Duke Energy.

Local Sales Tax	$4,218.35
Powell Bill Revenue	0.00
Utility Franchise Tax	180.00
Beer and Wine Tax	0.00

POPULATION INCREASE

The City's current population is based on the 2000 Census and annual population certifications from the State of North Carolina. Annexation of this area and other proposed annexations to take effect on June 30, 2009 will increase the population by approximately 160 people for a population of 7,462.

AA.000000183 (24)

HIGHWAY 221 NORTH/HANKINS ROAD AREA

PROPERTY TAXES

Based on tax listings at the beginning of January 2009, it is estimated that the proposed annexation will bring in the following tax revenues based on the current City tax rate of $.51 per $100.00 of property value.

Current Taxable Value	$572,300.00
Estimated Property Taxes	2,918.73

WATER AND SEWER REVENUES

No structures in the area to be annexed are already connected to City water and sewer, which has just been extended to the area. If structures were connected to City water and sewer, the annexation of this area would result in water and sewer rates being reduced by 60 percent, resulting in a savings for residents and property owners. However, since no structures are currently connected to City water and sewer, the revenue loss for the City will be $0.00 per year.

OTHER REVENUES

Because of changes in distribution formulas from year to year estimates on the following revenues may fluctuate. These estimates are based on formulas and information received from the North Carolina Department of Commerce (Division of Community Assistance), North Carolina Department of Transportation, North Carolina Department of Revenue, Isothermal Planning and Development Commission, North Carolina Office of Budget and Management and Duke Energy.

Local Sales Tax	$1,115.13
Powell Bill Revenue	602.88
Utility Franchise Tax	504.00
Beer and Wine Tax	110.64

POPULATION INCREASE

The City's current population is based on the 2000 Census and annual population certifications from the State of North Carolina. Annexation of this area and other proposed annexations to take effect on June 30, 2009 will increase the population by approximately 160 people for a population of 7,462.

AIRPORT ROAD AREA

PROPERTY TAXES

Based on tax listings at the beginning of January 2009, it is estimated that the proposed annexation will bring in the following tax revenues based on the current City tax rate of $.51 per $100.00 of property value.

Current Taxable Value	$288,290.00
Estimated Property Taxes	1,470.28

WATER AND SEWER REVENUES

Almost all structures in the area to be annexed are already connected to City water and sewer. The annexation of this area will result in water and sewer rates being reduced by 60 percent, resulting in a savings for residents and property owners and a revenue loss for the City of an estimated $1,481.40 per year.

OTHER REVENUES

Because of changes in distribution formulas from year to year estimates on the following revenues may fluctuate. These estimates are based on formulas and information received from the North Carolina Department of Commerce (Division of Community Assistance), North Carolina Department of Transportation, North Carolina Department of Revenue, Isothermal Planning and Development Commission, North Carolina Office of Budget and Management and Duke Energy.

Local Sales Tax	$328.61
Powell Bill Revenue	226.08
Utility Franchise Tax	144.00

AA.00000184 (24)

Beer and Wine Tax	41.40

POPULATION INCREASE

The City's current population is based on the 2000 Census and annual population certifications from the State of North Carolina. Annexation of this area and other proposed annexations to take effect on June 30, 2009 will increase the population by approximately 160 people for a population of 7,462.

HIGHWAY 226 SOUTH AREA

PROPERTY TAXES

Based on tax listings at the beginning of January 2009, it is estimated that the proposed annexation will bring in the following tax revenues based on the current City tax rate of $.51 per $100.00 of property value.

Current Taxable Value	$413,370.00
Estimated Property Taxes	2,108.19

WATER AND SEWER REVENUES

Some structures in the area to be annexed are already connected to City water. The annexation of this area will result in water rates being reduced by 60 percent, resulting in a savings for residents and property owners and a revenue loss for the City of an estimated $743.16 per year.

OTHER REVENUES

Because of changes in distribution formulas from year to year estimates on the following revenues may fluctuate. These estimates are based on formulas and information received from the North Carolina Department of Commerce (Division of Community Assistance), North Carolina Department of Transportation, North Carolina Department of Revenue, Isothermal Planning and Development Commission, North Carolina Office of Budget and Management and Duke Energy.

Local Sales Tax	$805.45
Powell Bill Revenue	276.32
Utility Franchise Tax	252.00
Beer and Wine Tax	50.71

POPULATION INCREASE

The City's current population is based on the 2000 Census and annual population certifications from the State of North Carolina. Annexation of this area and other proposed annexations to take effect on June 30, 2009 will increase the population by approximately 160 people for a population of 7,462.

YANCEY ROAD AREA

PROPERTY TAXES

Based on tax listings at the beginning of January 2009, it is estimated that the proposed annexation will bring in the following tax revenues based on the current City tax rate of $.51 per $100.00 of property value.

Current Taxable Value	$298,640.00
Estimated Property Taxes	1,523.06

WATER AND SEWER REVENUES

Almost all structures in the area to be annexed are already connected to City water and sewer. The annexation of this area will result in water and sewer rates being reduced by 60 percent, resulting in a savings for residents and property owners and a revenue loss for the City of an estimated $1,655.76 per year.

OTHER REVENUES

Because of changes in distribution formulas from year to year estimates on the following revenues may fluctuate. These estimates are based on formulas and information received from the North Carolina Department of Commerce (Division of Community Assistance), North Carolina Department of Transportation, North Carolina

AA.00000185 (24)

Department of Revenue, Isothermal Planning and Development Commission, North Carolina Office of Budget and Management and Duke Energy.

Local Sales Tax	$544.22
Powell Bill Revenue	226.08
Utility Franchise Tax	144.00
Beer and Wine Tax	41.49

POPULATION INCREASE

The City's current population is based on the 2000 Census and annual population certifications from the State of North Carolina. Annexation of this area and other proposed annexations to take effect on June 30, 2009 will increase the population by approximately 160 people for a population of 7,462.

VIRGINIA ROAD AREA

PROPERTY TAXES

Based on tax listings at the beginning of January 2009, it is estimated that the proposed annexation will bring in the following tax revenues based on the current City tax rate of $.51 per $100.00 of property value.

Current Taxable Value	$298,760.00
Estimated Property Taxes	1,523.68

WATER AND SEWER REVENUES

Some structures in the area to be annexed are already connected to City water and sewer. The annexation of this area will result in water and sewer rates being reduced by 60 percent, resulting in a savings for residents and property owners and a revenue loss for the City of an estimated $1,179.60 per year.

OTHER REVENUES

Because of changes in distribution formulas from year to year estimates on the following revenues may fluctuate. These estimates are based on formulas and information received from the North Carolina Department of Commerce (Division of Community Assistance), North Carolina Department of Transportation, North Carolina Department of Revenue, Isothermal Planning and Development Commission, North Carolina Office of Budget and Management and Duke Energy.

Local Sales Tax	$412.95
Powell Bill Revenue	326.56
Utility Franchise Tax	216.00
Beer and Wine Tax	59.93

POPULATION INCREASE

The City's current population is based on the 2000 Census and annual population certifications from the State of North Carolina. Annexation of this area and other proposed annexations to take effect on June 30, 2009 will increase the population by approximately 160 people for a population of 7,462.

SECTION VI

REVENUES AND COST ESTIMATES

EASTFIELD PHASE IV AREA

ESTIMATED ANNUAL REVENUES

Property Tax	$ 707.63
Local Sales Tax	289.84
Powell Bill	150.72
Utility Franchise Tax	36.00
Beer and Wine Tax	27.66
Total Estimated Annual Revenues	$1,211.85

AA.0000000186 (24)

ESTIMATED ANNUAL EXPENDITURES	
Police Department	$ 0.00
Fire Department	0.00
Street Department	0.00
Streetlights	0.00
Solid Waste/Recycling	0.00
Total Estimated Annual Expenditures	$ 0.00
ESTIMATED LOSS IN REVENUE	
Fire Service District Tax	$ 55.50
Water and Sewer Revenues	2,097.96
Total Estimated Revenue Loss	$ 2,153.46
ESTIMATED ONE-TIME EXPENDITURES	
Recycling Containers	$ 22.50
Total One-Time Expenditures	$ 22.50

EASTFIELD PHASE V AREA

ESTIMATED ANNUAL REVENUES	
Property Tax	$ 7,090.53
Local Sales Tax	2,600.66
Powell Bill	2,210.56
Utility Franchise Tax	1,440.00
Beer and Wine Tax	405.68
Total Estimated Annual Revenues	$13,747.43
ESTIMATED ANNUAL EXPENDITURES	
Police Department	$ 124.65
Fire Department	0.00
Street Department	0.00
Streetlights	370.56
Solid Waste/Recycling	1,300.00
Total Estimated Annual Expenditures	$ 1,795.21
ESTIMATED LOSS IN REVENUE	
Fire Service District Tax	$ 556.12
Water and Sewer Revenues	7,662.00
Total Estimated Revenue Loss	$ 8,218.12
ESTIMATED ONE-TIME EXPENDITURES	
Water Extension	$16,039.00
Recycling Containers	300.00
Total One-Time Expenditures	$16,339.00

HIGHWAY 226 SOUTH/ITL AREA

ESTIMATED ANNUAL REVENUES	
Property Tax	$11,041.09
Local Sales Tax	4,218.35
Powell Bill	0.00
Utility Franchise Tax	180.00
Beer and Wine Tax	0.00
Total Estimated Annual Revenues	$15,439.44

AA.000000187 (24)

ESTIMATED ANNUAL EXPENDITURES	
Police Department	$ 0.00
Fire Department	0.00
Street Department	0.00
Streetlights	0.00
Solid Waste/Recycling	0.00
Total Estimated Annual Expenditures	$ 0.00
ESTIMATED LOSS IN REVENUE	
Fire Service District Tax	$ 865.97
Water and Sewer Revenues	11,495.28
Total Estimated Revenue Loss	$12,361.25
ESTIMATED ONE-TIME EXPENDITURES	
Total One-Time Expenditures	$ 0.00
HIGHWAY 221 NORTH/HANKINS ROAD AREA	
ESTIMATED ANNUAL REVENUES	
Property Tax	$2,918.73
Local Sales Tax	1,115.13
Powell Bill	602.88
Utility Franchise Tax	504.00
Beer and Wine Tax	110.64
Total Estimated Annual Revenues	$8,170.11
ESTIMATED ANNUAL EXPENDITURES	
Police Department	$ 37.70
Fire Department	0.00
Street Department	0.00
Streetlights	185.28
Solid Waste/Recycling	412.50
Total Estimated Annual Expenditures	$ 635.48
ESTIMATED LOSS IN REVENUE	
Fire Service District Tax	$ 228.92
Water and Sewer Revenues	0.00
Total Estimated Revenue Loss	$ 228.92
ESTIMATED ONE-TIME EXPENDITURES	
Police Department	$ 0.00
Recycling Containers	82.50
Total One-Time Expenditures	$ 82.50
AIRPORT ROAD AREA	
ESTIMATED ANNUAL REVENUES	
Property Tax	$1,470.28
Local Sales Tax	328.61
Powell Bill	226.08
Utility Franchise Tax	144.00
Beer and Wine Tax	41.40
Total Estimated Annual Revenues	$2,210.37

AA.00000188 (24)

ESTIMATED ANNUAL EXPENDITURES	
Police Department	$ 0.00
Fire Department	0.00
Street Department	0.00
Streetlights	0.00
Solid Waste/Recycling	0.00
Total Estimated Annual Expenditures	$ 0.00
ESTIMATED LOSS IN REVENUE	
Fire Service District Tax	$ 115.32
Water and Sewer Revenues	1,481.40
Total Estimated Revenue Loss	$1,596.72
ESTIMATED ONE-TIME EXPENDITURES	
Recycling Containers	30.00
Total One-Time Expenditures	$ 30.00

HIGHWAY 226 SOUTH AREA

ESTIMATED ANNUAL REVENUES	
Property Tax	$2,108.19
Local Sales Tax	805.45
Powell Bill	276.32
Utility Franchise Tax	252.00
Beer and Wine Tax	50.71
Total Estimated Annual Revenues	$ 3,492.67
ESTIMATED ANNUAL EXPENDITURES	
Police Department	$ 0.00
Fire Department	0.00
Street Department	0.00
Streetlights	0.00
Solid Waste/Recycling	0.00
Total Estimated Annual Expenditures	$ 0.00
ESTIMATED LOSS IN REVENUE	
Fire Service District Tax	$ 165.35
Water and Sewer Revenues	743.16
Total Estimated Revenue Loss	$ 908.51
ESTIMATED ONE-TIME EXPENDITURES	
Sewer Extension	$28,080.00
Recycling Containers	$ 37.50
Total One-Time Expenditures	$28,117.50

YANCEY ROAD AREA

ESTIMATED ANNUAL REVENUES	
Property Tax	$ 1,523.06
Local Sales Tax	544.22
Powell Bill	226.08
Utility Franchise Tax	144.00
Beer and Wine Tax	41.49
Total Estimated Annual Revenues	$2,478.85

AA.00000189 (24)

ESTIMATED ANNUAL EXPENDITURES	
Police Department	$ 0.00
Fire Department	0.00
Street Department	0.00
Streetlights	92.64
Solid Waste/Recycling	130.00
Total Estimated Annual Expenditures	$ 222.64
ESTIMATED LOSS IN REVENUE	
Fire Service District Tax	$ 119.46
Water and Sewer Revenues	1,655.76
Total Estimated Revenue Loss	$ 1,775.22
ESTIMATED ONE-TIME EXPENDITURES	
Recycling Containers	30.00
Total One-Time Expenditures	$ 30.00

VIRGINIA ROAD AREA

ESTIMATED ANNUAL REVENUES	
Property Tax	$1,523.68
Local Sales Tax	412.95
Powell Bill	326.56
Utility Franchise Tax	216.00
Beer and Wine Tax	59.93
Total Estimated Annual Revenues	$2,539.12
ESTIMATED ANNUAL EXPENDITURES	
Police Department	$ 0.00
Fire Department	0.00
Street Department	0.00
Streetlights	92.64
Solid Waste/Recycling	0.00
Total Estimated Annual Expenditures	$ 92.64
ESTIMATED LOSS IN REVENUE	
Fire Service District Tax	$ 119.50
Water and Sewer Revenues	1,179.60
Total Estimated Revenue Loss	$ 1,299.10
ESTIMATED ONE-TIME EXPENDITURES	
Recycling Containers	$ 45.00
Total One-Time Expenditures	$ 45.00

The Annexation Report and Plan of Services contained various exhibits and maps, which are on file at City Hall.

E. Receive Certificate of Sufficiency – Sugar Hill Road/Gillani Satellite Annexation Request

CERTIFICATE OF SUFFICIENCY – GILLANI/SUGAR HILL ROAD SATELLITE ANNEXATION

To the City Council of the City of Marion:

AA.000000190 (24)

I, J. Robert Boyette, City Clerk, do hereby certify that I have 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-58.1.

In witness whereof, I have hereunto set my hand and affixed the seal of the City of Marion this the 2nd day of January, 2009.

(Seal)

J. Robert Boyette, City Clerk

F. Receive Certificate of Sufficiency – US 221 South/Dollar Satellite Annexation Request

CERTIFICATE OF SUFFICIENCY – DOLLAR/US 221 SOUTH SATELLITE ANNEXATION

To the City Council of the City of Marion:

I, J. Robert Boyette, City Clerk, do hereby certify that I have 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-58.1.

In witness whereof, I have hereunto set my hand and affixed the seal of the City of Marion this the 2nd day of January, 2009.

(Seal)

J. Robert Boyette, City Clerk

G. Receive Certificate of Sufficiency – Marion Street/White Property Annexation Request

CERTIFICATE OF SUFFICIENCY – MARION STREET – WHITE PROPERTY ANNEXATION

To the City Council of the City of Marion:

I, J. Robert Boyette, City Clerk, do hereby certify that I have 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-58.1.

In witness whereof, I have hereunto set my hand and affixed the seal of the City of Marion this the 2nd day of January, 2009.

(Seal)

J. Robert Boyette, City Clerk

H. Approve Resolution Fixing the Date of Public Hearing on the Question o Annexation – Sugar Hill Road/Gillani Satellite Annexation Request

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-58.1 – GILLANI-SUGAR HILL ROAD – 2009

AA.00000191 (24)

WHEREAS, a petition requesting annexation of the non-contiguous 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 non-contiguous area described herein will be held at City Hall at 7:00 P.M. on Tuesday, February 17, 2009.

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

BEGINNING on a tack in a lead plug that is located South 11 degrees 03 minutes 27 seconds West 14.44 feet from NCGS Government Monument, Station "DELI" (Y = 704,847.773 and X = 1,1,098,987.008) said beginning being a common corner with the property of Richard Allen Gurley (McDowell Deed Book 329 at Page 258) and FROM SAID BEGINNING running with the Gurley line the following two courses and distances: South 74 degrees 20 minutes 24 seconds East 110.31 feet to an iron pin set, and North 81 degrees 24 minutes 36 seconds East 135.30 feet to an existing iron pin that is located South 81 degrees 43 minutes 28 seconds East 35.99 feet from an existing iron pin that marks the tenth corner of the property described in McDowell Deed book 244 at Page 644; then running with the line of Grandview Corporation (Grandview Trailer Park, McDowell Deed Book 244 Page 644) South 27 degrees 57 minutes 14 seconds West 226.72 feet to an existing iron pin that marks the third corner of Tract 2 of the property described in McDowell Deed Book 309 at Page 321, said existing iron pin being in the line of B & J Technical Services, Inc. (McDowell Deed Book 313 at page 340); then with the line of B & J Technical Services, Inc. North 80 degrees 56 minutes 19 seconds West 226.86 feet to an existing iron pin on the Eastern right-of-way for Sugar Hill Road (NCSR 1001); then with the Eastern margin of the right-of-way for Sugar Hill Road the following three courses and distances; North 29 degrees 32 minutes 59 seconds east 53.15 feet to a nail and ribbon in concrete (said nail marking the beginning corner of Tract 1 of the property described in McDowell Deed Book 309 at Page 321 and also marking the beginning corner of Tract 2 of the property described in McDowell Deed Book 309 at Page 321, then continuing North 27 degrees 54 minutes 36 seconds East 76.03 feet to a punch mark in concrete (the second corner of Tract 1 of the property described in McDowell Deed Book 309 Page 321), then continuing North 25 degrees 09 minutes 36 seconds East 67.05 feet to the BEGINNING, containing approximately 0.97 acres according to a survey by R.L. Greene Surveying and Mapping dated October 18, 1988.

AND BEING THE SAME PROPERTY identified and described as Tract 1 and Tract 2 in the Deed recorded in McDowell Deed Book 309, Page 321, and being also the same two tracts of property in Marion Township contained in the Deed dated 19 January 1987 from Jeffrey M. Ledbetter and wife Ann Ledbetter to William R. Ledbetter and wife Wanda R. Ledbetter as recorded in McDowell Deed Book 364 at Page 538.

This conveyance is made SUBJECT TO a perpetual easement for ingress, egress and regress and for utilities service along the existing drive way as the same is now laid out and in use from Sugar Hill Road (SR 1001) to the trailer park owned by Grandview Park, Inc. as described in McDowell Deed Book 244 at Page 644.

Section 3. Notice of the public hearing shall be published once 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 the 20th day of January, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-09-01-20-1

I. Approve Resolution Fixing the Date of Public Hearing on the Question of Annexation – US 221 South/Dollar Satellite Annexation Request

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-58.1 – DOLLAR-US 221 SOUTH – 2009

WHEREAS, a petition requesting annexation of the non-contiguous 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 non-contiguous area described herein will be held at City Hall at 7:00 P.M. on Tuesday, February 17, 2009.

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

TRACT 1: BEGINNING on an iron spike, said iron spike being in the centerline of U.S. Highway # 221, said spike being a common corner with Jack Harvey (now or formerly); thence with the centerline of U.S. Highway # 221 North 04 degrees 55 minutes East 140 feet to an iron; thence South 85 degrees 05 minutes East 80 feet to an iron, said iron being in the line of BCM Partnership; thence North 04 degrees 55 minutes East 67.20 feet to an iron; thence South 85 degrees 05 minutes East 155.39 feet to an iron; thence South 04 degrees 55 minutes West 85 feet to an iron, passing an iron at 80 feet; thence South 85 degrees 05 minutes East 130 feet to an iron; thence South 04 degrees 55 minutes West 115 feet to an iron, said iron being in the line of BCM Partnership and in the line of Harvey; thence with the Harvey line North 86 degrees 12 minutes 45 seconds West 265.46 feet to the point and place of BEGINNING, containing 1.331 acres, more or less. This metes and bounds description is taken from a survey prepared by Herman D. Bolick, dated September 22, 1988.

Together with the right and privilege to tap onto, utilize and use the water and sewer facilities located upon this adjoining property of the Grantor, commonly known as the Econo Lodge of Marion, the Grantee to bear any and all expense for construction or maintenance of any lines necessary for the Grantee to utilize the water and sewer facilities located on the adjoining property of the Grantor. The use of the water and sewer facilities by Grantor shall not exceed the normal amount of water and sewer use by a convenience store and a car wash using recyclable water.

TRACT II: BEGINNING on an iron, said iron being located in the line of James C. Childers and said beginning point being located South 85 degrees 05 minutes East 130 feet from an iron in the line of James C. Childers; thence from said beginning point North 80 degrees 25 minutes 45 seconds East 151.13 feet to an iron; thence North 09 degrees 30 minutes West 7.38 feet to an iron; thence North 80 degrees 30 minutes East 25 feet to an iron; thence South 09 degrees 30 minutes East 25 feet to an iron; thence South 80 degrees 30 minutes West 25 feet to an iron; thence North 09 degrees 30 minutes West 7.30 feet to an iron; thence 80 degrees 33 minutes 06 seconds West 153.68 feet to an iron; thence North 04 degrees 55 minutes East 10.24 feet to the point and place of BEGINNING, containing .05 acres, more or less. This metes and bounds description is taken from a survey prepared by Herman D. Bolick, dated September 22, 1988.

Section 3. Notice of the public hearing shall be published once 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.

AA.00000193 (24)

Adopted this the 20th day of January, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-09-01-20-2

J. Approve Resolution Fixing the Date of Public Hearing on the Question of Annexation – Marion Street/White Property Annexation Request

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-58.1 – MARION STREET – WHITE PROPERTY – 2009

WHEREAS, a petition requesting annexation of the non-contiguous 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 non-contiguous area described herein will be held at City Hall at 7:00 P.M. on Tuesday, February 17, 2009.

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

ALL OF LOT NUMBER 30 and a part of lot number 31 in Block (E) of the M. B. Poteat property as shown on a map recorded in Map Book 1 pages 77 and 78 in the office of the register of deeds for McDowell County, N.C. to which map reference is here made for a more complete description of the lots hereby conveyed. Said part of lot number 31 is a 16 foot strip of the North end of lot number 31 and more specifically described as follows:

BEGINNING on the southeast corner of lot number 30 and the northeast corner of lot number 31 (above referred to) and runs thence in a southerly direction 16 feet along the west edge of Marion Street; thence in a westerly direction parallel with a common line of lots 30 and 31 to a point in the western boundary line of lot number 31; thence in a northerly direction 16 feet to the southwest corner of lot number 30 and 31 in a easterly direction to the BEGINNING.

Section 3. Notice of the public hearing shall be published once 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 the 20th day of January, 2009.

A. Everette Clark, Mayor

ATTEST:

AA_000000194 (24)

J. Robert Boyette, City Clerk

Resolution Number: R-09-01-20-3

K. Approve Annual Certification of Firemen

2008
ANNUAL CERTIFICATION OF FIREMEN

North Carolina General Statute 58-86-25 requires that all certified fire departments submit a complete roster of its eligible firemen annually. This certified list determines eligibility for the $50,000 line of duty death benefit as well as eligibility for pension fund credit. Failure to accurately and promptly report this information is a violation of G.S. 58-86-25 and will automatically result in a loss or reduction of benefits.

Fire Chief Jim Neal determined that the roster is a valid and accurate list of all eligible firemen, within the definition contained in the above Statute. A copy of the roster can be found on file at the Marion Fire Department.

L. Approve Resolution Authorizing Posting of Notices on Parcels Where Owners Cannot be Identified by Tax Records

A RESOLUTION DIRECTING THE CITY CLERK TO POST NOTICE ON PARCELS WHERE OWNERS COULD NOT BE IDENTIFIED BY TAX RECORDS

WHEREAS, It is the intent of the City Council of the City of Marion to consider the annexation of territory pursuant to Chapter 160A, Article 4A, Part 3 of the General Statutes of North Carolina; and

WHEREAS, The City shall provide notice of public meetings pursuant to procedural requirements as stated in Chapter 160A-37 of the General Statutes of North Carolina; and

WHEREAS, The City Council finds that certain tax records are not adequate to identify owners of parcels of real property within the annexation territory; and

WHEREAS, The City Council directs the City Clerk to post notice at least thirty (30) days prior to the date of the public information meetings on all buildings on such parcels, and in at least five (5) other places within the area to be annexed; and

WHEREAS, The City Clerk shall certify that fact to the City Council pursuant to the procedural requirements of Chapter 160A-37 of the General Statutes of North Carolina.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL, AS FOLLOWS:

Section 1. The above recitals are true and correct and incorporated herein by this reference.

Section 2. The City Clerk shall post notice at least thirty (30) days prior to the date of the public information meeting on all buildings on such parcels in which ownership could not be adequately identified by the tax records and in at least five (5) places within the area to be annexed.

Section 3. The City Clerk shall certify to the City Council that such parcels have been duly noticed.

Section 4. This Resolution shall become effective immediately upon its adoption.

ADOPTED the 20th day of January, 2009.

A. Everette Clark, Mayor

ATTESTED:

AA-000000195 (24)

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-09-01-20-4

INTRODUCTION OF NEW EMPLOYEE: Police Chief Mika Elliott introduced his newest Officer Lisa Morgan. Officer Morgan grew up in Glenwood and has worked for several years with North Carolina Probation and Parole. She will soon have her Masters Degree.

Mayor Clark and Council Members welcomed Officer Morgan and wished her a long tenure with the City of Marion.

PUBLIC HEARING – ZONING MAP AMENDMENT – CRAWFORD TERRACE: Mayor Clark opened the Public Hearing.

Councilman Lloyd Cuthbertson asked that he be excused from discussion and vote on this item due to being related to the applicant, Eugene Holland.

Upon a motion by Councilman Owenby, seconded by Councilman Martin, Council voted to excuse Councilman Cuthbertson from the discussion and vote on this item.

The City Manager stated that a protest petition had been received from property owners on Crawford Terrace adjoining the property requested for rezoning. The protest petition triggers a supermajority vote of three-quarter of Council members to approve the request. The City Manager noted that Councilman Cuthbertson is not considered a member of Council for purposes of this matter, due to being excused from the vote. However, due to Mayor Pro Tem Little's absence, a unanimous vote of the three Council members able to vote on the item will be necessary to pass this request.

Planning and Development Director Heather Cotton advised that a request had been received from Mr. Eugene Holland, owner of Marion Tire, to rezone two lots he recently purchased on Crawford Terrace behind his business from R-2 General Residential to C-2 General Business. Ms. Cotton noted that staff had recommended approval of the request, but the Planning Board had unanimously recommended denial of the request, due to concerns expressed by adjacent property owners about traffic and noise concerns.

Councilman Owenby stated that it is worth noting that the City of Marion Land Use Plan designated Crawford Terrace as future commercial property, so the request is consistent with the Land Use Plan.

Ms. Penny Davis of 43 Crawford Terrace stated that her mother's home adjacent to the property proposed for rezoning was built over 50 years ago, along with other homes on the street. She noted that a total of three homes will be impacted by the rezoning. Ms. Davis stated that Crawford Terrace had been a one lane, dead-end street for all these years, until recently when Mr. Holland opened up the street to through traffic. Ms. Davis said that cars are parked on the property in questions and tires are all around the property. She said that she and the other adjoining property owners feel they deserve to keep Crawford Terrace as a residential area and a dead end street. She added that Mr. Holland's purchase of the property and opening of the street has brought a lot more traffic on to the street. Ms. Davis said the desire of neighbors is to look out their doors to pleasant scenery, not commercial. Ms. Davis stated that she is fearful and so are the neighbors that if this lot is rezoned, later on something else could go on with this property that could be potentially worse that what is presently being proposed.

AA.000000196 (24)

Ms. Davis stated that the neighbors realize that their properties are behind Westmoreland Funeral Home; however, this request has created problems with tow trucks and flatbed trucks and much more through traffic than is experienced with the funeral home.

Ms. Sara Wilson of 59 Crawford Terrace stated that a wall has been torn down near her property, that Mr. Holland is already parking vehicles near her property and that trash is blowing around the property.

Mr. Tom Rector of 40 Crawford Terrace said that he supported the comments made by Ms. Davis and Ms. Wilson.

The applicant, Mr. Eugene Holland, appeared before Council and stated that he wants to remain friends with all three of the property owners adjacent to his property. Mr. Holland stated that the street was opened up by the City at his request. The City Manager confirmed that Mr. Holland had followed proper procedures in having the street opened.

Mr. Holland stated that his plan was to purchase the property and extend his business, which has been in operation for several decades. He noted that the City needs jobs and tax revenues provided by businesses like Marion Tire. Mr. Holland also stated that a lot of the traffic at night is often he and/or his employees driving through and checking on the business. He added that presently there are 53cars parked on the lot and at any given time there are between 50 and 80 cars. Mr. Holland stated that he wants to be a good neighbor and intends to do so.

Councilman Edwards asked if Mr. Holland could give an idea what his plans for renovations will look like.

Mr. Holland stated that his plans are to build on to the existing building; however there is a City sewer line in the way. If the sewer lines end up being an issue, his other option will be to tear the house down and build a building on the lot he recently purchased on Crawford Terrace. Mr. Holland added that this house is currently being used as rental property.

The City Manager asked Ms. Cotton to explain what steps Mr. Holland will have to take to comply with the City's appearance regulations for auto related businesses. Ms. Cotton described steps Mr. Holland will have to do to request a permit for an auto related business on the lots on Crawford Terrace, if the rezoning request is approved, to include submission of an approved screening plan for auto parts and junked vehicles.

Mr. Holland stated that he is not asking for anything that he feels was not the intention of the City's Land Use Plan approved by Council years ago.

Mayor Clark explained that Crawford Terrance was already designated for future commercial use in the 1978 Land Use Plan.

The City Manager stated that, under state law, Council is to take the Land Use Designation for the property into consideration. If Council chooses not to abide by the Land Use Plan, a reason would need to be stated.

Ms. Cotton added that the Planning Board had suggested that the City Council Street Committee may wish to look at Crawford Terrace and any possible improvements that could be made.

Councilman Owenby stated that the street in question is legal and that the opening of the driveway for Mr. Holland should not be an issue. He also questioned why the Planning Board would not recommend this request.

AA.000000197 (24)

Mayor Clark stated that he understands that Mr. Holland bought both properties and wants to utilize the property to expand his business. Mayor Clark asked if Mr. Holland would be allowed to use the parcel on which the house sits for both residential and commercial use. Ms. Cotton answered that Mr. Holland probably could use the lot in question for both residential and commercial purposes, under the City's Zoning Ordinance, although that was not an ideal situation.

A discussion followed.

Mayor Clark closed the public hearing.

Upon a motion by Councilman Owenby, seconded by Councilman Martin, those members of Council present voted unanimously to adopt the following Ordinance amending the Official Zoning map from R-2 General Residential to C-2 General Business Zoning District for two parcels on Crawford Terrace, as requested by Mr. Eugene Holland.

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to rezone properties located on Crawford Street and having the PIN 1701.11-66-4331 and 1701.11-66-3277 from R-2 General Residential to the C-2 General Business Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing on January 8, 2009.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective upon its adoption.

Adopted this the 20th day of January 2009.

A. Everette Clark
Mayor

ATTEST:
J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-09-01-20-3

Mayor Clark thanked everyone for being present for this meeting and stated that he would personally appreciate it if Mr. Holland would keep the neighboring property owners in mind as he develops this property.

AA.000000198 (24)

PUBLIC HEARING – ZONING MAP AMENDMENT – ASSIGN ZONING TO MARION TRAVEL PLAZA ANNEXATION AREA – SUGAR HILL ROAD: Mayor Clark opened the Public Hearing.

Planning and Development Director Heather Cotton advised that the Planning Board had recommended assigning the C-2 General Business Zoning District designation to the Marion Travel Plaza annexation area on Sugar Hill Road. She advised that this zoning designation would be consistent with the use of the property and similar uses in proximity to the property and Interstate 40.

There were no citizens present to comment on this item.

Mayor Clark closed the Public Hearing.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, those members of Council present voted to adopt the following Ordinance amending the Official Zoning District Map to assign C-2 General Business District zoning to the Marion Travel Plaza annexation area as follows:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
MARION TRAVEL PLAZA ANNEXATION

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to include the Marion Travel Plaza Annexation territory located at 3365 Sugar Hill Road and having the PIN 0790.04-72-1555, as adopted by City Council on December 2, 2008 Ordinance Number O-08-10-21-2, zoning the area as C-2 General Business Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing on January 8, 2009.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective upon its adoption.

Adopted this the 20th day of January 2009.

A. Everette Clark
Mayor

ATTEST:

J. Robert Boyette
City Manager/Clerk

AA.000000199 (24)

Ordinance Number: O-09-01-20-4

PUBLIC HEARING – ZONING MAP AMENDMENT – ASSIGN ZONING TO MCDOWELL TECHNICAL COMMUNITY COLLEGE ANNEXATION AREA: Mayor Clark opened the Public Hearing.

Planning and Development Director Heather Cotton advised that the Planning Board had recommended assigning the O-I Office and Institutional Zoning District designation to the McDowell Technical Community College annexation area off of Highway 226 South. She advised that this zoning designation would be consistent with the use of the property and the Facilities Master Plan recently completed by the College.

There were no citizens present to comment on this item.

Mayor Clark closed the Public Hearing.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, those members of Council present voted to adopt the following Ordinance amending the Official Zoning District Map to assign O-I Office and Institutional District zoning to the McDowell Technical Community College annexation area as follows:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
McDOWELL TECHNICAL COMMUNITY COLLEGE ANNEXATION

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to include the McDowell Technical Community College Annexation Territory located on Highway 226 South and having the PINs 1720.01-05-5976, 1720.01-06-6756, 1720.01-06-2631, 1720.01-06-1893, 1720.01-06-4345, as adopted by City Council on December 2, 2008 Ordinance Number O-08-10-21-1, zoning the area as O-I Office and Institutional Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing on January 8, 2009.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective upon its adoption.

Adopted this the 20th day of January 2009.

A. Everette Clark
Mayor

ATTEST:

J. Robert Boyette
City Manager/Clerk

AA.00000200 (24)

Ordinance Number: O-09-01-20-5

PUBLIC HEARING – ZONING MAP AMENDMENT – ASSIGN ZONING TO GARDEN CREEK ROAD/HALL PROPERTY ANNEXATION AREA: Mayor Clark opened the Public Hearing.

Planning and Development Director Heather Cotton advised that the Planning Board had recommended assigning the R-2 General Residential Zoning District designation to the Garden Creek Road/Hall Property annexation area on Garden Creek Road. She advised that this zoning designation would be consistent with the use of the property and adjacent residential uses on Garden Creek Road.

There were no citizens present to comment on this item.

Mayor Clark closed the Public Hearing.

Upon a motion by Councilman Owenby, seconded by Councilman Cuthbertson, those members of Council present voted to adopt the following Ordinance amending the Official Zoning District Map to assign R-2 General Residential District zoning to the Garden Creek Road/Hall Property annexation area as follows:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
GARDEN CREEK ROAD/HALL ANNEXATION

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to include the Garden Creek Road/Hall Annexation Territory located at 738 garden creek Road and having the PIN. 1720.01-05-2214, as adopted by City Council on December 2, 2008 Ordinance Number O-08-12-02-1, zoning the area as R-2 General Residential Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing on January 8, 2009.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective upon its adoption.

Adopted this the 20th day of January 2009.

A. Everette Clark
Mayor

ATTEST:

J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-09-01-20-6

AA.000000201 (24)

Ordinance Number: O-09-01-20-5

PUBLIC HEARING – ZONING MAP AMENDMENT – ASSIGN ZONING TO GARDEN CREEK ROAD/HALL PROPERTY ANNEXATION AREA: Mayor Clark opened the Public Hearing.

Planning and Development Director Heather Cotton advised that the Planning Board had recommended assigning the R-2 General Residential Zoning District designation to the Garden Creek Road/Hall Property annexation area on Garden Creek Road. She advised that this zoning designation would be consistent with the use of the property and adjacent residential uses on Garden Creek Road.

There were no citizens present to comment on this item.

Mayor Clark closed the Public Hearing.

Upon a motion by Councilman Owenby, seconded by Councilman Cuthbertson, those members of Council present voted to adopt the following Ordinance amending the Official Zoning District Map to assign R-2 General Residential District zoning to the Garden Creek Road/Hall Property annexation area as follows:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
GARDEN CREEK ROAD/HALL ANNEXATION

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to include the Garden Creek Road/Hall Annexation Territory located at 738 garden creek Road and having the PIN. 1720.01-05-2214, as adopted by City Council on December 2, 2008 Ordinance Number C-08-12-02-1, zoning the area as R-2 General Residential Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing on January 8, 2009.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective upon its adoption.

Adopted this the 20th day of January 2009.

A. Everette Clark
Mayor

ATTEST:
J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-09-01-20-6

AA.000000202 (24)

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

ADD ON – DISCUSSION - WATER/SEWER PAYMENT PLAN- RONNIE PATEL: Mr. Ronnie Patel appeared before Council advising that he owns the Super 8 Motel on Highway 221 South.

Mr. Patel stated that he would like to have his property annexed into the City and to connect to City water and sewer, but that he needs more time to pay for the connection.

The City Manager stated that the present City policy allows for a one year payment plan for commercial and industrial customers. The City Manager said that, however, the Super 8 Motel would be a good taxpayer and water and sewer connection, which might justify extending the time allowed for payment of the water and sewer connection.

The City Manager presented Council with a proposed policy to allow for longer payment periods for commercial and industrial customers, depending on the cost of the water and sewer connection, with more time allowed for more expensive connections.

Mayor Clark stated that he liked the idea of tying the payment period to the cost of the connection and added that the City will immediately start receiving revenue in such situations.

Councilman Owenby stated that he would not have a problem with allowing up to three years for the payment period.

Mr. Patel stated that he really needed five years.

Councilman Cuthbertson stated that maybe a four year maximum term would assist Mr. Patel and other similar businesses and could be looked at as an economic development incentive.

A discussion followed.

Upon a motion by Councilman Owenby, seconded by Councilman Martin, those members of Council present voted to adopt the following Policy on Time Payment Plans for Commercial and Industrial Water and/or Sewer Connections as follows:

CITY OF MARION, NORTH CAROLINA
POLICY ON TIME PAYMENT PLANS FOR
COMMERCIAL AND INDUSTRIAL
WATER AND/OR SEWER CONNECTIONS

It shall be the policy of the City of Marion to allow time payments for commercial and industrial water and/or sewer connections, subject to the following conditions:

1. Time payments may apply to any size water services and sewer connections.
2. The business or industry desiring such time payment plan must sign an agreement with the City, accepting the payment plan and acknowledging that the debt incurred by the payments shall be attached to the property as a lien.
3. For water and/or sewer connections of $4,000 or less, the water and/or sewer connection cost shall be broken into 13 equal installments. The first installment shall be due when the application is approved by the City. The water and/or sewer tap shall then be completed by the City, as soon as the City's work schedule will allow. The City will then take the total cost for the Water and/or Sewer connection(s) and subtract the amount paid down, and divide the difference by the number of months selected for financing (maximum 12 months). That amount will be added to the water/sewer bill each month, unless the balance is paid in full before the end of the finance period selected.
4. For water and/or sewer connections of $4,000 to $8,000, the water and/or sewer connection cost shall be broken into 25 equal installments. The first installment shall be due when the application is approved by the City. The water and/or sewer tap shall then be completed by the City, as soon as the City's work

AA.00000203 (24)

schedule will allow. The City will then take the total cost for the Water and/or Sewer connection(s) and subtract the amount paid down, and divide the difference by the number of months selected for financing (maximum 24 months). That amount will be added to the water/sewer bill each month, unless the balance is paid in full before the end of the finance period selected.

5. For water and/or sewer connections of $8,000-$12,000, the water and/or sewer connection cost shall be broken into 37 equal installments. The first installment shall be due when the application is approved by the City. The water and/or sewer tap shall then be completed by the City, as soon as the City's work schedule will allow. The City will then take the total cost for the Water and/or Sewer connection(s) and subtract the amount paid down, and divide the difference by the number of months selected for financing (maximum 36 months). That amount will be added to the water/sewer bill each month, unless the balance is paid in full before the end of the finance period selected.
6. For water and/or sewer connections of $12,000 or more, the water and/or sewer connection cost shall be broken into 49 equal installments. The first installment shall be due when the application is approved by the City. The water and/or sewer tap shall then be completed by the City, as soon as the City's work schedule will allow. The City will then take the total cost for the Water and/or Sewer connection(s) and subtract the amount paid down, and divide the difference by the number of months selected for financing (maximum 48 months). That amount will be added to the water/sewer bill each month, unless the balance is paid in full before the end of the finance period selected.
7. An interest rate of eight (8) percent annually shall be charged on the unpaid balance until the amount is paid in full. The interest due will be billed at the end of the finance period as a part of the water/sewer bill.
8. Should the commercial or industrial customer fail to make the monthly time payments and/or monthly water/sewer bill payment, service to the premises shall be turned off until the necessary payments are made.
9. The unpaid balance shall attach to the property as a lien.
10. The City reserves the right to attach additional conditions on time payments, based on the individual situation.

This policy replaces the policy on time payment plans for commercial and industrial water and/or sewer connections, as adopted by City Council on June 19, 2001.

Adopted this the 20th day of January, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Policy Number: P-09-01-20-1

ADD ON – DISCUSSION - WATER/SEWER CONNECTION – SPORTSMAN INN:

Mr. Patel also stated that his friend, Mr. Minoo Walter, owner of the Sportman Inn on Highway 221 North Business Extension, needs help with the City in working with the County Health Department to correct violations found with the sewer system recently. Mr. and Mrs. Walter related that the Health Department has given them 30 days to connect to City sewer or the motel will be closed.

The City Manager related that City staff was working with Mr. and Mrs. Walter and would try to relate to the Health Department Mr. and Mrs. Walter's desire to cooperate.

Mr. Walter was given a Water and Sewer Application to complete so that the process could begin.

Mayor Clark stated that the Walters could possibly pump and haul until the water and sewer connections are made to keep the motel from being closed.

The City Manager asked Public Works Director Chris Hollifield to work with Mr. and Mrs. Walter to make the necessary connections, in conformity with City policy.

AA.00000204 (24)

ADOPTION OF RESOLUTION AUTHORIZING SAFE ROUTES TO SCHOOL INFRASTRUCTURE GRANT APPLICATION:

The City Manager advised that a resolution approved by Council is needed to authorize the submission of a Safe Routes to School Infrastructure Grant application for a sidewalk/curb extension on State Street from East Junior High to Baldwin Avenue and then connecting to our existing sidewalk around 6th Street and hopefully extending down Perry Street toward Eastfield Elementary School, if the grant funding will allow. The maximum grant is $300,000 and no local match is required. The grant application is due on January 30, so Council action is needed.

A brief discussion followed.

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

RESOLUTION OF SUPPORT FOR THE SAFE ROUTES TO SCHOOL PROGRAM

WHEREAS, The City of Marion, North Carolina is concerned for the health and safety of its children; and

WHEREAS, The City of Marion wishes to become part of the Safe Routes to School Program; and

WHEREAS, Safe Routes to School will assist in forming a community-wide Task Force which will include parents, students, neighbors, law enforcement, and participation from staff of the McDowell County Schools and the staff of the City of Marion, which will identify and evaluate safer routes to school for our children and present to this town staff; and

WHEREAS, McDowell County Schools is excited about the potential for this Safe Routes to School program because bicycling and walking increases the physical health of children; and

WHEREAS, There exists several existing bicycle and walking paths in our community, as well as sidewalks, which would be well used as school routes through more community education, cooperation, promotion, and improvements.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Marion does hereby adopt this resolution in support of the Safe Routes to School Program and that the City Council of the City of Marion authorizes the submission of an application for an Infrastructure Grant which will assist the City in providing better walking conditions for its children

ADOPTED this the 20th day of January, 2009.

A. Everette Clark, Mayor

ATTEST:

(SEAL)

J. Robert Boyette, City Manager/Clerk

Resolution Number: R-09-01-20-5

PRESENTATION OF MAYOR'S COMMITTEE APPOINTMENTS:

Mayor Clark presented his City Council Committee appointments as follows:

MAYOR APPOINTED COMMITTEES
Effective January 2009

STREET COMMITTEE

Current: Councilman Martin New: Councilman Cuthbertson

AA.00000205 (24)

	Councilman Owenby		Mayor Pro Tem Little

FIRE COMMITTEE

Current:	Mayor Pro Tem Little	New:	Councilman Martin
	Councilman Edwards		Councilman Cuthbertson

RECREATION COMMITTEE

Current:	Mayor Pro Tem Little	New:	Councilman Edwards
	Councilman Martin		Councilman Owenby

POLICE COMMITTEE

Current:	Mayor Pro Tem Little	New:	Councilman Martin
	Councilman Cuthbertson		Councilman Owenby

SAFETY COMMITTEE

Current:	Councilman Owenby	New:	Councilman Cuthbertson

UTILITY COMMITTEE

Current:	Mayor Pro Tem Little	New:	Councilman Martin
	Councilman Cuthbertson		Councilman Owenby

CEMETERY COMMITTEE

Current:	Councilman Edwards	New:	Mayor Pro Tem Little
	Councilman Owenby		Councilman Cuthbertson

TREE COMMITTEE

Current:	Councilman Cuthbertson	New:	Mayor Pro Tem Little
			Councilman Cuthbertson

COUNCIL ON AGING

Current:	Councilman Martin	New:	Councilman Edwards

FIREMEN'S RELIEF FUND

Current:	Mayor Pro Tem Little	New:	Councilman Martin
	Councilman Edwards		Councilman Edwards

There were no requested changes from Council members.

CONSIDER AWARD OF CONTRACT FOR PURCHASE OF GRANT FUNDED RECYCLING TRUCK: Finance Director Harriett Thomas stated that staff requested bids for a ¾ ton 4x2 and a ¾ ton 4x4 from five vendors. Bids were received back from four vendors and opened on Thursday, January 8, 2009 at 2:00 p.m. as follows:

Legendary Ford, Marion, NC	4x2	$20,057.95	4x4	22,734.95
Phillips Fords, Carthage, NC	4x2	$19,029.58	4x4	21,721.58
Bobby Jones Ford, Augusta GA	4x2	$18,423.58	4x4	21,159.58
Stamey, Marion, NC	4x2	$26,369.60	4x4	29,235.60
Vic Bailey Ford, Spartanburg, SC	No Bid			

The lowest bidder for both vehicles was Bobby Jones Ford. Ms. Thomas stated that Sanitation Superintendent Dean Ollis had advised that a 4x4 truck would not be necessary, so the staff recommendation would be to award the contract for a 4x2 truck to Bobby Jones Ford in the amount of $18,423.58.

Ms. Thomas added that 90 percent of the cost will be paid out of a State grant the City received in 2008. The City's share of the truck will be about $1,675.00.

AA.00000206 (24)

Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, those members of Council present voted to award the contract for a 4x2 recycling truck to Bobby Jones Ford in the amount of $18,423.58.

CONSIDER AWARD OF CONTRACT FOR PURCHASE OF WASTEWATER TREATMENT PLANT TRUCK: Finance Director Harriett Thomas stated that staff requested bids for a one ton diesel, 4x4 truck for the Wastewater Treatment Plant from five vendors. Bides were received from three vendors and opened on Thursday, January 8, 2009 at 2:30 p.m. as follows:

Legendary Ford, Marion, NC	$37,218.95
Bobby Jones Ford, Augusta GA	$34,725.74
Stamey, Marion, NC	$41,720.70
Phillips Fords, Carthage, NC	no bid
Vic Bailey Ford, Spartanburg, SC	no bid

Ms. Thomas advised that $34,000.00 was included in the 2008-09 budget for this truck. The low bidder is Bobby Jones Ford in the amount of $34,725.74, which is slightly above the budgeted amount. Ms. Thomas advised that staff attempted to negotiate a lower price with Bobby Jones Ford, but the dealership that this was the lowest price they could offer. The dealership could offer a gas vehicle at approximately $5,000.00 less; however, Chief Fleet Mechanic Tommy Wilson had stated that a diesel truck is needed for the type of work this vehicle will be doing. This truck will be used to haul the jet rodder used for sewer maintenance and, once this piece of equipment is full, the torque of the diesel engine will be needed to pull it on steep inclines and out of residents' yards with minimal damage.

Ms. Thomas stated that the staff recommendation is therefore to award the contact for the purchase of the one ton diesel 4X4 Wastewater Treatment truck to Bobby Jones Ford in the amount of $34,725.74.

The City Manager stated that this truck would be replacing a 1999 truck. If it is not replaced, repairs will likely exceed $5,000.

Upon a motion by Councilman Martin, seconded by Councilman Owenby, those members of Council present voted to award the contact for the purchase of the one ton diesel 4X4 Wastewater Treatment truck to Bobby Jones Ford in the amount of $34,725.74.

ADD ON ITEM – APPROVAL OF ENCROACHMENT FOR YMCA GREENWAY – The City Manager advised that Judge Bob Hunter, Chaiman of the YMCA Area Greenway Committee, contacted him this weekend and stated that the Committee needed to construct the proposed trail on the right of way of Medical Park Drive, a City Street, for the distance of approximately 350 feet. The County is seeking a North Carolina Parks and Recreation Trust Fund (PARTF) grant for this project, so Judge Hunter asked if City Council would grant an encroachment to allow the greenway to be located on the Medical Park Drive Right of Way, so that the grant application could state that all needed easements and encroachments have been obtained.

The City Manager stated that the greenway will essentially be a ten foot wide asphalt sidewalk, with fitness stations placed at various locations. The City Manager reported that Judge Hunter said he understands that the City and other utility providers may have utility lines under the location of the trail and that it is possible that the trail would need to be dug up to repair lines. The City Manager advised that the trail would probably not create any more of a problem for the city, in terms of utility line maintenance, than does any other sidewalk.

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Upon a motion by Councilman Edwards, seconded by Councilman Martin, those members of Council present voted to grant the encroachment request from the YMCA Area Greenway Committee allowing the proposed trail to be constructed on the Medical Park Drive right of way.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that he had received an e-mail from Marion Business Association Executive Director Freddie Killough advising that the MBA has an opportunity to save 10 percent on the July 4th fireworks (a value of over $600) if they pay before March 1. The City Manager stated that the MBA has enough money to pay the fireworks bill before March 1, if the City plans to make its normal $5,000 contribution toward the fireworks in the 2009-10 budget. The City Manager stated that in the 2009-10 budget projections, he had not proposed cutting the fireworks appropriation, but that decision is of course up to Council.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, those members of Council present voted to direct the City Manager to include $5,000 in the 2009-2010 City budget for the July 4th fireworks.

The City Manager advised that letters were sent to various State officials regarding the City's offer to donate the Old Waste Treatment and Water Plant properties to the State for a new prison and/or prison laundry. The City Manager copied the County Manager on the letters. The MBA Board also voted to endorse this recruitment effort.

Mayor Clark stated that Council's action and the letters that were sent have really made a statement that the City supports the recruitment of these new facilities.

The City Manager advised the annual Town Meeting is scheduled for Thursday, January 22 at 7:00 p.m. at the Community Building. City staff will be present as normal and we have invited our usual guests. The backup date in case of inclement weather is Thursday, January 29, at 7:00 p.m. in the Community Building. Duke Energy, Charter, PSNC Energy, DOT and McDowell County Emergency Management have already committed to attend.

The City Manager advised that the State has been very slow in reviewing plans for the Wastewater Improvements Project, including the work to change the Catawba River Plant into a pump station and to complete upgrades to the Corpening Creek Plant. To provide the City with protection, the City submitted a request to extend the SOC deadlines for the Catawba Plant by a few months. The N.C. Division of Water Quality (DWQ) staff stated that they would fully support the extension request.

The City Manager advised that the State ended up approving the plans for the project and that the bid opening for the project was scheduled for January 21. McGill is forwarding information on a few locations where the City will need easements, plus for a parcel the City will need to acquire for a pump station site.

The City Manager advised that the Tree Board continues to make plans for the year long, grant funded celebration of the City's 20th year as a Tree City USA. The Tree Board is also planning Arbor Day projects for Marion and Eastfield Elementary. The Marion Elementary project will likely involve a planting around the school, while trees will be planed along the Perry Street entrance to Eastfield Elementary and the new Eastfield Park.

The City Manager advised that staff had submitted the N.C. STEP Program investment proposal and final report to the Rural Center. The City received a contract for $150,000 of the requested $200,000. In a meeting held in early December, the Rural Center discouraged small towns from pursuing a

AA.00000208 (24)

revolving loan fund. Under the "Support to Business" category of the investment proposal, the City will need to develop another use for the remaining $50,000, such as façade grants, seed grants to new business and/or rent/utility assistance for new or targeted businesses.

The City Manager advised the N.C. STEP Leadership Team continues to discuss recommendations for the use of the remaining $50,000 N.C. STEP Program grant and will hopefully bring a recommendation to Council in February.

The City Manager advised that he had received a suggestion a few weeks ago to put in a right turn lane on Fleming Avenue at the Marion Elementary School entrance, to provide more stacking for vehicles at the school. The Street Committee briefly looked at the location at their last meeting. The City Manager reported that Public Works Superintendent Roger Estes spoke to DOT about standards for lane widths for reference. The street is 36 feet wide, which is technically wide enough to accommodate a three lane section. The lanes may get a little tight in the curve around Crescent Drive if large vehicles are on the street. However, the demand for the right turn lane is restricted to a fairly narrow window of time in the morning and especially in the afternoon. This idea may warrant further discussion and review.

Mayor Clark stated that, with the reduction of students at Marion Elementary School this year, the traffic situation is much improved.

Councilman Cuthbertson suggested that the Street Committee look at a demonstration of what a three lane section would like on Fleming Avenue, at a time school is not in session. The City Manager will schedule a time for this demonstration, based on the schedule of the School and Street Committee.

COUNCILMAN COMMENTS: Councilman Edwards asked if the YMCA had been approached in the past regarding offering discounts to City employees. The City Manager stated that staff had contacted the YMCA on multiple occasions, inquiring about discounts for City employees. He noted that the YMCA had offered a reduced initiation fee or free week, but would not offer a discount for City employees.

Councilman Edwards stated that an attempt should be made to contact the YMCA again, since he is aware of various groups receiving reduced rates. Given the City's large donation of $100,000 toward the YMCA, he feels that the YMCA should offer some reduced rates for City employees.

Mayor Clark stated that perhaps the Wellness Program or the wellness benefit in the City's insurance could pay something toward the YMCA monthly fees. Finance Director Harriett Thomas reported that wellness funds could not be used toward gym or YMCA fees, according to rules of the City's insurance carrier.

The City Manager stated that he would talk to the Executive Director of the YMCA personally and see if the YMCA would offer any discount for City employees, given what is offered to other groups and the City's contribution toward the project.

Councilman Owenby advised that he had received a report of excessive litter on and around Wilhemenia Street. The City Manager stated that he would ask staff to deal with this litter, which is a result of large numbers of people congregating on the street.

Mayor Clark stated that there is a house on North Main Street across from CJ's Pit Stop that is in very poor condition. Planning and Development Director Heather Cotton advised that the house is on the City's priority list for demolition.

AA.000000209 (24)

Ms. Cotton also advised that the Marion Tree Board web site is under review and will soon be put online.

ADJOURNMENT: Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, those members of Council present voted to adjourn.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, 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, 2009 at 7:00 P.M. in the City Council Chamber located at 194 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: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, Planning and Development Director; Mika Elliott, Police Chief; Chris Hollifield, Public Works Director; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Jamie Kitter and Antoine Lindsey, 52 Willow Street, Marion, NC; Joy Harklerode, Marion, NC; Susan Menard 3201 Old Highway 221 South, Marion NC.

CITIZEN OF THE MONTH – SELECTED BY COUNCILMAN BILLY MARTIN:
Councilman Billy Martin selected the Citizen of the Month for February 2009.

ANTOINE EDWARD LINDSEY, SR.

City Councilman Billy Martin advised that he had known Mr. Lindsey since he was a child and that it was his privilege to recommend Mr. Antoine Edward Lindsey has the Citizen of the Month. Mr. Lindsey is the son of James Lindsey and the late Patricia Ann Hemphill Lindsey.

Antoine and his wife Jamie have one son, Antoine, Jr. and one daughter, Chaunda. Councilman Martin stated that he had been especially impressed with Antoine and Jamie's parenting skills and work ethic.

Antoine works every day with his father at the House of James Barber Shop at Woodlawn Street and West Henderson Street. He is also employed with the YMCA as a conditioning coach and he provides barbering services at the Juvenile Evaluation Center, the Black Mountain Center and the group home for the elderly in Nebo. While working all these jobs, he still finds the time to coach all the major sports for children ages 7-9 at Marion Elementary School.

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Antoine is a member of Mt. Moriah Missionary Baptist Church and a member of the Negro Master Barber's Association of North Carolina.

Councilman Martin stated that Antoine is setting an excellent example for his son and other young men in the community.

Mayor Clark and Council Members all shared kind words about Mr. Antoine Lindsey and commended him for all he has given to the community.

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – January 20, 2009 Regular City Council Meeting Minutes
January 22, 2009 Town Meeting Minutes

B. Receive Certificate of Mailing and Posting of Annexation Notices - 2009 Annexation Areas

CERTIFICATION OF MAILING OF 2009 ANNEXATION AREA NOTICES

I, J. Robert Boyette, City Manager of the City of Marion, certify that notices were mailed by First Class mail on January 22, 2009 to all persons owning property in the 2009 Annexation Areas, including the Eastfield Phase IV Area, the Eastfield Phase V Area, the Highway 226 South/ITL Area, the Highway 221 North/Hankins Road Area, the Airport Road Area, the Highway 226 South Area, the Yancey Road Area and the Virginia Road Area.

Signed this the 22nd day of January, 2009.

J. Robert Boyette
City Manager
City of Marion

EASTFIELD PHASE V ANNEXATION AREA

I, Heather Cotton, AICP, Planning and Development Director of the City of Marion, do hereby certify that pursuant to procedural requirements, as stated in Chapter 160A-37 of the General Statutes of North Carolina, notices were posted on parcels where McDowell County tax records are not adequate to identify owners of real property within the annexation territory, and in five locations within the annexation territory notifying all interested individuals that the City of Marion shall hold a public informational meeting on Tuesday, February 24, 2009 and a public hearing on Tuesday, March 24, 2009 regarding the annexation of territory.

Heather Cotton, AICP
Planning & Development Director

Hwy. 221 NORTH/HANKINS RD ANNEXATION AREA

I, Heather Cotton, AICP, Planning and Development Director of the City of Marion, do hereby certify that pursuant to procedural requirements, as stated in Chapter 160A-37 of the General Statutes of North Carolina, notices were posted on parcels where McDowell County tax records are not adequate to identify owners of real property within the annexation territory, and in five locations within the annexation territory notifying all interested individuals that the City of Marion shall hold a public informational meeting on Tuesday, February 24, 2009 and a public hearing on Tuesday, March 24, 2009 regarding the annexation of territory.

AA.00000211 (24)

Heather Cotton, AICP
Planning & Development Director

C . Adopt Resolution directing the Clerk to Investigate a Petition for Satellite Annexation – US 221 South/Super 8 Motel

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-58.1 – SUPER 8 MOTEL – U.S. 221 SOUTH – 2009:

WHEREAS, a petition requesting annexation of an area described in said petition was received on January 21, 2009 by the City of Marion; and

WHEREAS, 160A-58.2 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 of his investigation.

Adopted this the 3rd day of February, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-09-02-03-1

D. Approve Audit Contract – 2008-09 City Audit

Martin, Starnes and Associates gave a three year proposal with a 3% increase each year for basic audit services with the understanding that should a single audit become necessary, an additional amount would be billed for these services. A Single Audit is necessary when state and/or federal grants are expended in excess of $500,000. The City's current grant projects will well exceed this amount in Fiscal Year 2008-09.

This year's contract will be $15,300 consisting of $13,800 for basic audit services and $1,500 for services related to the Single Audit. A copy of the contract is on file at City Hall.

E. Receive Report of Unpaid 2008 Real Property Taxes

To: **Mayor Clark & Marion City Council**

From: **Claudia Hill, Tax Collector**

AA.00000212 (24)

Date: **January 27, 2009**

Subject: **Total of Unpaid 2008 Real Property Taxes**

As stated in G.S. 105-369(a), Municipal tax collector must report to governing board total unpaid 2008 taxes that are liens on real property.

As of the date of this memo the amount of unpaid 2008 real property taxes is $164,377.87.

A list of unpaid 2008 real property taxes as of January 27, 2009 was distributed to Council, as follows:

City of Marion Page: 1
12:39:07 Tax Advertisement List TX4210

Owner	Parcel Number	Tax Amount
50 MAIN STREET,LLC.	170111677159	16.07
80 SOUTH MAIN STREET LLC	170111665987	24.59
ADDISON IRIS B	170110350999	72.62
AEGIS MORTGAGE CORPORATION	170112854840	102.00
ALLISON LESLIE RENAE HOLLIFIEL	170112855628	286.62
ANDREWS ROGER	172200734382	145.55
ARRINGTON CLYDE MRS	171105194520	165.29
ARRIOLA ALEJANDRO	170108892229	474.45
ARROWOOD ANDREW	171105093110	199.97
ATKINS CHARLES & SHERI L	170111761289	983.13
AUDREY ANN PROPERTIES LLC	171105084946	134.95
AUDREY ANN PROPERTIES LLC	170220901854	911.52
AVALOS DIEGO & VICTORIA ROJAS	171106398466	347.92
BAKER CHARLES KENTON & CLAUDIA	170220907387	97.72
BAKER CLAUDIA ANNE	170220908304	216.04
BARB JOYCE WRIGHT & DONALD LEE	170108889517	397.85
BARNES DANNY T 1/2 INT &	170112957398	212.26
BASSETT DAVID & PATRICIA	170112860413	639.64
BAXTER SARAH	170114335170	71.40
BEAM CHRISTINE	170112855839	162.28
BEAM GENE H & NORMA J	170118321167	10.20
BEAM GENE H & NORMA J	170114323932	246.79
BEAM TAMMY ELIZABETH	170117129234	153.20
BEAM TAMMY ELIZABETH	170117129178	32.64
BEARD MINERVA K	170118219986	209.30
BEATTY THOMAS A	170114337639	164.78
BERRYHILL ALVIN RAY JR	171218205448	30.60
BERRYHILL ALVIN RAY JR	171217204453	223.07
BERRYHILL ALVIN RAY SR	170108981850	428.60
BERRYHILL ALVIN RAY JR	170108991154	357.51
BERRYHILL ALVIN RAY SR	170203042991	297.28
BERRYHILL ALVIN RAY SR	079200958080	255.00
BIGGERSTAFF KEITH E & TINA	171106287466	179.62
BLANTON CARROLL & PANSY	171217020026	51.00
BOLTON WILLIAM N	170107699329	208.08
BOWEN WILLIAM C	171217002557	66.20
BOWLING ALICE FREIDA	171109056658	316.61
BOWLING ALICE FREIDA	171109051612	77.78
BOYD BETTY	171105096487	173.81
BOYD RICKEY HAROLD & RHONDA	170112768096	268.01
BOYD RICKY HAROLD	171002691556	221.39
BRADLEY ALLEN KEITH & ROBIN	170107694666	978.69
BRADLEY LARRY MICHAEL & KATHEY	171217118862	190.13
BRADLEY SAMUEL F	171113147829	227.26
BRADLEY SAMUEL F	171113147748	45.90
BRIGGS BELINDA & JOHN ISAACS	170112975069	251.12
BROOKS BRADY & MARY ANN	171217121138	66.30
BROOKS BRADY H & MARY ANN	170111561474	138.98
BROOKS BRADY HUNTER & MARY ANN	171113232802	609.50
BROOKS JULIUS BINGHAM ET AL	170111679215	151.72
BROWN EUNICE CHRISTINE 1/2 INT	170110351841	142.04
BROWN GARY N.	170111563721	198.90

BROWN GUY (DECEASED)	170118226232	156.21
BROWN LARRY D & BETTY LOUISE	170110356731	219.05
BROWNE SUSAN T aka MCELFRESH	170107579532	331.30
BRUNER LEE A	171218301131	186.46
BRUNER LEE A	171218300099	203.34
BRUNER LEE A	171218300023	20.40
BUCHANAN HUGH RICHARD &MURLEEN	079200859674	1,741.58
BUCHANAN KENNY J	170112866188	137.28
BUCHANAN RUTH E.	171105099430	208.79
BUCHANAN TERRY A	170217117290	299.73
BUCKNER SHARON KAY	171213127533	118.93
BUFF TONY & DONNA	171105294819	265.76
BURK PAUL JASON	171217110131	159.22
BURNETTE DEVAUN CHARLES	171113146884	71.35
BYRD LUCILLE L aka SMITH	171213124608	1.36
BYRD RICHARD E & AGNES	171105291855	109.70
CABLE GENEVA PRICE	170005187924	93.33
CABLE SAMANTHA ELLIS &CHRISTOP	171105077583	229.65
CALDWELL A C	171109051475	76.50
CALSADA MARK AND WIFE ARAYNA	171213124780	168.76
CAMPOS GERMAN MARTINEZ & ISELA	171105273960	251.28
CAMPOS ISAIAS M. AND CAROLINA	171218404058	295.49
CARDELL FRED ARNOLD	171105187263	368.53
CARMACK BOB L	170112769231	188.04
CARSON EZEKIEL JR (93-04	170114335284	22.54
CARSON LEMELVIN DEWAIN	170114339830	306.05
CARSON SARAH JANE 92-99	170117224271	40.80
CARSON TENCH & ANNETTE	170118310965	151.30
CARSON VERNON E & MARY A	170114335641	187.48
CARSON VERNON E & MARY A	170114335526	126.12
CARTER LANIE DEAN JR	171106391656	139.54
CASH JOSEPH EDWARD & CALLIE	170114335500	131.99
CHAVEZ MIGUEL J & TERESA	171106295770	107.30
CLARILLO MARIOLYN LOUISE ETAL	170114324537	285.60
CLARK AMBER M &TYWAINE S DENNY	170114445399	210.43
CLAYTON MICHAEL JACKSON &JACKI	170220905453	371.33
COLLINS KENNETH L & TERESA C	171218208881	318.65
COMERFORD MASSIE J.	170111559278	556.56
CONDREY JAMES DOUGLAS &	171217005633	142.29
CONLEY BERNICE	079300812265	597.10
CONLEY BERNICE	079300812265	799.55
CONLEY CHARLIE & ELOISE HEIRS	170114322903	40.80
CONLEY G G -LIFE ESTATE IDA	170114339687	52.48
CONLEY GREGORY D & FELICIA	170114337127	54.48
CONLEY HERBERT & ARMINTA	170117117909	32.64
CONLEY JAMES EDWARD	170113221518	116.79
CONLEY JAMES ERVIN & RACHEL A	170118422272	89.15
CONLEY MABLE MARIE	170117119945	56.10
CONLEY MARY W	170113221720	139.13
CONLEY RACHEL ANN	170118422212	30.60
CONLEY TANISHA D	171109052561	61.20
CONNER MINNIE F	170108989065	191.35
CONNER SANDY JO	171106391426	313.24
CONNERS JESSICA M.	171217006332	162.64
COOPER FRANK & DOVIE & WADE &	171002685572	51.00
CORDELL BOBBY R	171217002880	285.75
CORN BELINDA P	171106491626	74.72
CORNETT KATHRYN RASH	171109260216	426.72
COZART ROBERT J & LEONORA	171217101842	133.52
COZART ROBERT J & LEONORA	170110365057	42.64
COZART ROBERT J & LEONORA	170108891168	80.94
COZART ROBERT J & LEONORA	170108891133	101.18
CRAIG MARGARET N	170108989906	255.71
CRESON WANDA E	171217126473	51.00
CRISP STACY LEE & KAREN E	170220900423	876.49
CROWN CORNERSTONE CORP	170111665759	8.47
DALE TOMMY W & DENISE RENEE BR	171105082854	308.30
DALTON MARGIE	170203132889	708.90
DALTON MARGIE & WILBUR	170203141074	1,573.55
DAVIS JEFF (J.C.)	171109159702	245.92

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DAVID RAY AND MARTHA RAY	171105280232	124.80
DENNY KENNETH R & KATHY	170110355663	251.84
DOBSON JERRY	170108899936	362.10
DOCKERY BRADFORD WILLIAM	171218316063	558.55
DONNELL GARLENE	170111667621	266.32
DUNN CRYSTAL J	170110362799	183.45
EDWARDS JOHN W & JOYCE ANN	171105192342	349.20
EDWARDS JOHN W & JOYCE ANN	170110351967	160.29
EDWARDS JUDY CAROLYN	171218209538	168.01
EFFLER WELZIE	170108988735	343.08
ELLIOTT SIMON BRADLEY	171105183010	44.66
ESTES KEVIN CHARLES & SANDRA	170108891586	320.79
EVANS KRINN E	171105187375	236.59
FENDER GARRETT GREGG	170220807287	196.10
FINLEY G W HEIRS	171106286910	122.40
FINLEY LULA MAE HEIRS	171105188556	154.79
FITZGERALD DANIEL J & CYNTHIA	170110377125	203.90
FLYNN DAVID C	170220918594	229.99
FORE DEBORAH M	171105199468	200.58
FORNEY CARL E	170114239100	296.02
FORNEY CHRISTOPHER EDMUND	170114239145	179.98
FORNEY MARY VIRGINIA	170118322370	113.95
FOWLER BUFORD EUGENE & BRENDA	170108975996	510.92
FOWLER PAUL & ELLA S	170114443170	186.76
FOWLER WILLIAM L. AND TRACIE	171218411441	167.23
FRADY BRIAN	171105283234	189.26
FRANCIS HILLARD	170113223583	1.14
FRANCIS RUTH & HILLARD	170114447047	1.37
FRANCIS VERNICE	170118322118	101.59
FREEMAN LEE & HARRIETT	170118324106	253.27
FRISBEE MINNIE A HEIRS	171213220678	74.59
FRISBEE SUSAN	170108788476	235.06
FRISBEE SUSAN	170108788341	1,727.22
FRYE DIANE M & JAMES A JR	170111563518	154.12
FRYE JAMES A JR & DIANE M	170111563601	7.65
FRYE JAMES A JR & DIANE M	170111563598	40.80
GABRIEL ADRIAN MAGANA	171113144515	51.00
GALEY & LORD INDUSTRIES LLC	171218327249	21,046.88
GENTRY STEVEN M dba	171217103171	1,007.00
GENTRY STEVEN M dba	171217101034	850.02
GIBBS ROGER	171105290937	168.50
GIBBS ROGER	171109160562	191.00
GIBSON KIMBERLY BUCHANAN	170114341916	61.20
GIDNEY MARY & THEODORE HEIRS	170114423863	17.85
GILLESPIE MAE TILDA	171213223748	47.94
GILLILAND JEAN ATWOOD	170108789869	175.75
GILLILAND JOYCE	171106399594	159.53
GOINS DEBBIE H.	170112954331	420.91
GOINS RANDY E.	170112955102	198.69
GOODE JACK O (DECEASED)	171105293544	165.50
GORECKI LELAND H	171217021182	144.13
GORECKI LELAND H	171113231678	914.74
GORECKI LELAND H	170112973063	341.80
GRANT SANDY LEE & VIRGINIA K	170112859187	757.20
GREENE DEANA P SMITH	171218302853	307.63
GREENE DEANA PENLAND	171218304848	76.50
GREENE LARRY DEAN & ELIZABETH	170108989635	347.41
GREENE MYRTLE	171109067858	224.81
GREENLEE ALICE HEIRS	170114000902A	40.80
GREENLEE ELBERT & BETTY	170117118955	54.98
GREENLEE JAMES H & MAGGIE	170118312819	61.20
GTLS&A CO.,LLC	079200950453	1,740.78
GUERRERO CAMILO S & MARTHA	170112966031	337.98
GUFFEY ARTHUR G & BETTY J	171105184260	118.52
GUFFEY EARL BRYAN	171217118227	176.97
GURLEY LARRY & KAREN H	170108799898	418.86
HALL DANNY	170112962617	271.83
HALL GENEVA	170111760759	46.26
HALL JOSEPH K & VAN BOYD &	170217117290	286.31
HAMILTON ROBERT C	171113143575	229.25

HAMILTON ROBERT C	171113143525	129.95
HAMILTON ROBERT C	171105080780	178.86
HAMRICK EDWARD	171109054602	306.66
HANEY LINDA A	170107774622	699.98
HARBISON BARBARA	170114334141	52.89
HARDY ALPHONZO	170114431647	239.90
HARDY JAMES W HEIRS	170114444246	47.43
HARDY NAOMI,SINGLE	170114337520	66.30
HARRIS DAVID Y & DEBRA F	171105096335	249.08
HARRIS FRANCES WILSON	171109168259	198.39
HARRIS SYBIL H	171105097452	129.74
HARRIS TERESA DENISE DAVIS	171109156786	245.57
HARRIS VIRGINIA KAY	171217004881	225.78
HARRISON MELVIN J III	170108991735	2.21
HARVEY KEVIN LEON	170110354592	170.54
HEATON CAROLYN DENISE PERKINS	171105189763	149.63
HENRY LLOYD & VIRGINIA	170118313889	404.48
HENSLEY JERRY MICHAEL & LAURA	170112852424	229.96
HENSLEY LOUISE dba	170112951711	178.37
HENSLEY MAUDE V	171217117959	131.22
HENSLEY WM E SR	170220807035	56.10
HENSON ALVIN	170112962747	91.06
HENSON MARGIE	171106298489	317.02
HENSON MARGIE	171106298483	76.50
HERNANDEZ DOMINGO R &	171105281533	304.37
HESTER MARTHA B LIFE ESTATE	171109167155	79.10
HICKMON HELEN TATE &	170114435994	2.12
HICKS ALFRED J & LINDA L	171105292788	185.64
HICKS BOBBY RAY & CAROLYN SUE	171217210341	651.07
HICKS BOBBY RAY & CAROLYN SUE	170108892064	200.99
HICKS JAMES DAVIS &	171218206140	105.26
HIGHLAND PATRICK JOHN JR	170110367999	238.63
HOLCOMBE JANE	170108898912	435.85
HOLLIFIELD RONNIE & HATTIE	171213122656	182.07
HOOPER LULA HEIRS	170114422584	204.71
HOOPER WALTER AUSTIN (DECEASED	170114338648	95.78
HOUSE MARGARET H	170112757209	806.82
HOUSE MARGARET H.	170112866525	255.00
HOUSE MARGARET H.	170111668794	585.48
HOWARD GAIL F	171109167559	266.78
HOWARD GARY DWAYNE	171105186522	64.44
HUDGINS TERESA 1/2%	171217004981	145.61
HURLEY HOWARD J	171105281901	8.23
ISRAEL CHARLES	170108887441	653.21
ISRAEL CHARLES	170108886386	153.00
ISRAEL INVESTMENTS INC	171113142627	66.30
ISRAEL INVESTMENTS INC	171106397481	242.15
ISRAEL INVESTMENTS INC	170112859649	263.62
ISRAEL INVESTMENTS INC	170112859289	302.63
ISRAEL INVESTMENTS INC	170108894616	227.10
ISRAEL INVESTMENTS INC	170108893530	178.86
ISRAEL INVESTMENTS INC	170108887606	199.67
ISRAEL INVESTMENTS INC	170108886672	143.11
ISRAEL INVESTMENTS INC	170108886558	154.99
ISRAEL INVESTMENTS INC	170108886525	45.90
J & R'S FOOD INC	170203134649	1,555.04
JACKSON FRANCIS (DECEASED)	170117222087	40.80
JACKSON FRANCIS (DECEASED)	170117221190	45.90
JACKSON ROSIA	170113224769	51.00
JOHNSON BRENDA LOIS & JOHNNY	171217117626	147.75
JOHNSON KAREN TERESA	170118228221	323.03
JONES BRENDA BAKER	171217017026	51.00
JONES EDGAR T SR & BRENDA B	171217007839	156.01
JONES STEVEN JOE	170111674161	534.74
JTV PROPERTIES, LLC	079200877699	427.99
JUAREZ YOLANDA & ISRAEL 1/2 IN	171218312173	30.60
JUSTICE ADOLPH A JR & VICKIE	171002694461	139.43
JUSTICE ADOLPH A JR & VICKIE	079200974386	706.45
JUSTICE ADOLPH A JR & VICKIE	079200974185	281.06
JUSTICE ADOLPH A JR	171105191764	42.02

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JUSTICE CHRISTOPHER WILLIAM	171106382968	92.00
JUSTICE CHRISTOPHER WILLIAM	171106382908	51.00
JUSTICE CHRISTOPHER W.,I/2 UND	171109161384	235.01
KAYLOR ETHEL P	171109178004	1.09
KAYLOR VIRGINIA	171105173930	123.23
KEESEE TERA	171105270774	228.79
KEESEE TERA	171105270774	228.79
KINCAID BOBBY & MAXINE	170114329516	140.00
KING JAMES T & LINDA	170220916363	201.74
KIRBY ZELDA C	171218207627	75.23
KNOPP KRISTY	170108985528	422.43
LAFON JOSEPH STEVEN & CARA	170108899092	277.54
LAEL W KENNETH & DOROTHY	170112858867	223.33
LAEL W KENNETH & DOROTHY	170112858607	30.60
LANNING PAUL LIFE ESTATE	170220806173	92.57
LANNING TONYA & CHARLES	170110365146	6.44
LATTO DAVID D	171218317410	805.70
LAUGHRIDGE JOHN C JR & TINA R	170112755069	708.95
LAUGHRIDGE JOHN MACK JR	170220904620	256.30
LAUGHTER TINA R	171217122259	218.23
LAWS CATHY D	171106298862	97.92
LAWS WILLARD	170110471095	30.60
LAWS WILLARD JR & LINDA	170110472142	354.91
LAYFIELD HENRY	171217117733	105.37
LEAKEY CAROLYN	171217203340	296.21
LEARY MICHAEL C & WILMA P	171106296161	443.24
LEDBETTER MARIA	170203046152	267.75
LEDBETTER MARIA	170108990045	315.33
LEDBETTER MARIA	170203045242	324.41
LEDFORD DALLAS A	171218302611	116.28
LEDFORD TERESA NICHOLS	171217108812	309.47
LEDWELL GENEVA L	170112965416	403.87
LEWIS BRIAN K	171217007541	65.03
LEWIS ERNESTINE D	170112964572	42.84
LEWIS ERNESTINE D	170112964536	42.84
LEWIS WILLIAM R & ERNESTINE	170112963449	212.87
LEYVA BALTAZAR	170108880661	340.48
LGI LLC	170219606360	561.66
LIBERATORE DEBBIE	171106299634	1.72
LINDSEY JAMES E dba	170118420412	130.19
LINDSEY SHEILA WILLARD	171109250593	215.42
LITTLE RHONDA SUE	170108999050	178.86
LOGAN ROBERT	171109059907	310.28
LOMBARDI DAVID AND SHARI	170111678267	349.91
LONG GEORGE F & DENISE Y	171105094803	314.82
LONG GEORGE F & DENISE Y	170111760769	61.25
LOPEZ PEDROakaP.L GARCIA	171105282965	291.26
LOWE ANDREW & PHYLLIS	170108970711	238.99
LYNCH JAMES D & MARGARET	170118320109	264.84
MACE CLINTON F & ADA L	171105293377	201.35
MACE EDNA WOODY & ET AL	171105194597	76.50
MACE GLENN & VIRGINIA HICKS	171217015102	144.43
MANLEY EDDIE AND DONNA	171109252759	280.19
MARION TRAVEL PLAZA	079000721555	3,856.04
MARTIN ANNIE LEE	170114337111	25.50
MARTIN ANNIE LEE FAUCETTE	170118322496	32.44
MARTIN ANNIE LEE FAUCETTE	170118322436	20.40
MARTIN ANNIE LEE FAUCETTE	170118218933	106.64
MARTIN JAMES & BRENDA	171218306055	189.11
MARTIN KIMBERLY & PEARL M	170118322176	180.49
MARTIN MICHELLE L	170112951106	268.57
MARTINEZ ISAIAS	171109157099	76.50
MARTINEZ ISAIAS	171109157021	89.18
MASHBURN DELORES G	170117129079	99.85
MASHBURN DELORES GARDIN	170117128028	73.44
MCCALL PALMER CLIFTON	171105187985	331.40
MCCORMICK ROBERT T	170110378211	119.49
MCCOY THOMAS A & K. H.	170111660077	1,003.12
MCCRACKEN MARK W	170112858222	338.23
MCINTOSH ESTHER E	170110368239	128.37

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MCINTOSH MARILYN L. PERKI-	171105188785	228.48
MCKINNEY DANIEL DEWAYNE	171217127068	76.13
MCKINNEY EMMA M	171217102826	97.77
MCKINNEY HERBERT & EMMA	171218206208	138.87
MCKINNEY HERBERT & EMMA	171113230367	139.79
MCKINNEY HERBERT & EMMA	171106392757	207.52
MCKINNEY SADIE aka ANDREWS	171105192266	22.34
MCKINNEY TERRY HUGHES	171217126046	188.50
MCSWAIN WEDONNA	170114228666	199.10
MEADOWS T. & BERRYHILL	171105092448	332.62
MEDICAL MARION LLC	170117100887	37.05
MILLER PAUL D & PATRICIA L	171105090088	205.38
MILLER TRAVIS L	171217117428	56.10
MILLIGAN ERNEST C. JR	171106394562	294.58
MILLS MEREDA BELL	171109163521	100.78
MILLWOOD T. & MARGARET	171105182099	188.24
MINISH JOHN EDWARD	170220906867	196.14
MINISH NELLIE 03-04	171106390121	5.81
MITCHELL APRIL M	170108989852	238.73
MONTES MARCO & MARIA	171217117843	230.32
MOORE BILLY	170114432570	25.50
MOORE BILLY & ANITA MOORE	170114431448	341.96
MOORE CHRISTINE PARKER	170112856874	238.32
MOORE ELOISE HEIRS	170118319900	213.03
MOORE GUY	170113223825	526.01
MORGAN LULA HEIRS	170114228544	25.50
MURPHY JACK & CHARLOTTE	171217101985	5.96
NAIL KEITH A	170111560625	238.78
NANNEY ERNESTINE C	170110473357	132.60
NELSON EDWIN C. AND WIFE	170112879424	125.96
NELSON VICKEY & HAROLD E	170220808155A	109.96
NORTHWEST PROP. GROUP	170115542951	357.00
NORTHWEST PROP GROUP	170115541850	233.17
NORTHWEST PROP GROUP	170115541714	128.88
O & F HOLIDAY CLEANERS	170118320313	106.28
O AND F MEDICAL,LLC	170111566919	246.18
O'BUCKLEY MICH. & CLAUDIA	170108798111	507.86
O'BUCKLEY MICH. & CLAUDIA	170108796279	140.26
O'CONNOR DELORES & BETTY	171105291292	258.26
ORANGE CRAIG S & ET AL	170106480066	129.08
ORTIZ MARTHA SUE LAUGHTER	170110376014	157.06
OWENBY HAROLD & RHONDA	171109250277	441.76
OWENBY JAMES M & SHERRI	170112853681	231.64
OWENBY JAMES MICHAEL	170112851692	247.45
OWENSBY CHARLES & MARY	171109164586	130.66
PAINTER BOBBY DEAN	170220905723	183.55
PAINTER IRENE	170112768318	259.54
PARKER ALBERT ROBERT JR.	170114332875	223.69
PARKER CHARLOTTE A	171217107669	113.32
PARKER JAMES DOUGLAS SR	170111754258	411.42
PARKER ROBERT ALBERT JR	170114333775	117.30
PARKINS TERESA H &JOSEPH	170217117290	304.16
PARKINS TERESA HOLLIFIELD	079200878500	387.55
PEARSON BETTY	171217012213	145.30
PEARSON RACHEL,ADRIAN L.	170118415831	223.34
PEEK EVANGELINE	170220903722	9.00
PENDLEY CLARENCE & ELIZ.	170112956245	175.80
PENDLEY JOSHUA LEE	171113131967	209.66
PEREZ FRANCISCO CALVA E	171213224907	56.10
PIERCY MARTHA LEONA	170112853075	565.03
PITTMAN JOHN EDWARD	170114331627	166.97
POTEAT BENNY & ANITA	170108884167	201.91
POTEAT DEREK M AND CARY	171218314257	667.79
PRESNELL TERRY LEE	170110353860	112.71
PROCTOR CARROLL D	170110354771	181.51
PROCTOR CARROLL D	170110352575	184.01
PROCTOR HOWARD D	171106297963	297.13
PROCTOR JOHN L & TERESA	170112960456	337.37
RADFORD JOSEPH R. & KATHY	171106396269	350.32
RADFORD MICKEY	170110368105	352.31

RADIOLOGY BUILDING LLC	170107671677	23.86
RAMIREZ A. PEREZ & ROSA	170118413882	306.71
RAMSEY CLARENCE & GAY	170114420866	181.05
RAMSEY DIANNE AKA NEAL	170217117290	304.16
RANDOLPH HAROLD DEAN	171109261522	203.85
RANDOLPH LOIS STEPHENS	171217011405	78.42
REED DANNY R & ROSEMARY	171106298946	123.98
REESE ALVIN EUGENE	170108992470	335.02
REESE ALVIN EUGENE	170108887731	387.04
REID SINA MCGIMPSEY	170219603735	465.32
REVIS CHARLES D & JEAN S	171105095954	540.04
RICH NAOMI E HOLLAND	171218403392	112.20
RICH NAOMI HOLLAND	171218304004	91.95
RICH NAOMI HOLLAND	171218304004	91.95
RICHTER EVA	170111760449	666.26
RIDDLE MARSHA	170220809014	119.85
RODRIGUEZ VICTOR	171113141566	160.80
ROJAS CECILIO PAVON & WIFE	171105197604	77.57
ROJAS CECILIO PAVON & WIFE	171105197506	176.10
ROJAS GUSTAVO PAVON & WIFE	171105193560	181.00
ROJAS GUSTAVO PAVON & MARIA	171105193501	201.50
ROLAND ROBERT C & CAROL	170112970098	400.76
ROPER GENEVA LIFE ESTATE/	171105284571	48.96
ROSE HILL RETIREMENT PROP-	170107688987	6,456.14
RUMFELT CHRISTOPHER H.	170112875387	310.28
RUMFELT STEVE	171218412446	182.22
RUTHERFORD GRACE MAE	170114229832	35.70
RUTHERFORD JOSEPH & LUCILL	170114441139	104.60
RUTHERFORD MARY H	171109053558	66.30
RUTHERFORD M. & ALBERTIA	170118228003	124.44
RUTHERFORD MELVIN & ALBERTIA	170114433936	45.90
SANCHEZ ARTEMIO & EVELIA	171105290559	61.20
SANCHEZ JAVIER JUAREZ & JUANA	171213222900	76.50
SANCHEZ JAVIER JUAREZ & JUANA	171105294633	211.14
SANCHEZ JAVIER JUAREZ & JUANA	171105284306	89.20
SANCHEZ JAVIER JUAREZ & JUANA	171105283360	172.48
SANTACLARA JORGE & XOCHITL	171218205097	278.46
SCHWANIGER F G PROPERTY 91-04	170114420783	20.40
SCOTT MAUDE	170114329857	62.53
SEAGLE JEFFREY A & RITA H	171109159423	201.20
SEAGLE TRACY MILLS	171217007037	5.27
SEARS RAY	170107585410	40.80
SEARS RAY N & RONNIE	170107585349	40.80
SHIRLEY ANTHONY N & REBECCA T	171217001768	261.02
SHIRLEY NATHAN AND WIFE EMILY	171105182283	195.74
SIERRA ROBERTO & JUANA I	170118228374	297.53
SIGMON MARY M	171105097395	232.56
SILVER FRANK AND RHONDA AND	170111752423	155.24
SILVER RHONDA L & FRANK D	170111665716	547.59
SISK LAWRENCE	170108886843	209.20
SKEENS JIMMY	171105196150	144.64
SKEENS JIMMY & ERMA	171105186944	20.09
SLICK MARION,LLC.	170111673178	681.36
SMITH ARTHUR & ELIZABETH	171106392707	203.90
SMITH ARTHUR & ELIZABETH	171106391757	199.56
SMITH DARRYL AND WIFE BRENDA	171002761634	255.00
SMITH DARRYL AND WIFE BRENDA	171002761634	1,391.54
SMITH JOYCE A	171109157407	276.37
SMITH ROGER LEE	170110352748	454.26
SOLORZANO EDITH M	170220908842	174.68
SOMMER OLIVER B & MAUREEN	170112853367	51.00
SOUTHERN COMFORT PROPERTIES	170220909161	270.45
SPARKS CHARLES ALLEN & LOIS G	171113231032	372.15
SPENCER GENEVA AKA HALL	170111764119	406.93
STACY BENNIE R	170110364208	350.47
STAMEY CAROLYN	171213224802	117.40
STAMEY DARRELL JOE & DEBRA K.	170108976546	359.50
STAMEY DEBRA JEAN JENKINS	171217016186	168.30
STEVENS LARRY & SANDRA	171213121747	15.30
STEVENS LARRY & SANDRA	171213120683	196.55

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STEVENS LARRY & SANDRA	171213120603	279.43
STEVENS LARRY DEAN	170108785472	598.94
STEVENS RONNIE R & DAWN R	170114341877	102.36
STEVENS RONNIE R & DAWN R	170110354854	72.73
STEVENS RONNIE R & DAWN R	170107571694	720.17
STEVENS RONNIE R & DAWN	171213223936	194.16
STEVENS RONNIE R & DAWN	170108894042	161.77
STOTT ROGER W & LINDA KAYE R	171105271981	118.91
STYLES L J	171217013154	165.14
SUTTLES LORA	170220916595	137.51
SWEENEY JULIE RENEE & MICHAEL	171218207484	393.62
SWEPSON JEFFREY L	170108892492	417.89
SWEPSON MARVIN J JR & RUTH	170114331151	59.62
TASSIN ELAINE	170220804272	166.31
TATE BRENDA	170118318839	136.60
TAYLOR KIMBERLY ANNE	170114344941	218.28
THOMAS K. FORTUNE & CHARLES	170118414633	256.07
THOMAS MARY JEAN	171105195679	91.80
THOMPSON KENNETH E	171109055589	51.00
THOMPSON KENNETH E	171109054678	76.50
THOMPSON LOVIE JEAN CARSON	171109052741	66.30
TOOLCRAFT INC	171118324056	5,034.26
TRAIN DEPOT,LLC	170111662654	14.29
TRANTHAM JAMES & KATHERINE	171217028372	153.61
TRANTHAM JODY	171217003940	177.89
TRESSLER LINDA G	171105192435	192.83
TRIPLETT ALBERT JAMES	170110464641	177.84
TUCKER BILLY C & LUCILLE C	171109250750	248.37
TUCKER DANIEL M & WANDA K	171106288999	256.79
TURNER CHRISTINE & DWAYNE	171106297756	321.56
TWITTY ALBERT FRANKLIN &	170114322972	211.34
TWITTY WILLIAM NICHOLAS &	171109053759	64.06
TWITTY WILLIAM NICHOLAS &	170114442204	292.89
UMANA DANIEL	171106394092	416.11
UNIQUE GALLARIES INC	170111673476	431.72
UNKNOWN PROPERTY	170118426044	10.20
UNKNOWN PROPERTY	170118425085	20.40
UNKNOWN PROPERTY	170118421037	24.48
UNKNOWN PROPERTY	170114427820	7.65
UNKNOWN PROPERTY	170114426821	8.93
UNKNOWN PROPERTY	170114329576	25.50
US BANK NATIONAL ASSOCIATION	170114337524	159.32
VALDEZ MANUEL	171105290131	583.70
WACHOVIA MORTAGE COR	171218309183	173.66
WALDEN CHARLOTTE STROUTH	170108973598	15.30
WALDEN CHARLOTTE STROUTH	170108973593	247.66
WALKER B M & MARY K	170114227574	51.10
WALKER GARY R & TRACY V	171105099933	409.17
WALKER GARY R & TRACY V	171105098971	75.89
WALKER MARY KATHERINE W	170118312969	20.40
WALL HAROLD DEAN & BETTY	170203045584	294.90
WARREN TERRY WAYNE	171109168707	96.36
WELLS SARAH ANN	170108970796	170.44
WESTMORELAND MICHAEL	171106288837	416.47
WHITE DANNY II	.079200977158	630.72
WHITESIDES JAMES E AND WIFE	170112767365	458.75
WHITSON DEANNE	171106391300	210.48
WILKERSON JULIETTE	170114434936	48.30
WILLIAMS BETTY JEAN aka DAVIS	171106286395	145.15
WILLIAMS CONNIE W	170118311999	244.90
WILLIAMS DOLLIE A LIFE ESTATE	170114226584	53.40
WILLIAMS MARY FAYE	171213223679	56.10
WILLIAMS SHELIA	171105284753	171.62
WILLIS FRANK W & MAUDE	170112953302	142.90
WILLIS RICHARD D & JUDY L	170203237605	1,376.75
WILLIS RODGER D	170112961660	225.22
WILSON JESSE TYLER	170108798684	236.18
WINSTEAD JEANETTE HANEY	171109073306	163.20
WOODBY ELIZABETH JOSEPH	171105176944	79.92
WOODBY ELIZABETH ,JOSEPH	171105175985	146.27

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WOODBY ELIZABETH ,JOSEPH	171105174991	56.10
WOODY EUGENE (DECEASED)	171105193621	81.60
WOODY FRANCES ORR & MARy	171105194608	40.80
WOODY JAMES E JR	171105195576	61.20
WOODY RONALD EUGENE	171105194509	199.31
WOODY TERRY & VERNA R	171218308170	177.48
WRIGHT NATHAN A	171105198841	152.08
WRIGHT NATHAN A	170220804929	195.23
WYATT ALBERT WILLIAM	170112970394	153.00
WYATT MIMI M	170108993284	531.47
WYATT WELZIE LEE & LINDA	170108897484	158.10
YATES BUDDY DEWAYNE & WIFE	171105282393	330.89
YATES BUDDY DEWAYNE & WIFE	171105282314	61.20
YOUNCE LEE & CAROL ANN	170111762121	177.84
YOUNCE LEE & CAROL ANN	170111761058	606.49
YOUNG ROBERT LEE SR	170114436964	40.80
		164,377.87

F. Approve Advertisement of Delinquent 2008 Real Property Taxes:
As stated in General Statute 105-369(c), the Tax Collector must advertise tax liens on Real Property at least once between March 1 and June 30.

Council set the date to advertise unpaid City of Marion 2008 Real Property Taxes in the McDowell News for Wednesday, May 6, 2009.

INTRODUCTION OF NEW EMPLOYEE: Planning and Development Director Heather Cotton introduced the City's new Zoning Administrator/Code Enforcement Officer, Joshua Williams.

Ms. Cotton advised thar Joshua came to the City in December with a Bachelor's Degree in Parks and Recreation from Western Carolina University and brings a lot of experience in municipal government with him and is doing a great job.

Mayor Clark and Council members welcomed Josh wished him a long tenure with the City of Marion.

PUBLIC APPEARANCE – MS. JOY HARKLERODE: Ms. Joy Harklerode appeared before Council asking that Council consider adding language prohibiting cruelty against animals and requirements for animals to have shelter to the City's Animal Ordinance. Ms. Harklerode distributed a copy of sample ordinances from cities and counties and the region for reference.

Mayor Clark stated this is a reasonable request that should be considered.

Councilman Edwards stated that he agrees that the request is reasonable, but that the City needs to be careful in telling a citizen what they can and cannot do regarding their animals.

Councilman Owenby asked about whether the ordinance would cover cats.

Ms. Harklerode stated that cats are not usually tied, so therefore they have an easier time finding shelter, but advised that the ordinance could also apply to cats.

It was the consensus of Council to direct the City Manager to draft a proposed ordinance amending the City's Animal Ordinance to prohibit cruelty against animals and to add requirements that animals have shelter and to bring the ordinance back for Council review at the earliest possible date.

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PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

CONSIDER AWARD OF CONTRACT FOR PURCHASE OF POLICE CARS: The City Manger advised that, as directed by Council, staff re-bid the purchase of two marked patrol cars. Staff bid this purchase both as a turn key job with the vehicle coming fully equipped and also with the vehicle purchase and equipment installation separated. As shown below, the City Manager stated that the low bid came in for two vehicles to be purchased from Ilderton Dodge in High Point and with the City handling the equipment installation through our normal equipment installer, Light-N-Up. The total cost for two vehicles would be $66,574, which is $1,426 below the $68,000 budgeted for the purchase of these two vehicles. This amount is $1,800 below the bid the City received for the two vehicles in November.

The City Manager reported that Police Chief Mika Elliott subsequently came up with the idea of eliminating the purchase of one of the radars for the new cars, since he could re-use one radar from an existing vehicle that will be taken off the road. The radar from the other unit to be taken off the road will need to be installed in a vehicle that does not currently have a radar.

The City Manager advised that, as indicated in the memo presented to Council, the elimination of this radar saves another $1,587, making the total cost of both vehicles plus the equipment $64,987, which is $3,013 below the budgeted amount and more than $3,400 below the bids the City received for the two vehicles in November.

The City Manager stated that since the City has made $285,000 in budget cuts for the current year, which should cover the expected 2008-09 revenue shortfall, he would recommend that Council award the contract for the purchase of the two marked police cars to Ilderton Dodge and the equipment installation to Light-N-Up, for a total cost of $64,987.

	Without Equipment	With Equipment
Bobby Jones Ford, Augusta GA	$22,470.52	$33,930.05
Phillips Fords, Carthage, NC	$23,218.00	$35,380.00
Bill Smith Ford, Southern Pines, NC	$22,964.00	$33,540.00
Stamey, Marion, NC	$24, 755.60	no bid
Asheville Dodge, Asheville, NC	$22,619.25	$34,798.25
Ilderton Dodge, High Point, NC	$21,108.00	$33,487.00

Councilman Owenby made a motion to award the contract for the purchase of the two marked police cars from Ilderton Dodge and the equipment installation to Light-N-Up, for a total cost of $64,987. Councilman Martin seconded the motion.

Councilman Edwards asked what the difference was between this bid and the last bid the City received. The City Manager stated that there was a savings of more than $3,400 below the bids the City received for the two vehicles in November.

Councilman Edwards stated that he feels the City should purchase these vehicles only if necessary and asked the City Manager if the purchase of the vehicles was necessary this year.

The City Manager stated that the purchase of the two vehicle could wait until next year; however, this year's budget is much more certain than next year. He added that it is likely that the City

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will have to delay purchase of vehicles in the future, but that it would be difficult not to purchase vehicles two years in a row.

Mayor Pro Tem Little stated that he shares the concerns of Councilman Edwards; he feels that the City Manager's recommendation to purchase the cars this year is good, since it will allow the City the flexibility of perhaps not purchasing cars next year.

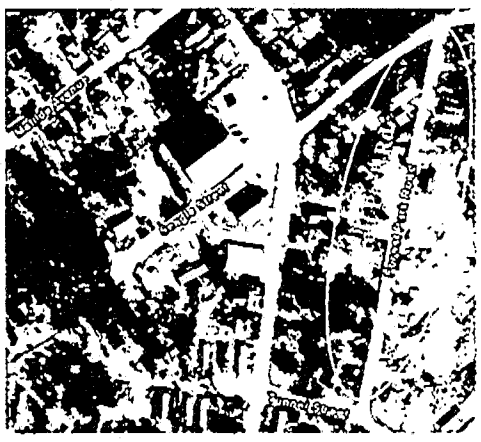
The City Manager stated that he has directed the department heads to justify each vehicle in each department, to determine if the City has vehicles that are not being used. He noted that four vehicles have already been identified for sale.

Councilman Owenby stated that not buying the vehicles this year would only be delaying the inevitable.

Council voted unanimously to award the contract for the purchase of the two marked police cars to Ilderton Dodge and the equipment installation to Light-N-Up, for a total cost of $64,987.

DIRT ROAD PRESENTATION: Public Works Director Chris Hollifield gave the following presentation regarding the possible paving of dirt roads inside the City:

Forest Park Rd.

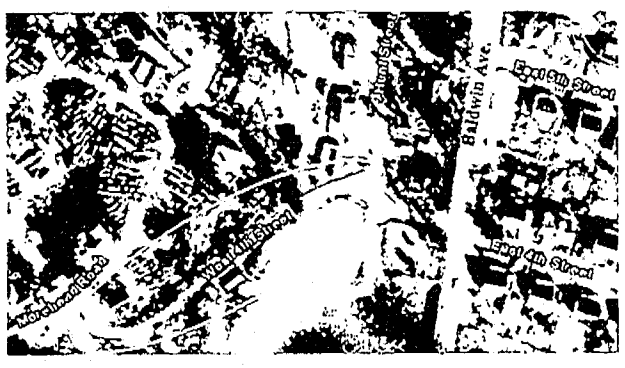


Forest Park Rd. Details

- Ease of paving – **1st Priority**
- ROW – **25' in place**
- Length – **325'**
- Condition – **Roadbed in good condition**
- Maintenance - **DOT**
- Requirements to pave – **16' Minimum is physically available if City gains ROW**
- Asphalt Cost – **578 Yd^2 x $13/Yd^2$ = $7,514**

City of Marion, Public Works Department

West 4th St.



City of Marion, Public Works Department

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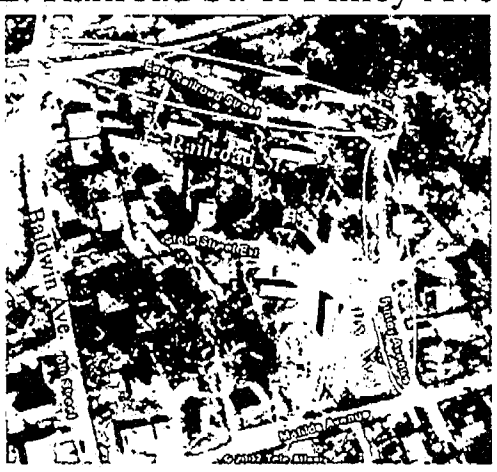
West 4th St. Details

- Ease of paving – **2nd Priority**
- ROW – **20' minimum needed – None in place**
- Length – **370'**
- Condition – **Roadbed in good condition**
- Maintenance - **DOT**
- Requirements to pave - **Width restrictions**
- Asphalt Cost – **800 Yd² x $13/Yd² = $10,400**
- Grading & Roadbed Const. Cost **$31,152**

  Total Cost **$41,552**

City of Marion, Public Works Department

E. Railroad St. & Finley Ave.



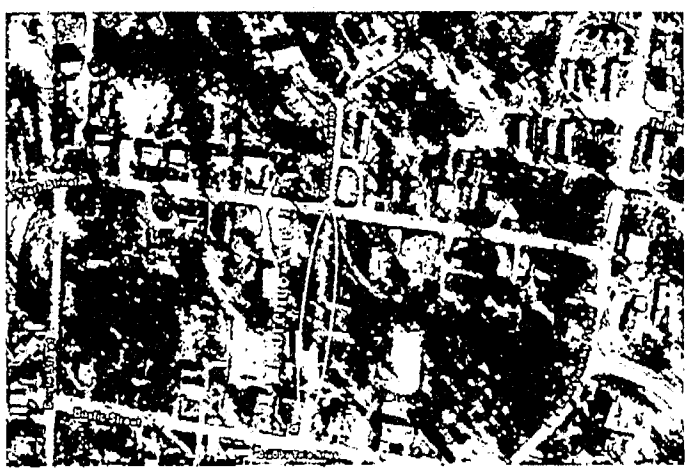
E. Railroad St. / Finley Ave. Details

- Ease of paving – **3rd Priority**
- ROW – **30' in place**
- Length – **775'**
- Condition – **Roadbed in good condition**
- Maintenance – **DOT**
- Requirements to pave – **Extremely close to the railroad, the roadbed is currently on railroad ROW, at only 14' width the road is within 4-1/2' of the railroad tracks**
- Asphalt Cost – **1378 Yd² x $13/Yd² = $17,911**
- Grading and Roadbed Const. Cost **$21,668**

  Total Cost **$39,579**

City of Marion, Public Works Department

Florence Ave.



Florence Ave. Details

- Ease of paving – **4th Priority**
- ROW – **25' in place**
- Length – **410'**
- Condition – **Poor roadbed, very rutted and washed out**
- Maintenance – **Privately maintained**
- Requirements to pave – **10' wide existing roadbed, heavy grade work needed to gain the 16' minimum**
- Asphalt Cost – **1084 Yd^2 x $13/$Yd^2$ = $14,098**
- Grading and Roadbed Const. Cost **$ 7,167**

Total Cost **$21,265**

City of Marion, Public Works Department

The City Manager noted that the City has accepted maintenance of Wesrt Fourth Street, East Railroad Street and Finley Avenue from DOT. Forest Park Road remains a DOT street, while Florence Avenue is privately maintained, but has recorded right of way. The City Manager stated that the City would be lucky to pave one street per year, if it resurfaced close to the normal number of streets each year. He noted that the City's Powell Bill Funds were depleted, due to contracted projects pursued in recent years, so the amount of money to devote to paving this year would be limited.

Councilman Owenby suggested that the City pave East Railroad Street/Finley Avenue first as was promised to residents of this Street a couple of years ago.

Councilman Martin stated that Florence Avenue needs a lot of attention and should be number one on the paving list.

Mayor Clark suggested placing the paving of West Fourth Street at the bottom of the list, due to the need to acquire right of way and the cost of grading and paving.

The City Manager stated that the City could bid out the grading and paving of Florence Avenue, East Railroad Street/Finley Avenue and Forest Park Road and only resurface streets as absolutely necessary. The City Manager advised that staff could present a list of streets that need immediate resurfacing to Council at an upcoming meeting, so that a final decision on paving priorities could be made. The City Manager noted that staff had received about 18 requests for speed humps.

Councilman Cuthbertson suggested that speed humps should be given a low priority this year, since the City had paving needs.

Council agreed by consensus to consider bidding out the grading and paving of Florence Avenue, East Railroad Street/Finley Avenue and Forest Park Road and only resurface streets as absolutely necessary this year. The City Manager will present Council a list of streets that need immediate resurfacing to Council at an upcoming meeting, so that a final decision on paving priorities can be made.

PRESENTATION OF OPTIONS FOR PEDESTRIAN CROSSING SIGNS DOWNTOWN:

Public Works Director Chris Hollifield made a presentation to Council regarding options for the placement of pedestrian crossing signs on Main Street.

Mayor Pro Tem Little stated that he would suggest that the City start with the installation of yield to pedestrian signs at all four corners of the Court and Main intersection.

Mayor Pro Tem Little also suggested that the "no right turn on red" signs on Main Street be changed to "no right turn on red when pedestrians are present." Mr. Hollifield advised that he

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was not sure if such language was allowed by DOT in North Carolina. The City Manager suggested that another option would be "no right turn on red Monday through Friday 8:00 a.m. through 5:00 p.m."

Councilman Edwards stated that he agreed with the changes to the no right turn on red signs. He also stated that pedestrian safety remains a major concern, especially on Main Street. Councilman Edwards stated that the proposed signs are a good idea, but need to be coupled with enforcement. He also suggested that Police Chief Mika Elliott write an educational article about the requirements for yielding to pedestrians for publication in the McDowell News.

The City Manager stated that he and Chief Elliott had spoken about that very idea within the past week. Chief Elliott advised that the McDowell News had agreed to run such an article and other articles on traffic and pedestrian safety periodically. The City Manager stated that staff will work on better enforcement of pedestrian safety laws.

After discussion, it was agreed by Council that staff will obtain cost estimates for the placement of four prominent yield to pedestrian signs at the Main and Court Street intersection and bring the cost estimates back to Council for review and approval. Council also agreed by consensus that staff will inquire with DOT about the possibility of modifying the "no right turn on red signs" at various intersections on Main Street to "no right turn on red when pedestrians are present" or to "no right turn on red Monday through Friday 8:00 a.m. through 5:00 p.m."

DISCUSS SCHEDULING OF CITY COUNCIL PLANNING SESSION: The City Manager advised that Councilman Cuthbertson had suggested that Council hold a Planning Session in the near future to formalize approval of the bulk water sale to the County for the Nebo water system and to discuss the sales tax issue and other financial issues, in advance of the Joint Utility Committee meeting on Thursday, February 19.

Councilman Edwards stated that he had no problem with the concept of the City selling water to the County's Nebo water system through the master meter on Highway 70 East at a bulk rate equal to the City's inside water rate, which is currently $1.90 per 1,000 gallons. He said he saw no reason for a Planning Session to discuss this point.

The City Manager noted that Council previously discussed giving the County all current City water customers on the east side of the master meter, including Roma's Restaurant, the former Kehler's BP Station and Nebo Elementary School.

After brief discussion, Council agreed by consensus that an offer be made to the County at the February 19 Joint Utility Committee for the City to sell water to the County's Nebo water system through the master meter on Highway 70 East at a bulk rate equal to the City's inside water rate, which is currently $1.90 per 1,000 gallons. The City would give the County all current City water customers on the east side of the master meter and the County would be responsible for reading meters, billing and maintenance, including maintaining water quality beyond the master meter.

Mayor Clark advised that Council could discuss this matter further or modify the City's position if necessary at the February 17 Council meeting.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that after Council approved a resolution authorizing the Safe Routes to School Infrastructure Grant for a sidewalk along State Street, Baldwin Avenue and in Eastfield in the area of East Junior High and Eastfield Elementary, Heather worked with Isothermal on the grant application. Staff learned that the City needed an engineer to certify and seal the cost estimates. The end result is that a contracted sidewalk and curb and gutter extension along State

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Street from the East Junior High property to Baldwin Avenue and then southward on Baldwin to where the existing sidewalk ends near Sixth Street will cost much more than originally projected. McGill estimated $453,000 for this work, due to the cost of the sidewalk and curb and gutter work, the need to acquire right of way or easements (DOT has no right of way on Baldwin), the need for retaining walls in a couple of locations and the need for many utility relocations. The maximum grant award is $300,000. Since the City had already completed the work, the City Manager reported that staff sent in the grant application. He advised that a decision could be made whether to accept the grant, if a grant is awarded to the City. The City Manager noted that staff found a few possible solutions for the funding gap if the full $300,000 grant application is funded, including DOT and/or USDA funding.

The City Manager advised that the N.C. Parks and Recreation Trust Fund had reviewed the City's revised site plan and proposal to request that the City keep the television towers on top of Mt. Ida and had sent a letter asking for additional surveying, appraisal and site plan work. The City Manager advised that he had asked UNC-TV and other television stations for confirmation that they will pay these additional expenses before the City authorizes any additional work.

WYFF apparently recently ran a notice in the newspaper, advising that they were removing their tower from Mt. Ida, due to the City's termination of the lease and that people in this area would no longer be able to receive their broadcast signal without cable or satellite service. WSPA remains undecided about whether to keep their tower and pay our additional expenses. WLOS and UNC-TV appear committed to remain on Mt. Ida, but the City Manager stated that he was awaiting their commitment to pay the City's expenses before he proceeds with releasing the additional site plan preparation, surveying and appraisal work.

The City Manager advised that the City had finally obtained reimbursement of the first requisition to the Clean Water Management Trust Fund for the Wastewater Improvements Project in the amount of $586,000. The City will immediately send in a second requisition, since the City has now fronted about $1 million for the project. The City Manager reported that staff is still trying to obtain reimbursement from the EPA grant for the Highway 221 North/Hankins Road sewer extension, for which the City has fronted several hundred thousand dollars. These reimbursements, when received, will greatly improve the City's cash flow in the Water and Sewer Fund.

The City Manager stated that the Planning Board held a workshop on December 18 to discuss further the proposed Historic Preservation Ordinance drafted by the Planning Director Heather Cotton. The Planning Board will hold a meeting to obtain input from potentially affected property owners on February 5.

The City Manager advised that the Tree Board continues to make plans for the year long, grant funded celebration of the City's 20th year as a Tree City USA. The Tree Board is also planning Arbor Day projects for Marion and Eastfield Elementary. The Marion Elementary project will involve a planting around the school on March 20, while the Eastfield Elementary project will involve planting trees along the Perry Street entrance to the new Eastfield Park on March 13.

COUNCILMAN COMMENTS:

Councilman Martin stated that he could not express enough the pride he feels as a Council member every time he sees the sidewalk on West Henderson Street between Railroad Street and the Ingle's Shopping Center. This sidewalk was a major accomplishment for the citizens of Marion.

Councilman Martin advised that there was a hole in Railroad Street. Public Works Director Chris Hollifield stated that he is aware of the hole and would have it fixed in the very near future.

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Councilman Edwards mentioned the letter received by Mayor Clark from an anonymous citizen regarding many things he or she dislikes about the way the City is spending its money. He noted that this letter reminded him of one he had received many years ago.

Councilman Cuthbertson stated that he had heard tremendous compliments regarding the Police and Fire Departments regarding the handling of the recent bomb threat at Marion Elementary School. The City Manager and Mayor Clark advised that they and Police Chief Mika Elliott had recently worked with School Superintendent Dr. Ira Trollinger and Sheriff Dudley Greene to clear up misunderstandings about the Sheriff's Department scheduling and conducting lockdowns of schools within the City Limits. Both Mayor Clark and the City Manager noted that the recent bomb threat showed why it was imperative for the Police Department to be involved in planning and training exercises regarding school safety at schools located in the City Limits.

Councilman Owenby stated that he has received comments regarding tractor trailers blocking Burgin Street when unloading at Rock Tenn. The City Manager and Chief Elliott stated that they attempted to work with Rock Tenn to allow for the needed unloading, while making the unloading as safe as possible for motorists in the area. Chief Elliott advised that he would make sure his officers monitored the unloading activity and that discussions could be held with Rock Tenn if problems persist.

Mayor Clark also stated that he was recently contacted regarding a Sheriff's deputy delivering a summons to a woman in the middle of the night, which frightened the woman.

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

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.00000228 (24)

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, 2009 at 7:00 P.M. in the City Council Chamber located at 194 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: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Mika Elliott, Police Chief; Chris Hollifield, Public Works Director; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Randy Hintz and Danny Bridges, McGill Associates, 55 Broad Street, Asheville, NC 28801; Steven O'Kelly 83 South Madison Street, Marion NC; Joy Harklerode, 167 Burleson Road, Marion, NC; Angela Earley, Reservoir Road, Marion NC.

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – February 3, 2009 Regular City Council Meeting Minutes

B. Receive Certificate of Sufficiency – Super 8 Motel/US 221 South Satellite Annexation Request

CERTIFICATION OF SUFFICIENCY – SUPER 8 MOTEL/US 221 SOUTH SATELLITE ANNEXATION

To the city Council of the City of Marion:

I, J. Robert Boyette, City Clark, do hereby certify that I have 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-58.1.

In witness whereof, I have hereunto set my hand and affixed the seal of the City of Marion this the 3rd day of February, 2009.

(Seal)

J. Robert Boyette, City Clerk

C. Approve Resolution Fixing the date of Public Hearing on the Question of Annexation – Super 8 Motel/US 221 South Annexation Request

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-58.1 – SUPER 8 MOTEL-US 221 SOUTH - 2009

WHEREAS, a petition requesting annexation of the non-contiguous 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

AA.00000229 (24)

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 non-contiguous area described herein will be held at City Hall at 7:00 P.M. on Tuesday, March 24, 2009.

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

BEGINNING at an iron pin located in the centerline of U.S. Highway 221, said iron pin being a corner of the L. D. Dollar, Inc., tract as described in Deed Book 392 at Page 105, McDowell County Registry, and runs thence from said Point of Beginning with the centerline of Highway 221, North 04 degrees 01 minutes 40 seconds East 182.62 feet to an iron pin; thence continuing with the centerline of Highway 221, North 04 degrees 01 minutes 40 seconds East 39.80 feet to an iron pin located in the centerline of Highway 221; thence leaving the centerline of Highway 221 and with the McDowell Food Systems, Inc., tract (Book 266 at Page 663) South 88 degrees 49 minutes 52 seconds East (passing an iron pin at 12.22 feet) for a total distance of 344.01 feet to a new iron pin; thence South 27 degrees 38 minutes 16 seconds West 14.53 feet to an iron pin; thence South 55 degrees 43 minutes 02 seconds East 14.96 feet to an iron pin; thence South 52 degrees 36 minutes 11 seconds East 9.13 feet to an iron pin; thence South 34 degrees 17 minutes 47 seconds East 16.77 feet to an iron pin; thence South 47 degrees 33 minutes 14 seconds East 25.13 feet to an iron pin; thence South 44 degrees 37 minutes 24 seconds East 12.85 feet to an iron pin; thence South 86 degrees 06 minutes 00 seconds East 13.73 feet to an iron pin; thence North 50 degrees 39 minutes 26 seconds East 40.75 feet to an iron pin; thence North 50 degrees 39 minutes 26 seconds East 4.14 feet to an iron pin; thence South 88 degrees 49 minutes 52 seconds East 307.51 feet to an iron pin; thence with the Walter Workman property line South 04 degrees 02 minutes 54 seconds West 244.31 feet to an iron pin; thence with the Ishver H. Desai property line South 78 degrees 21 minutes 07 seconds West 398.08 feet to an iron pin, corner of the L. D. Dollar, Inc., tract; thence with the L. D. Dollar, Inc., property line the following calls and distances: North 03 degrees 52 minutes 07 seconds East 104.61 feet to an iron pin; North 79 degrees 34 minutes 21 seconds East 153.69 feet to an iron pin, South 10 degrees 28 minutes 45 seconds East 7.30 feet to an iron pin; thence North 79 degrees 31 minutes 15 seconds East 25.00 feet to an iron pin; thence North 10 degrees 28 minutes 45 seconds West 25.00 feet to an iron pin; thence South 79 degrees 31 minutes 15 seconds West 25.00 feet to an iron pin; thence South 10 degrees 28 minutes 45 seconds East 7.38 feet to an iron pin; thence South 79 degrees 27 minutes 00 seconds West 151.13 feet to an iron pin; thence North 86 degrees 03 minutes 45 seconds West 130.00 feet to an iron pin; thence North 03 degrees 56 minutes 15 seconds East 85.00 feet to an iron pin; thence North 86 degrees 03 minutes 45 seconds West 155.39 feet to an iron pin; thence South 03 degrees 56 minutes 15 seconds West 67.20 feet to an iron pin; thence North 86 degrees 07 minutes 10 seconds West 59.44 feet to an iron pin, and North 86 degrees 07 minutes 10 seconds West 20.00 feet to the Point of BEGINNING.

Section 3. Notice of the public hearing shall be published once 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 the 17th day of February, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-09-02-17-1

D. Approve Budget Ordinance Amendments

CITY OF MARION, NORTH CAROLINA
2008-2009 BUDGET ORDINANCE
(Fifth Amendment)

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

AA.00000230 (24)

Section 1. That the Budget Ordinance for the City of Marion, North Carolina for the fiscal year 2008-09 as adopted by the Marion City Council on the 17th day of June, 2008 is hereby amended as follows:

GENERAL FUND

a. General Fund Expenditures, Planning and Development, Account Number 10-500-2600, Advertising is increased from $2,000 to $5,000.

b. General Fund Expenditures, Fire, Account Number 10-530-3300, Supplies and Materials is increased from $7,000 to $8,000.

c. General Fund Expenditures, Powell Bill, Account Number 10-570-0400, Professional Services is increased from $15,900 to $28,800.

d. General Fund Revenues, Account Number 10-331-1100, Fire Miscellaneous Revenue is increased from $-0- to $1,000.

e. General Fund Revenues, Account Number 10-399-0000, Fund Balance Appropriated is increased from $452,490 to $468,390.

WATER AND SEWER FUND

a. Water and Sewer Fund Expenses, Utility Line Maintenance, Account Number 30-810-0200, Salaries, is decreased from $369,336 to $347,184.

b. Water and Sewer Fund Expenses, Non-departmental, Account Number 30-660-4500, Contracted Services - CDBG, is increased from $9,000 to $15,960.

c. Water and Sewer Fund Revenues, Account Number 30-377-0500, CDBG/IS Hook-up Grant is increased from $17,073 to $24,037.

d. Water and Sewer Fund Revenues, Account Number 30-299-0000, Fund Balance Appropriated is decreased from $766,464 to $744,308.

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 February 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-09-02-17-5

E. Approve Capital Project Ordinance – N.C. STEP Program Grant

CITY OF MARION, NORTH CAROLINA
GENERAL FUND CAPITAL PROJECTS FUND –
N.C. STEP GRANT ORDINANCE

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

Section 1. That the Budget Ordinance for the City of Marion, North Carolina for the fiscal year 2008-09 as adopted by the Marion City Council on the 17th day of June 2008 is hereby amended as follows to include the expenditures associated with General Fund Capital Projects by adopting the following General Fund Capital Projects Fund Ordinance:

GENERAL FUND CAPITAL PROJECTS FUND

a. General Fund Capital Projects Fund Expenditures, NCSTEP Project, NCSTEP Branding Costs, Account Number 11-510-0200, is increased from $-0- to $110,000.

b. General Fund Capital Projects Fund Expenditures, NCSTEP Project, NCSTEP Development Costs, Account Number 11-510-0300, is increased from $-0- to $50,000.

c. General Fund Capital Projects Fund Expenditures, NCSTEP Project, NCSTEP Infrastructure Costs, Account Number 11-510-0400, is increased from $-0- to $30,000.

d. General Fund Capital Projects Fund Expenditures, NCSTEP Project, NCSTEP Art Center Costs, Account Number 11-510-0500, is increased from $-0- to $10,000.

e. General Fund Capital Projects Fund Revenues, NCSTEP Project, NCSTEP Rural Center Grant, Account Number 11-365-0000, is increased from $-0- to $200,000.

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 17th day of February 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-09-02-17-6

F. Receive Report of Sale of Surplus Property

The following is a report of surplus property sold by the City so far in the 2008-09 Fiscal Year, using the on-line auction service, GovDeals:

Asset Description	Date Sold	Total Received	Fee Commission	Net Received
Computer Lot	09/23/08	$ 131.00	$ 9.83	$ 121.17
Lot of Tables and a Podium	09/23/08	46.00	5.00	41.00
Coats Tire Changer	10/20/08	440.00	33.00	407.00
Konica Digital Camera	10/28/08	88.50	6.64	81.86
Hewlett Packard Laserjet 5000N	12/01/08	177.00	13.28	163.72
Lanier 2000 Fax Machine/Copier	12/01/08	10.00	5.00	5.00
Hewlett Packard Laserjet 6MP	12/01/08	22.00	5.00	17.00
Hewlett Packard Deskjet 812C	12/01/08	12.00	5.00	7.00
Minolta 1031 Printer/Copier	12/01/08	125.00	9.38	115.62
1990 Cushman 341	01/29/09	1,180 00	88.50	1,091.50
1997 Cushman 515	01/29/09	1,100 00	82.50	1,017.50
Minolta Di450 Copier	01/29/09	510 00	38.25	471.75
Twin Peak Tent	02/02/09	3,500 00	262.50	3,237.50
Total		$ 7,341.50	$ 563.88	$ 6,777.62

G. Approve Reimbursement Resolution – Wastewater Improvements Project

RESOLUTION DECLARING THE INTENT TO REIMBURSE EXPENDITURES

WHEREAS, the Finance Officer has described to the Council the desirability of adopting a resolution, as provided under federal tax law, to facilitate the City's using financing proceeds to restore the City's funds when the City makes capital expenditures prior to closing on a bond issue or other financing.

AA.00000232 (24)

BE IT RESOLVED by the City of Marion as follows:

1. The project is for wastewater system improvements at the City's Corpening Creek wastewater treatment plant, as well as the construction of wastewater pump stations and force mains which will allow for the abandonment of the City's existing Catawba River wastewater treatment plant.

2. The project is to be financed. The currently expected type of financing is an installment financing contract as allowed for under N.C.G.S 160A-20. The currently expected maximum amount of bonds or other obligations to be issued or contracted for the project is $3,100,000.00.

3. Funds that have been advanced, or which may be advanced from the General Fund and Water and Sewer Fund for project costs are intended to be reimbursed from the financing proceeds.

Adopted by the City Council of the City of Marion this the 17th day of February, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-09-02-17-2

PRESENTATION BY McGILL – RECOMMENDATIONS FOR WASTEWATER IMPROVEMENTS PROJECT CONTRACT AWARDS: Mayor Clark welcomed Mr. Randy Hintz and Mr. Danny Bridges of McGill Associates.

Mr. Hintz presented recommendations for the Wastewater Improvements Project stating that on January 21, 2009 formal bids were received by the City of Marion for the subject project. For construction purposes, the project was divided into two (2) contracts based on the type of activities required to complete the work. For the Catawba River Pump Stations and Force Mains portion of the work a total of seventeen (17) bids were received and opened for this contract with the following results:

Bidder	Total Bid Amount
Ronny Turner Construction	$1,463,546.00
Buckeye Construction	$1,554,521.25
Patton Construction Group	$1,621,705.00*
John Conner Construction	$1,712,299.00
Carolina Specialties Construction	$1,724,547.68
Terry Brothers Construction	$1,733,985.00
Hall Contracting	$1,755,544.00
Hamlett Associates	$1,764,277.68*
Wilkie Construction	$1,848,750.00
DPI Construction	$1,858,938.25
Steppe Construction	$1,928,777.50
Gilbert Engineering	$1,974,274.00
Hickory Construction	$1,998,309.89*
T&K Utilities	$2,118,110.00
Huntley Construction	$2,118,237.00*
Hickory Sand Co	$2,134,348.00
Sanford Contractors	$2,264,264.12

* Denotes a corrected bid amount

AA.00000233 (24)

The low bidder for this contract was Ronny Turner Construction Company from Hickory, North Carolina.

Mr. Hintz stated that based on review of the qualifications of Ronny Turner Construction Company and experience of McGill and the City in working with the company, it appears that the company has the experience and capability to perform the work required for this project. According to the North Carolina Licensing Board for General Contractors' website, Ronny Turner Construction Company holds a current unlimited public utilities contractor's license in the State of North Carolina which qualifies them to perform this work.

Mr. Hintz stated that the budgeted amount for the construction of these improvements is $1,768,500.00. The low bidder's proposal for this contract is $304,954.00 below this budgeted amount. A summary of the overall project budget is presented below. Mr. Hintz presented a certified bid tabulation showing all the bids and unit prices for this portion of the project.

For the Corpening Creek Wastewater Treatment Plant portion of the work, a total of ten (10) bids were received and opened for this contract with the following results:

Bidder	Base Bid Amount	Bid Alternate 1 (S&N Airoflo Equipment)
Turner Murphy Company*	$3,251,000.00	$40,000.00 (add)
Laughlin-Sutton Construction	$3,560,000.00	$0.00
Hickory Construction	$3,608,000.00	$36,000.00 (add)
Gilbert Engineering	$3,635,109.00	$35,000.00 (add)
Hamlett Associates	$3,787,471.00	$0.00
Frizzell Construction	$3,865,770.00	$70,000.00 (add)
James E. Harris Construction	$3,944,000.00	$0.00
AGRR Corp	$3,997,000.00	$0.00
Hall Contracting	$4,071,100.00	$ 33,387.00 (add)
State Utility Contractors	$4,274,000.00	$0.00

* The bid from Turner Murphy Company was withdrawn.

The apparent low bidder for this contract was Turner Murphy Company from Rock Hill, South Carolina. However, based on a mathematical error in their bid (the documentation for which is provided herein) they have withdrawn their bid. Therefore, the low bidder for this contract is Laughlin-Sutton Construction Company from Greensboro, North Carolina.

Mr. Hintz stated that the bid received from Laughlin-Sutton Construction Company exceeded the construction budget for this portion of the project. Therefore, negotiations have been conducted with this bidder to reduce the cost of this portion of the project. Mr. Hintz presented documentation to support a number of cost reductions which have been considered and selected by the City staff. The total savings for the options which have been selected by the City's staff, and are recommended at this point, amount to $58,900.00. However, significant additional cost savings could be experienced by modifications to the contract that require approval by the North Carolina Construction Grants and Loans Section. These modifications include eliminating one of the proposed aeration units in each of the aeration basins, reducing the size of the proposed sludge holding tank associated with this project and the ancillary equipment associated with this installation. However, these cost savings can not be recommended until revised plans and design calculations for these aspects of the project have been approved by the State. The total cost savings which may be experienced through the reduction of the tank size from 925,000 gallons to 750,000 gallons and other associated modifications of this system and eliminating two (2) aeration units is approximately $126,000.00. Therefore, the anticipated cost reductions from the project as originally bid is approximately $185,000.00, making the ultimate amount for this contract $3,375,000.00. However, until the balance of the cost saving measures can be permitted, the contract amount for the Corpening Creek portion of this project must remain at $3,501,100.00

AA.000000234 (24)

for now. Mr. Hintz stated that, ultimately, he anticipates a change order will be issued which will further reduce the contract amount by approximately $126,000.00.

Mr. Hintz stated that, based on review of the qualifications of Laughlin-Sutton Construction Company, it appears that the company has the experience and capability to perform the work required for this project. According to the North Carolina Licensing Board for General Contractors' website, Laughlin-Sutton holds a current unlimited, unclassified contractor's license in the State of North Carolina which qualifies them to perform this work. Mr. Hintz stated that Laughlin-Sutton Construction Company has worked on projects with McGill in the past and has demonstrated their capabilities to complete similar projects.

Below is a table which summarizes the current and proposed budget for the construction of this project and outlines the funding available for this project.

Budget Item	**Current Amount**	**Proposed Amount**
Catawba River Pump Stations and Force Mains	$1,768,600	$1,463,560
Corpening Creek WWTP Improvements	$2,410,300	$3,385,000
Corpening Creek SOC Items	$ 600,000	$ 600,000
Construction Subtotal	**$4,778,900**	**$5,448,560**
Construction Contingency	$ 400,000	$ 242,428
Engineering	$ 442,100	$ 442,100
Construction Administration / Observation	$ 312,100	$ 312,100
Legal / Administrative	$ 86,900	$ 86,900
Material Testing During Construction	$ 30,000	$ 30,000
Easement Acquisition	$ 50,000	$ 50,000
SRF Loan Closing Fee	$ 62,000	$ 52,242
TOTAL PROJECT BUDGET	**$6,162,000**	**$6,664,330**
Project Funding Source	**Amount**	
Clean Water Management Trust Fund (Grant)	$3,000,000	
North Carolina Rural Center (Grant)	$1,000,000	
State Revolving Fund (Loan)	$3,162,000	
TOTAL REVENUE AVAILABLE	**$7,162,000**	

Based on the proposed budget for the balance of the project, available funding appears to exceed the anticipated expenditures. Mr. Hintz recommended that the State Revolving Loan for this project be increased from the anticipated $2.1 million to just over $2.6 million, which is still below the $3.1 million in available loan funds.

Therefore, Mr. Hintz stated that McGill Associates recommends that the City of Marion approve the awards for these construction contracts in the amount of $1,463,560.00 to Ronny Turner Construction Company and $3,501,100.00 to Laughlin-Sutton Construction Company with the following contingencies:

- These awards shall be contingent upon the City's staff and legal council's review and concurrence with the enclosed documentation.

- These awards shall be contingent upon the State's review and approval of the revised contract documents as described above which modify the design of the proposed sludge holding tank and aeration basin equipment at the Corpening Creek Wastewater Treatment Plant.

- These awards shall be contingent upon securing all necessary easements and real property to allow for the construction of the proposed improvements.

- These awards shall be contingent upon the Construction Grants and Loans Section concurrence with these documents and issuance of their Authorization to Award.

AA.000000235 (24)

Mr. Hintz summarized that the City started with a $6.1 million project and now has a $6.6 million project.

Mayor Clark stated that the City had $1 million in excess loan funds and was hoping not to spend that amount.

Mr. Hintz stated that Council may wonder what caused the cost overruns. He explained that he spent time talking with the contractors and that what has changed since the last estimates were developed in 2006 is that pipeline projects have become a competitive business where contractors must cut their labor expenses just to get work. However, with Wastewater Treatment Plant projects such as this one, the cost is typically primarily in the materials, not in the labor. Material costs have continued to go up over the years. Also, fifteen percent of the contract cost is electrical work, more than was estimated. Mr. Hintz added that some unforeseen circumstances have caused the project cost to rise, including the need to get the sludge thickeners at the Corpening Creek Plant repaired and put on line and severe problems with soil conditions at the Corpening Creek Plant.

Mayor Clark stated that when the Corpening Creek Plant was constructed in the 1970's, there were no problems with the soil.

Councilman Owenby asked if McGill had done work with Lauhglin-Sutton before. Mr. Hintz stated that McGill has worked successfully in the past on several projects with Laughlin-Sutton and that the company had completed projects on time.

Mayor Clark asked if Laughlin-Sutton had done much work in the mountains, noting that the City has had problems with rock on many past projects. Mr. Danny Bridges stated that Laughlin-Sutton is completing projects in Morganton and in Old Fort and that he has not found them to be a change order happy company. Mr. Bridges added that Laughlin-Sutton's contract for the Corpening Creek Plant work contains no allowances for change orders in the event rock is encountered, although Ronny Turner's contact for the line work will allow for extra payment in the event rock is found.

Mayor Pro Tem Little stated that the City of Marion has been taken advantage of at times by past contractors and wants to ensure that does not happen with this project.

The City Manager stated that it is never good to spend more money than is required. However, the City has access to adequate grant and loan funds to cover the cost overruns. He added that the City also stands a good chance to obtain Federal Stimulus Funding, most likely in the form of longer term, no interest loans, which will reduce the City's annual debt service related to the project. The City Manager stated that the project is ready to go and should score maximum points from the State.

The City Manager added that the project was $844,000 over budget after the bid opening and that the project deficit has now been reduced to less than $500,000, due to the efforts of City staff and McGill.

Mayor Clark that that the City is under tight deadlines from the State and has to proceed with the project. He added that the City wants to save every dollar possible and make sure the contractors are doing the job right

Mayor Clark stated that we depend on and expect McGill Associates to look after the City's interests with this project, as they have on many past projects.

AA.00000236 (24)

Mr. Bridges stated that when these two projects get started, there will be monthly progress meetings with an updated summary presented to the City Manager. This should allow the City Council to be informed with how the project is progressing.

Mayor Clark asked how many times a week inspectors will be on site.

Mr. Hintz stated that the details on the frequency can be worked out with the City. He also stated that McGill wants to maintain continuity and use the same inspectors with whom the City typically works, including Richard Hensley. Public Works Director Chris Hollifield added that Mr. Hensley is a great inspector and will do a great job for the City. He has a great attention to detail and always seems to keep the City's best interest in mind.

Mr. Bridges stated that contractors have to depend on their staff and that one person could bring down a whole project. One challenge they will have is to keep an eye on the process and they will make sure the contractor knows the rules and follows them and that they will let them know upfront what is expected of them.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Owenby, Council voted unanimously to award the Catawba River Plant/force main contract to the low bidder, Ronny Turner Construction, in the amount of $1,463,560 and to award the contract for the Corpening Creek Plant to the low bidder, Laughlin-Sutton Construction, in the amount of $3,501,100 as recommended by McGill Associates, with the expectation that the Laughlin-Sutton contact could be further reduced by another $126,000, once plan changes are approved by the State.

COMMERCIAL DEVELOPMENT UPDATE DISCUSSION: The City suggested that this item be moved forward on the agenda for discussion while McGill Associates staff were present.

The City Manager stated that the City has been working on three major commercial developments for some time, as follows:

- 1 – The proposed Shopping center on US 70 East and Stacy Hill Road for a Food Lion Shopping Center - The City Manager stated that he had spoken to the developer before Christmas and that the project is still planned. The City may receive some plans at some point in the next dew months.
- 2 – The Roland Bass Property, located at the NC 226/I-40 interchange across from McDowell Technical Community College - The City Manager noted that Mr. Bass has done significant grading on this property and is marketing the property for a hotel, restaurant, gas station or other retail uses. McGill Associates has done some preliminary work on a needed sewer extension to this property. The City Manager advised that the City could apply for Rural Center funds for job creation to fund the sewer extension once Mr. Bass has some job commitments.

- 3 – The proposed large commercial development at the Sugar Hill Road/I-40 Interchange – The City Manager advised that the City and County have been working on this commercial project for more than one year. The City and County hope to have an announcement made soon by the developer concerning this project. The City Manager stated that the project would create hundreds of jobs, significant property tax base and greatly increase retail sales, including capturing retail sales dollars from I-40 motorists that are being lost to other counties. He added that the project will require the replacement of the Hospital Pump Station, at a cost of over $300,000, a project that the City is funding through grants and City funds. The project will also require a water and sewer extension on Sugar Hill Road from Shady Lane to I-40, at an estimated cost of $2 million. The City and County had previously agreed that the City would seek grants funds for the project and that the City and County would split the

AA.00000237 (24)

local debt share, with the City paying 60 percent of the costs and the County paying 40 percent of the costs. The City Manager stated that McGill is submitting a Rural Center grant application related to job creation to fund $1 million of this cost.

The City Manager stated that Federal Stimulus Funding could also be possible for the water and sewer extension, but only if the project is ready to proceed. He advised that McGill has provided a cost of $38,000 to complete the preliminary design and permitting for the water and sewer extension, so that the project could have a change for Federal Stimulus Funing. The City Manager stated that he had spoken to the County Manager, who had agreed to the 60%-40% City-County split for the $38,000 cost.

The City Manager advised that time is of the essence with this project, as letters of intent are due to the State by Friday for Federal Stimulus Funding for wastewater projects. He noted that the $38,000 is a bit of a risk, since the project has not been officially announced; however, if the development does occur, the preliminary design and permitting expense would be needed anyway. The City Manager added that the developer has agreed to provide a letter agreeing to request annexation after the development is permitted by the County.

Mayor Clark asked Randy Hintz of McGill Associates if the firm could move quickly to meet the Federal Stimulus Funding deadlines. Mr. Hintz stated that McGill would move forward as quickly as possible to meet all deadlines.

Mayor Pro Tem Little stated that he saw little to no risk with this expenditure, given the tremendous possible return to the City.

Upon a motion by Mayor Pro Little, seconded by Councilman Cuthbertson, Council voted unanimously to authorize staff to contract with McGill Associates to complete preliminary design and permitting, in the amount of $38,000, for the extension of water and sewer service on Sugar Hill Road to Interstate 40 to support the proposed commercial development, with the City funding 60 percent of the cost and the County funding 40 percent of the cost.

Councilman Cuthbertson added that the City has talked about the extension of water and sewer service on Sugar Hill Road to I-40 for many years and that there are many property owners waiting for the extension and for the development opportunities water and sewer service will bring.

PUBLIC HEARING – ADOPTION OF ORDINANCE – GILLANI/SUGAR HILL ROAD SATELLITE ANNEXATION: Mayor Clark opened the Public Hearing.

The City Manager advised that this public hearing was scheduled for the satellite annexation of the Gillani property on Sugar Hill Road. After the public hearing, Council may adopt the attached ordinance to annex the property effective February 28, 2009.

Mayor Pro Tem Little stated that he wanted it clear that this property owner asked for this annexation and that the City did not contact the property owner seeking this annexation.

There were no citizens present to discuss this item.

Mayor Clark closed the Public Hearing.

AA.00000238 (24)

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Ordinance extending the corporate limits of the City of Marion, North Carolina to include the Gillani property on Sugar Hill Road as follows:

AN ORDINANCE TO EXTEND
THE CORPORATE LIMITS OF THE
CITY OF MARION, NORTH CAROLINA –
GILLANI/SUGAR HILL ROAD - 2009

WHEREAS, the City Council has been petitioned under G.S. 160A-58.1 to annex the area described below; and

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

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at City Hall at 7:00 P.M. on Tuesday, February 17, 2009, after due notice by publication on Wednesday, February 4, 2009; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-58.1(b);

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

Section 1. By virtue of the authority granted by G.S. 160A-58.2, the following described territory is hereby annexed and made part of the City of Marion as of February 28, 2009:

BEGINNING on a tack in a lead plug that is located South 11 degrees 03 minutes 27 seconds West 14.44 feet from NCGS Government Monument, Station "DELI" (Y = 704,847.773 and X = 1,1,098,987.008) said beginning being a common corner with the property of Richard Allen Gurley (McDowell Deed Book 329 at Page 258) and FROM SAID BEGINNING running with the Gurley line the following two courses and distances: South 74 degrees 20 minutes 24 seconds East 110.31 feet to an iron pin set, and North 81 degrees 24 minutes 36 seconds East 135.30 feet to an existing iron pin that is located South 81 degrees 43 minutes 28 seconds East 35.99 feet from an existing iron pin that marks the tenth corner of the property described in McDowell Deed book 244 at Page 644; then running with the line of Grandview Corporation (Grandview Trailer Park, McDowell Deed Book 244 Page 644) South 27 degrees 57 minutes 14 seconds West 226.72 feet to an existing iron pin that marks the third corner of Tract 2 of the property described in McDowell Deed Book 309 at Page 321, said existing iron pin being in the line of B & J Technical Services, Inc. (McDowell Deed Book 313 at page 340); then with the line of B & J Technical Services, Inc. North 80 degrees 56 minutes 19 seconds West 226.86 feet to an existing iron pin on the Eastern right-of-way for Sugar Hill Road (NCSR 1001); then with the Eastern margin of the right-of-way for Sugar Hill Road the following three courses and distances; North 29 degrees 32 minutes 59 seconds east 53.15 feet to a nail and ribbon in concrete (said nail marking the beginning corner of Tract 1 of the property described in McDowell Deed Book 309 at Page 321 and also marking the beginning corner of Tract 2 of the property described in McDowell Deed Book 309 at Page 321, then continuing North 27 degrees 54 minutes 36 seconds East 76.03 feet to a punch mark in concrete (the second corner of Tract 1 of the property described in McDowell Deed Book 309 Page 321), then continuing North 25 degrees 09 minutes 36 seconds East 67.05 feet to the BEGINNING, containing approximately 0.97 acres according to a survey by R.L. Greene Surveying and Mapping dated October 18, 1988.

AND BEING THE SAME PROPERTY identified and described as Tract
1 and Tract 2 in the Deed recorded in McDowell Deed Book 309, Page 321, and being also the same two tracts of property in Marion Township contained in the Deed dated 19 January 1987 from Jeffrey M. Ledbetter and wife Ann Ledbetter to William R. Ledbetter and wife Wanda R. Ledbetter as recorded in McDowell Deed Book 364 at Page 538.

This conveyance is made SUBJECT TO a perpetual easement for ingress, egress and regress and for utilities service along the existing drive way as the same is now laid out and in use from Sugar Hill Road (SR 1001) to the trailer park owned by Grandview Park, Inc. as described in McDowell Deed Book 244 at Page 644.

Section 2. Upon and after February 28, 2009, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City of Marion. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

AA.00000239 (24)

Section 3. The Mayor of the City of Marion shall cause to be recorded in the office of the Register of Deeds of McDowell County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the McDowell County Board of Elections, as required by G.S. 163-288.1.

ADOPTED this the 17th day of February, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Approved As To Form:

City Attorney

Ordinance Number: O-09-02-17-1

PUBLIC HEARING – ADOPTION OF ORDINANCE – DOLLAR/US 221 SOUTH SATELLITE ANNEXATION: Mayor Clark opened the Public Hearing.

The City Manager advised that this public hearing was scheduled for the satellite annexation of the Dollar property on US 221 South. Adopting the ordinance will make the annexation effective on February 28, 2009.

Councilman Owenby asked if the owner or the manager signed this petition. The City Manager stated that the property owner signed the annexation petition, as is required under State law.

There were no citizens present to discuss this item.

Mayor Clark closed the Public Hearing.

Upon a motion by Councilman Little, seconded by Councilman Owenby, Council voted unanimously to adopt the following Ordinance extending the corporate limits of the City of Marion, North Carolina to include the Dollar property on US 221 South as follows:

AN ORDINANCE TO EXTEND
THE CORPORATE LIMITS OF THE
CITY OF MARION, NORTH CAROLINA –
DOLLAR/US 221 SOUTH - 2009

WHEREAS, the City Council has been petitioned under G.S. 160A-58.1 to annex the area described below; and

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

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at City Hall at 7:00 P.M. on Tuesday, February 17, 2009, after due notice by publication on Wednesday, February 4, 2009; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-58.1(b);

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

Section 1. By virtue of the authority granted by G.S. 160A-58.2, the following described territory is hereby annexed and made part of the City of Marion as of February 28, 2009:

AA.00000240 (24)

TRACT 1: BEGINNING on an iron spike, said iron spike being in the centerline of U.S. Highway # 221, said spike being a common corner with Jack Harvey (now or formerly); thence with the centerline of U.S. Highway # 221 North 04 degrees 55 minutes East 140 feet to an iron; thence South 85 degrees 05 minutes East 80 feet to an iron, said iron being in the line of BCM Partnership; thence North 04 degrees 55 minutes East 67.20 feet to an iron; thence South 85 degrees 05 minutes East 155.39 feet to an iron; thence South 04 degrees 55 minutes West 85 feet to an iron, passing an iron at 80 feet; thence South 85 degrees 05 minutes East 130 feet to an iron; thence South 04 degrees 55 minutes West 115 feet to an iron, said iron being in the line of BCM Partnership and in the line of Harvey; thence with the Harvey line North 86 degrees 12 minutes 45 seconds West 265.46 feet to the point and place of BEGINNING, containing 1.331 acres, more or less. This metes and bounds description is taken from a survey prepared by Herman D. Bolick, dated September 22, 1988.

Together with the right and privilege to tap onto, utilize and use the water and sewer facilities located upon this adjoining property of the Grantor, commonly known as the Econo Lodge of Marion, the Grantee to bear any and all expense for construction or maintenance of any lines necessary for the Grantee to utilize the water and sewer facilities located on the adjoining property of the Grantor. The use of the water and sewer facilities by Grantor shall not exceed the normal amount of water and sewer use by a convenience store and a car wash using recyclable water.

TRACT II: BEGINNING on an iron, said iron being located in the line of James C. Childers and said beginning point being located South 85 degrees 05 minutes East 130 feet from an iron in the line of James C. Childers; thence from said beginning point North 80 degrees 25 minutes 45 seconds East 151.13 feet to an iron; thence North 09 degrees 30 minutes West 7.38 feet to an iron; thence North 80 degrees 30 minutes East 25 feet to an iron; thence South 09 degrees 30 minutes East 25 feet to an iron; thence South 80 degrees 30 minutes West 25 feet to an iron; thence North 09 degrees 30 minutes West 7.30 feet to an iron; thence 80 degrees 33 minutes 06 seconds West 153.68 feet to an iron; thence North 04 degrees 55 minutes East 10.24 feet to the point and place of BEGINNING, containing .05 acres, more or less. This metes and bounds description is taken from a survey prepared by Herman D. Bolick, dated September 22, 1988.

Section 2. Upon and after February 28, 2009, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City of Marion. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Marion shall cause to be recorded in the office of the Register of Deeds of McDowell County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the McDowell County Board of Elections, as required by G.S. 163-288.1.

ADOPTED this the 17th day of February, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Approved As To Form:

City Attorney

Ordinance Number: O-09-02-17-2

PUBLIC HEARING - ADOPTION OF ORDINANCE – MARION STREET/WHITE PROPERTY ANNEXATION: Mayor Clark opened the Public Hearing.

The City Manager stated that this public hearing was scheduled for the annexation of the White property on Marion Street. After the public hearing, Council may adopt the following ordinance making the annexation effective on February 28, 2009.

AA.000000241 (24)

Mayor Pro Tem Little stated that it is significant that the City has for decades had citizens wishing to be annexed. He added that the City works with citizens who want to be annexed to provide the best possible service and to make annexation a win-win situation.

There were no citizens present to discuss this item.

Mayor Clark closed the Public Hearing.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Ordinance extending the corporate limits of the City of Marion, North Carolina to include the White property on Marion Street as follows:

AN ORDINANCE TO EXTEND
THE CORPORATE LIMITS OF THE
CITY OF MARION, NORTH CAROLINA –
MARION STREET-WHITE PROPERTY-2009

WHEREAS, the City Council has been petitioned under G.S. 160A-31 to annex the area described below; and

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

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at City Hall at 7:00 P.M. on Tuesday, February 17, 2009, after due notice by publication on Wednesday, February 4, 2009; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-31;

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

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the City of Marion as of February 28, 2009:

ALL OF LOT NUMBER 30 and a part of lot number 31 in Block (B) of the M. B. Poteat property as shown on a map recorded in Map Book 1 pages 77 and 78 in the office of the register of deeds for McDowell County, N.C. to which map reference is here made for a more complete description of the lots hereby conveyed. Said part of lot number 31 is a 16 foot strip of the North end of lot number 31 and more specifically described as follows:

BEGINNING on the southeast corner of lot number 30 and the northeast corner of lot number 31 (above referred to) and runs thence in a southerly direction 16 feet along the west edge of Marion Street; thence in a westerly direction parallel with a common line of lots 30 and 31 to a point in the western boundary line of lot number 31; thence in a northerly direction 16 feet to the southwest corner of lot number 30 and 31 in a easterly direction to the BEGINNING.

Section 2. Upon and after February 28, 2009, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City of Marion. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Marion shall cause to be recorded in the office of the Register of Deeds of McDowell County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the McDowell County Board of Elections, as required by G.S. 163-288.1.

ADOPTED this the 17th day of February, 2009.

A. Everette Clark

A. Everette Clark, Mayor

AA.00000242 (24)

ATTEST: Approved As To Form:

J. Robert Boyette, City Clerk City Attorney

Ordinance Number: O-09-02-17-3

CONSIDER ADOPTION OF ORDINANCE TO AMEND ANIMALS AND TO ADD REQUIREMENTS FOR SHELTER: The City Manager advised that as directed by Council at the February 3 meeting, he drafted an ordinance to amend the City Animal Ordinance by adding Section 3-8.1, which prohibits cruelty to animals and adds requirements for shelter for animals. The City Manager stated that he used the language from Burke County, Brunswick County and Brevard's ordinances, which had the simplest ordinances of the ones presented by Ms. Joy Harklerode of Mercy Animal Rescue at the last meeting.

The City Manager stated that he and Police Chief Mika Elliott had discussed the merits of including standards for shelter. The Brevard ordinance requires proper shelter without defining it. The City Manager stated that he and Chief Elliott felt it was better to define what constitutes adequate shelter, to provide more guidance for the City's officers. Therefore, he proposed language from the Brunswick County ordinance that defines adequate shelter. The City Manager stated that this subsection could be deleted from the ordinance if desired by Council.

Councilman Martin made a motion to amend the City Animal Ordinance by adding Section 3-8.1, which prohibits cruelty to animals and adds requirements for shelter for animals. The motion was seconded by Councilman Owenby.

Mayor Pro Tem Little stated that he was not in favor of adding subsection (d), which specifically defines what constitutes adequate shelter for animals, to this ordinance amendment. He added that he had recently been on a mission trip to Belize and stated that he could not vote for something that would require better living quarters for animals than what many people have in other countries.

Councilman Edwards stated that the City has to have rules and some specificity as to what defines adequate shelter; otherwise, City officers are forced to be both judge and jury.

Mayor Pro Tem Little stated that officers could carry a digital camera and take photographs when there is doubt.

Mayor Clark stated that he agreed with Councilman Edwards in that the City needs guidelines for what constitutes adequate shelter; otherwise, the ordinance becomes difficult to interpret and enforce.

Councilman Martin stated that his motion still stood. Councilman Owenby stated that his second still stood to adopt this ordinance as presented.

The vote carried four to one as follows:

Councilman Cuthbertson	Yes
Councilman Edwards	Yes
Councilman Martin	Yes
Councilman Owenby	Yes
Mayor Pro Tem Little	No

AA.00000243 (24)

ORDINANCE
AMENDING CHAPTER 3
ANIMALS
MARION CITY CODE

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

Section 1. That Chapter 3, Animals, of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Section 2. Chapter 3 is amended by adding Section 3-8.1., Cruel Treatment, as follows:

Sec. 3-8.1. Cruel treatment.

(a) It shall be unlawful for any person to molest, torture, torment, deprive of necessary sustenance, cruelly beat, needlessly mutilate or kill, wound, injure, poison or abandon subject to condition detrimental to its health or general welfare any animal, or to cause or produce such action.

(b) The words "torture", "torment" and "cruelly," as used in this section, shall be held to include every act, omission or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted; but such terms shall not be construed to prohibit lawful taking of animals under the jurisdiction and regulation of the State Wildlife Resources Commission, or to prohibit animal control officers or duly authorized persons or veterinarians from taking or destroying dangerous, unwanted or injured animals in a humane manner, or to prohibit the lawful use of animals in scientific research, or legitimate pest control activities.

(c) It shall be unlawful for any person to keep animals under unsanitary or inhumane conditions and to fail to provide proper food and water daily, shelter from the weather, reasonably clean quarters and proper medical attention for sick, diseased and injured animals, as well as adequate inoculation against disease.

(d) For purposes of this section, "shelter" shall be defined as an enclosure of at least three (3) sides, a roof and a floor. The enclosure shall be ventilated and must have sufficient room for the animal(s) to move around freely and to lie down comfortably. Animals housed under the following conditions shall not constitute adequate shelter:

(1) Underneath outside steps, deck and stoops; or
(2) Inside of vehicles; or
(3) Underneath vehicles; or
(4) Inside metal barrels placed in direct sunlight during the summer; or
(5) Inside cardboard boxes

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 17th day of February, 2009.

A. Everette Clark
Mayor

ATTEST:
J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-09-02-17-4

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present for this meeting.

CONSIDER ADOPTION OF RESOLUTION MAKING MCDOWELL COUNTY ORDINANCE PROHIBITING REGISTERED SEX OFFENDERS ON MCDOWELL COUNTY PARK OR RECREATION FACILITIES AND YOUTH RELATED ACTIVITIES EFFECTIVE WITHIN THE CITY LIMITS OF MARION: The City

Manager advised that as previously reported, the County had requested assistance from the City in making a proposed County ordinance to prohibit registered sex offenders from entering County park or recreation facilities and youth related activities effective within the City Limits.

The City Manager stated that one way to do this under the North Carolina General Statutes (N.C.G.S. 153A-122) is for the City Council to adopt a resolution making a particular County ordinance effective within the City Limits.

The proposed County ordinance and an excerpt from the General Statutes authorizing such a resolution read as follows:

McDowell County Ordinance
Prohibiting Registered Sex Offenders
in McDowell County's Parks or Recreation Facilities
and Youth Related Activities adopted February 9, 2009

Article 1. General

SECTION 101. TITLE

THIS CHAPTER SHALL BE KNOWN AND CITED AS "ORDINANCE PROHIBITING REGISTERED SEX OFFENDERS IN MCDOWELL COUNTY'S PARKS OR RECREATION FACILITIES AND YOUTH RELATED ACTIVITIES OF MCDOWELL COUNTY, NORTH CAROLINA.

SECTION 102. AUTHORITY AND ENACTMENT CLAUSE.

PURSUANT TO THE AUTHORITY CONFERRED BY CHAPTER 153A-169 OF THE GENERAL STATUTES OF THE STATE OF NORTH CAROLINA, THE BOARD OF COMMISSIONERS OF MCDOWELL COUNTY HEREBY ORDAIN AND ENACT INTO LAW THESE ARTICLES AND SECTIONS.

SECTION 103. JURISDICTION

ON AND AFTER THE DATE OF ADOPTION, THESE REGULATIONS SHALL APPLY TO ALL MCDOWELL COUNTY PUBLIC PARKS RECREATION TRAILS, AND ALL SANCTIONED YOUTH ACTIVITIES IN MCDOWELL COUNTY. THIS ORDINANCE SHALL APPLY TO PROPERTIES OWNED OR LEASED BY THE COUNTY LOCATED IN THE MUNICIPAL JURISDICTIONS.

ARTICLE 2. PURPOSE

SECTION 201. PURPOSE

MCDOWELL COUNTY OWNS AND MAINTAINS LAND IN THE COUNTY DESIGNATED FOR PUBLIC PURPOSES, COUNTY PARKS, RECREATION TRAILS, AND FOR THE PEACEFUL USE AND ENJOYMENT OF CHILDREN RESIDENTS AND VISITORS. MCDOWELL COUNTY CONDUCTS YOUTH RELATED ACTIVITIES INCLUDING, RECREATION, 4-H AND EXPLORER CLUB POSTS.

ARTICLE 3. REGULATION OF USE

SECTION 301. UNLAWFUL ACTIVITY

IT SHALL BE UNLAWFUL FOR ANY REGISTERED SEX OFFENDER TO KNOWINGLY ENTER INTO OR ON ANY PUBLIC PARKS, RECREATION TRAILS, AND CAMPGROUNDS OWNED, OPERATED OR MAINTAINED BY MCDOWELL COUNTY.

IT SHALL BE UNLAWFUL FOR ANY REGISTERED SEX OFFENDER TO KNOWINGLY PARTICIPATE OR ATTEND ANY COUNTY YOUTH RECREATION ACTIVITY, INCLUDING THOSE NOT HELD ON COUNTY PROPERTY.

SECTION 302. NOTICES:

THE PARKS AND RECREATION DIRECTOR SHALL BE CHARGED WITH POSTING THIS REGULATION AT THE MAIN ENTRANCE OF EACH PARK WITHIN FIVE (5) DAYS OF THE PASSAGE OF THIS ORDINANCE.

ARTICLE 4. DEFINITIONS

AA.00000245 (24)

PUBLIC PARK. ANY PUBLICLY OWNED OR MAINTAINED LAND, WHICH IS DESIGNATED BY MCDOWELL COUNTY AS A PUBLIC PARK OR RECREATION FACILITY.

SANCTIONED YOUTH ACTIVITY. ANY ACTIVITY INVOLVING YOUTH UNDER THE AGE OF EIGHTEEN. SANCTIONED AND CARRIED OUT BY MCDOWELL COUNTY EMPLOYEES OR AN AGENCY OF THE COUNTY.

REGISTERED SEX OFFENDER. AN INDIVIDUAL WHO IS REGISTERED BY ANY STATE OR FEDERAL AGENCY AS A SEX OFFENDER LISTED INCLUDING, BUT NOT LIMITED TO, THE SEX OFFENDER REGISTRY ESTABLISHED IN ARTICLE 27A OF NORTH CAROLINA GENERAL STATUE CHAPTER 14.

ARTICLE 5. PENALTIES

SECTION 501. PENALTIES FOR VIOLATION OF THE ORDINANCE.

ANY PERSON WHO IS FOUND IN VIOLATION OF THIS ORDINANCE SHALL BE GUILTY OF MISDEMEANOR PUNISHABLE BY A FINE OF NOT LESS THAN $500.00 AND/OR IMPRISONMENT FOR NOT MORE THAN 30 DAYS, IN THE DISCRETION OF THE COURT, AS PROVIDED IN GS 153A-123.

EACH AND EVERY VIOLATION SHALL CONSTITUTE A SEPARATE OFFENCE.

ARTICLE 6. SEVERABILITY

SECTION 601. SEVERABILITY:

IF ANY SECTION, SUBSECTION, PARAGRAPH, SENTENCE, CLAUSE, PHRASE OR PORTION OF THIS ORDINANCE IS FOR ANY REASON HELD INVALID OR UNCONSTITUTIONAL BY ANY COURT OF COMPETENT JURISDICTION, SUCH PORTION SHALL BE DEEMED SERVERABLE AND SUCH HOLDING SHALL NOT AFFECT THE VALIDITY OF THE REMAINING PORTIONS HEREOF.

ARTICLE 7. ADOPTION AND EFFECTIVE DATE

THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE FROM AND AFTER ITS ADOPTION ON THE 9TH DAY OF FEBRUARY, 2009.

_____
ANDREW K WEBB
MCDOWELL COUNTY BOARD OF COMMISSIONERS

ATTEST:

_____
CARRIE PADGETT, CLERK

APPROVED AS TO FORM

_____
FRED COATS, COUNTY ATTORNEY

Councilman Edwards asked if the County would be sending out notices, like the City did, to all registered sex offenders making them aware of the new ordinance.

The City Manager stated that he would make this suggestion to the County.

A discussion followed.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, Council voted unanimously to adopt the following Resolution making the McDowell County Ordinance prohibiting registered sex offenders in McDowell County Park or Recreation facilities and youth related activities effective within the City Limits of the City of Marion:

A RESOLUTION MAKING THE MCDOWELL COUNTY ORDINANCE PROHIBITING REGISTERED SEX OFFENDERS IN MCDOWELL COUNTY PARK OR

AA.00000246 (24)

RECREATION FACILITIES AND YOUTH RELATED ACTIVITIES EFFECTIVE WITHIN THE CITY LIMITS OF THE CITY OF MARION

WHEREAS, the City Council of the City of Marion approved an ordinance on September 2, 2008, prohibiting registered sex offenders from entering any park or recreational facility owned, leased, operated or maintained by the City; and

WHEREAS, McDowell County requested that the City Council assist the County by making such a prohibition effective on park and recreational facilities, buildings and youth activities owned, leased, operated or maintained by the County in the Marion City Limits; and

WHEREAS, McDowell County passed the ordinance prohibiting registered sex offenders in McDowell County park or recreation facilities and youth related activities on February 9, 2009; and

WHEREAS, North Carolina General Statute § 153A-122 permits the City, by resolution, to apply any County ordinance within the City; and

WHEREAS, adoption of this resolution would make the McDowell County ordinance prohibiting registered sex offenders in McDowell County park or recreation facilities and youth related activities effective within the City Limits of the City of Marion.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Marion that the McDowell County ordinance prohibiting registered sex offenders in McDowell County park or recreation facilities and youth related activities hereby be made effective within the City Limits of the City of Marion.

ADOPTED this the 17th day of February, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-09-02-17-3

APPROVE REQUEST TO USE COMMUNITY BUILDING BASEMENT: The City Manager stated that he had been contacted by Academy Heights Elementary School, located in Pinehurst, North Carolina requesting permission to use the Community Building Basement on June 5 for a luncheon as part of a field trip the 4th and 5th grade classes in the School are taking to the Mountains. The school should only need the basement for about one hour.

The City Manager recommended that Council waive the rental charges for the basement for this event, in order to help the School with this field trip. He noted that the normal rental charge for the Community Building Basement is $125. The City Manager added that he would also like to present the students with a small token from the City, such as a goodie bag similar to one given to McDowell County third graders participating in the Annual City Open House.

Upon a motion by Councilman Martin, seconded by Councilman Owenby, Council voted unanimously to waive the rental charges for the Community Building Basement for a luncheon for Academy Heights Elementary School on June 5 and to present the students with a small gift from the City of Marion.

APPROVE MEMORANDUM OF UNDERSTANDING – ISOTHERMAL RURAL TRANSPORTATION PLANNING ORGANIZATION: The City Manager reported that the Isothermal Rural Transportation Organization (RPO) is asking all member cities and counties to adopt a Memorandum of Understanding to replace one adopted in 2002, when the RPO was formed.

AA.00000247 (24)

The City Manager advised that he did not see any major changes in the new Memorandum of Understanding that affect the way the RPO has operated for the past few years; however, there are some minor changes in the way the North Carolina Department of Transportation (NCDOT) wants the RPOs to operate.

Mayor Pro Tem Little made a motion to approve the Memorandum of Understanding and Councilman Martin seconded the motion.

Mayor Clark stated that the City had not received anything of value in the past seven years from the RPO. The RPO is supposed to keep the City informed and City Council has never received any information.

The City Manager stated that he served on the Transportation Coordinating Council (TCC) of the RPO and that his attendance had been poor at meetings, which is part of the reason that Council has not received any information. The City Manager added that he would agree that the RPO rarely if ever did anything worth noting.

Mayor Clark stated that he had responded to a request from NCDOT Secretary Gene Conti asking for input on transportation planning and decision making in North Carolina by suggesting that RPOs be abolished. He added that we are giving money to the RPOs and do not know how the money is being used. Mayor Clark suggested that signing the memorandum of agreement implies that the City is satisfied with the current arrangement. He added that Cleveland County is not participating in the Isothermal RPO.

Mayor Pro Tem Little withdrew his motion. Councilman Martin withdrew his second.

The City Manager advised that NCDOT has essentially directed participation in RPOs or MPOs and wants to deal with a handful of regional organizations instead of hundreds of local governments.

The City Manager was instructed to invite Isothermal Planning and Development Commission Executive Director Jim Edwards, along with NCDOT officials, to a City Council meeting to explain what the RPO has accomplished over the past few years.

ADD ON - DISCUSSION – AGREEMENT WITH SMOKY MOUNTAIN MENTAL HEALTH CENTER - INVOLUNTARY COMMITMENT PROCEDURES: The City Manager advised that, as previously discussed, City Police officers must often spend long periods of time staying with persons at the McDowell Hospital that are being involuntarily committed. Under State law, as interpreted by Chief Elliott and the City Attorney, the City has no choice but to remain with such persons.

The City Manager advised that Chief Elliott and Sheriff Dudley Greene have met with the Smoky Mountain Mental Health Center, the regional mental health provider, and the McDowell Hospital to determine solutions to this situation and how local governments can be reimbursed for officers' time. The City Manager stated that Chief Elliott and Sheriff Greene have convinced Smoky Mountain to start a pilot program to pay of an officer's service with involuntary commitment patients after a time period of five hours. However, Smoky Mountain first wants the City and the Sheriff's Department to sign a Memorandum of Agreement that essentially puts in writing the current practice.

The City Manager reported that the City Attorney has looked over the Agreement and, while she does not support all the specific wording and language, she sees no harm in the City signing the Agreement. The City Manager stated that he would therefore recommend approval of the

AA.00000248 (24)

Agreement so that the City could have a change to participate in the pilot program and receive compensation for officers' time used for staying with patients being involuntarily committed.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the agreement
as follows:

McDowell County Emergency Department Pilot Program

THIS AGREEMENT, made and entered into this _____day of_____ 2009, by and between Smoky Mountain Center for Mental Health, developmental Disabilities, and Substance Abuse Services, hereinafter referred to as "SMC", The McDowell Hospital, the McDowell County Sheriff's Department, hereinafter referred to as "MCSD" the City of Marion, and New River Behavioral Healthcare, hereinafter referred to as "NRBH"/

WITNESSETH:

Whereas all parties named above are involved in helping to care for, transport, or assess consumers with mental health, developmental disability, or substance abuse issues:

It is agreed by SMC, The McDowell Hospital, MCSD, City of Marion, and NRBH that it would be mutually beneficial to each named organization to cooperatively provide care and safety to these above named organization to cooperatively provide care and safety to these above named consumers living within the SMC catchmen5t area in accordance with the requirements of GS 122C-251 and following the procedures below.

NOW, THEREFORE, for and in consideration of the mutual covenants made by each of the parties to this contract, SMC, The McDowell Hospital, MCSD, City of Marion, and NRBH contract and agree as follows to the care and safety of involuntarily committed consumers:

1. When the MCSD or City of Marion receives a call to respond to a mental health crisis they will notify NRBH Mobile Crisis and reqwuest their assistance with the call.

2. When NR Mobile Crisis receives the initial call from a consumer they will respond within the required time frames.

3. MCSD or City of Marion will transport any such consumer necessary who is under an involuntary commitment petition to The McDowell Hospital Emergency Department (ED).

4. The McDowell Hospital will complete all necessary or medically indicated laboratories testing when the consumer's arrives at the ED.

5. The McDowell Hospital will provide an appropriate patient care environment for the consumer with adequate space for presence of law enforcement.

6. At the point NRBH Mobile Crisis is called upon to assist, they will contact the first responders if the consumers have one, after first responder intervention options had been exhausted will complete the evaluations if requested, will make recommendations to the ED physician, and will locate placement if necessary.

7. The MCSD or City of Marion will remain with the consumer in the ED until the attending physician there determines that the sonsumer is not a risk to self or others.

8. Upon the determination by the ED physician that the consumer is not

AA.00000249 (24)

a risk to self or others, MCSD or City of Marion determines if they remain with the consumer or depart. The McDowell Hospital will assign a sitter to maintain visual contact with the patient/consumer and notify medical staff of a change in behavior. Consumers will be under the care of an ED physician while in the ED.

9. If the consumer's behavior becomes violent or dangerous, McDowell Hospital will call the law enforcement department that transported the consumer to the hospital initially (either MCSD or City of Marion), and that department will return to the ED, and will remain with the individual throughout the remainder of their stay at the McDowell Hospital.

10.NRBH mobile crisis will continue mobile crisis interventions as indicated, including developing a safety plan, making treatment recommendations, reevaluating when the time frame or condition of the consumer warrant and securing a 24 treatment resource when appropriate.

11. Communication will be consistent among all agencies regarding the treatment and/or placement progress of the consumer.

12.Law Enforcement will be responsible for transportation of consumers once a commitment is terminated or disposition is secured, in accordance with State Statutes including GS 122C-251.

13.SMC will be responsible to facilitate a discussion to resolve any issues that can't be resolved between the parties in a timely manner.

14.SMC will follow up with MCSD, City of Marion, NRBH and McDowell Hospital to see if the process is working.

_____ _____
Don Suggs, Interim Area Director Date
Smoky Mountain Center

_____ _____
Dudley Greene, McDowell County Sheriff Date

_____ _____
Mika Elliott, Marion Chief of Police Date

_____ _____
Ed Hannon, CEO McDowell Hospital Date

_____ _____
Patricia P. Andrews, CEO Date
New River Behavioral Healthcare

ADD ON – DISCUSSION – JOINT UTILITY COMMITTEE MEETING: The City Manager advised that the Joint Utility Committee will be meeting on Thursday, February 19, 2009 at 3:00 P.M. at City Hall. He noted that Council had agreed to offer to sell water to the McDowell County Nebo Water System through a master meter at a bulk rate equal to the City's inside water rate. The City Manager asked if Council had any further direction regarding this matter before it was presented at the Joint Utility Committee meeting. The Mayor and Council members had no further comments or discussion regarding this matter.

AA.00000250 (24)

The City Manager added that the County Manager also wanted to discuss at the Joint Utility Committee on-going concerns about the Skate Park located on County property at West Court Street. The City Manager advised Council that it was possible that recommendations regarding the Skate Park could arise out of this discussion.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that Planning and Development Director Heather Cotton and Public Works Director Chris Hollifield were working to provide DOT with some final needed information to allow for comment and hopefully a decision regarding the Downtown Streetscape/Traffic Flow Plan that the City previously submitted to DOT.

The City Manager advised that the N.C. STEP Program Leadership Team continues to work on details of implementation regarding the City's $200,000 N.C. STEP Program grant. Recommendations regarding the implementation projects will hopefully be presented to City Council in March.

The City Manager advised that he has continued to seek confirmation from UNC-TV and other television stations that they will pay the expenses for additional surveying, site plan preparation and appraisal work as required by the N.C. Parks and Recreation Trust Fund as part of the City's request to allow the television towers to remain on top of Mt. Ida. As soon as this confirmation is received, the City will release the work to be completed, so that State approval can hopefully be obtained as soon as possible.

The City Manager advised that the McDowell Trails Association (MTA) continues to work on fundraising to lessen the City's projected $60,000 local match for the Catawba River greenway project. The City Manager reported that Mr. Hollifield, Ms. Cotton and he recently met with Bill Hendley of the MTA to walk the cleared greenway route. He added that the greenway looks beautiful and will be a tremendous asset to the community, but much work remains to be done. The City Manager stated that City staff have authorized McGill Associates to start on the final design and permitting for the project. The final design needs to be completed so that the City can put the project out for construction bids later this year and complete our project by the grant deadline of June 30, 2010.

The City Manager added that Mr. Hendley will likely make a presentation to Council at the March 3 meeting on the progress made on the greenway project so far and regarding the fundraising effort.

Councilman Martin stated that he would like to walk the greenway. The City Manager asked the Mayor or any Council Member who wished to walk the greenway to let him know.

Mayor Pro Tem Little asked where the City stood with the yield to pedestrian signs for the Main and Court Street intersection and the request to modify the no right turn on red signs. Public Works Director Chris Hollifield stated that the City could place at least eight signs at the intersection for less than $1,000. No objection was stated to this cost, so City staff will proceed with seeking approval for the sign installation from DOT.

The City Manager stated that he would follow up on the request to DOT to modify the wording on the no right turn on red signs at the Main and Court and Main and Henderson intersections.

COUNCILMAN COMMENTS:

Councilman Edwards asked if the mirror on East Henderson Street providing for safe egress out of the Gurley property was City responsibility. If so, the mirror is askew and needs fixing. The

AA.00000251 (24)

Dups
Copied twice

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The City Manager stated that he would follow up on the request to DOT to modify the wording on the no right turn on red signs at the Main and Court and Main and Henderson intersections.

COUNCILMAN COMMENTS:

Councilman Edwards asked if the mirror on East Henderson Street providing for safe egress out of the Gurley property was City responsibility. If so, the mirror is askew and needs fixing. The

AA.00000252 (24)

City Manager stated that staff would check on the maintenance responsibility for the mirror and reposition the mirror or alert the property owner.

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

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, March 3, 2009 at 7:00 P.M. in the City Council Chamber located at 194 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: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, Planning and Development Director; Mika Elliott, Police Chief; Chris Hollifield, Public Works Director; Freddie Killough, Executive Director, Marion Business Association; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Frank Dean 375 South Garden Street, Marion, NC; Roger and Christine McCarthy, Rutherford Road, Marion, NC; Dennis Laws Marion, NC; Doug Crisp, Crisp Drive, Marion, NC; Bill Hendley, McDowell Trails Association; Steven O'Kelly, North Madison Street, Marion, NC; Bobbie Young, 318 Forest Heights Drive, Marion, NC.

CITIZEN OF THE MONTH – SELECTED BY COUNCILMAN CECIL OWENBY:
Councilman Cecil Owenby selected the Citizen of the Month for March 2009.

Councilman Cecil Owenby advised that it was with great pleasure he announced his Citizen of the Month:

ROGER MCCARTHY

Roger is married to Christine and has served as a volunteer for the Marion Fire Department for the last 32 years.

Roger is dependable and is a man of great integrity and character, making him an honest and caring person.

Councilman Owenby stated that firefighting is a hard and dangerous job and it takes a special kind of person to do it year after year. During this time he has served on the Fire Department

AA.000000253 (24)

Membership Committee, the Firemen's Relief Fund Committee and as a crew leader with the North Carolina Forest Service.

Roger is also retired from Baxter Healthcare. His actions have influenced many people through the years in a positive way.

Mayor Clark and Council Members all shared kind words about Roger McCarthy and commended him for all he has given to the community.

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the consent agenda as follows:

A. **Approval of Minutes** – February 17, 2009 City Council meeting Minutes

B. **Approve Agreement with DOT/Norfolk Southern Railway – McDowell Avenue Street Extension**

Railroad: Norfolk Southern Railway Company	Milepost: S-98.98 S-99.40	County of McDowell

DEPARTMENT OF TRANSPORTATION

AND

CITY OF MARION

AND

NORFOLK SOUTHERN RAILWAY COMPANY

SUPPLEMENTAL CROSSING CLOSURE AGREEMENT

2/11/09

Project ID: Y-4813 A

THIS AGREEMENT is made and entered into on the last date executed, below, by and between the DEPARTMENT OF TRANSPORTATION, an agency of the State of North Carolina, hereinafter referred to as the "Department", the CITY OF MARION, a municipal corporation, hereinafter referred to as the "Municipality", and NORFOLK SOUTHERN RAILWAY COMPANY, a corporation of Virginia, hereinafter referred to as the "Railroad".

WITNESSETH:

WHEREAS, the Department, Municipality and Railroad, on the 14th day of September, 2007, entered into an Agreement to make safety improvements at the grade crossings of the NS "S" Line located at Clay Street crossing (Crossing #729 469G) and Garden Street (Crossing #729 468A) both of which are part of the Municipal system in McDowell County under Project
Y-4813 A; and,

WHEREAS, the Municipality has requested the Department administer and/or award the construction contract and supervise project construction for the improvements of the McDowell Avenue extension; and,

WHEREAS, the Department shall assume the responsibilities to administer and/or award the construction contract and supervise project construction for the improvements of the McDowell Avenue extension; and,

WHEREAS, the Department shall increase the participation in the actual costs for design and construction of the project; and,

WHEREAS, the Department and Municipality have established a tentative completion date for the project; and,

WHEREAS, the parties hereto now wish to supplement the aforementioned Agreement to reflect revisions to the existing provisions of the executed Crossing Closure Agreement and whereby the following provisions shall be amended:

2. The Municipality, or its agents, has submitted the final construction plans, the total contract proposal, and an estimate of the project costs (PS&E package) to the Department's Division 13th District Engineer for review and approval prior to the Department's advertising the project for construction bids. Written review comments from the Department shall be received by the Municipality within sixty days (60) of submittal. If comments are not received within sixty – (60) days, the Municipality will presume plan approval and concurrence by the Department. Subject to successful completion of the planning document and all required environmental work, the Department, and/or its agent, will construct the project in accordance with the plans and specifications adopted therefore or as altered or amended by the Department. The Department shall perform, or cause to be performed, the necessary construction engineering, sampling and testing, and supervision required prior to and during the construction of the Project. The Department shall have the right to abandon the project at any time before the Municipality or Railroad has been called upon to perform any part of its agreement. Said work shall be performed by the Department in accordance with Departmental and Federal standards and specifications, policies, procedures, and local codes and ordinances.

(A) During construction of the McDowell Avenue extension project, the Department shall provide and maintain adequate barricades, signs, signal lights, and other warning devices for the protection of the public in accordance with the approved traffic control plans for the Project and the current edition of the Manual on Uniform Traffic Control Devices (MUTCD) for Streets and Highways or any subsequent revision of the same, published by the Federal Highway Administration and effective at the time of award of the contract.

(B) To mitigate the closure of the Clay Street crossing, the Department's Rail Division shall provide funding for the actual cost of the design and construction of a one-block extension of McDowell Avenue to connect Oak Avenue north of US 70. The Department shall participate in the total cost of this project in an amount not to exceed $455,000. Construction funding shall be contingent upon environmental documentation/approvals as per the National Environmental Protection Act (NEPA). All work shall be performed by the Municipality in accordance with departmental standards, specifications, policies, procedures, and local codes and ordinances.

(C) Subject to compliance by the Municipality with the provisions set forth in this Supplemental Agreement, the Department shall reimburse the Municipality the actual cost incurred for the design of the McDowell Avenue extension. All costs which exceed the Departmental Participation for the actual design costs shall be borne by the Municipality. Reimbursement to the Municipality shall be made upon the review and approval of the invoice by the Department's Division 13th District Engineer, Rail Division and the Department's Financial Management Division.

(D) The Municipality may bill the Department for actual costs by submitting an itemized invoice and requested documentation to the Department. Progress payments based upon actual costs, for periods of not less than one (1) month, may be made upon receipt of an itemized invoice, supported by documentation of costs from the Municipality. The Municipality agrees that it shall bear all costs of any item for which it is unable to substantiate actual costs. All invoices associated with the project must be submitted within six (6) months of the completion and acceptance of the project to be eligible for reimbursement by the Department. Any invoices submitted after this time will not be eligible for reimbursement. Prior to final approval and payment by the Department, the Department and/or a representative of the Federal Highway Administration will be given the opportunity to make a final inspection of the completed work. By submittal of each invoice, the Municipality certifies that it has adhered to all applicable state laws and regulations as set forth in this Supplemental Agreement.

WHEREAS, the parties hereto now wish to supplement the aforementioned Agreement to reflect the addition of required standard language to the existing executed Crossing Closure Agreement and whereby the following provisions shall be added:

32. The Municipality will indemnify and hold harmless the Department, FHWA, and the State of North Carolina, their respective officers, directors, principals, employees, agents, successors, and assigns from and against any and all claims for damage and/or liability in connection with the project activities performed pursuant

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to this Agreement. The Department shall not be responsible for any damages or claims for damages, which may be initiated by third parties.

33. It is the policy of the Department not to enter into any agreement with another party that has been debarred by any State or Federal agency. By execution of this agreement, the Municipality certifies that neither it nor its agents or contractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal or State Department or Agency and that it will not enter into agreements with any entity that is debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction.

34. The Department shall be responsible for ensuring compliance with all applicable State, Federal and local environmental laws and regulations and ordinances and shall be responsible for any fines, assessments or other penalties resulting from non-compliance by any entity performing work under contract with the Department.

35. The Municipality is solely responsible for all agreements, contracts, and work orders entered into or issued by the Municipality for this Project. The Department is not responsible, for any expenses or obligations incurred for the Project except those specifically eligible in the terms of this Agreement.

36. This Agreement is solely for the benefit of the identified parties to the Agreement and is not intended to give any rights, claims, or benefits to third parties or any person or to the public at large.

37. The Department must approve any assignment or transfer of the responsibilities of the Municipality set forth in this Agreement to other parties or entities.

All other provisions shall remain the same.

Except at hereinabove provided, the Agreement heretofore executed by the Department, Municipality and Railroad on the 14th day of September 2007 is ratified and affirmed as therein provided.

L.S. **CITY OF MARION**

ATTEST:

BY: _____ BY: _____

TITLE: _____ TITLE:

DATE: _____ DATE: _____

Approved by City Council of the City of Marion as attested to by the signature of _____, Clerk of the City Council on _____.

(Date)

(SEAL)

ATTEST:
BY: _____
Assistant Secretary of the Company

NORFOLK SOUTHERN RAILWAY COMPANY
BY:_____

AS ITS_____

DATE: _____

ATTEST:

_____
Secretary to the Board of Transportation

DEPARTMENT OF TRANSPORTATION

_____
Paul C. Worley
Director -Engineering & Safety
Rail Division

DATE: _____

PRESENTED TO BOARD OF TRANSPORTATION ITEM O: _____DATE

C. Approve Revised North Carolina Statewide Emergency Management Mutual Aid and Assistance Agreement

NORTH CAROLINA STATEWIDE EMERGENCY MANAGEMENT MUTUAL AID AND ASSISTANCE AGREEMENT
Revision – January 2009

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 chosen 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, commitments, 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.

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"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 the 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. When 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 this 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 service 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 requests 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 notify Recipient's authorized representative and forward the information from Provider. The Recipient/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 equipment sufficient to maintain communications among its respective operating units, and if this is not possible, Provider shall notify Recipient accordingly;

(2) maintain daily personnel time 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 either a pre-established local or state hourly rate or 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 in accordance

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with 44 C.F.R. 206.228. Provider shall pay for all repairs to its equipment as determined necessary by its on-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 Provider's 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. *Payment; Other Miscellaneous Matters as to Reimbursements*-- The reimbursable costs and expenses 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.

AA.00000261 (24)

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 amounts 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 cases of willful misconduct, gross negligence, or bad faith, their personnel complying with or 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, keep, 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 upon: (1) acceptance and execution of this Agreement; and (2) sending said executed copy of the Agreement to the NC Division of Emergency Management.

Section XIV. INITIAL DURATION OF AGREEMENT; RENEWAL; TERMINATION

AA.00000262 (24)

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 any one or more of 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), provision(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.

EMERGENCY MANAGEMENT DIVISION
DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY
BY: _____ WITNESS:
Rueben F. Young, Secretary _____
Department of Crime Control & Public Safety
Date: _____

BY: _____ WITNESS:
H. Douglas Hoell, Jr., Director _____
Emergency Management Division
Date: _____
BY: _____ WITNESS:
Chief Executive Officer - Local Government Unit _____
Printed Name & Title _____
Name of Unit: _____
Date: _____

APPROVED AS TO PROCEDURES:
BY: _____
Benny Aiken, Controller

AA.000000263 (24)

Department of Crime Control and Public Safety
Date: _____

N.C. STATEWIDE MUTUAL AID AND ASSISTANCE AGREEMENT

List of Authorized Representatives to Contact for Emergency Assistance
Name of Unit: _____
& Mailing Address: _____

_____

Date: _____

==========

I. PRIMARY REPRESENTATIVE:
Name: _____
Title: _____
Day Phone: (_____) _____ Night Phone: (____) _____
Fax #: (____) _____ Pager #: (_____) _____

==========

II. FIRST ALTERNATE REPRESENTATIVE:
Name: _____
Title: _____
Day Phone: (____) _____ Night Phone: (_____) _____
Fax #: (_____) _____ Pager #: (_____) _____

==========

III. SECOND ALTERNATE REPRESENTATIVE:
Name: _____
Title: _____
Day Phone: (_____) _____ Night Phone: (_____) _____
Fax #: (_____) _____ Pager #: (_____) _____

D. Adopt Resolutions Authorizing Federal Stimulus Funding Applications – Water and Wastewater and Wastewater Projects:

CITY OF MARION
RESOLUTION BY CITY COUNCIL

WHEREAS, the American Recovery and Reinvestment Act of 2009 is anticipated to make loans and grants available to aid eligible units of government in financing the cost of infrastructure improvements, and

WHEREAS, The City of Marion has need for and intends to construct a drinking water distribution improvement project described as Sugar Hill Road Water System Improvements. This project generally involves extension of a water line along Sugar Hill Road to provide water service to a growing corridor of commercial development in the area. The project consists of approximately 4,300 LF of 12-inch water line and associated appurtenances.

WHEREAS, The City of Marion has need for and intends to construct a wastewater collection project described as Sugar Hill Road Sewer System Improvements. This project generally involves extension of a sewer collection system along Sugar Hill Road to provide sewer service to a growing corridor of commercial development in the area. The project consists of approximately 4,500 LF of 8-inch gravity sewer, 10,000 LF of 6-inch sewer force main, 2 wastewater pump stations with associated appurtenances.

WHEREAS, The City of Marion intends to request grant/loan assistance for the project,

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

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

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the City of Marion to make scheduled repayment of the loan, to withhold from the City of Marion any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

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

That Bob Boyette, City Manager, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a loan or grant to aid in the construction of the project described above.

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

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted by the City Council of the City of Marion this the 3rd day of March, 2009 at Marion, North Carolina.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Resolution Number: R-09-03-03-1

CERTIFICATION BY RECORDING OFFICER

The undersigned duly qualified and acting clerk of the City of Marion does hereby certify: That the above/attached resolution is a true and correct copy of the resolution authorizing the filing of an application with the State of North Carolina, as regularly adopted at a legally convened meeting of the City of Marion duly held on the _____ day of _____, 2009; and, further, that such resolution has been fully recorded in the journal of proceedings and records in my office. IN WITNESS WHEREOF, I have hereunto set my hand this _____day of _____, 2009.

_____
(Signature of Recording Officer)

_____
(Title of Recording Officer)

CITY OF MARION
RESOLUTION BY CITY COUNCIL

WHEREAS, the American Recovery and Reinvestment Act of 2009 is anticipated to make loans and grants available to aid eligible units of government in financing the cost of infrastructure improvements, and

WHEREAS, The City of Marion has need for and intends to make necessary improvements to the Corpening Creek Wastewater Treatment Plant. The project generally consists of improvements to the City of Marion's Corpening Creek Wastewater Treatment Plant including the installation of a new headwork assembly, including mechanical bar screen, grit removal system, and triplex submersible influent pump station. The existing fixed platform aerators in the aeration basins will be replaced with floating rotary brush aerators. This project also includes a new chlorine and sulfur dioxide chemical feed system, progressive cavity sludge pumps, a new sludge holding tank with positive displacement blowers and air piping, as well as numerous yard piping modifications and other appurtenances.

AA.00000265 (24)

WHEREAS, The City of Marion intends to request grant/loan assistance for the project,

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

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

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the City of Marion to make scheduled repayment of the loan, to withhold from the City of Marion any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

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

That Bob Boyette, City Manager, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a loan or grant to aid in the construction of the project described above.
That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted by the City Council of the City of Marion this the 3rd day of March, 2009 at Marion, North Carolina.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Resolution Number: R-09-03-03-2

CERTIFICATION BY RECORDING OFFICER

The undersigned duly qualified and acting clerk of the City of Marion does hereby certify: That the above/attached resolution is a true and correct copy of the resolution authorizing the filing of an application with the State of North Carolina, as regularly adopted at a legally convened meeting of the City of Marion duly held on the _____ day of _____, 2009; and, further, that such resolution has been fully recorded in the journal of proceedings and records in my office. IN WITNESS WHEREOF, I have hereunto set my hand this _____day of _____, 2009.

_____
(Signature of Recording Officer)

_____
(Title of Recording Officer)

AA.000000268 (24)

CITY OF MARION
RESOLUTION BY CITY COUNCIL

WHEREAS, the American Recovery and Reinvestment Act of 2009 is anticipated to make loans and grants available to aid eligible units of government in financing the cost of infrastructure improvements, and

WHEREAS, The City of Marion has need for and intends to rehabilitate the Hospital Pump Station. This project generally consists of the construction of a new 330 gpm triplex wastewater pump station, approximately 25 LF of 8-inch gravity sewer line, and approximately 1,130 LF of 8-inch DIP force main and associated appurtenances to replace an existing pump station and force main.

WHEREAS, The City of Marion intends to request grant/loan assistance for the project,

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

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

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the City of Marion to make scheduled repayment of the loan, to withhold from the City of Marion any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

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

That Bob Boyette, City Manager, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a loan or grant to aid in the construction of the project described above.

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

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted by the City Council of the City of Marion this the 3rd day of March, 2009 at Marion, North Carolina.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Resolution Number: R-09-03-03-3

CERTIFICATION BY RECORDING OFFICER

The undersigned duly qualified and acting clerk of the City of Marion does hereby certify: That the above/attached resolution is a true and correct copy of the resolution authorizing the filing of an application with the State of North Carolina, as regularly adopted at a legally convened meeting of the City of Marion duly held on the _____ day of _____, 2009; and, further, that such resolution has been fully recorded in the journal of proceedings and records in my office. IN WITNESS WHEREOF, I have hereunto set my hand this _____day of _____, 2009.

_____

(Signature of Recording Officer)

AA.000000267 (24)

(Title of Recording Officer)

UPDATE ON CATAWBA RIVER GREENWAY PROJECT – BILL HENDLEY – MCDOWELL TRAILS ASSOCIATION

Planning and Development Director Heather Cotton, along with Frank Dean and Bill Hendley of the McDowell Trails Association gave an update and overview on the Catawba River Greenway Project, as follows:

The total estimated project cost of the Greenway is $365,700.

Two Grants have been received, a North Carolina Parks and Recreation Trust Fund grant in the amount of $167,300 and a Recreational Trails Program grant in the amount of $75,000, leaving a local match of $198,400

However, the local match requirement of $198,400 is further broken down as follows:

- NC Fish & Wildlife Funding for fishing pier - $10,000
- RTP Grant - $75,000
- Land Donation - $31,100
- In Kind Service - $22,300
- Local Funding Match - $60,000

Therefore, the City's actual cash match is only $60,000.

The Greenway is being built by the City in partnership with the McDowell Trails Association (MTA)

City's Role

Contract with McGill Associates Inc. to complete the following:

- Flood Study
- State and Federal Permitting
- Engineering/Construction Drawings
- Bid Administration

MTA's Role

- Fundraising and Promotion
- Coordinating Establishment of Access Road
- Cleaning Right-of-way
- Building Extension to Round Hill

Fundraising and Promotion

- Selling Personalized Bricks ($100.00 each)
- Solicitation of Donations
- Recording Volunteer work
- Signage

Future Entrance to the Marion River Greenway – Clearing and building the entrance road and parking area

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Establishing an entrance road and parking area has entailed:

- Coordinating use of inmate labor
- - To cut trees
- - Clear underbrush
- Obtaining appropriate permitting for access road (McDowell County Building Department)
- Coordinating Volunteer services to remove logs, fire wood, stumps and to establish access road.
- Coordinating volunteer services to obtain large stones for highway entrance
- Coordinating with City to bush-hog parking area, haul stumps to land fill, and to provide gravel stone for highway entrance.

Cleaning Right-of-way requires removal of junk wood, underbrush and trash

Round Hill Extension Survey – involves connecting the trail from the River to the Round Hill which is the burial site of Hunting John McDowell and Col. Joseph McDowell.

Ms. Cotton advised that McGill Associates would be working on the final design and permitting for the Greenway, allowing time for the MTA to raise the $60,000 local match, and that if all goes well construction should start sometime in 2009.

Mayor Clark and Council members stated that they appreciated all that has been done on this project.

Mr. Dean stated that the MTA was committed to raise the entire $60,000 local match for the City, despite the tough economic times.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

PRESENTATION OF RECOMMENDATIONS FOR PERMANENT FARMER'S MARKET STRUCTURE: Ms. Freddie Killough, Executive Director of the Marion Business Association (MBA), presented plans and cost estimates for a permanent farmer's market structure, to be located in the rear portion of the City's West Henderson parking lot.

Ms. Killough advised that she had obtained approval for inmate labor to construct the structure, which will be an open shelter. The City's Building Inspector would oversee the construction. Ms. Killough stated that the estimated cost of the structure is $150,000 and the estimated cost of materials is $50,180. She added that the City has $20,000 earmarked for this project through the N.C. STEP Program and efforts are being made to look at other sources of funds.

Ms. Killough related the history of the Farmer's Market during the past two years.

Councilman Owenby asked if the City or MBA would be charging persons to use the structure. Ms. Killough stated that each vendor would be charged $20.00 per year. Ms. Killough added that the Market has been such a success that there has been some discussion about adding a second market date per week, with the second date to be staffed by the growers.

Councilman Owenby asked if the City or MBA would charge extra for additional days. Ms. Killough stated that this would likely be the case.

Mr. Bill Hendley stated that he was a part time bee keeper and sold 36 jars of honey the first hour he appeared at the Market. He stated that the Market had been a great source of part time income for he and other growers.

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Mayor Pro Tem Little stated that the shed would bring more traffic into the downtown area. However, he would not be in favor of using this space as a flea market. Ms. Killough stated that rules would be enforced about the allowed uses for the shelter. She stated that it had been suggested that the shelter be used for arts and crafts events and for musical concerts or festivals.

Ms. Killough stated that the inmate labor could begin on the shelter in late April. The City Manager added that the starting date for the construction would be contingent on the availability of funding. He added that he and Ms. Killough were exploring options for funding, but finding such opportunities to be limited.

Council took no action on this matter, but stated their continued support for the project, and encouraged staff to continue to look for available funding.

PRESENTATION OF N.C. STEP PROGRAM RECOMMENDATIONS: Ms. Killough presented recommended timelines for the City's N.C. STEP Program Projects and gave information about each project, as follows:

NC STEP Project Timelines
Thursday, February 12, 2009 - Marion Business Association

Present – Mayor Everette Clark, Harriett Thomas, Heather Cotton, Bob Boyette, STEP Coach Ted Alexander, Art Jackson (NC Rural Center), Bobbie Young, Freddie Killough

Projected timelines and current updates for NC STEP projects:

1. **MACA–** Susan Pyatt, Heather Cotton – *RFPs has been sent. MACA desires to add artist studio space, class & conference rooms and a permanent theater space. A part-time consultant has been hire to oversee RFPs.* **$10,000.000** Completion date – August 1, 2009
2. **Farmer's Market**–Freddie Killough – *The Department of Corrections will provide labor for construction. Drawings are complete. Materials cost is $50,000.00. The committee is working with the City to identify $30,000.00 additional funding.* **$20,000.00** *If additional funding is identified,* Completion date – September 30, 2009
3. **"Made in McDowell" Marketing & Branding**– Freddie Killough, Bobbie Young – *Mayor Clark recommended some changes in the logo. Heather Cotton will make those changes. The Made in McDowell Committee will meet Friday, February 13 to determine strategies for marketing. URLs have been purchased. It was suggested that TDA funds be utilized for marketing match.* **$50,000.00** Completion date – March 31, 2010
4. **Wayfinding signage** – Heather Cotton – *Partnering with Old Fort for a BRNHA grant for comprehensive wayfinding signage for Marion & Old Fort. In the meantime, Heather is creating a local comprehensive wayfinding signage plan for Marion that will be part of the updated street- scape plan. The plan is for all signage to have a uniform look.* **$40,000.00** Completion date – December 31, 2009
5. **Technological/WiFi** – Bob, Harriett, Freddie – *Would like to expedite project and not wait for Valdese. Need to set meeting with Trificient and Keith Buchanan.* Completion date – March 31, 2010 **$30,000.00**
6. **Entrepreneurial Support** – Freddie Killough, Bob Boyette, Mayor Clark – *Small Business Grant Program* (On approval from City Council & the Rural Center) Completion date – March 31, 2010
7. **Water/sewer Improvements** – Bob Boyette – *The City is updating the 30 year old waste water treatment plant to meet current and future needs. They are seeking funding to install water/sewer on Sugar Hill Road.* No NC STEP funds are committed to this project.
8. **Adaptive Reuse of Brownfield Sites** - *The City of Marion is partnering with Isothermal Planning to promote adaptive reuse of former mill/manufacturing sites.* No NC STEP funds are committed to this project.
9. **Project Four – 21st Century Innovator Committee** - *Local citizens meet bi-monthly to discuss changing and future trends, thus guiding decisions for educational needs, challenges for community growth and infrastructure needs.* No NC STEP funds are committed to this project.

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Record Keeping and Reporting– Harriett Thomas and Freddie Killough – *Freddie will maintain records for each project and submit all invoices to Harriett Thomas. Harriett will bill the Rural Center. Any and all supporting activity should be reported for Rural Center reports. Recording the number of community participants for each project is critical. A form has been created for recording keeping.*

Ms. Killough stated that the N.C. STEP Program Leadership Team has recommended that the City undertake a business grant program using the remaining $50,000 in N.C. STEP Program Funds. As previously reported, the North Carolina Rural Center strongly discouraged a revolving loan fund and local bankers did not seem to support a loan guarantee program. Ms. Killough provided details about the grant program and asked for Council approval, since the Rural Center wants decisions made regarding the use of the grant funds by March 31. Ms. Killough provided the following general outline regarding the business grant program:

Marion Small Business Grant Program

The recommendation of the Entrepreneurial Support sub-committee is to create a "Marion Small Business Grant" program. The grant will be a 25% match grant to Marion businesses.

Suggested Requirements & Uses:
Review committee to be broad expertise – Banker, small business owner, accountant, city representative.
Maximum grant amount - $4,000.00 with 25% applicant match (Will accept for less)
Will use a point system for applications. Points (TBD) for each of the following suggested priorities:

1. Job creation, job retention (highest number of points)
2. Building code issues and/or Historic building improvements (or façade improvements)
3. Inventory expansion, high points for expansion into identified retail gaps
4. Marketing/web development (with use of STEP/ MBA logos)
5. Underserved populations/minorities
6. Marion Business Association Member
7. Number of years in business
8. Rent, mortgage, utilities, payroll

Suggested requirements of applying business -

1. Business must be "bricks & mortar" business, fully licensed within the City of Marion
2. Credit Check required
3. Insurance required
4. Business financial documentation
5. Attend Small Business workshop/seminar (Partner with Sm Biz Center & MBA)
6. 5% or 10% processing fee to create some marketing (?) funds
7. Participate in Small Business Roundtable Forums
8. "Do you want a business mentor to assist your business?"
9. An update Business Plan

Accountability
Grants not to be awarded up front on approval of application. Grants will be paid on receipt of a 30/60 day invoice. A signed contract may be considered.
Applicant must agree to a follow-up or exit interview in which staff will visit and document the grant results. Photos and written documentation will be required for Rural Center reporting.

To Do List:

Create application (Coach Ted Alexander will assist)
Define requirement list

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City Council approval
Rural Center approval
Market program

Ms. Killough also advised that Council approval was needed to transfer about $3,000 to $4,000 from the Made in McDowell Branding project to the Downtown Wireless Network project to allow a consultant to be hired to assist with the Downtown Wireless Network project.

Mayor Clark stated that the way-finding signage effort should eventually involve signage to direct people from the interstate into the City.

The City Manager advised that the N.C. STEP Program and the implementation projects would not have happened without the efforts of Planning and Development Director Heather Cotton, MBA Director Freddie Killough and N.C. STEP Program Community Leadership Team Chairperson Bobbie Young.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, Council voted unanimously to approve the concept of a business grant program using the remaining $50,000 in N.C. STEP Program Funds, based on the presented guidelines, and to authorize $3,000-$4,000 to be transferred from the Made in McDowell Branding project to the Downtown Wireless Network project to allow a consultant to be hired to assist with the Downtown Wireless Network project.

CONSIDER APPROVAL OF ORDINANCE – WEST WILHEMENIA STREET PARKING: The City Manager advised that the Police Department had received reports of and observed increasing loitering and littering activity in the dead end block of West Wilhemenia Street west of Oak Avenue in the West Marion community. There are also reports of increasing illegal activity. The City Manager stated that the Police Chief has developed a plan for more patrol saturation and presence in this area and that the City will also undertake code enforcement action, beautification and litter cleanup activities through City staff, Keep McDowell Beautiful, the Prison and community service workers to address litter.

The City Manager stated that he and Chief Elliott have reviewed the location and would recommend the adoption of an ordinance to prohibit parking on both sides of West Wilhemenia Street between Oak Avenue and the dead end. The City Manager stated that there is currently no parking on the south side of the street; however, prohibiting parking on both sides of the street would help, as it has on Oak Avenue. Therefore, if City officers observe someone parked on the street, they will have reason to investigate and can at least keep people moving. All residences on the street have driveways, so the parking prohibition should not harm the residents in any way. A copy of the current traffic schedule for West Wilhemenia Street was presented to Council.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Ordinance:

ORDINANCE
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 18-239 is amended by deleting the following:

STREET NAME	REGULATION	REG. APPLICATION

AA.00000272 (24)

WILHEMENIA STREET	PARKING PROHIBITED	SOUTH SIDE, BEGINNING AT THE SW CORNER OF OAK ST. AND WILHEMENIA ST. AND CONTINUING 230 FT. IN A WESTERLY DIRECTION	(WEST)

Section 3. Section 18-239 is amended by adding the following:

STREET NAME	REGULATION	REG. APPLICATION	
WILHEMENIA STREET (YELLOW AND WEST WILHEMENIA CONTINUING	PARKING PROHIBITED BEGINNING AT THE SW CORNER OF OAK AVE.	BOTH SIDES OF STREET CURBS) ST. AND IN A WESTERLY DIRECTION TO THE END OF THE STREET	(WEST)

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 3rd day of March, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-09-03-03-1

SCHEDULE STREET COMMITTEE MEETING: The City Manager advised that at the January 20 Council meeting, Council discussed the idea of scheduling a Street Committee meeting on the afternoon of March 13 to look at a demonstration of a three lane section on Fleming Avenue at the Marion Elementary School entrance. The City Manager suggested that a Street Committee meeting be scheduled for that time, or at an alternate time agreed to by the Street Committee and when school is not in session.

The City Manager stated that Arbor Day is scheduled for 9:00 A.M. on that morning at Eastfield Elementary.

Mayor Pro Tem Little stated that he prefers afternoon for the demonstration. It was decided that the Street Committee would meet at 3:30 P.M. on March 13.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that a letter had been received from the N.C. Department of Correction, advising that the two sites offered by City Council for a new prison and/or prison laundry are not large enough for a new prison. The letter also provides details about the specifications for a new site (125-150 acres in size, the ability to provide 200,000 gallons per day of water supply and wastewater treatment capacity, etc.). The City Manager stated the he would be contacting the County Manager to see how the City and County can work together to combine the City's properties (especially the one next to McDowell Tech) with other surrounding properties to create an adequate site and to discuss other possible sites the City could serve as well.

AA.00000273 (24)

The City Manager advised McDowell News reporter Mike Conley that the McDowell News needed to print a correction to the story in that day's newspaper advising that the City did not give the land to the State for a Prison, but simply offered the land to the State if a Prison or Prison laundry would be built.

The City Manager stated that the City's Annual Open House for all Third Graders in McDowell County has been set for Friday, May 1, 2009.

The City Manager presented Council with copies of letters of intent that were sent to the State for Water and Wastewater projects for the Federal Stimulus Funding. McGill Associates is following up with applications for each project.

Planning and Development Director Heather Cotton extended an invitation to Council to attend an upcoming McDowell Arts Opera Show at East McDowell Junior High School.

COUNCILMAN COMMENTS: None

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

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.000000274 (24)

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 24, 2009 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

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

Mayor Clark was absent from this meeting due to being out of state.

Mayor Pro Tem Steve Little presided over this meeting

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, Planning and Development Director; Mika Elliott, Police Chief; Chris Hollifield, Public Works Director; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Jim Edwards, Chuck Nance and Josh King, Isothermal Planning Development Commission; Carol Price, Executive Director, McDowell Tourism Development Authority; Bunnie Burgin, Marion, NC; Mickey Lewis, 235 Yancey Road, Marion, NC.

CONSENT AGENDA: Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – March 3, 2009 Regular City Council Meeting Minutes

B. Approve Contract for Engineering Services – Construction Phase Services – Wastewater Improvements Project:

AGREEMENT FOR ENGINEERING SERVICES

This AGREEMENT, made and entered into this the _____ day of February 2009, by and between the **City of Marion** (OWNER) and McGill Associates, P.A. (ENGINEER).

WHEREAS, the OWNER proposes to do certain work toward the accomplishment of the Project entitled **City of Marion, Wastewater Treatment Plant Improvements.** For the purposes of this Agreement, the services to be provided apply to two (2) construction contracts entitled "Catawba River Pump Stations and Force Mains" and Corpening Creek Wastewater Treatment Plant Improvements", and

WHEREAS, the ENGINEER desires to provide professional services in accordance with this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and benefits contained herein, it is hereby mutually understood and agreed as follows:

SECTION 1 - GENERAL SERVICES

The ENGINEER shall:

1.1 The ENGINEER shall, as directed by the OWNER, provide professional engineering services for the OWNER in all phases of the Project; serve as OWNER's professional engineering representative for the Project; and shall give professional consultation and advice to OWNER during the performance of the services hereunder.

1.2 The ENGINEER shall provide all personnel required in performing the Project unless otherwise provided herein. Such personnel shall not be employees of or have any contractual relationship with the OWNER. All services rendered hereunder shall be performed by the ENGINEER or under his supervision and all personnel engaged in the Project shall be fully qualified under North Carolina law to perform such services. None of the services covered by this Agreement shall be subcontracted without the prior approval of the OWNER.

1.3 The ENGINEER shall seek and obtain authorization from the OWNER or the OWNER's assignee before proceeding with the Project, or before performing any Additional Services as described in Section 3, or before performing any other services which would not be included in the fee for

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Basic Services set forth in Section 6 hereof, subject to OWNER's right to terminate as herein provided.

1.4 The ENGINEER shall comply with all existing federal, state and local laws and regulations regarding equal employment opportunity. The ENGINEER is further obligated to include all requirements hereunder in any subcontract written by him in association with this Agreement.

SECTION 2 - BASIC SERVICES

2.1 CONSTRUCTION PHASE (Based on a construction period of 365 days for each of the two (2) construction contracts)

NOTE: This Agreement is based on the two (2) construction contracts being constructed simultaneously with the same contract times.

2.1.1 Conduct a pre-construction conference with applicable parties to review project details prior to commencing construction.

2.1.2 Provide daily project observation for each construction contract to monitor the progress and quality of the executed work and to determine in general if the work is proceeding in accordance with the Contract Documents, and during such visits and on the basis of on-site observations as an experienced and qualified design professional, keep the OWNER informed of the progress of the work, endeavor to guard the OWNER against defects and deficiencies in the work of the Contractor(s) and disapprove or reject any work failing to conform to the Contract Documents.

2.1.3 Prepare change orders as required and require special observation or testing of the work if necessary.

2.1.4 Review and approve shop drawings, diagrams, illustrations, brochures, catalog data, schedules and samples, the results of tests and observations and other data which any Contractor is required to submit, and receive and review schedules, guarantees, bonds and certificates of inspection which are to be assembled by the Contractor(s) in accordance with the Contract Documents.

2.1.5 Based on on-site observations as an experienced and qualified design professional and on review of the Contractor(s) applications for payment and supporting data, determine the amount owing to the Contractor(s) and approve to the OWNER payment to the Contractor(s) in such amounts; based on such observations and review, that the work has progressed to the point indicated and that to the best of his knowledge, information and belief the quality of the work is in accordance with the Contract Documents.

2.1.6 Conduct a final inspection with applicable parties to determine if the project has been completed in accordance with the Contract Documents and if each Contractor has fulfilled all of his obligations thereunder so that the ENGINEER may approve to the OWNER final payment to each Contractor.

2.2 POST-CONSTRUCTION PHASE

2.2.1 Prepare for the OWNER a set of reproducible record prints of drawings showing those changes made during the construction process, based on the marked-up prints, drawings and other data furnished.

2.2.2 Provide or make available all project files and information to effect project closeout.

2.2.3 Assist the OWNER in assuring that the warranty period for the construction work is complied with.

SECTION 3 - ADDITIONAL SERVICES

If authorized by the OWNER, the ENGINEER will furnish or obtain from others additional services of the following types which are not considered Basic Services under this Agreement.

3.1 Additional services resulting from significant changes in general scope of the Project or its design including, but not limited to, changes in size, complexity, OWNER's schedule, or character of construction.

3.2 Revising previously approved studies, reports, design documents, drawings or specifications, when such revisions are due to causes beyond the control of the ENGINEER.

3.3 Services in connection with change orders to reflect changes requested by the OWNER if the resulting change in compensation for Basic Services is not commensurate with the additional services rendered.

3.5 Additional or extended services during construction made necessary by prolongation of the construction contract or default by the Contractor under any prime construction contract if such construction contract is delayed beyond the original completion date.

3.6 Preparing to serve or serving as a witness for the OWNER in any litigation, condemnation or other legal or administrative proceeding involving the Project.

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3.7 Additional services in connection with the Project, including services normally furnished by the OWNER and services not otherwise provided for in this Agreement.

3.8 Providing field surveys, easement plats, plans or specifications to assist the OWNER in obtaining any additional encroachments, easements or real property from any public or private bodies, entities or persons necessary for satisfactory construction of the Project.

SECTION 4 – OWNER'S RESPONSIBILITIES

The OWNER shall:

4.1 Provide full information as to his requirements for the Project.

4.2 Assist the ENGINEER by placing at his disposal all available information pertinent to the Project including previous documents and any other data relative to evaluation, design and construction of the Project.

4.3 Furnish the ENGINEER any existing data and information for property boundary, easement, right-of-way, topographic and utility surveys; zoning and deed restriction; all of which the ENGINEER may rely upon in performing his services under this Agreement.

4.4 Guarantee access to and make all provisions for the ENGINEER to enter upon public and private property as required for the ENGINEER to perform his services under this Agreement.

4.5 Examine all studies, reports, sketches, estimates, specifications, drawings, proposals and other documents presented by the ENGINEER and render decisions and comments pertaining thereto within a reasonable time so as not to delay the services of the ENGINEER.

4.6 Provide such legal, accounting and insurance counseling services as may be required for the Project.

4.7 Designate a person to act as OWNER's representative with respect to the work to be performed under this Agreement; and such person shall have complete authority to transmit instructions, receive information, interpret and define OWNER's policies and decisions with respect to materials, equipment, elements and systems pertinent to the services covered by this Agreement.

4.8 Give prompt notice to the ENGINEER whenever the OWNER observes or otherwise becomes aware of any defect in the Project.

4.9 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project, subject to the obligations of the ENGINEER outlined in Section 1.3 of this Agreement.

4.10 Furnish, or direct the ENGINEER to provide necessary Additional Services as stipulated in Section 3 of this Agreement or other services as required.

4.11 Bare all costs incident to compliance with the requirements of this Section 4.

SECTION 5 - PERIOD OF SERVICES

5.1 Unless this Agreement has been terminated as provided in paragraph 7.1, the ENGINEER will be obligated to render services hereunder for a period which may reasonably be required for the services described herein. The ENGINEER may decline to render further services hereunder if the OWNER fails to give prompt approval of the various phases as outlined. Upon receiving a written authorization to proceed, the ENGINEER shall provide the OWNER with a written schedule of completion for the services so authorized.

5.2 If the design or construction of the Project is delayed significantly for reasons, including costs of construction, beyond the ENGINEER's control, the various rates of compensation provided for elsewhere in this Agreement shall be subject to renegotiation. It is expressly understood by all parties to the Agreement that a delay of several months may occur between completion of design and commencement of construction. This shall not be considered significant.

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SECTION 6 - PAYMENT TO THE ENGINEER

6.1 PAYMENT FOR BASIC SERVICES

6.1.1 The OWNER will pay the ENGINEER for Basic Services as outlined in Sections 2.1 and 2.2 on a time and materials basis for labor and expenses in accordance with the ENGINEER'S Basic Fee Schedule with a maximum amount not to exceed **$312,100.00**. The ENGINEER'S current Basic Fee Schedule is attached to this Agreement. The ENGINEER may adjust the Basic Fee Schedule in January 2010 and annually thereafter.

6.2 PAYMENT FOR ADDITIONAL SERVICES

6.2.1 The OWNER will pay the ENGINEER for Additional Services as outlined in Section 3 an amount based on actual time spent and expenses incurred by principals and employees of the ENGINEER assigned to the Project in accordance with the ENGINEER'S most recent Basic Fee Schedule, should any of these services be requested by the OWNER.

6.3 TIMES OF PAYMENT

6.3.1 The OWNER will make prompt monthly payments in response to the ENGINEER's monthly detailed statements for all services rendered under this Agreement.

6.4 GENERAL

6.4.1 If the OWNER fails to make any payment due the ENGINEER on account of his services and expenses within sixty days after receipt of the ENGINEER's bill therefor, the ENGINEER may, after giving seven days written notice to the OWNER, suspend services under this Agreement until he has been paid in full all amounts due him on account of his services and expenses.

6.4.2 If the Agreement is terminated at the completion of any phase of the Basic Services called for under Section 2, progress payment to be made to the ENGINEER on account of services rendered shall constitute total payment for services rendered. If this Agreement is terminated during any phase of the Basic Services, the ENGINEER shall be paid for services rendered on the basis of his reasonable estimate of the portion of such phase completed prior to termination. In the event of any termination, the ENGINEER will be paid for all his reasonable expenses resulting from such termination, and for any unpaid reimbursable expenses.

6.4.3 If, prior to termination of this Agreement, any work designed or specified by the ENGINEER, under Section 2, is suspended in whole or in part for more than three months or is abandoned, after written notice from the OWNER, the ENGINEER shall be paid for services performed prior to receipt of such notice from the OWNER as provided in paragraph 6.4.2 for termination during any phase of his service.

SECTION 7 - GENERAL CONDITIONS

7.1 TERMINATION

7.1.1 In the event that the OWNER finds that it is inadvisable or impossible to continue the execution of the Project; or if the ENGINEER shall fail to fulfill in a timely and proper manner his obligations under this Agreement; or, if the ENGINEER shall violate any of the covenants, agreements, or stipulations of this Agreement; or if the services called for in this Agreement are not completed within the time period specified under Section 5, or if the ENGINEER becomes subject to a voluntary or involuntary adjudication of bankruptcy or makes a general assignment for the benefit of creditors; then the OWNER has the right to terminate at any time this Agreement or any task or phase of work being performed herein by providing ten (10) days written notice to the ENGINEER of such termination and specifying the effective date of such termination; provided, however, that during such period of ten (10) days the ENGINEER shall have the opportunity to remedy such failures or violations to avoid such termination.

7.1.2 In the event of termination, as provided herein, the ENGINEER shall be paid for all services performed and actual expenses incurred up to the date of termination pursuant to Section 6.4.2 herein.

7.2 OWNERSHIP OF DOCUMENTS

7.2.1 All documents, including original drawings, estimates, specifications, field notes and data are and remain the property of the ENGINEER as instruments of service. The OWNER shall be provided a set of reproducible record prints of drawings, and copies of other documents, in consideration of which the OWNER will use them solely in connection with the Project.

7.3 ARBITRATION

7.3.1 Should any dispute arise between the parties hereto concerning this Agreement or the rights and duties of either in relation thereto, such dispute may be settled by arbitration upon agreement of the parties. Either party may request arbitration by giving written notice to the other party setting

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forth the dispute which the party seeks to arbitrate. Each party shall have ten (10) days from delivery of the notice to the other party within which to appoint an engineer, licensed in the State of North Carolina, to act as an arbitrator and to notify the other party in writing of the name and address of the engineer so appointed, or to notify the other party in writing of his refusal to arbitrate. In the event a party fails to notify the other party in writing of his refusal to arbitrate or fails to appoint an arbitrator as provided herein, then the dispute shall be submitted and decided by the arbitrator who has been duly appointed. Once each party has duly appointed and arbitrator, then the arbitrator shall have thirty (30) days within which to investigate the dispute, agree on a resolution of the dispute, and provide each of the parties with a written decision signed by each of the arbitrators. The thirty (30) day period may be shortened or lengthened by agreement of the parties. In the event the arbitrators cannot agree on a resolution to the dispute within the time provided, then the arbitrators shall have an additional seven (7) days within which to appoint a third arbitrator, who shall also be an engineer duly licensed to practice in the State of North Carolina. Within twenty (20) days from the date of appointment of a third arbitrator, the arbitrators shall render a written decision to each of the parties setting forth a resolution of the dispute which has been agreed to by two of the three arbitrators. The written decision of the arbitrators shall be binding on the parties. The costs of arbitration shall be borne equally by the parties.

7.4 ESTIMATES

7.4.1 Since the ENGINEER has no control over the cost of labor, materials, or equipment, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions, his estimates for cost for the Project provided for herein are to be made on the basis of his experience and qualifications and represent his best judgement as a design professional familiar with the construction industry, but the ENGINEER cannot and does not guarantee that proposals, bids or the Project construction cost will not vary from cost estimates prepared by him.

7.4.2 If the lowest bona fide proposal or bid exceeds the established Project construction cost limit, the OWNER will (1) give written approval to increase such cost limit, (2) authorize negotiating or rebidding the Project within a reasonable time, or (3) the ENGINEER will, without additional charge, modify the drawings and specifications as necessary to bring the Project construction cost within the cost limit. The providing of such service shall be the limit of the ENGINEER's responsibility in this regard and having done so, the ENGINEER shall be entitled to payment for his services in accordance with this Agreement.

7.5 INSURANCE AND CLAIMS

7.5.1 The ENGINEER will secure and maintain such insurance as will protect him from claims under workmen's compensation acts, claims for damages because of bodily injury including personal injury, sickness, or disease, or death of any of his employees or of any person other than his employees, and from claims for damages because of injury to or destruction of tangible property including loss of use resulting therefrom. Said insurance policy or policies shall be written by a company or companies and in a form and substance approved by the OWNER prior to the policies being put into effect, and shall be in an amount not less than two million dollars ($2,000,000).

7.6 SUCCESSORS AND ASSIGNS

The OWNER and the ENGINEER each binds himself and his partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither the OWNER nor the ENGINEER will assign, sublet or transfer his interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the OWNER and the ENGINEER.

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7.7 **ENTIRE AGREEMENT**

7.7.1 This Agreement constitutes the entire agreement between the OWNER and ENGINEER and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented or modified by a duly executed written instrument.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first written above.

McGILL ASSOCIATES, P.A.

ATTEST: By: _____
Mike Waresak, P.E.
Senior Project Manager

_____
President

CITY OF MARION

ATTEST: By: _____
J. Robert Boyette
City Manager

C. Approve Use of Main Street Sidewalks and North Main Street Gazebo Parking Lot for MBA Sidewalk Sale:

Council approved the use of Main Street Sidewalks and the City's North Main Street Gazebo Parking Lot for the Marion Business Association's Annual Sidewalk Sale on Saturday, May 2, 2009.

D. Approve Proclamation - - 2009 Spring Litter Sweep

CITY OF MARION
PROCLAMATION
SPRING LITTER SWEEP
2009

WHEREAS, the City of Marion promotes an annual spring community wide cleanup to ensure clean and beautiful streets, yards and neighborhoods in the City of Marion; and

WHEREAS, the spring 2009 LITTER SWEEP community cleanup will take place April 1 - May 2, 2009, and encourages local governments and communities, civic and professional groups, businesses, churches, schools, families and individual citizens to participate in the City of Marion cleanup by sponsoring and organizing local cleanups; and

WHEREAS, Adopt-A-Highway volunteers, Department of Transportation employees, Department of Correction inmates and community service workers, local government agencies, community leaders, civic and community organizations, businesses, churches, schools, and environmentally concerned citizens conduct annual local cleanups during LITTER SWEEP and may receive certificates of appreciation for their participation; and

WHEREAS, the great natural beauty of our city and a clean environment are sources of great pride for all citizen of Marion, attracting tourists and aiding in recruiting new industries; and

WHEREAS, the cleanup will increase awareness of the need for cleaner roadsides, emphasize the importance of not littering, and encourage recycling of solid wastes; and

WHEREAS, the spring 2009 LITTER SWEEP cleanup will promote the celebration of the 21st anniversary of the North Carolina Adopt-A-Highway program and its 5,750 volunteer groups that donate their labor and time year round to keep our roadsides clean; and

WHEREAS, the LITTER SWEEP cleanup will be a part of educating the children of this great state regarding the importance of a clean environment to the quality of life in North Carolina;

NOW, THEREFORE, I, A. Everette Clark , Mayor of the City of Marion, do hereby proclaim April 1 - May 2, 2009, as **"LITTER SWEEP"** time in Marion, North Carolina and encourage citizens in all communities to take an active role in making their communities cleaner.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Marion to be affixed this 2nd day of May 2009.

A. Everette Clark, Mayor

E. Approve Waiver of Charges for Collection of Bulky Trash Items During Litter Sweep 2009:

Council approved the waiver of City charges for the collection of bulky trash items from April 20-24, as part of the Spring 2009 Litter Sweep.

F. Approve Budget Ordinance Amendments:

CITY OF MARION, NORTH CAROLINA
2008-2009 BUDGET ORDINANCE
(Sixth Amendment)

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

Section 1. That the Budget Ordinance for the City of Marion, North Carolina for the fiscal year 2008-09 as adopted by the Marion City Council on the 17th day of June, 2008 is hereby amended as follows:

GENERAL FUND

a. General Fund Expenditures, Administration, Account Number 10-420-0600, Insurance is increased from $51,085 to $60,000.

b. General Fund Expenditures, Administration, Account Number 10-420-7400, Capital Outlay is increased from $17,500 to $24,500.

c. General Fund Expenditures, Fire, Account Number 10-530-0600, Insurance is increased from $36,275 to $43,530.

d. General Fund Expenditures, Public Works Administration, Account Number 10-545-7400, Capital Outlay is increased from $600 to $4,600.

e. General Fund Expenditures, Sanitation, Account Number 10-580-7400, Capital Outlay is increased from $-0- to $18,424.

f. General Fund Expenditures, Non-Departmental, Account Number 10-660-5500, Wellness Programs is increased from $1,500 to $3,250.

g. General Fund Revenues, Account Number 10-319-0000, Tax Penalties & Interest is increased from $20,500 to $25,500.

h. General Fund Revenues, Account Number 10-319-0000, Prior Year Taxes is increased from $41,250 to $55,500.

i. General Fund Revenues, Account Number 10-321-0000, Privilege License Revenue is increased from $25,000 to $26,000.

j. General Fund Revenues, Account Number 10-330-0000, Planning & Zoning Fees is increased from $5,000 to $6,000.

k. General Fund Revenues, Account Number 10-344-4000, County Contribution - Recycling Revenue is increased from $1,125 to $2,250.

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l. General Fund Revenues, Account Number 10-344-6000, Recycling Truck Grant is increased from $-0- to $16,750.

m. General Fund Revenues, Account Number 10-361-0000, Interest Earned is decreased from $100,000 to $55,000.

n. General Fund Revenues, Account Number 10-370-0200, Powell Bill NCDOT Reimbursement is increased from $-0- to $29,150.

o. General Fund Revenues, Account Number 10-392-1000, Sale of Real Estate is increased from $-0- to $2,295.

p. General Fund Revenues, Account Number 10-392-1100, Sale of Surplus Equipment is increased from $8,000 to $14,000.

q. General Fund Revenues, Account Number 10-398-0500, NCLM Safety Grant is increased from $-0- to $928.

r. General Fund Revenues, Account Number 10-398-0600, NCLM EAP Grant is increased from $-0- to $2,500.

s. General Fund Revenues, Account Number 10-399-0000, Fund Balance Appropriated is increased from $468,390 to $480,736.

WATER AND SEWER FUND

a. Water and Sewer Fund Revenues, Account Number 30-377-0500, CDBG/IS Hook-up Grant is increased from $24,037 to $28,937.

b. Water and Sewer Fund Revenues, Account Number 30-371-1000, Water Sales – Nebo is increased from $32,000 to $47,500.

c. Water and Sewer Fund Revenues, Account Number 30-299-0000, Fund Balance Appropriated is decreased from $744,308 to $723,908.

INTERNAL SERVICE FUND

d. Internal Service Fund Expenses, Capital Outlay, Account Number 35-660-7400, Salaries, is increased from $-0- to $9,000.

e. Internal Service Fund Revenues, Account Number 35-399-0000, Fund Balance Appropriated, is increased from $-0- to $9,000.

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 24th day of March 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–09–03–24–4

PUBLIC HEARING – ADOPTION OF ANNEXATION ORDINANCE – SUPER 8 MOTEL/US 221 SOUTH SATELLITE ANNEXATION:

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Mayor Pro Tem Little opened the Public Hearing.

The City Manager stated that the public hearing involved the voluntary satellite annexation of the Super 8 Motel on Highway 221 South. The City Manager added that, after the public hearing, Council could adopt an ordinance to annex this property, effective March 31, 2009.

There were no citizens present to discuss this annexation request.

Mayor Pro Tem Little closed the public hearing.

Upon a motion by Owenby, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Ordinance extending the corporate limits of the City of Marion to include the Super 8 Motel/US 221 South property, effective March 31, 2009.

AN ORDINANCE TO EXTEND
THE CORPORATE LIMITS OF THE
CITY OF MARION, NORTH CAROLINA –
SUPER 8 MOTEL/US 221 SOUTH - 2009

WHEREAS, the City Council has been petitioned under G.S. 160A-58.1 to annex the area described below; and

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

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at City Hall at 7:00 P.M. on Tuesday, March 24, 2009, after due notice by publication on Wednesday, March 11, 2009; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-58.1(b);

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

Section 1. By virtue of the authority granted by G.S. 160A-58.2, the following described territory is hereby annexed and made part of the City of Marion as of March 31, 2009:

BEGINNING at an iron pin located in the centerline of U.S. Highway 221, said iron pin being a corner of the L. D. Dollar, Inc., tract as described in Deed Book 392 at Page 105, McDowell County Registry, and runs thence from said Point of Beginning with the centerline of Highway 221, North 04 degrees 01 minutes 40 seconds East 182.62 feet to an iron pin; thence continuing with the centerline of Highway 221, North 04 degrees 01 minutes 40 seconds East 39.80 feet to an iron pin located in the centerline of Highway 221; thence leaving the centerline of Highway 221 and with the McDowell Food Systems, Inc., tract (Book 266 at Page 663) South 88 degrees 49 minutes 52 seconds East (passing an iron pin at 12.22 feet) for a total distance of 344.01 feet to a new iron pin; thence South 27 degrees 38 minutes 16 seconds West 14.53 feet to an iron pin; thence South 55 degrees 43 minutes 02 seconds East 14.96 feet to an iron pin; thence South 52 degrees 36 minutes 11 seconds East 9.13 feet to an iron pin; thence South 34 degrees 17 minutes 47 seconds East 16.77 feet to an iron pin; thence South 47 degrees 33 minutes 14 seconds East 25.13 feet to an iron pin; thence South 44 degrees 37 minutes 24 seconds East 12.85 feet to an iron pin; thence South 86 degrees 06 minutes 00 seconds East 13.73 feet to an iron pin; thence North 50 degrees 39 minutes 26 seconds East 40.75 feet to an iron pin; thence North 50 degrees 39 minutes 26 seconds East 4.14 feet to an iron pin; thence South 88 degrees 49 minutes 52 seconds East 307.51 feet to an iron pin; thence with the Walter Workman property line South 04 degrees 02 minutes 54 seconds West 244.31 feet to an iron pin; thence with the Ishver H. Desai property line South 78 degrees 21 minutes 07 seconds West 398.08 feet to an iron pin, corner of the L. D. Dollar, Inc., tract; thence with the L. D. Dollar, Inc., property line the following calls and distances: North 03 degrees 52 minutes 07 seconds East 104.61 feet to an iron pin; North 79 degrees 34 minutes 21 seconds East 153.69 feet to an iron pin, South 10 degrees 28 minutes 45 seconds East 7.30 feet to an iron pin; thence North 79 degrees 31 minutes 15 seconds East 25.00 feet to an iron pin; thence North 10 degrees 28 minutes 45 seconds West 25.00 feet to an iron pin; thence South 79 degrees 31 minutes 15 seconds West 25.00 feet to an iron pin; thence South 10 degrees 28 minutes 45 seconds East 7.38 feet to an iron pin; thence South 79 degrees 27 minutes 00 seconds West 151.13 feet to an iron pin; thence North 86 degrees 03 minutes 45 seconds West 130.00 feet to an iron pin; thence North 03 degrees 56 minutes 15 seconds East 85.00 feet to an iron pin; thence North 86 degrees 03 minutes 45 seconds West 155.39 feet to an iron pin; thence South 03 degrees 56 minutes 15 seconds West 67.20 feet to an iron pin; thence North 86 degrees 07 minutes 10 seconds

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West 59.44 feet to an iron pin, and North 86 degrees 07 minutes 10 seconds West 20.00 feet to the Point of BEGINNING.

Section 2. Upon and after March 31, 2009, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City of Marion. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Marion shall cause to be recorded in the office of the Register of Deeds of McDowell County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the McDowell County Board of Elections, as required by G.S. 163-288.1.

ADOPTED this the 24th day of March, 2009.

A. Everette Clark, Mayor

ATTEST: Approved As To Form:

J. Robert Boyette, City Clerk City Attorney

Ordinance Number: O-09-03-24-1

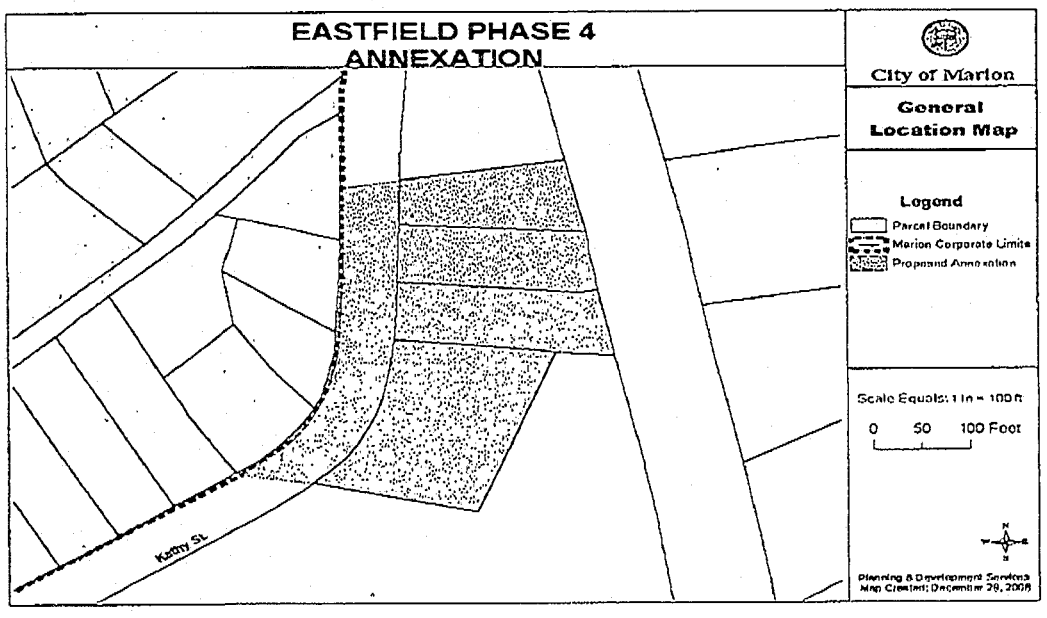
PUBLIC HEARING –2009 ANNEXATION AREAS: Mayor Pro Tem Little opened the Public Hearing.

The City Manager advised that a public hearing is required on the eight 2009 annexations areas: Eastfield Phase 4, Eastfield Phase 5, Highway 226 South/ITL, Highway 221 North/Hankins Road, Airport Road, Highway 226 South/Fairview Road, Yancey Road and Virginia Road. These areas include about 160 people.

In accordance with State Law, the City Manager gave an overview of the Annexation Report and Plan of Services for each area. The City Manager added that adoption of the annexation ordinances will be scheduled at a future meeting, with an effective date of June 30, 2009.

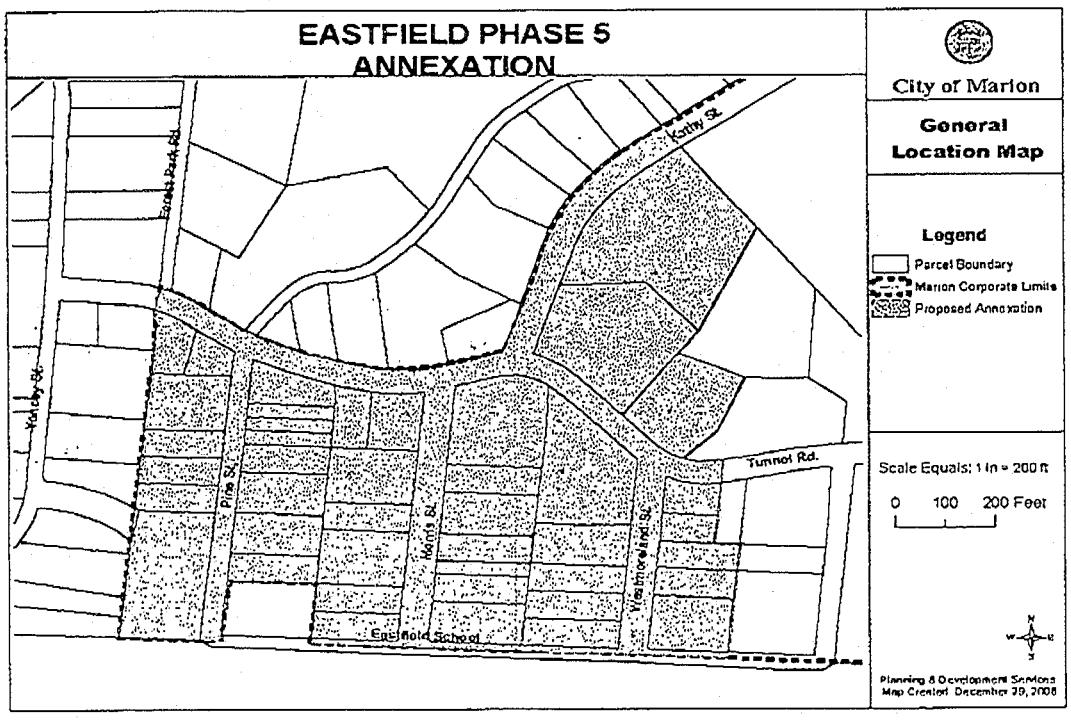
The City Manager displayed maps of the annexation areas for Council's review, as follows:

A. Eastfield Phase 4 Area

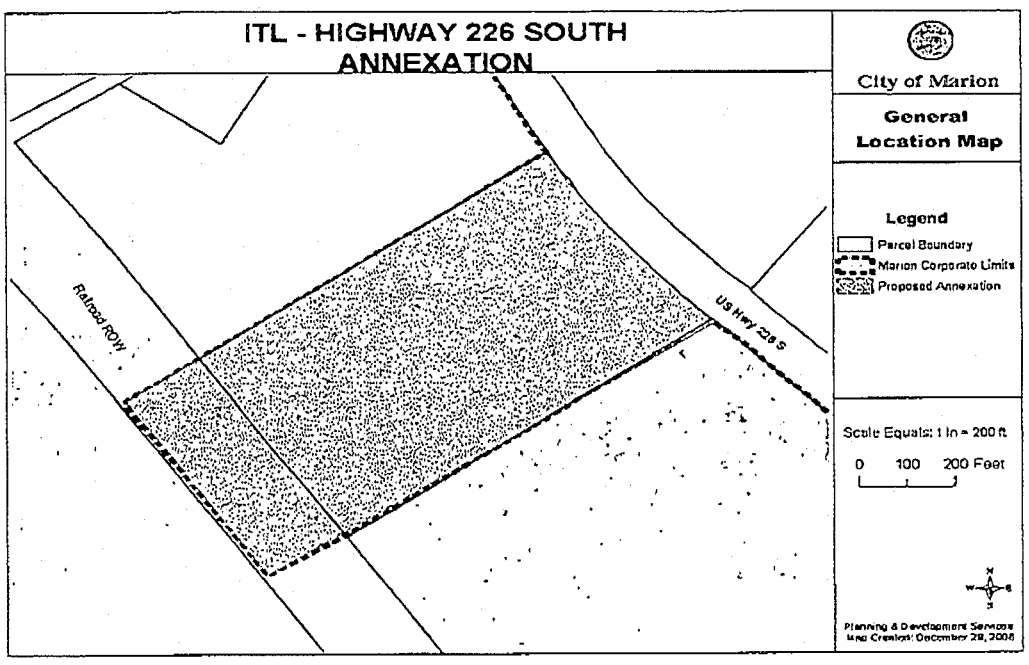


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B. Eastfield Phase 5 Area

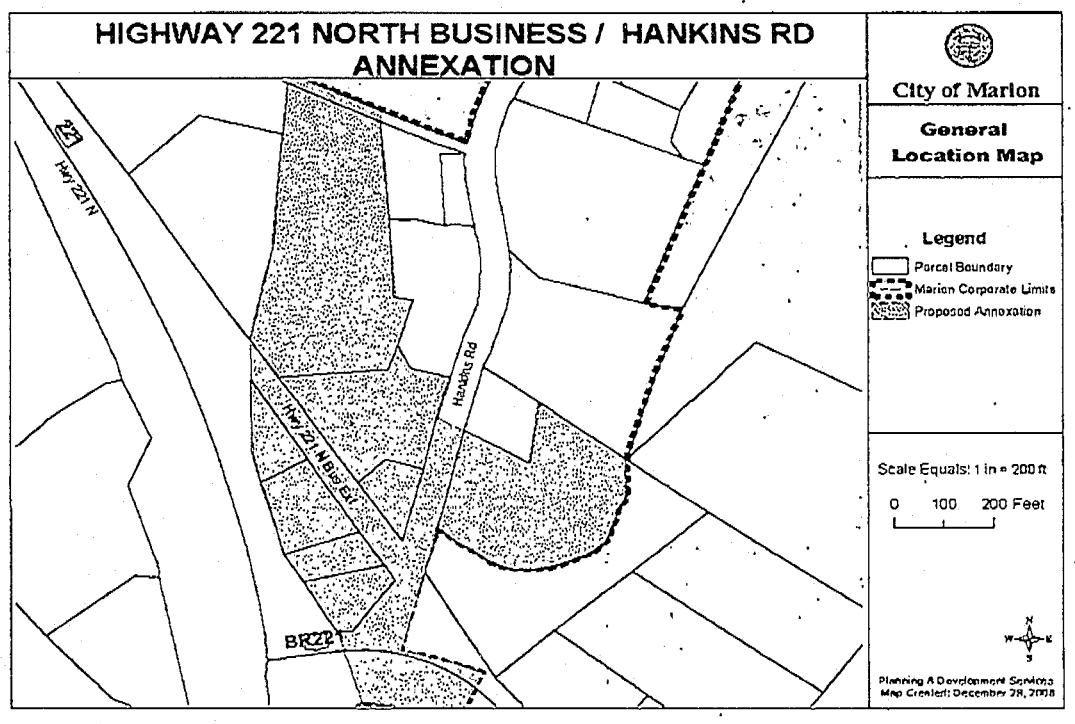


C. Highway 226 South/ITL Area

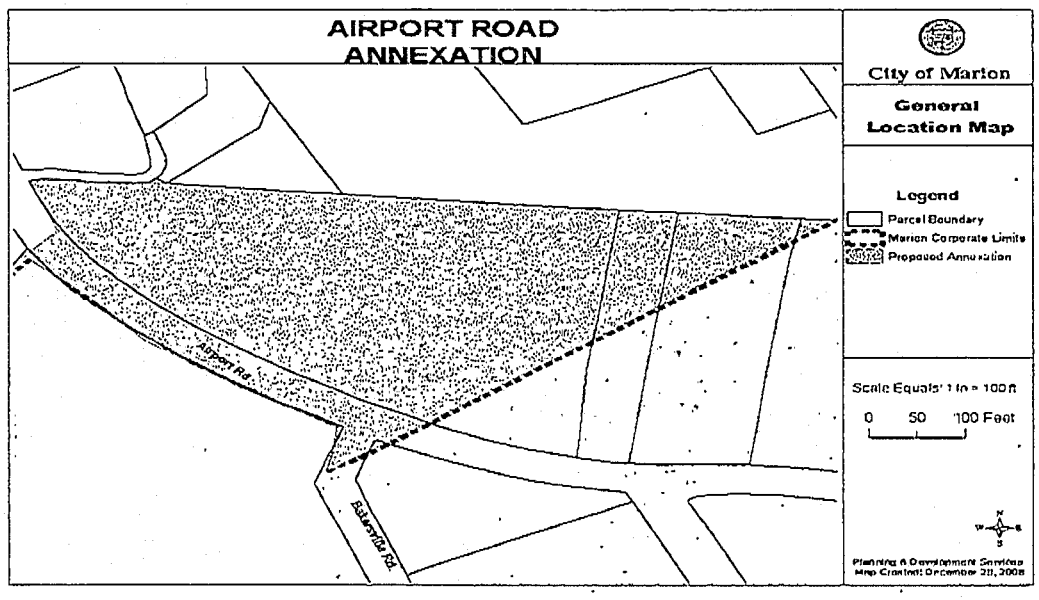


D. Highway 221 North/Hankins Road Area

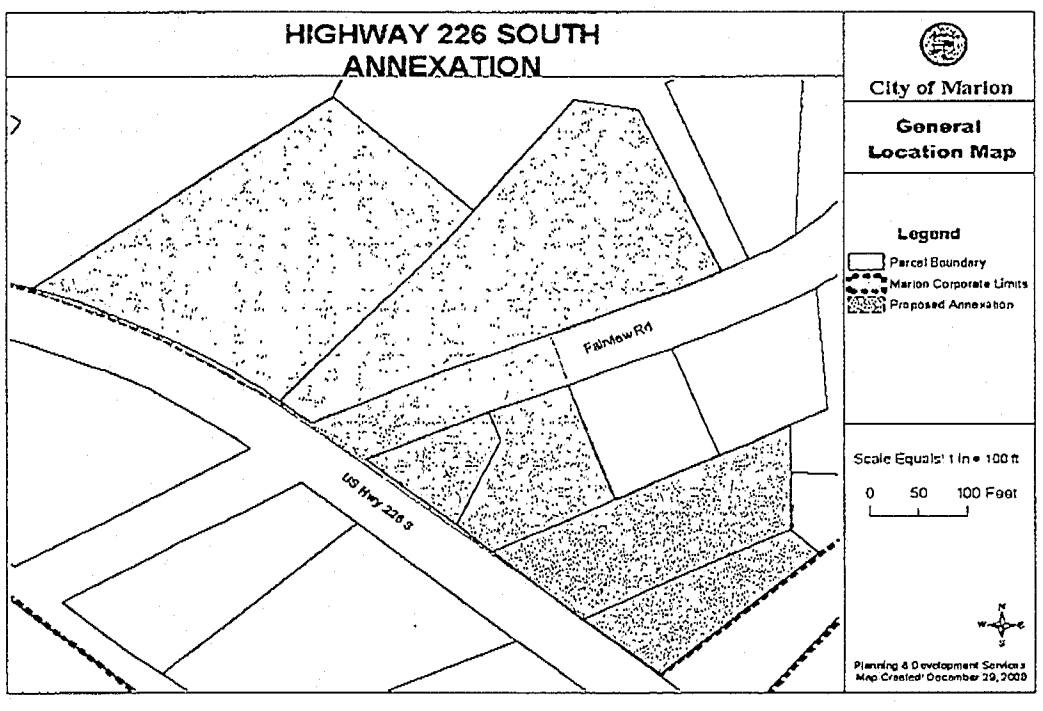
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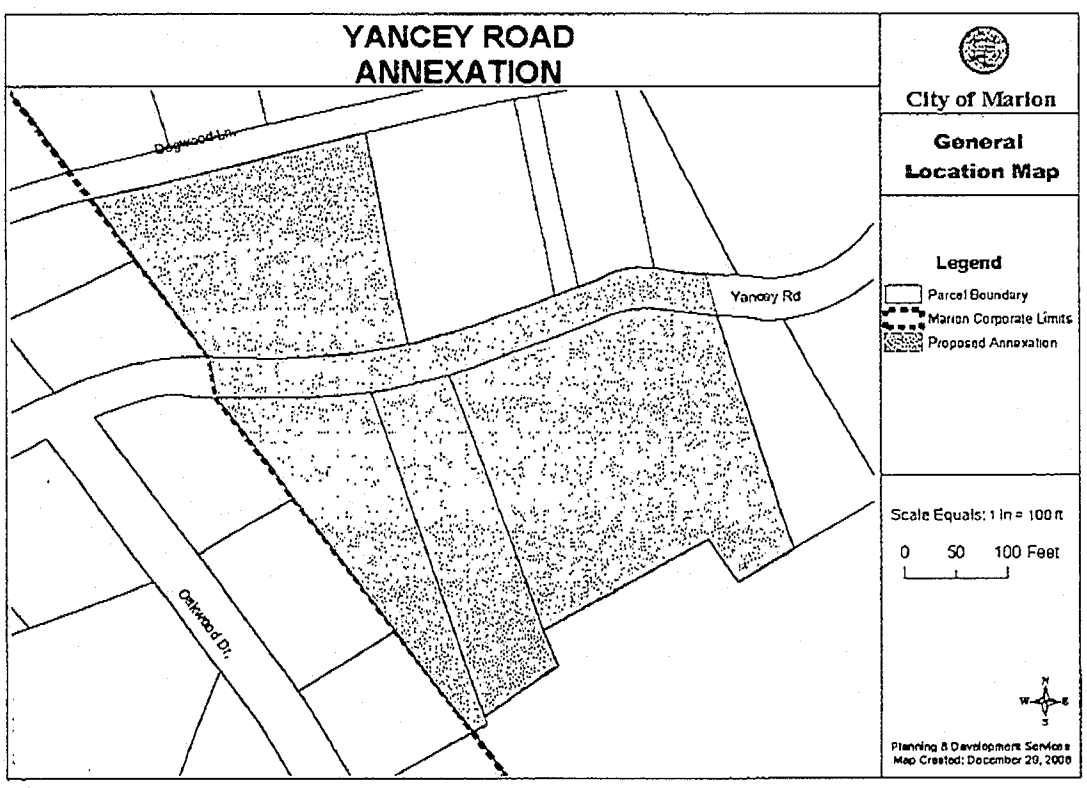
E. Airport Road Area



F. Highway 226 South/Fairview Road Area

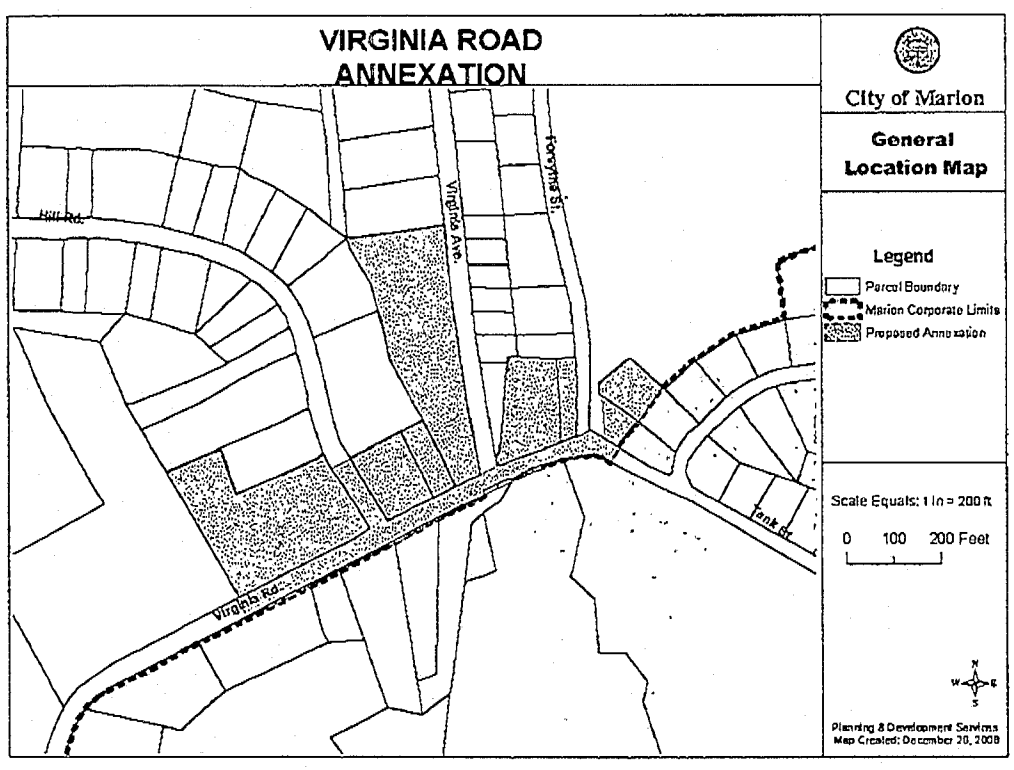


G. Yancey Road Area



H. Virginia Road Area

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Mr. Mickey Lewis of 235 Yancey Road stated that he did not want to be part of the annexation. He stated that he has lived at this property adjacent to the City Limits for 63 years.

Mr. Lewis asked if his property was needed to make this area large enough for a contiguous annexation.

The City Manager stated that it was not.

The City Manager stated that the annexation would result in a cost savings to Mr. Lewis of about $10.00 per year. Mr. Lewis stated that he understood the numbers, but still did not want to be annexed.

Mr. Lewis stated that what ever happens, he will abide by the law.

Mayor Pro Tem Little thanked Mr. Lewis for coming.

There were no other citizens present to discuss this issue.

Mayor Pro Tem Little closed the Public Hearing.

Mayor Pro Tem Little advised that Council could not take action on adopting the annexation ordinances at this meeting, but would take up the ordinances at a future meeting.

PUBLIC HEARING – ZONING TEXT AMENDMENT – ESTABLISH HISTORIC PRESERVATION ORDINANCE: Mayor Pro Tem Little opened the Public Hearing.

Planning and Development Director Heather Cotton advised that in August 2008, Marion City Council requested staff to draft a Historic Preservation ordinance for the City, as had been recommended in the City's Comprehensive Planning Process. Ms. Cotton reported that she reviewed the North Carolina General Statutes §160A-400 Part 3C Historic Districts and Landmarks, and drafted an ordinance that would meet the needs of Marion and comply with state requirements. The draft ordinance was provided to the Planning Board at the September and October meetings for review. The Planning Board requested revisions to the draft ordinance, historic preservation commission training and recommended a public workshop prior to ordinance adoption.

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Ms. Cotton stated that on December 4, Historic Preservation Commission training was held at City Hall for the Planning Board members. Representatives from the State Historic Preservation Office and the Director of Historic Preservation for Asheville-Buncombe County met with Planning Board members to discuss the historic preservation process. Following the training, the Planning Board held a public workshop on February 5, 2009. Ms. Cotton reported that the workshop was advertised in the McDowell News and by letter to all property owners either within an existing district or a potentially eligible district including the Cross Mill, Clinchfield, and Marion Manufacturing (East Marion) Mill Villages. Approximately twenty property owners were in attendance at the workshop. Ms. Cotton advised that the general response from the community was very positive, with only few concerns regarding building improvement requirements.

Ms. Cotton stated that the Planning Board subsequently unanimously recommended the approval of the Historic Preservation Ordinance that is being presented to Council tonight for approval.

The Planning Board is prepared to serve as the Historic Preservation Commission for the City upon approval by the City Council.

Ms. Cotton provided an overview of how the proposed historic guidelines would apply to the permitting process. She outlined what changes to building would not require review, what changes could be approved by staff as minor works and what changes would require the issuance of a Certificate of Appropriateness by the Historic Preservation Commission. Ms. Cotton stated that she is not recommending additional permit fees for minor works approval and that fees for Certificates of Appropriateness be based on cost recovery for public noticing.

Ms. Cotton added that the Planning Board recommended that the historic guidelines for now only apply to existing National Register of Historic Places Districts in the City and individual properties listed on the National Register. These districts and properties include the Main Street Historic District, the Depot Historic District and churches in the downtown area. Ms. Cotton stated that, while the three mill villages could be considered historic, the Planning Board recommended that such designation be initiated by property owners in the mill villages.

The City Manager stated, under the proposed ordinance, appeals from the decisions of the Historic Preservation Commission would go to City Council. He added that there was certain to be situations where property owners will not be allowed to make certain improvements to their buildings; however, the intent of the ordinance is to preserve the overall integrity of the historic districts and areas of the City, without overregulating property owners.

Ms. Cotton provided a brief presentation of the economic benefits of historic preservation.

Ms. Carol Price, Executive Director of the McDowell County Tourism Development Authority, stated her support for the proposed ordinance. She reported that a variety of sources have researched current and future tourism trends and that all agree that heritage tourism continues to be a growing trend and that historic preservation is good for the local economy.

Ms. Bunnie Burgin was also present for this discussion in support of the proposed ordinance.

A discussion followed.

Mayor Pro Tem Little stated that he liked the fact that appeals from decisions of the Historic Preservation Commission would go to City Council.

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Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, Council voted unanimously to adopt the following Ordinance adding Article XIII, Historic Preservation, to Chapter 21, Zoning, of the Marion City Code:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Section 2. Appendix 21. *Zoning* is amended by added by Article XIII. *Historic Preservation Commission* as follows:

ARTICLE XIII. HISTORIC PRESERVATION COMMISSION

Section 21-310. Purpose.

The historical heritage of Marion is one of the City's most valued and important assets. The conservation of and preservation of historic districts and landmarks stabilize and increase property values in their areas and strengthen the overall economy of the city. The purpose of establishing local historic districts and landmarks is to encourage the restoration, preservation, rehabilitation and conservation of historically, architecturally, and archaeologically significant areas, structures, buildings, sites, objects and their surroundings, and to review new construction design to ensure compatibility with the character of the district and to safeguard against any potentially adverse influences which may cause the decline, decay, or total destruction of these important assets. In addition, the preservation of historic districts and landmarks provides for the education, pleasure and enrichment of the residents of Marion and the state as a whole.

Sec. 21-310.1 Definitions.

For the purposes of this Article, the following terms shall have the meanings ascribed to them unless the context clearly indicates otherwise.

Alteration. Any change because of construction, repair, maintenance or otherwise to buildings located within a historic district or to buildings designated as a historic landmark.

Archeological resource. Material evidence of past human activity which is found below the surface of the ground or water, portions of which may be visible above the surface.

Building. Any structure, place or any other construction build for the shelter or enclosure of persons, animals or chattels or any part of such structure when subdivided by division walls or party walls extending to or above the roof and without openings in such separate walls.

Certificate of appropriateness. A document evidencing approval by the Historic Preservation Commission for work proposed in a historic district or to or on a historic landmark.

Commission. The Historic Preservation Commission of the City of Marion, as established in Chapter 21 of the Code of Ordinances of the City of Marion.

Construction. The erection of any onsite improvements on any parcel of ground located within a historic district or on or to a historic landmark, whether the site is presently improved, unimproved or becomes unimproved by demolition, destruction of the improvements located thereon by fire, windstorm or other casualty after the adoption of the ordinance from which this section derives.

Demolition. The complete or constructive removal by an applicant of a building on any historic landmark or in any historic district.

Designation. The creation of a historic district or a historic landmark through the passage of an ordinance by the appropriate governing body.

Exterior architectural features. The architectural style, general design and general arrangement of the exterior of a building or other structure, including the color, the kind and texture of the building material and the type and style of all windows, doors, light fixtures, signs and other appurtenant fixtures. In the case of outdoor advertising signs, exterior architectural features shall be construed to mean the style, material, size and location of all such signs.

Historic district. An overlay district established by the Marion City Council for an area deemed to be of special significance in terms of its history, prehistory, architecture, and/or culture, and to possess integrity of design, setting, materials, feeling and/or association.

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Historic landmark. Any building, structure, site, artifact above or below ground, area or object which is designated as a historic landmark by ordinance of the City Council due to its special significance in terms of its historical, pre- historical, architectural or cultural importance and its possession of integrity of design, setting, workmanship, materials, feeling and/or association.

Ordinary repairs and maintenance. Work done on a building to prevent it from deterioration or to replace any part thereof in order to correct any deterioration, decay or damage to a building or any part thereof in order to restore such building as nearly as practical to its condition prior to such deterioration, decay or damage.

Section 21-311. Jurisdiction of Historic Preservation Commission.

There is hereby established a Commission which shall be known as the Marion Historic Preservation Commission. Its jurisdiction shall include the City of Marion as shown on the official zoning map of the city.

Section 21-311. 1 Number of members, method of appointment, composition of Commission, criteria for appointment, term of office, reimbursement.

The Commission shall be a five-member Commission appointed by the City Council. A majority of the members of the Commission shall have demonstrated special interest, experience or education in history, architecture, archaeology or related fields; and all the members shall reside within the territorial jurisdiction of the City of Marion, the limits of which are shown on the official zoning map of the City of Marion, North Carolina.

Members shall be appointed for four-year staggered terms. In the case of a vacancy occurring during a term, such vacancy shall be filled for the unexpired portion of such term.

The Commission shall serve without compensation except that they shall be reimbursed for actual expenses incident to the performance of their duties within the limits of any funds available to the Commission.

Section 21-311. 2 Rules of procedure, design guidelines and meetings.

The Historic Preservation Commission shall develop and adopt rules of procedure that govern the conduct of its business in accordance with the provisions of this ordinance. Such rules of procedure shall also include as an appendix "The Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings" and the "McDowell County Design Guidelines" including photographs, illustrations, descriptions and other similar material interpreting the criteria for determining appropriateness. The design guidelines shall be placed on file in the City of Marion Planning and Development office and made available to the general public during the regular city office business hours.

Specific provisions shall be made in the Commission's rules of procedure for Commission meetings following the filing of a proposal on which the Commission is required to pass. Such specific provisions shall be made in order that a proposal be brought before the Commission:

(a) Within a reasonable time;

(b) In a manner which is conducive to Commission consideration; and

(c) In a manner which will facilitate Commission action.

The Commission shall meet at regularly scheduled times and at such other times as the Commission may determine or at the call of its chairman as provided for in its rules of procedure.

Section 21-311.3 Powers and duties.

The powers and duties of the Historic Preservation Commission shall be to:

(1) Undertake an inventory of properties of historical, prehistorical, architectural, and/or cultural significance;

(2) Recommend to the City Council areas to be designated by ordinance as "Historic Districts"; and individual structures, buildings, sites, areas, or objects to be designated by ordinance as "Landmarks";

(3) Recommend to the governing board that designation of any area as a historic district or part thereof, or designation of any building, structure, site, area, or object as a landmark, be revoked or removed for cause;

(4) Prepare and recommend the official adoption of a preservation element as part of the municipality's comprehensive plan; and

(5) Review and act upon proposals for alterations, demolitions, or new construction within historic districts, or for the alteration or demolition of designated landmarks.

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The Marion Historic Preservation Commission shall exercise such other powers and perform such other duties or activities as are required elsewhere by the Marion Zoning Ordinance or the General Statutes of North Carolina or as assigned by the Marion City Council.

Section 21-312. Historic designation process.

(1) *Properties previously designated by county.* Properties listed on the National Register of Historic Places as a landmark or as a historic district as of the date of this ordinance are hereby designated historic properties under this Article.

(2) *Initiation of historic designation process.* The designation process under this Article shall be initiated by the submission of an application requesting historic designation to the department of planning and development services, on a form prescribed by the director, by either the owner of the proposed historic property, his authorized agent, Marion City Council, or the Historic Preservation Commission. The applicant shall provide information, which illustrates that the property meets the criteria for listing as set forth in this Article. The information submitted must include sufficient preliminary information to enable staff's review for an initial determination that the property meets the minimum eligibility criteria. The proposal shall include a legal description of the property, a statement explaining the historic, architectural, archaeological, or cultural significance, photographs of the property, and any other materials or documents that may be used in evaluation of the subject site.

Section 21-313. Historic district and landmark establishment.

Historic districts and landmarks are established through the application of an overlay district which are zoning districts that are applied only in conjunction with other zoning districts, and may grant additional use or development requirements upon the underlying zoning controlling the use and development of a lot to ensure the compatibility and appropriateness of exterior design within the historic district or for the landmark.

Overlay districts can be applied to any zoning districts and the boundaries of such overlay shall be shown on the official zoning map of the City of Marion as an *"HD Historic District"*. An overlay district can be initiated as an amendment by City Council, planning board, Historic Preservation Commission, a property owner, or his/her agent.

Section 21-313.1 Designation of historic districts.

The City Council may adopt, amend, reject, or repeal ordinances designating historic districts when adoption or amendment is pursuant to the following procedure:

(1) An investigation and report describing the historical, architectural, or archaeological significance of the buildings, structures, features, sites or surroundings included in any such proposed district, and the description of the boundaries of such district has been prepared.

(2) The North Carolina Department of Cultural Resources, acting through the State Historic Preservation Officer or his or her designee, shall make an analysis of and recommendations concerning such report and description of proposed boundaries. Failure of the department to submit its written analysis and recommendations to the City Council within thirty (30) calendar days after a written request for such analysis has been received by the North Carolina Department of Cultural Resources shall relieve the city of any responsibility for awaiting such analysis, and the City Council may at any time thereafter take any necessary action to adopt or amend its zoning ordinance.

(3) Historic districts shall consist of areas which are deemed to be of special significance in terms of their history, prehistory, architecture and/or culture, and to posses integrity of design, setting, materials, feeling, and association. The area, buildings, structures, sites, or objects shall be significant elements of cultural, social, economic, political, or architectural history of the city or of the archaeological history or prehistory of the city. The conservation of such a district will provide for the education, pleasure and enhancement of the quality of life of all residents of the city.

(4) The Historic Preservation Commission, Planning Board, and City Council shall each hold a public hearing on the proposed ordinance to designate the boundaries of a historic district in accordance with the procedures set forth in Article XIII, Section 21-321 *Amendments*.

(5) Following the City Council designation and approval of a historic district, the area so designated shall be labeled "HD" on the official zoning map.

(6) With respect to any changes in the boundaries of such district subsequent to its initial establishment or the creation of additional districts within the city, the investigative studies and reports shall be prepared by the Historic Preservation Commission and shall be referred to the City Council for its review and comment.

Changes in the boundaries of an initial district or proposals for additional districts shall also be submitted to the North Carolina Department of Cultural Resources in accordance with the provisions as stated in 21-313.1 (2) above.

Section 21-313.2 Designation of landmarks.

The City Council may adopt, amend, reject, or repeal ordinances designating historic landmarks that meet the following criteria, when those ordinances contain the following elements and when adoption or amendment is pursuant to the following procedure:

(a) *Criteria for designation:* No building, structure, site, area, or object shall be recommended for designation as a historic landmark unless it is deemed and found by the Historic Preservation Commission to be of special significance in terms of its historical, prehistorical, architectural, archaeological, and for cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling and/or association.

(b) *Elements of ordinances designating historic landmarks:* Ordinances designating historic landmarks shall contain the following elements:

(1) Describe each property designated in the ordinance, including the approximate area of the property so designated.

(2) List the name or names of the owner or owners of the property.

(3) Describe those elements of the property that are integral to its historical, prehistorical, architectural, archaeological and/or cultural significance.

(4) Describe the nature of the Commission's jurisdiction over the interior, if any, and those interior features of the property to be reviewed for certificates of appropriateness if they are to be changed.

(5) Require, for each building, structure, site, area, or object designated as an historic landmark that the waiting period set forth in the general statutes be observed prior to its demolition.

(6) Provide any other information the City Council deems necessary within the authority conferred by the General Statutes.

(c) *Procedure for adopting or amending historic landmark ordinances:* Ordinances designating historic landmarks shall be adopted and amended according to the following procedure:

(1) The Historic Preservation Commission shall make, or cause to be made, an investigation and report on the historical, prehistorical, architectural archaeological and/or cultural significance of each building, structure, site, area, or object proposed for designation. Applications prepared by owners will be judged by the same criteria as those prepared by the Commission. Such reports shall contain the following information:

a. The name of the property to be considered for designation both common and historic names, if they can be determined.

b. The name and address of the current property owner.

c. The location of the property proposed to be designated historic, including the street address and tax map and parcel numbers.

d. The date of construction and of any later alterations, if any.

e. An assessment of the significance of the site or structure pursuant to section 21-313.2(a) *Criteria for Designation.*

f. An architectural or archaeological description of the area of the site or structure proposed to be designated. If outbuildings or other appurtenant features are proposed to be designated, the report shall contain a description of those features.

g. A historical discussion of the site or structure within its type, period, and locality.

h. Color photographs consistent with the U.S. Department of Interior's format guidelines that clearly document the appearance, condition, and elements of the building, structure, or object proposed to be designated, including views of all facades, pertinent details and surrounding environment.

i. A map showing the location of the property, including any outbuildings and appurtenant features.

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j. A clear description of the boundaries.

(2) The Commission shall forward its recommendation to the City Council. The Commission shall refer the report to the North Carolina Department of Cultural Resources.

(3) The North Carolina Department of Cultural Resources, acting through the State Historic Preservation Officer or his or her designee, may make an analysis of and recommendations concerning the report. If the department does not submit its written comments or recommendations in connection with any proposed designation within thirty (30) calendar days after a written request for such analysis has been received by the department, the Commission and the City Council shall be relieved of any responsibility to consider such comments.

(4) The Historic Preservation Commission and the City Council shall each hold a public hearing on the proposed ordinance in accordance with the procedures set forth in Article XIII, Section 21-321 *Amendments*.

(5) Following the public hearings, the City Council may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.

Section 21-314 Certificates of appropriateness required.

(1) No exterior portion of any building or other structure (including masonry, walls, fences, light fixtures, steps and pavement, or other appurtenant features) nor above-ground utility structure nor any type of outdoor advertising sign shall be erected, altered, restored, moved or demolished on a landmark, or within a historic district, until after an application for a certificate of appropriateness as to exterior features has been submitted to and approved by the Historic Preservation Commission.

Exterior features shall include the architectural style, general design and general arrangement of the exterior of a building or other structure, including the color, the kind and texture of the building material, the size and scale of the building and the type and style of all windows, doors, light fixtures, signs and other appurtenant fixtures. In the case of outdoor advertising signs, exterior features shall be construed to mean the style, material, size and location of all such signs.

(2) Such a certificate shall be issued by the Commission prior to the issuance of a zoning permit or other permit granted for purposes of constructing, altering, moving or demolishing structures. A certificate of appropriateness shall be required whether or not a zoning permit is required. Therefore, a certificate of appropriateness is a prerequisite to the issuance of such a zoning permit or such other permits. Any such zoning permits or such other permits not issued in conformity with this section shall be invalid.

Section 21-314.1. Criteria to determine appropriateness.

The following review criteria, along with companion design guidelines and the guidelines of the Secretary of the Interior, shall be considered, where relevant, to make findings of fact indicating the extent to which the application for a certificate of appropriateness is or is not congruous with the historic aspects of the designated landmark or district:

(a) Building height.

(b) Walls.

(c) Proportion of width to height of the total building facade.

(d) Proportion, shape, positioning, location, pattern and sizes of any elements of fenestration.

(e) Spacing of buildings, defined as the distance between adjacent buildings.

(f) Building materials.

(g) Surface textures.

(h) Color.

(i) Expression of architectural detailing.

(j) Roof shapes.

(k) Scale.

(l) Orientation of the building to the street.

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(m) Ground cover or paving.

(n) Signs.

(o) Exterior lighting and appurtenant features.

The Commission shall adopt principles and guidelines interpreting these criteria for new construction, alterations, additions, moving and demolition of landmarks or properties in the a historic district.

Section 21-314.2. Reconstruction

A. *Reconstruction of substantially damaged historic sites.* When a designated historic building, structure, object, or site has been substantially damaged, the Historic Preservation Commission shall determine through an evaluation of architectural integrity, whether the building, structure, object, or site can be reconstructed using the following criteria:

(1) Whether there is sufficient evidence such as photo-documentation, scaled drawings, or other physical evidence to accurately depict the form and detail of the original resource.

(2) Whether the original construction materials, or substitute materials that are sufficiently similar so as to convey the original qualities of construction, are readily available.

(3) Whether the interior spaces are especially significant to the form and function of the building. If so, the Historic Preservation Commission shall define the parameters necessary to adequately convey those interior spatial characteristics
as requirements in the reconstruction effort.
(4) Whether the applicant has demonstrated a commitment to the reconstruction effort by making every reasonable effort to preserve or salvage the remaining significant features of the property.

(5) Whether there are other unique factors or circumstances that would make reconstruction desirable.

If the Historic Preservation Commission determines that a historic designated structure within a historic district or landmark may be reconstructed, the property owner may submit a reconstruction plan for consideration based on the criteria enumerated in this Article. If the property owner chooses not to reconstruct, the Historic Preservation Commission may recommend repeal of the historic designation using the procedure established in this Article.

B. *Reconstruction criteria.* Reconstruction of a designated historic structure within a historic district or landmark shall be carried out in accordance with the following criteria.

(1) Reconstruction shall be used to depict non-surviving portions of a structure when such reconstruction is essential to the public understanding of the landmark or historic district, and documentary and physical evidence is available to permit accurate reconstruction.

(2) Reconstruction of a historic contributing structure within a historic district or landmark in its historic location shall be preceded by a thorough archaeological investigation identifying and evaluating those features and artifacts, which are essential to an accurate reconstruction. If such resources must be disturbed, mitigation measures shall be undertaken.

(3) Reconstruction shall include measures preserving any remaining historic materials, features, and spatial relationships.

(4) Reconstruction shall be based on the accurate duplication of historic features and elements substantiated by documentary or physical evidence rather than on conjectural designs or the availability of different features from other historic landmarks or contributing structures within a historic district. A reconstructed contributing structure within a historic district or landmark shall re-create the appearance of the non-surviving historic site in materials, design, colors, and texture.

(5) All "reconstructions" shall be clearly documented as being contemporary re-creations.

C. *Amendment or repeal of designation.* A historic designation pursuant to this Article may only be amended or rescinded by complying with the same procedures as the original approval. However, the director of planning and development service's report need only contain a recommendation to grant or deny the repeal or amendment, and the reasons therefore.

(1) The Historic Preservation Commission recommending repeal of the designation shall be based on competent and substantial evidence supporting the repeal.

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(2) Final approval of repeal shall come from the City Council.

Section 21-314.3. Demolition.

(1) An application for a certificate of appropriateness authorizing the relocation, demolition, or destruction of a designated landmark or a building, structure or site within a historic district may not be denied except as provided in paragraph (2) below. However, the effective date of such a certificate may be delayed for a period of up to three hundred sixty-five (365) days from the date of approval. The maximum period of delay authorized by this section shall be reduced by the Commission where it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return from such property by virtue of the delay. During such period the Commission shall negotiate with the owner and with any other parties in an effort to find a means of preserving the building or site.

(2) An application for a certificate of appropriateness authorizing the demolition or destruction of a building, site or structure determined by the state historic preservation officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied except where:

(a) The Commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial; or

(b) The city has adopted a demolition ordinance under Article VI *Dwellings Unfit For Human Habitation and Abandoned Structures*, Chapter 4, Buildings and Building Regulations.

(3) If the Commission has voted to recommend designation of a property as a landmark or designation of an area as a district, and final designation has not been made by the City Council, the demolition or destruction of any building, site or structure located on the property of the proposed landmark or in the proposed district may be delayed by the Commission for a period of up to one hundred eighty (180) days or until the City Council takes final action on the designation, whichever comes first.

Section 21-314.4. Land use, interior arrangement, maintenance, emergency repairs not considered.

(1) Nothing herein shall be construed to prevent a property owner from making any use of his or her property not prohibited by other statutes, ordinances or regulations.

(2) The Commission may enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee, or agent of the Commission may enter any private building or structure without express consent of the owner or occupant thereof.

(3) Except as provided in paragraph (4) below, the Commission shall have no jurisdiction over interior arrangement and shall take no action except to prevent the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant features, outdoor advertising signs, or other significant features which would be incongruous with the special character of a landmark or of the district.

(4) Notwithstanding paragraph (3) above, the jurisdiction of the Commission over interior spaces shall be limited to specific interior features of architectural, artistic or historical significance in publicly owned designated landmarks; and of privately owned historic landmarks for which consent for interior review has been given by the owner. Said consent of any owner for interior review shall bind future owners and/or successors in title, provided such consent has been filed in the office of the register of deeds and indexed accordingly to the name of the owner of the property in the grantee and grantor indexes. The landmark designation shall specify the interior features to be reviewed and the specific nature of the Commission's jurisdiction over the interior.

(5) The ordinary maintenance or repair of any exterior architectural feature of a landmark, or in a historic district which does not involve a change in design, material, color or outer appearance thereof, shall not be prevented by the requirements pertaining to the designated landmark or historic district.

(6) Nothing in this article shall be construed to prevent (a) the maintenance or (b) in the event of an emergency, the immediate restoration of any existing above-ground utility structure without approval by the Commission.

(7) The construction, reconstruction, alteration, restoration, moving or demolition of any exterior architectural features, which the city building inspector or similar official shall certify is required for public safety because of an unsafe or dangerous condition, shall not be prevented by the requirements pertaining to the landmark, or the historic district.

Section 21-314.5. Hearing procedures.

(1) The Historic Preservation Commission shall receive applications for certificates of appropriateness as required under section 21-314 above. The Commission shall review such application according to the review criteria, the design guidelines and the Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings and shall approve or disapprove such application as provided in paragraph (4) of this section.

(2) Prior to issuance or denial of a certificate of appropriateness, the Commission shall take such action as may reasonably be required to inform the owners of any property likely to be materially affected by the application and shall give the applicant and such owners an opportunity to be heard. A written notice of the proposal shall be sent to the applicant and to owners of property (i.e., lots, parcels or tracts of land) within one hundred (100) feet of the subject property or properties.

(3) In cases where the Commission deems it necessary, it may hold a public hearing concerning an application for a certificate of appropriateness.

(4) The Historic Preservation Commission's final action on an application for a certificate of appropriateness shall be by the passage of a motion to take one (1) of the following actions:

(a) Approve the application for a certificate of appropriateness as proposed;

(b) Approve the application for a certificate of appropriateness subject to specific conditions and/or modifications of the proposal presented in the application for a certificate of appropriateness;

(c) Disapprove the application for a certificate of appropriateness as proposed or modified.

(5) Any aggrieved party may appeal the Historic Preservation Commission's action in granting or denying a certificate, which shall be submitted in writing to the City Council within thirty (30) days of the Commission's final action.

Section 21-314.6. Minor works.

A certificate of appropriateness application, when determined to involve a minor work, may be reviewed and approved, by the Planning Director or his or her designee.

Minor works are defined as those exterior changes that do not involve substantial alterations, additions or removals that could impair the integrity of the landmark or property within a historic district.

An application may receive a certificate of appropriateness from the Planning Director or his or her designee if it falls under the list of minor works provided in the Historic Preservation Commission Rules of Procedure. If the Planning Director or his or her designee does not issue a certificate of appropriateness, the applicant will be advised to make a formal application to the Historic Preservation Commission. No application may be denied without formal action by the Historic Preservation Commission.

Section 21-314.7. Certificate issuance; expiration; enforcement.

(1) Passage of a motion to approve, with or without modification, an application shall constitute the issuance of a certificate of appropriateness by the Historic Preservation Commission. The application and the duly approved minutes of the Commission shall constitute the written documentation of such issuance's. Following the meeting a certificate shall be mailed to the property for which a certificate has been issued. The certificate shall be posted on the premises, in a location visible from the street, while the work is in progress. Minutes of a Historic Preservation Commission meeting shall be approved before the end of the next meeting.

(2) A certificate of appropriateness shall be valid for a period of six (6) months from the date of issuance for the purpose of obtaining a zoning permit or other permit for constructing or altering structures. A certificate of appropriateness shall expire six (6) months after the date of issuance if the work authorized by the certificate has not been commenced. If after commencement the work is discontinued for a period of six (6) months, the permit therefore shall immediately expire.

(3) Compliance with certificates of appropriateness shall be enforced by the planning director or his or her designee. Failure to comply with a certificate of appropriateness shall be a violation of the zoning ordinance. The enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

(4) In case any building, structure, site, area or object designated as a landmark or located within a historic district is about to be demolished whether as a result of deliberate neglect or otherwise, materially altered, remodeled, removed or destroyed, except in compliance with the ordinance, the Commission or other party aggrieved by such action may institute any appropriate action or proceeding to prevent such unlawful action.

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Section 21-314.8. Conditions for certain approvals.

(1) In the event that the Commission, in considering an application for a certificate of appropriateness, finds that a building or structure for which a zoning permit is requested is to be an authentic restoration or reconstruction which existed at the same location but does not meet zoning requirements, said building or structure may be authorized to be restored or reconstructed at the same location provided the following:

a. The zoning Board of Adjustment authorizes a variance to the location and placement of the building or structure and no use other than that permitted in the district in which the property is located is permitted.

b. Conditions and approvals set by the Board of Adjustment are attached to the Historic Preservation Commission's approval and included in any certificate of appropriateness related thereto.

(2) If the Commission finds that an application for a certificate of appropriateness includes any porches, steps, fences, walls or other items extending over, on or within public rights-of-way is necessary for the authentic restoration, reconstruction or maintenance of a historic landmark, and will not impede or block pedestrian traffic or constitute a hazard to public safety, such findings shall be transmitted to the City Council for its consideration in authorizing or denying such encroachments into such rights-of-way.

(3) If the City Council authorizes an encroachment, any items restored, reconstructed or maintained on, over or within a public right-of-way shall be the responsibility of the owner, and the owner shall agree to protect and hold the City of Marion harmless against any and all liability, cost damage or expense suffered as a result of the restoration, reconstruction or maintenance thereof.

Section 21-315. Nonconforming structures; exemption from flood hazard requirements.

(1) *Authority to continue nonconforming structures.* Nonconforming structures that are federally or state designated as historic shall be permitted to continue in accordance with Chapter 8 *Flood Hazard Management* of the Marion City Code.

(2) *Exemption from flood elevation requirements.* Structures that are federally or state designated as historic shall be exempt from the Federal Emergency Management Agency (FEMA) flood elevation requirements in accordance with Chapter 8 *Flood Hazard Management* of the Marion City Code.

Sec.21-316. Authority to prevent demolition, alteration or violation of ordinance.
If any building, structure, site, area or object designated a historic landmark is about to be demolished, whether as the result of deliberate neglect or otherwise, materially altered, remodeled or removed, except in compliance with the ordinance enacted under authority of this chapter, the city or the Commission may institute any appropriate action or proceedings to prevent such unlawful demolition, material alteration, remodeling or removal, to restrain, correct or abate such violation or to prevent any legal act or conduct with respect to such historic landmark.

Sec. 21-317. Civil penalty.
Unless otherwise provided in the Code of Ordinances of the City of Marion or in State law, persons violating the provisions of this chapter shall be assessed a civil penalty as provided in Chapter One of the Marion City Code of Ordinances.

Section 2: This ordinance shall become effective upon adoption.

Adopted this 24th day of March 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/ Clerk
Ordinance Number: O-09-05-24-2

The City Manager suggested that, if Council so desired, it could appoint the Planning Board members to serve as the Historic Preservation Commission. Upon a motion to by Councilman Cuthbertson, seconded by Councilman Owenby, Council voted unanimously to appoint the Planning Board/Board of Adjustment members to serve as the Historic Preservation Commission.

AA.0000000298 (24)

PRESENTATION – ISOTHERMAL RURAL TRANSPORTATION PLANNING ORGANIZATION: Mayor Pro Tem Little welcomed representatives from Isothermal Planning and Development Commission (IPDC) to discuss the Rural Transportation Planning Organization (RPO), advising that City Council wants to understand what the RPO has done for the City of Marion and how the RPO can help the City in the future.

Mr. Josh King, Transportation Planner for IPDC, gave an overview of the accomplishments of the RPO over the past few years. He stated that City Staff can call on the RPO at any time for information and that he has worked with the City Manager and Ms. Heather Cotton on various projects such as the Safe Routes to School Grant and various enhancement projects.

Mr. King advised that the North Carolina Department of Transportation continues to push the RPO concept as a means of prioritizing transportation priorities and completing transportation planning across the state.

Mr. King stated that the RPO does not cost the City any money.

Mayor Pro Tem Little and Councilman Martin asked how the RPO could assist with promoting the widening of US 221 in McDowell and Rutherford Counties, since the project has been pushed back year after year.

Mr. Jim Edwards, Executive Director of IPDC, explained the many reasons why this project keeps getting pushed back, mainly involving lack of funding from NCDOT, but stated that the widening was a top priority of the RPO.

The City Manager added that Mayor Clark suggested at the last Joint Utility Committee meeting that McDowell County, Rutherford County, the City of Marion and other municipalities in the two counties lobby local legislators to push NCDOT to advance this project as soon as possible, since it is vitally needed for economic development in both counties.

Councilman Cuthbertson and the City Manager stated that they served on RPO committees and had seen little planning going on for the past few years, just discussions about internal administrative structure. Mr. Edwards acknowledged that this had been a weakness of RPOs across the state and that such focus had been due to the direction of DOT. Mr. Edwards pledged that the RPO would seek to put its focus on serving the member cities and counties, undertaking local projects and planning and promoting priority projects.

The City Manager noted that the City had a bad experience several years ago with a Thoroughfare Plan, which the City had paid NCDOT to complete, but which took about seven years for the City to receive. Mr. Edwards stated that NCDOT now worked with the RPOs to complete Comprehensive Transportation Plans for counties and that counties and cities were no longer charged for such plans.

Mr. King gave an overview of an amendment to the RPO contract that member cities and counties had been asked to adopt. He stated that the changes to the agreement were minor.

A discussion followed.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, Council voted unanimously to approve the following amended Memorandum of Understanding between the City of Marion and the Isothermal Rural Transportation Planning Organization:

AMENDED
MEMORANDUM OF UNDERSTANDING

AA.000000299 (24)

FOR
COOPERATIVE, COMPREHENSIVE AND CONTINUING
TRANSPORTATION PLANNING
AND THE ESTABLISHMENT
OF A RURAL PLANNING ORGANIZATION
FOR

The **County of McDowell** and the participating municipalities therein; the **County of Rutherford** and the participating municipality therein; the **County of Polk** and the participating municipalities therein; and the North Carolina Department of Transportation (NCDOT) (hereinafter collectively, "the Parties").

WITNESSETH

Whereas, on April 2, 2002, the Parties entered into a Memorandum of Understanding which created the Isothermal Rural Planning Organization (hereinafter, "RPO"); and,

Whereas, the RPO provides rural areas the opportunity to work in partnership with the NCDOT toward development of sound, short and long-range transportation planning for rural areas; and,

Whereas, the Parties have agreed to amend the original Memorandum of Understanding.

Now, therefore, the following Amended Memorandum of Understanding is made on this the day of , **2009**.

Section 1. It is hereby agreed, that the **County of McDowell** and the participating municipalities therein; the **County of Rutherford** and the participating municipality therein; the **County of Polk** and the participating municipalities therein; and the NCDOT intend to establish and participate in a RPO created for the general purposes and responsibilities outlined in the following:

1. Develop long-range local and regional multi-modal transportation plans in cooperation with the area Metropolitan Planning Organizations (MPOs) and the NCDOT.

2. Provide a forum for public participation in the rural transportation planning process.

3. Develop and prioritize suggestions for transportation projects that the RPO believes should be included in the State Transportation Improvement Program (STIP).

4. Provide transportation-related information to local governments and other interested organizations and persons.

Section 2. It is hereby further agreed that transportation plans and programs and land use policies and programs for the RPO will be coordinated by the Isothermal Planning and Development Commission (Region C), an agency selected on behalf of participating local governments and the NCDOT, to be the administrative entity and to serve as the lead local planning agency for coordinating transportation planning in the three county planning area. The RPO hereby authorizes the Isothermal Planning and Development Commission (Region C) to be the recipient of any funds appropriated to the RPO by NCDOT pursuant to North Carolina General Statute 136-213(c).

Section 3. Establishment of Transportation Advisory Committee (TAC). A TAC is hereby established with the responsibility for serving as a forum for cooperative transportation planning decision making for the RPO. The TAC shall have the responsibility for keeping the local elected governing boards informed of the status and requirements of the transportation planning process; to assist in the dissemination and clarification of the decisions, inclinations, and policies of the local elected governing boards and the NCDOT; and to help ensure meaningful public participation in the rural transportation planning process.

1. The TAC will be responsible for carrying out the following:

   A. Establishment of goals, priorities, and objectives for the rural transportation planning process.

   B. Endorsement and review of changes to adopted transportation plans within the RPO.

AA.000000300 (24)

C. Endorsement, review, and approval of a Planning Work Program (PWP) for transportation planning which defines work tasks and responsibilities for the various agencies participating in the RPO.

D. Endorsement, review, and approval of transportation improvement projects that support and enhance both regional and local transportation in the four county RPO.

2. The membership of the TAC shall consist of the following:

A. One Commissioner representing McDowell County and one elected official from each RPO member municipality therein.

B. One Commissioner representing Rutherford County and one elected official from each RPO member municipality therein.

C. One Commissioner representing Polk County and one elected official from each RPO member municipality therein.

D. One member from the North Carolina Board of Transportation representing Division.

3. The Commissioner representing each county on the TAC shall be elected every two years by the Board of County Commissioners of each County in regular session. The municipal member representing each municipality on the TAC shall be elected every two years by the governing body of the municipality in regular session. All terms of appointment to the TAC shall be for two years. Reappointment is possible. One alternate may be designated for each member providing they meet the same criteria as the original appointee.

4. An RPO TAC membership roster will be compiled, and updated at least annually, listing each attendee and alternate, if applicable, for each member county or municipality. The membership of a county or municipality member who fails to send the appointee or alternate to two consecutive RPO meetings will be designated as a vacant seat and will not count towards quorum. Attendance at future meetings will reinstate the member.

5. A quorum is required for the transaction of all business, including conducting meetings or hearings, participating in deliberations, or voting upon or otherwise transacting the public business. A quorum consists of 51% of the members of the TAC, plus as many additional members as may be required to ensure that 51% of possible votes are present. The TAC will meet as often as it is deemed necessary, appropriate and advisable. On the basis of majority vote of its membership, the TAC may elect a member of the committee to act as chairperson with the responsibility for coordination of the committee's activities.

6. The Executive Director of the Isothermal Planning and Development Commission (Region C) will provide staff to the TAC.

Section 4. Establishment of Technical Coordinating Committee (TCC). A TCC shall be established with the responsibility of general review, guidance, and coordination of the transportation planning process for the RPO and the responsibility for making recommendations to the respective local, state, and federal governmental agencies and the TAC regarding any necessary actions relating to the continuing transportation process.

1. The TCC shall be responsible for development, review, and recommendation for approval of the PWP for the RPO, the STIP requests, and revisions to the STIP.

2. Membership of the TCC shall include technical representatives from all local and state governmental agencies directly related to and concerned with the transportation planning process for the RPO planning area. Initially, the membership shall include, but may not be limited to, the following:

   A. The Manager, Assistant Manager, Planner, Clerk, or Engineer from each of the three counties of the RPO planning area, or his/her designated staff representative.

   B. The Chief Administrative Official, City Planner, City Engineer, or City Clerk from each member municipality in the RPO planning area, or his/her designated staff representative.

   C. Division Engineer serving the Highway Division selected by NCDOT Planning Branch, NCDOT, or his/her designated staff representative.

AA.000000301 (24)

D. Manager, Transportation Planning Branch, NCDOT, or his/her designated staff representative.

3. Membership of the TCC may be altered on the basis of a majority vote of its membership and approval of the TAC of the RPO. One alternate may be designated for each member providing they meet the same criteria as the original appointee. Membership may be further defined in the duly adopted bylaws. An RPO TCC membership roster will be compiled and updated at least annually, listing each attendee and alternate, if applicable, for each member county or municipality. The membership of a county or municipality member who fails to send the appointee or alternate to two consecutive RPO meetings will be designated as a vacant seat and will not count towards quorum. Attendance at future meetings will reinstate the member.

4. A quorum is required for the transaction of all business, including conducting meetings or hearings, participating in deliberations, or voting upon or otherwise transacting the public business. A quorum consists of 51% of the members of the TCC, plus as many additional members as required to ensure that 51% of possible votes are present. The TCC shall meet when it is deemed necessary, appropriate and advisable. The TCC will be staffed by the Isothermal Planning and Development Commission planner or his/her designated staff representative. The TCC shall by majority vote of the membership elect one member to serve as a Chairman with the responsibility for coordinating the committee's activities. Membership of the TCC may be altered on the basis of a majority vote of its membership and approval of the TAC of the RPO.

Section 5. It is further agreed that all participating agencies will assist in the rural transportation planning process by providing planning assistance (where possible), data, and inventories in accordance with the approved PWP.

Section 6. Each county and its RPO member jurisdictions shall have the support of the RPO staff in developing local transportation projects and priorities. Each member agrees to coordinate its transportation plans with those of other RPO members. Additionally, by consensus, the RPO may identify projects of a regional nature for development and presentation to NCDOT for consideration.

Section 7. Parties to this Memorandum of Understanding may terminate their participation in the continuing transportation planning process by giving 90 days written notice to the other parties to the date of termination.

Section 8. Municipalities desiring to join the RPO following the signing of this Memorandum of Understanding must do so no later than 90 days after the date given below in Section 10, by submitting a fully-executed Municipal Statement of Adoption. Any municipality desiring to join the RPO after the initial 90-day period must notify the lead planning agency and the other members of the RPO in writing of its intent to join, and provide each with a copy of a fully-executed Municipal Statement of Adoption. New memberships will become effective on July 1st of each year.

Section 9. This Amended Memorandum of Understanding supersedes and replaces any prior memorandum(s) of understanding between the Parties regarding the RPO.

Section 10. In witness whereof, the Parties have been authorized by appropriate and proper resolutions, and/or legislative authority to sign this Amended Memorandum of Understanding, this the _____ day of _____, _____.

BY:

COUNTY OF

_____ _____

Chairman Clerk to the Board

COUNTY OF

_____ _____

Chairman Clerk to the Board

COUNTY OF

_____ _____

Chairman Clerk to the Board

AA.00000302 (24)

ISOTHERMAL PLANNING AND DEVELOPMENT COMMISSION (LPA)

Chairman | Executive Director

NCDOT | Approved as to form of execution

Secretary of Transportation | Assistant Attorney General

MUNICIPAL STATEMENT OF ADOPTION
OF THE
AMENDED MEMORANDUM OF UNDERSTANDING REGARDING
THE RURAL PLANNING ORGANIZATION
FOR McDowell, Rutherford, AND Polk COUNTIES

The Amended Memorandum of Understanding for cooperative comprehensive, and continuing transportation planning and the establishment of a Rural Planning Organization for the Counties of McDowell, Rutherford, and Polk and the participating municipalities in each county is hereby adopted by the City of Marion, day of ,

Mayor,

Clerk to the Board

PUBLIC HEARING – ZONING TEXT AMENDMENT – ADD DEFINITION FOR OPEN STORAGE: Mayor Pro Tem Little opened the Public Hearing.

Planning and Development Director Heather Cotton advised that staff had identified the need to amend the Zoning Ordinance to further define and clarify the use of open storage. The existing regulations provide for the use in business zoning districts, but do not provide for a definition of the use. This ordinance will clarify the term "*Open Storage*" in the Zoning Ordinance.

There were no citizens present to discuss this issue.

Councilman Cuthbertson asked if the definition would change how open storage is permitted in business districts. Ms. Cotton stated that it would not.

Mayor Pro Tem Little closed the Public Hearing.

Upon a motion by Councilman Owenby, seconded by Councilman Martin, Council voted unanimously to adopt the following Ordinance amending Chapter 21 of the Marion City Code to establish a definition for Open Storage:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE

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

AA.000000303 (24)

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Section 2. Chapter 21. *Zoning*, Article IV, *Definition of terms used in the ordinance*, Section 21-21, *Definitions*, is amended by adding the following:

Open Storage. The storage of any products, materials, vehicles, equipment, junk, or scrap outside the confines of an enclosed building, and more specifically defined as: (A) merchandise display: display of products and materials, and operable vehicles and equipment for the purpose of offering for sale at retail, and incidental to a principal office or retail building existing on the premises; (B) equipment and material storage: storage of any equipment or materials in usable condition which are not being specifically displayed as merchandise or offered for sale at retail; or (C) junk and scrap storage: storage of used products, junk, or scrap materials such as wood, cloth, paper, glass, metal, plastic, or rock material which could be refurbished, recycled, or converted into usable stock or material.

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 24th day of March 2009.

A. Everette Clark
Mayor

ATTEST:

J. Robert Boyette
City Manager/ Clerk

Ordinance Number: O-09-03-24-3

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

CONSIDER APPROVAL OF ORDINANCE REVISING PLANNING AND INSPECTIONS FEES: The City Manager stated that Mayor Clark had suggested that charges on the City's Fee Schedule related to zoning compliance permits be eliminated. The City Manager suggested that this item be held until the next meeting so that Mayor Clark could be present.

A discussion followed.

Upon a motion by Councilman Owenby, seconded by Councilman Martin, Council voted unanimously to table this item until the next City Council meeting.

AWARD CONTRACT FOR REPLACEMENT OF CULVERT ON VIRGINIA ROAD: Public Works Director Chris Hollifield advised that, for several years, the City has been delaying replacement of a culvert on Virginia Road. Mr. Hollifield stated that the City was at the point where we will eventually lose Virginia Road if the culvert is not replaced.

The following bids have been received for the replacement of the culvert.

Harris Grading	$22,800.00
F&S Contractors	$25,574.00

Mr. Hollifield explained how the culvert would be replaced and recommended that the bid from Harris Grading in the amount of $22,800.00 be accepted for this project.

The City Manager stated that the City would pay for this project with Powell Bill funds.

AA.000000304 (24)

Upon a motion by Councilman Owenby, seconded by Cuthbertson, Council voted unanimously to award a contract to Harris Grading in the amount of $22,800 for the replacement of the Virginia Road culvert.

PRESENT RECOMMENDATIONS FOR 2009 STREET PAVING/RESURFACING:

Public Works Director Chris Hollifield presented Council with recommendations for the 2009 Spring Street paving and resurfacing, included the paving of some dirt streets in the City as previously discussed. Mr. Hollifield advised that the cost of grading and paving the three dirt streets as previously directed by Council (Florence Avenue, Forest Park Road and East Railroad Street/Finley Avenue) is estimated to be $68,358, as follows:

1. **Forest Park Road:**
   Paving Cost: 578 yards^2 x $13 / yards^2 =$7,514

2. **Florence Avenue:**
   Paving Cost: 1,084 yards^2 x $13 / yards^2=$14,098
   Grading and Road Bed Const. Cost: $7,167
   Total Cost $21,265

3. **East Railroad Street and Finley Avenue:**
   Paving Cost: 1,378 yards^2 x $13 / yards^2=$17,911
   Grading and Road Bed Const. Cost: $21,668
   Total Cost $39,579

Total Dirt Road Paving Cost Estimate: $68,358

Mr. Hollifield advised that the following street, West Fourth Street, was not recommended for paving at the current time due to cost:

Dirt Street Not Recommended for Paving at Current Time:

1. **West Fourth Street EM:**
   Paving Cost: 800 yards^2 x $13 / yards^2=$10,400
   Grading and Road Bed Const. Cost: $31,152
   Total Cost $41,552

Total of Recommended Dirt Road Paving and Street Resurfacing: $167,706 $158,941

Mr. Hollifield stated that staff has prioritized the resurfacing of six streets in the following order:

1. **Railroad Street:**
   Limits: Entire Street
   Length: 507 yards
   Width: 10 yards
   Area: 5070 yards^2
   Paving Cost: 5070 yards^2 x $7.75 / yards^2=$39,293

2. **Fourth Street Clf:**
   Limits: Hill Street to Fifth Street Clf
   Length: 250 yards
   Width: 5 yards
   Area: 1,250 yards^2
   Paving Cost: 1,250 yards^2 x $7.75 / yards^2=$9,688

3. **South Garden Street:**
   Limits: Rutherford Road to Spring Street
   Length: 319 yards
   Width: 8 yards
   Area: 2,552 yards^2
   Paving Cost: 2,552 yards^2 x $7.75 / yards^2=$19,778

AA.000000305 (24)

4. **James Drive:**
   Limits: Viewpoint Drive to North Garden Street
   Length: 122 yards
   Width: 8 yards
   Area: 976 yards^2
   Paving Cost: 976 yards$^{2\,x}$ $7.75 / yards^2=$7,564

5. **Fifth Street Clf:**
   Limits: Lamar Street to Dead End
   Length: 140 yards
   Width: 6 yards
   Area: 840 yards^2
   Paving Cost: 840 yards$^{2\,x}$ $7.75 / yards^2=$6,510

6. **Hillside Drive:**
   Limits: Viewpoint Drive to Dead End
   Length: 100 yards
   Width: 10 yards
   Area: 1,000 yards^2
   Paving Cost: 1,000 yards$^{2\,x}$ $7.75 / yards^2=$7,750

Total Spring Paving Cost Estimate: $90,583

Based on available Powell Bill funding in the range of $100,000-$110,000, Mr. Hollifield presented some possible options for the Spring 2009 Street Paving/Resurfacing Project, as follows:

Option 1

Pave Forest Park Road, Florence Avenue and East Railroad Street/ Finley Avenue	**$ 68,358**
Resurface Railroad Street	**$ 39,293**
Total Estimated Cost	**$107,651**

Option 2

Pave Forest Park Road, Florence Avenue and East Railroad Street/ Finley Avenue	**$ 68,358**
Resurface Half of Railroad Street (Morgan Street to West Henderson Street)	**$ 19,647**
Resurface Fourth Street Clf	**$ 9,688**
Resurface James Drive	**$ 7,564**
Total Estimated Cost	**$105,257**

Option 3

Pave Forest Park Road, Florence Avenue and East Railroad Street/ Finley Avenue	**$ 68,358**
Resurface Fourth Street Clf	**$ 9,688**
Resurface South Garden Street	

AA.000000306 (24)

(Spring Street to Rutherford Road)	**$ 19,778**
Resurface James Drive	**$ 7,564**
Total Estimated Cost	**$105,388**

Mr. Hollifield noted that if Forest Park Road is paved, the City will need to request that the North Carolina Department of Transportation turn over the road to the City for maintenance.

A discussion followed. Councilman Cuthbertson suggested that the City not pave Forest Park Road this year, but see if NCDOT could pave the road first. He further suggested that the resurfacing of James Drive be substituted for the Forest Park Road paving.

Councilman Martin stated that the resurfacing of Railroad Street is badly needed, as the street is in bad shape in places.

The City Manager noted that bids would need to be sought for the resurfacing/paving work, at which time it could be determined if the City had sufficient money to pave all the priority streets.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, Council voted unanimously to set the following priorities for the Spring 2009 Spring Paving/Resurfacing Project: the paving and grading of Florence Avenue and East Railroad Street/Finley Avenue and the resurfacing of the entire length of Railroad Street and James Drive.

The City Manager advised that he would request that NCDOT pave Forest Park Road and then the City would assume maintenance of the road.

RECEIVE RECOMMENDATION FROM STREET COMMITTEE: The City Manager advised that the Street Committee met on March 13 and looked at a demonstration of a three lane section on Fleming Avenue at the Marion Elementary School entrance. The Street Committee recommended that a dedicated right turn lane into Marion Elementary from Fleming Avenue be approved, on the condition that a telephone pole can be moved farther back from the curb on the western side of Fleming Avenue near Crescent Drive and as long as some work is done to widen out the street and move the curb line on the eastern side of Fleming Avenue near the Marion Elementary School entrance. The City Manager stated that the three lane section is a bit tight, but the demonstration showed that even large vehicles can safely pass each other on a three lane section in this area.

Upon a motion by Councilman Owenby, seconded by Councilman Cuthbertson, Council voted unanimously to accept the recommendation of the Street Committee and authorize the installation of a dedicated right turn lane into Marion Elementary from Fleming Avenue, on the condition that a telephone pole can be moved farther back from the curb on the western side of Fleming Avenue near Crescent Drive and as long as some work is done to widen out the street and move the curb line on the eastern side of Fleming Avenue near the Marion Elementary School entrance.

It was agreed that this work would be done in the summer, when Marion Elementary School is not in session.

CIVIL CITATION APPEAL: The City Manager advised that Ms. Juanita Johnson of Richmond, Virginia submitted a letter appealing the civil citation she received for parking in a prohibited area on East Court Street on February 17. Ms. Johnson offers no grounds for why the ticket was issued incorrectly; therefore the City Manager recommended that Council deny this appeal. A copy of the parking ticket was presented to Council along with a short statement from our Ordinance Enforcement Officer advising that Ms. Johnson had parked in a location on East Court Street that was not a parking space.

AA.000000307 (24)

Upon a motion by Councilman Owenby, seconded by Councilman Cuthbertson, Council voted unanimously to deny the appeal of Ms. Juanita Johnson for the parking ticket she received on February 17 on East Court Street.

CONSIDER AWARD OF 2009 LANDSCAPING CONTRACT: The City Manager advised that the City advertised in the McDowell News and mailed out bid proposal packets to a list of twelve area landscapers for the City's landscaping services. The only bid received was from L.L. Moore Landscapes & Lawn Service in the amount of $465.00 a week, which is $45.00 less a week than last year.

Upon a motion by Councilman Owenby, seconded by Councilman Cuthbertson, Council voted unanimously to award the contract for the City's 2009 landscaping contract to L.L. Moore Landscapes & Lawn Service, in the amount of $465.00 a week.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that McGill had completed the preliminary design for the Sugar Hill Road water and sewer extension and identified locations for two needed wastewater pump stations. One pump station could likely be located on the large commercial development while the other would need to be located in a low spot on the east side of Sugar Hill Road at Meadow Lane (which is between the School Head Start Facility and Jack Frost). The City Manager stated there is a property at this location owned by NCDOT. The City Manager stated that, without objection, to keep this project moving, he would send a letter to NCDOT, requesting that the City purchase this property. Council members stated no objection to the City Manager's recommendation.

The City Manager advised that a news release was sent out to the media regarding the effort of the City, County and State to complete a Buck Creek Watershed Plan. The City Manager advised that the planning process was on-going and that he would update Council as the planning process continues. The plan will not cost the City any money and will develop ideas on how to provide better protections for our Buck Creek water supply and watershed and address competitive issues the City has at times with upstream agricultural water users on Buck Creek.

The City Manager advised that McGill has completed the design of the McDowell Avenue Street extension. He stated that a meeting had been held design. Public Works Director Chris Hollifield went over the proposed street design with Council, along with discussing the proposed schedule for the construction of the street by NCDOT. The City Manager advised that NCDOT apparently will not be able to pay for landscaping along the street; therefore, he and Mr. Hollifield would recommend that grass be planted at the current time and that tree planting be considered as a future Arbor Day project.

The City Manager advised that all needed easements and deeds had been signed for the Wastewater Improvements Project.

The City Manager stated that when the McDowell Avenue extension is opened, then the Clay Street railroad crossing will be closed by the City, using $29,000 to be paid by Norfolk Southern Railway.

Councilman Owenby stated that he feels a traffic signal may be necessary at the intersection of the new street and Oak Street.

The City Manager stated that the traffic signal at Clay and East Court Streets will not be necessary after the closing of the Clay Street railroad crossing and that perhaps that signal could be relocated to the McDowell Avenue/Oak Street intersection.

AA.00000308 (24)

The City Manager advised that inmate labor was used on March 17 to pick up trash in on City property on West Wilhemenia Street. The City has also begun an aggressive effort to have more police presence in this area, especially on weekend evenings, to combat loitering and littering issues.

The City Manager reported that a resident of West Wilhemenia Street, Mr. B.M. Walker, had requested a handicapped parking space in front of his house, since he needs to unload on the street. The City Manager stated that he and Councilman Martin had discussed the location and the fact that the house has a handicapped ramp which leads to the driveway. Therefore, Mr. Walker can park immediately off the street next to the driveway. Councilman Martin stated that the parking prohibition should not be changed. There was no action taken by Council regarding Mr. Walker's request.

The City Manager discussed the City's Federal Stimulus Funding water and sewer priorities with Council. After discussion, Council set the Hospital Pump Station replacement as a backup funding priority behind the Wastewater Improvements Project, as long as environmental need remained the main criteria. If economic development/job creation becomes a major criteria, Council authorized the City Manager to substitute the Sugar Hill Road water and sewer extension for the Hospital Pump Station replacement as a backup funding priority

COUNCILMAN COMMENTS:

Mayor Pro Tem Little stated that he recently attended the National League of Cities (NLC) Conference in Washington, D.C. He gave a brief overview of the conference and some of the session. Mayor Pro Tem Little passed out the legislative priorities of the NLC.

Councilman Edwards also reported on his attendance at the NLC Conference and some of the sessions he attended. He mentioned that he picked up a handout on economic development that featured the City of Marion.

Councilman Martin stated that he would like the Street Committee to look at the need for a sidewalk in front of the First United Methodist Church on Robert Street. The Street Committee agreed to look at this idea.

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

Stephen R. Little, Mayor Pro Tem

ATTEST:

J. Robert Boyette, City Manager

AA.000000309 (24)

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, 2009 at 7:00 P.M. in the City Council Chamber located at 194 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: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Mika Elliott, Police Chief; Chris Hollifield, Public Works Director; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Eric Muecke and John Reese, North Carolina Division of Forest Resources Representatives; Kathy, Caroline & Meg Flowers, 215-2 North Garden Street, Marion, NC; Steve Brown, 350 South Garden Street, Marion, NC; Ellen Brown, 108 Carriage Station, Marion, NC; Charmaine Dawn and Jim Brady 754 Rutherford Road, Marion, NC.

CITIZEN OF THE MONTH – SELECTED BY MAYOR PRO TEM STEVE LITTLE:
Councilman Mayor Pro Tem Little selected the Citizen of the Month for April 2009.

KATHY BROWN FLOWERS

Mayor Pro Tem Little advised that Ms. Kathy Flowers is the daughter of Ellen Brown and the late Wilmer Brown. Ms. Flowers is the mother of Meg and Caroline Flowers and the grandmother of Will Flowers. Ms. Flowers has one brother, Steve Brown.

Ms. Flowers is a member of the First Baptist Church where she serves as a Deacon, is in the Adult Choir, has been in the Hand Bell Choir and is a member of the Day Care Board and the Fellowship Committee Member. She has also been a member of the Jr. Women's Club.

Mayor Pro Tem Little stated that you could always count on Kathy for whatever needed done. She is a compassionate caring person and is the epitome of enthusiasm.

Ms. Flowers has worked in a family owned business, the Ramble Rack, has had an accessory Business, opened a retail lady's clothing store in the downtown area called "One of a Kind" and worked for Dr. Christopher Nevant. She now works in sales at Tom Johnson Camping Center.

Mayor Pro Tem Little advised that Ms. Flowers had some serious health issues, involving a brain tumor, and had surgery four months ago. She is already back to her buoyant wonderful self.

Ms. Flowers has stayed in Marion and given much of herself to the community over the years.

Mayor Clark and Council Members all shared kind words about Ms. Kathy Brown Flowers and commended her for all she has given to the community through the years.

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – March 24, 2009 Regular City Council Meeting

B. Approve Closure of Main Street for Car Show

AA.000000310 (24)

Approval was granted to Going Home Free Will Baptist Church/Rev. Jeff Duncan to close Main Street from Fort to Court Streets on Saturday, May 9, 2009 from 4:00 PM to 8:00 PM.

C. Adopt Resolution Directing the Clark to Investigate a Petition for Satellite Annexation – US 221 South/Riverview Holdings Property:

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-58.1 – RIVERVIEW HOLDING – U.S. 221 SOUTH - 2009

WHEREAS, a petition requesting annexation of an area described in said petition was received on March 30, 2009 by the City of Marion; and

WHEREAS, 160A-58.2 provides that the sufficiency of the petition shall be investigated by the City Clark 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 of his investigation.

Adopted this the 7th day of April, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-09-04-07-1

PRESENTATION BY N.C. DIVISION OF FOREST RESOURCES OF TREE CITY USA 20 YEAR AWARD: Mr. Eric Muecke and Mr. John Reese, representatives of the N.C. Division of Forest Resources, were present for this meeting and presented Mayor Clark with a Tree City USA Flag, a Twenty Year Tree City USA Award and other items commemorating the City's 20th year as a Tree City USA.

Mr. Muecke stated that it is a pleasure to be here in Marion to present the 20th Year Tree City USA Award. Marion is one of 70 cities and towns in North Carolina and one of over 3,000 in the nation to receive this recognition.

Mr. Muecke reported that the Tree City USA began as a 1976 Bicentennial project co-sponsored by the National Association of State Foresters and USDA-Forest Service. The National League of Cities and the US Conference of Mayors are now co-sponsors as well.

The Tree City USA program is a partnership between the NC Division of Forest Resources and the National Arbor Day Foundation. Awards are presented annually to cities and towns that demonstrate a commitment to making their communities more livable by planting and caring for trees.

Mr. Muecke stated that Marion has once again met the four criteria for this award:

AA.00000311 (24)

1) A public tree ordinance, establishing policies for street and park trees.
2) A Tree Board and/or a city department responsible for the care and management of the community's trees.
3) A community forestry program with an annual expenditure of at least $2.00 per capita and that he was pleased to report that Marion spent over $33,096 last year for the planting and management of public trees, or about $4.53 per resident.
4) An annual Arbor Day observance and proclamation to celebrate trees and the many benefits they provide. Today's celebration meets this requirement for next year's award.

Mr. Muecke stated for a community forestry program to be effective, it takes support and commitment from the entire community. In Marion, the community forestry program thrives because of the combined dedication of the Tree Board members, the city staff, elected officials, business community, homeowners and all residents who take pride in improving the quality of life in Marion through environmental stewardship.

On behalf of the National Arbor Day Foundation and the NC Division of Forest Resources, Mr. Muecke stated that he was proud to present Marion with the award.

The Mayor and Council members thanked Mr. Meucke for the award and for his kind words, stating that the City's accomplishment could not have taken place without the efforts of the Tree Board.

Mr. Reese stated that it has been a pleasure to live in a town that has had vision over the last twenty years, and that he is looking forward to the next twenty years with City Council's backing.

PUBLIC APPEARANCE – MR. JOEL WILLIAMS – DISCUSS GREEN BUILDING INITIATIVE: Mr. Williams was not able to attend this meeting.

ADOPTION OF ANNEXATION ORDINANCES – 2009

ANNEXATION AREAS: The City Manager advised that with the completion of the annexation process for the 2009 Annexation Areas, he would recommend that Council adopt ordinances to annex the following areas, effective June 30, 2009 as follows:

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Ordinance extending the City Limits to include the Eastfield Phase 4 area:

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF MARION UNDER THE AUTHORITY GRANTED BY CHAPTER 160A, ARTICLE 4A, PART 2 OF THE GENERAL STATUTES OF NORTH CAROLINA – EASTFIELD PHASE 4 AREA - 2009

WHEREAS, all of the prerequisites to adoption of this ordinance prescribed in Chapter 160A, Article 4A, Part 2 of the General Statutes of North Carolina, have been met; and

WHEREAS, the City Council has taken into full consideration of statements presented at the public hearing held on March 24, 2009, on the question of this annexation; and.

WHEREAS, the City Council has concluded and hereby declares that annexation of the area described herein is necessary to the orderly growth and development of the City of Marion.

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

AA.00000312 (24)

Section 1. From and after the effective date of this annexation, the following territory shall be annexed to and become a part of the City of Marion, and the corporate limits of the City of Marion shall be extended to include said territory more particularly described by metes and bounds as follows:

BEGINNING at a point at the northern corner of Lot 6045 Block 40 on the McDowell County Tax Map 1712.18; thence following the eastern boundary of said Lot 6045 and Lots 6947, and 6950 Block 49 on the McDowell County Tax Map 1711.06 in a generally southerly direction approximately 255.52 feet to the southeast point of said Lot 6950; thence following the southern boundary of said Lot 6950 in a westerly direction 60 feet to a point on the southern boundary of said Lot 6950, said point also being the northeast corner of Lot 5797; thence following the eastern boundary of said Lot 5797 in a southerly direction 222.28 feet to a point, thence following the southern boundary of said Lot 5797 in a westerly direction 174.16 feet to the southwest corner of said Lot 5797, said point also being a point on the boundary of the current Marion Corporate Limits; thence following the Marion Corporate Limits in a northerly direction approximately 413 feet to the point of BEGINNING.

Section 2. The City Council hereby finds and declares that the above described territory meets the requirements of G.S. 160A-36, in that:

The area is adjacent and contiguous, as defined by G. S. 160A-41(1) as of the 6th day of January, 2009, the date upon which this annexation proceeding was begun.

The aggregate external boundary line of the area to be annexed is 1,414 feet, of which 402 feet (or 28.43%), coincides with the City boundary. Therefore, at least one eighth (or 12.5%) of the said external boundary coincides with the City boundary.

No part of the area to be annexed is included within the boundary of another incorporated municipality.

The area to be annexed is developed for urban purposes in that 100.00% of the total number of lots and tracts in said area are used for residential, commercial, industrial, institutional or governmental purposes as is shown below. 100.00% of the total of residential and vacant acreage consists of lots and tracts three (3) acres or less in size.

Section 3. It is the purpose and intent of the City of Marion to provide services to the area being annexed under this ordinance, as set forth in the report of plans for services approved by the City Council on January 20, 2009 and filed in the office of the Clerk for public inspection on January 23, 2009.

Section 4. The City Council hereby finds and declares that, on the effective date of annexation prescribed in Section 8 hereof, the City of Marion will have sufficient funds approved, in the amount of $0, to finance the estimated cost of construction of water and sewer facilities found necessary in the report of plans for services to extend the basic sewer and water system of the City of Marion into the area to be annexed under this ordinance. (No water or sewer extensions are necessary in the area to be annexed).

Section 5. From and after the effective date of this annexation, the territory annexed and its citizen and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City.

Section 6. The newly annexed territory described above shall be subject to City taxes according to G.S 160A-58.10.

Section 7. The Mayor of the City of Marion shall cause an accurate map of the annexed territory described in Section 1 hereof, together with a duly certified copy of the ordinance, to be recorded in the office of the register of deeds of McDowell County, and to the office of the Secretary of State in Raleigh. Such a map shall also be delivered to the McDowell County Board of Elections, as required in G.S. 163-288.1.

Section 8. This ordinance shall become effective on June 30, 2009.

As to qualified tracts of agricultural land, horticultural land and forestland, the annexation will become effective on the last day of the month in which the tract or part thereof becomes ineligible for present-use classification under G.S 105-227.4 or no longer meets the requirements of G.S 160A-37(f1)(2).

Adopted this 7th day of April, 2009.

A. Everette Clark, Mayor

AA.00000313 (24)

ATTEST: APPROVED AS TO FORM:

J. Robert Boyette, City Clerk City Attorney

Ordinance Number: O-09-04-07-1

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL

I, _____, Notary Public of McDowell County, North Carolina, do hereby certify that before me this day personally appeared J. Robert Boyette, who, after first being duly sworn, deposes and says that he is acquainted with A. Everette Clark, who is Mayor of the City of Marion, North Carolina, the corporation executing the foregoing Ordinance to Extend the Corporate Limits of the City of Marion, North Carolina, that he knows the common seal of the City of Marion and that he, the said J. Robert Boyette, Clerk of the City Council of the said City, that he saw the foregoing instrument signed in the name of said corporation by A. Everette Clark, Mayor, as aforesaid, that he saw the Mayor affix the common seal of the said corporation thereto, and that he, the said J. Robert Boyette, Clerk as aforesaid signed his name in attest action of execution thereof, all ordered by the City Council of the City of Marion, North Carolina, for purposes therein set forth,

WITNESS my hand this the _____ day of _____ 2009

(Seal)

_____
Notary Public

My Commission Expires: _____

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Ordinance extending the City Limits to include the Eastfield Phase 5 area:

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF MARION UNDER THE AUTHORITY GRANTED BY CHAPTER 160A, ARTICLE 4A, PART 2 OF THE GENERAL STATUTES OF NORTH CAROLINA – EASTFIELD PHASE 5 AREA - 2009

WHEREAS, all of the prerequisites to adoption of this ordinance prescribed in Chapter 160A, Article 4A, Part 2 of the General Statutes of North Carolina, have been met; and

WHEREAS, the City Council has taken into full consideration of statements presented at the public hearing held on March 24, 2009, on the question of this annexation; and

WHEREAS, the City Council has concluded and hereby declares that annexation of the area described herein is necessary to the orderly growth and development of the City of Marion.

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

Section 1. From and after the effective date of this annexation, the following territory shall be annexed to and become a part of the City of Marion, and the corporate limits of the City of Marion shall be extended to include said territory more particularly described by metes and bounds as follows:

BEGINNING at a point at the northern corner of Lot 9159 Block 39 on the McDowell County Tax Map 1711.06; thence following the boundary of said Lot 9159 in a southeasterly direction 229 feet to an eastern point of said Lot 9159; thence following the eastern boundary of said Lot 9159 and Lot 8965 Block 48 on the McDowell County Tax Map 1711.06 in a southerly direction approximately 315 feet to a point on the eastern boundary of said Lot 896, said point also being the northwest corner of Lot 9891 Block 48 on the McDowell County Tax Map 1711.06; thence following the northern boundary of said Lot 9891 in an easterly direction 42 feet to the northeast corner of said Lot 9891; thence following the eastern boundary of said Lot 9891 in a generally southerly direction 219 feet to the southeast corner of said Lot 989, said point also being the northern boundary of Tunnel Street (SR 1729); thence following the northern boundary of Tunnel Street (SR 1729) in an easterly direction approximately 90 feet to a point on said boundary of Tunnel Street (SR 1729); thence crossing Tunnel Street (SR 1729) in a

AA.000000314 (24)

southerly direction 50 feet to a point on the southern boundary of Tunnel Street (SR 1729), said point also being the northeast corner of Lot 0601 Block 48 on the McDowell County Tax Map 1711.06; thence following the eastern boundary of said Lot 0601 and Lots 9595, 0439, 0422, and 0313 Block 48 on the McDowell County Tax Map 1711.06 in a southerly direction 432 feet to a point at the southeast corner of Lot 0313, said point also being the boundary of the current Marion Corporate Limits; thence following the Marion Corporate Limits first in a westerly direction approximately 1212 feet, thence in a northerly direction approximately 756 feet; and thence in a generally easterly direction approximately1342 feet to the point of BEGINNING.

Section 2. The City Council hereby finds and declares that the above described territory meets the requirements of G.S. 160A-36, in that:

The area is adjacent and contiguous, as defined by G. S. 160A-41(1) as of the 6th day of January, 2009, the date upon which this annexation proceeding was begun.

The aggregate external boundary line of the area to be annexed is 5,080 feet, of which 3,554 feet (or 69.96%), coincides with the City boundary. Therefore, at least one eighth (or 12.5%) of the said external boundary coincides with the City boundary.

No part of the area to be annexed is included within the boundary of another incorporated municipality.

The area to be annexed is developed for urban purposes in that 68.89% of the total number of lots and tracts in said area are used for residential, commercial, industrial, institutional or governmental purposes as is shown below. 100.00% of the total of residential and vacant acreage consists of lots and tracts three (3) acres or less in size.

Section 3. It is the purpose and intent of the City of Marion to provide services to the area being annexed under this ordinance, as set forth in the report of plans for services approved by the City Council on January 20, 2009 and filed in the office of the Clerk for public inspection on January 23, 2009.

Section 4. The City Council hereby finds and declares that, on the effective date of annexation prescribed in Section 8 hereof, the City of Marion will have sufficient funds approved, in the amount of $16,039, to finance the estimated cost of construction of water and sewer facilities found necessary in the report of plans for services to extend the basic water system of the City of Marion into the area to be annexed under this ordinance. (No sewer extensions are necessary in the area to be annexed).

Section 5. From and after the effective date of this annexation, the territory annexed and its citizen and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City.

Section 6. The newly annexed territory described above shall be subject to City taxes according to G.S 160A-58.10.

Section 7. The Mayor of the City of Marion shall cause an accurate map of the annexed territory described in Section 1 hereof, together with a duly certified copy of the ordinance, to be recorded in the office of the register of deeds of McDowell County, and to the office of the Secretary of State in Raleigh. Such a map shall also be delivered to the McDowell County Board of Elections, as required in G.S. 163-288.1.

Section 8. This ordinance shall become effective on June 30, 2009.

As to qualified tracts of agricultural land, horticultural land and forestland, the annexation will become effective on the last day of the month in which the tract or part thereof becomes ineligible for present-use classification under G.S 105-227.4 or no longer meets the requirements of G.S 160A-37(f1)(2).

Adopted this 7th day of April, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Clerk

APPROVED AS TO FORM:

City Attorney

AA.00000315 (24)

Ordinance Number: O-09-04-07-2

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL

I, _____, Notary Public of McDowell County, North Carolina, do hereby certify that before me this day personally appeared J. Robert Boyette, who, after first being duly sworn, deposes and says that he is acquainted with A. Everette Clark, who is Mayor of the City of Marion, North Carolina, the corporation executing the foregoing Ordinance to Extend the Corporate Limits of the City of Marion, North Carolina, that he knows the common seal of the City of Marion and that he, the said J. Robert Boyette, Clerk of the City Council of the said City, that he saw the foregoing instrument signed in the name of said corporation by A. Everette Clark, Mayor, as aforesaid, that he saw the Mayor affix the common seal of the said corporation thereto, and that he, the said J. Robert Boyette, Clerk as aforesaid signed his name in attest action of execution thereof, all ordered by the City Council of the City of Marion, North Carolina, for purposes therein set forth,

WITNESS my hand this the _____ day of _____ 2009

(Seal)

_____
Notary Public

My Commission Expires: _____

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Owenby, Council voted unanimously to adopt the following Ordinance extending the City Limits to include the Highway 226 South/ITL Area:

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF MARION UNDER THE AUTHORITY GRANTED BY CHAPTER 160A, ARTICLE 4A, PART 2 OF THE GENERAL STATUTES OF NORTH CAROLINA – HIGHWAY 226 SOUTH/ITL AREA - 2009

WHEREAS, all of the prerequisites to adoption of this ordinance prescribed in Chapter 160A, Article 4A, Part 2 of the General Statutes of North Carolina, have been met; and

WHEREAS, the City Council has taken into full consideration of statements presented at the public hearing held on March 24, 2009, on the question of this annexation; and

WHEREAS, the City Council has concluded and hereby declares that annexation of the area described herein is necessary to the orderly growth and development of the City of Marion.

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

Section 1. From and after the effective date of this annexation, the following territory shall be annexed to and become a part of the City of Marion, and the corporate limits of the City of Marion shall be extended to include said territory more particularly described by metes and bounds as follows:

BEGINNING at a point at the southwest corner of Lot 9743 Block 25 on McDowell County Tax Map 1720.01; thence following boundary of said Lot in a northeasterly direction 917 feet, said boundary also being the boundary of the current Marion Corporate Limits; thence following boundary of said Lot in a northwesterly direction 523 feet; thence following the boundary of said Lot in a southwesterly direction 870 feet; thence following the boundary of said Lot in a southeasterly direction 507 feet to a point of BEGINNING.

Section 2. The City Council hereby finds and declares that the above described territory meets the requirements of G.S. 160A-36, in that:

The area is adjacent and contiguous, as defined by G. S. 160A-41(1) as of the 6th day of January, 2009, the date upon which this annexation proceeding was begun.

The aggregate external boundary line of the area to be annexed is 3,175 feet, of which 2,640 feet (or 83.15%), coincides with the City boundary. Therefore, at least one eighth (or 12.5%) of the said external boundary coincides with the City boundary.

No part of the area to be annexed is included within the boundary of another incorporated municipality.

AA.00000316 (24)

The area to be annexed is developed for urban purposes in that 100.00% of the total number of lots and tracts in said area are used for residential, commercial, industrial, institutional or governmental purposes as is shown below. All tracts in the area to be annexed are used for commercial, industrial, governmental, or institutional purposes.

Section 3. It is the purpose and intent of the City of Marion to provide services to the area being annexed under this ordinance, as set forth in the report of plans for services approved by the City Council on January 20, 2009 and filed in the office of the Clerk for public inspection on January 23, 2009.

Section 4. The City Council hereby finds and declares that, on the effective date of annexation prescribed in Section 8 hereof, the City of Marion will have sufficient funds approved, in the amount of $0, to finance the estimated cost of construction of water and sewer facilities found necessary in the report of plans for services to extend the basic water system of the City of Marion into the area to be annexed under this ordinance. (No water or sewer extensions are necessary in the area to be annexed).

Section 5. From and after the effective date of this annexation, the territory annexed and its citizen and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City.

Section 6. The newly annexed territory described above shall be subject to City taxes according to G.S 160A-58.10.

Section 7. The Mayor of the City of Marion shall cause an accurate map of the annexed territory described in Section 1 hereof, together with a duly certified copy of the ordinance, to be recorded in the office of the register of deeds of McDowell County, and to the office of the Secretary of State in Raleigh. Such a map shall also be delivered to the McDowell County Board of Elections, as required in G.S. 163-288.1.

Section 8. This ordinance shall become effective on June 30, 2009.

As to qualified tracts of agricultural land, horticultural land and forestland, the annexation will become effective on the last day of the month in which the tract or part thereof becomes ineligible for present-use classification under G.S 105-227.4 or no longer meets the requirements of G.S 160A-37(f1)(2).

Adopted this 7th day of April, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Clerk

APPROVED AS TO FORM:

City Attorney

Ordinance Number: O-09-04-07-3

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL

I, _____, Notary Public of McDowell County, North Carolina, do hereby certify that before me this day personally appeared J. Robert Boyette, who, after first being duly sworn, deposes and says that he is acquainted with A. Everette Clark, who is Mayor of the City of Marion, North Carolina, the corporation executing the foregoing Ordinance to Extend the Corporate Limits of the City of Marion, North Carolina, that he knows the common seal of the City of Marion and that he, the said J. Robert Boyette, Clerk of the City Council of the said City, that he saw the foregoing instrument signed in the name of said corporation by A. Everette Clark, Mayor, as aforesaid, that he saw the Mayor affix the common seal of the said corporation thereto, and that he, the said J. Robert Boyette, Clerk as aforesaid signed his name in attest action of execution thereof, all ordered by the City Council of the City of Marion, North Carolina, for purposes therein set forth,

WITNESS my hand this the _____ day of _____ 2009
(Seal)

_____
Notary Public

My Commission Expires: _____

AA.000000317 (24)

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Ordinance extending the City Limits to include the Highway 221 North/Hankins Road Area:

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF MARION UNDER THE AUTHORITY GRANTED BY CHAPTER 160A, ARTICLE 4A, PART 2 OF THE GENERAL STATUTES OF NORTH CAROLINA – HIGHWAY 221 NORTH/HANKINS ROAD AREA - 2009

WHEREAS, all of the prerequisites to adoption of this ordinance prescribed in Chapter 160A, Article 4A, Part 2 of the General Statutes of North Carolina, have been met; and

WHEREAS, the City Council has taken into full consideration of statements presented at the public hearing held on March 24, 2009, on the question of this annexation; and

WHEREAS, the City Council has concluded and hereby declares that annexation of the area described herein is necessary to the orderly growth and development of the City of Marion.

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

Section 1. From and after the effective date of this annexation, the following territory shall be annexed to and become a part of the City of Marion, and the corporate limits of the City of Marion shall be extended to include said territory more particularly described by metes and bounds as follows:

BEGINNING at a point at the northeast corner of Lot 8500 Block 87 on McDowell County Tax Map 0792.00, said point also being a point on the current Marion Corporate Limits; thence following the boundary of the Marion Corporate Limits in an east and northeasterly direction approximately 1243 feet to a point at the intersection of the current Marion Corporate Limits and an eastern point of Lot 9202 Block 88 on the McDowell County Tax Map 0792.00; thence following the eastern boundary of said Lot 9202 in a northwesterly direction 206 feet to a point on the northeast corner of said Lot 9202, thence following the boundary of said Lot 9202 in a southerly direction 130 feet, thence following the boundary of said Lot 9202 in a northwesterly direction 146 feet to a point at the northwest corner of said Lot 9202, said point also being the eastern boundary of Hankins Road (SR 1501); thence crossing Hankins Road (SR 1501) in a straight line in a northwesterly direction 60 feet to a point on the western boundary of Hankins Road (SR 1501), said point also being a point on the eastern boundary of Lot 6412 Block 88 on the McDowell County Tax Map 0792.00; thence following the boundary of said Lot 6412 and Hankins Road (SR 1501) in a northerly direction approximately 80 feet to a point at the northeast corner of said Lot 6412, said point also being the southeast corner of Lot 7741 Block 88 on McDowell County Tax Map 0792.00, thence following the southern boundary of said Lot 7741 in a westerly direction 81 feet to a point at the southwest corner of said Lot 7741, thence following the western boundary of said Lot 7741 and Lot 7902 Block 88 on McDowell County Tax Map 0792.00 in a northerly direction 538 feet to a point at the northwest corner of said Lot 7902, said point also being the southern boundary of a private road; thence crossing said private road in a straight line in a northerly direction 20 feet to a point on the northern boundary of said private road, said point also being the boundary of the current Marion Corporate Limits; thence following the northern boundary of said private road and boundary of the Marion Corporate Limits in a northwesterly direction 196 feet to a point; thence crossing said private road in a strait line in a southerly direction 20 feet to a point on the southern boundary of the private road, said point also being the northwest corner of Lot 5711 Block 88 on McDowell County Tax Map 0792.00; thence following the western boundary of said Lot 5711 in a southerly direction 356 feet to a point, said point also being the eastern boundary of U.S. Highway 221 Business Extension; thence crossing U.S. Highway 221 Business Extension in a southerly direction approximately 90 feet to a point, said point being at the intersection of the western boundary of U.S. Highway 221 Business Extension and the eastern boundary of U.S. Highway 221 Bypass; thence following the eastern boundary of U.S. Highway 221 Bypass in a southern direction 491 feet to a point on said boundary of U.S. Highway 221 Bypass, said point also being on the western boundary of U.S. Highway 221 Business and the southwest corner of Lot 5060 Block 88 on McDowell County Tax Map 0792.00, thence crossing U.S. Highway 221 Business in a southerly direction approximately 165 feet to a point of BEGINNING.

Section 2. The City Council hereby finds and declares that the above described territory meets the requirements of G.S. 160A-36, in that:

The area is adjacent and contiguous, as defined by G. S. 160A-41(1) as of the 6th day of January, 2009, the date upon which this annexation proceeding was begun.

AA.00000318 (24)

The aggregate external boundary line of the area to be annexed is 4,279 feet, of which 1,334 feet (or 31.18%), coincides with the City boundary. Therefore, at least one eighth (or 12.5%) of the said external boundary coincides with the City boundary.

No part of the area to be annexed is included within the boundary of another incorporated municipality.

The area to be annexed is developed for urban purposes in that 87.50% of the total number of lots and tracts in said area are used for residential, commercial, industrial, institutional or governmental purposes as is shown below. 100.00% of the total of residential and vacant acreage consists of lots and tracts three (3) acres or less in size.

Section 3. It is the purpose and intent of the City of Marion to provide services to the area being annexed under this ordinance, as set forth in the report of plans for services approved by the City Council on January 20, 2009 and filed in the office of the Clerk for public inspection on January 23, 2009.

Section 4. The City Council hereby finds and declares that, on the effective date of annexation prescribed in Section 8 hereof, the City of Marion will have sufficient funds approved, in the amount of $0, to finance the estimated cost of construction of water and sewer facilities found necessary in the report of plans for services to extend the basic water system of the City of Marion into the area to be annexed under this ordinance. (No water or sewer extensions are necessary in the area to be annexed).

Section 5. From and after the effective date of this annexation, the territory annexed and its citizen and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City.

Section 6. The newly annexed territory described above shall be subject to City taxes according to G.S 160A-58.10.

Section 7. The Mayor of the City of Marion shall cause an accurate map of the annexed territory described in Section 1 hereof, together with a duly certified copy of the ordinance, to be recorded in the office of the register of deeds of McDowell County, and to the office of the Secretary of State in Raleigh. Such a map shall also be delivered to the McDowell County Board of Elections, as required in G.S. 163-288.1.

Section 8. This ordinance shall become effective on June 30, 2009.

As to qualified tracts of agricultural land, horticultural land and forestland, the annexation will become effective on the last day of the month in which the tract or part thereof becomes ineligible for present-use classification under G.S 105-227.4 or no longer meets the requirements of G.S 160A-37(f1)(2).

Adopted this 7th day of April, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Clerk

APPROVED AS TO FORM:

_____
City Attorney

Ordinance Number: O-09-04-07-4

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL

I, _____, Notary Public of McDowell County, North Carolina, do hereby certify that before me this day personally appeared J. Robert Boyette, who, after first being duly sworn, deposes and says that he is acquainted with A. Everette Clark, who is Mayor of the City of Marion, North Carolina, the corporation executing the foregoing Ordinance to Extend the Corporate Limits of the City of Marion, North Carolina, that he knows the common seal of the City of Marion and that he, the said J. Robert Boyette, Clerk of the City Council of the said City, that he saw the foregoing instrument signed in the name of said corporation by A. Everette Clark, Mayor, as aforesaid, that he saw the Mayor affix the common seal of the said corporation thereto, and that he, the said J. Robert Boyette, Clerk as aforesaid signed his name in attest action of execution thereof, all ordered by the City Council of the City of Marion, North Carolina, for purposes therein set forth,

AA.00000319 (24)

WITNESS my hand this the _____ day of _____ 2009
(Seal)

_____
Notary Public

My Commission Expires: _____

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Owenby, Council voted unanimously to adopt the following Ordinance extending the City Limits to include the Yancey Road Area:

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF MARION UNDER THE AUTHORITY GRANTED BY CHAPTER 160A, ARTICLE 4A, PART 2 OF THE GENERAL STATUTES OF NORTH CAROLINA – YANCEY ROAD AREA - 2009

WHEREAS, all of the prerequisites to adoption of this ordinance prescribed in Chapter 160A, Article 4A, Part 2 of the General Statutes of North Carolina, have been met; and

WHEREAS, the City Council has taken into full consideration of statements presented at the public hearing held on March 24, 2009, on the question of this annexation; and

WHEREAS, the City Council has concluded and hereby declares that annexation of the area described herein is necessary to the orderly growth and development of the City of Marion.

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

Section 1. From and after the effective date of this annexation, the following territory shall be annexed to and become a part of the City of Marion, and the corporate limits of the City of Marion shall be extended to include said territory more particularly described by metes and bounds as follows:

BEGINNING at a point at the northwest corner of Lot 2351 Block 71 on McDowell County Tax Map 1702.19; thence following the boundary of said Lot 2351 in an easterly direction 280 feet to a point, thence following the boundary of said Lot 2351 in a southerly direction 200 feet to a point at the southeast corner of said Lot 2351, said point also being on the northern boundary of Yancey Road; thence following the northern boundary of Yancey Road in an easterly direction approximately 292 feet; thence crossing Yancey Road in a southerly direction 40 feet to a point; said point being the southern boundary of Yancey Road and the northeast corner of Lot 9102 Block 71 on the McDowell County Tax Map 1702.20; thence following the eastern boundary of said Lot 6102 in a southerly direction 245 feet to a point at the southeast corner of said Lot 6102; thence following the southern boundary of said Lot 6102 and Lots 4024 and 3034 Block 70 on McDowell County Tax Map 1702.19 in a generally westerly direction 375 feet to a point, said point being the current Marion Corporate Limits; thence following the Marion Corporate Limits in a northerly direction approximately 680 feet to a point of BEGINNING.

Section 2. The City Council hereby finds and declares that the above described territory meets the requirements of G.S. 160A-36, in that:

The area is adjacent and contiguous, as defined by G. S. 160A-41(1) as of the 6th day of January, 2009, the date upon which this annexation proceeding was begun.

The aggregate external boundary line of the area to be annexed is 2,182 feet, of which 650 feet (or 29.79%), coincides with the City boundary. Therefore, at least one eighth (or 12.5%) of the said external boundary coincides with the City boundary.

No part of the area to be annexed is included within the boundary of another incorporated municipality.

The area to be annexed is developed for urban purposes in that 100.00% of the total number of lots and tracts in said area are used for residential, commercial, industrial, institutional or governmental purposes as is shown below. 100.00% of the total of residential and vacant acreage consists of lots and tracts three (3) acres or less in size.

AA.000000320 (24)

Section 3. It is the purpose and intent of the City of Marion to provide services to the area being annexed under this ordinance, as set forth in the report of plans for services approved by the City Council on January 20, 2009 and filed in the office of the Clerk for public inspection on January 23, 2009.

Section 4. The City Council hereby finds and declares that, on the effective date of annexation prescribed in Section 8 hereof, the City of Marion will have sufficient funds approved, in the amount of $0, to finance the estimated cost of construction of water and sewer facilities found necessary in the report of plans for services to extend the basic water system of the City of Marion into the area to be annexed under this ordinance. (No water or sewer extensions are necessary in the area to be annexed).

Section 5. From and after the effective date of this annexation, the territory annexed and its citizen and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City.

Section 6. The newly annexed territory described above shall be subject to City taxes according to G.S 160A-58.10.

Section 7. The Mayor of the City of Marion shall cause an accurate map of the annexed territory described in Section 1 hereof, together with a duly certified copy of the ordinance, to be recorded in the office of the register of deeds of McDowell County, and to the office of the Secretary of State in Raleigh. Such a map shall also be delivered to the McDowell County Board of Elections, as required in G.S. 163-288.1.

Section 8. This ordinance shall become effective on June 30, 2009.

As to qualified tracts of agricultural land, horticultural land and forestland, the annexation will become effective on the last day of the month in which the tract or part thereof becomes ineligible for present-use classification under G.S 105-227.4 or no longer meets the requirements of G.S 160A-37(f1)(2).

Adopted this 7th day of April, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Clerk

APPROVED AS TO FORM:

City Attorney

Ordinance Number: O-09-04-07-5

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL

I, _____, Notary Public of McDowell County, North Carolina, do hereby certify that before me this day personally appeared J. Robert Boyette, who, after first being duly sworn, deposes and says that he is acquainted with A. Everette Clark, who is Mayor of the City of Marion, North Carolina, the corporation executing the foregoing Ordinance to Extend the Corporate Limits of the City of Marion, North Carolina, that he knows the common seal of the City of Marion and that he, the said J. Robert Boyette, Clerk of the City Council of the said City, that he saw the foregoing instrument signed in the name of said corporation by A. Everette Clark, Mayor, as aforesaid, that he saw the Mayor affix the common seal of the said corporation thereto, and that he, the said J. Robert Boyette, Clerk as aforesaid signed his name in attest action of execution thereof, all ordered by the City Council of the City of Marion, North Carolina, for purposes therein set forth,

WITNESS my hand this the _____ day of _____ 2009

(Seal)

_____
Notary Public

My Commission Expires: _____

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Ordinance extending the City Limits to include the Virginia Road Area:

AA.00000321 (24)

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF MARION UNDER THE AUTHORITY GRANTED BY CHAPTER 160A, ARTICLE 4A, PART 2 OF THE GENERAL STATUTES OF NORTH CAROLINA – VIRGINIA ROAD AREA - 2009

WHEREAS, all of the prerequisites to adoption of this ordinance prescribed in Chapter 160A, Article 4A, Part 2 of the General Statutes of North Carolina, have been met; and

WHEREAS, the City Council has taken into full consideration of statements presented at the public hearing held on March 24, 2009, on the question of this annexation; and

WHEREAS, the City Council has concluded and hereby declares that annexation of the area described herein is necessary to the orderly growth and development of the City of Marion.

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

Section 1. From and after the effective date of this annexation, the following territory shall be annexed to and become a part of the City of Marion, and the corporate limits of the City of Marion shall be extended to include said territory more particularly described by metes and bounds as follows:

BEGINNING at a point at the southwest corner of Lot 8276 Block 92 on McDowell County Tax Map 1702.20, said point also being the current Marion Corporate Limit; thence following the eastern boundary of said Lot 8276 first in a northwesterly direction 301 feet, thence in a east-northeasterly direction 123 feet, thence in a southerly direction 98 feet, and finally in an easterly direction 200 feet to a point at the eastern corner of said Lot 8276, said corner also being the western boundary of Hill Street, thence crossing Hill Street in an easterly direction 40 feet to a point on the eastern boundary of Hill Street, said point also being on the western boundary of Lot 0568 Block 02 on McDowell County Tax Map 1712.13; thence following the western boundary of said Lot 0568 in a southerly direction 25 feet to a point at the southwest corner of Lot 0568, said point also being the northwest corner of Lot 1335 Block 02 on McDowell County Tax Map 1712.17; thence following the northern boundary of said Lot 1335 and Lot 2309 Block 02 on McDowell County Tax Map 1712.17 in an easterly direction 169 feet to a point at the northeast corner of Lot 2309, said point also being on the western boundary of Lot 1695 Block 02 on McDowell County Tax Map 1712.13, thence following the western boundary of said Lot 1695 in a northerly direction 407.5 feet to a point at the northwest corner of Lot 1695; thence following the northern boundary of said Lot 1695 in an easterly direction 211 feet to a point at the northeast corner of said Lot 1695; thence following the eastern boundary of said Lot 1695 in a southerly direction 518 feet to a point at the southeast corner of said Lot 1695, said point also being on the boundary of the current Marion Corporate Limits and the western Boundary of Virginia Avenue; thence crossing Virginia Avenue in an easterly direction 40 feet to a point on the eastern boundary of Virginia Avenue, said point also being the southwest corner of Lot 4534 Block 02 on McDowell County Tax Map 1712.13; thence following the western boundary of said Lot 4534 in a northerly direction 223 feet to a point at the northwest corner of said Lot 4534, thence following the northern boundary of said Lot 4534 and Lot 5503 Block 02 on McDowell County Tax Map 1712.13 in an easterly direction 146 feet to a point at the northeast corner of Lot 5503, thence following the eastern boundary of said Lot 5503 in a southerly direction 164.2 feet to a point at the southeast corner of said Lot 5503, said point also being on the boundary of the current Marion Corporate Limits and the western Boundary of Forsyth Street; thence crossing Forsyth Street in an easterly direction 30 feet to a point on the eastern boundary of Forsyth Street, said point also being the southwest corner of Lot 0923 Block 02 on McDowell County Tax Map 1712.13; thence following the southern boundary of said Lot 0923 in an easterly direction 68 feet to a point at the southeast corner of said Lot 0923, said point also being the southwest corner of Lot 6461 Block 02 on McDowell County Tax Map 1712.17; thence following the western boundary of said Lot 6461 in a northerly direction approximately 100 feet to a point on the western boundary of said Lot 646, said point being a western corner of Lot 7425 Block 02 on McDowell County Tax Map 1712.17; thence following the boundary of Lot 7425 first in a westerly direction 9 feet, thence in a northerly direction 20 feet, thence in a northeasterly direction 84, thence in a southeasterly direction 97 feet to a point at the southeast corner of said Lot 7425, said point also being the current Marion Corporate Limits; thence following the Marion Corporate Limits in a generally westerly direction approximately 1095 feet back to a point of BEGINNING.

Section 2. The City Council hereby finds and declares that the above described territory meets the requirements of G.S. 160A-36, in that:

The area is adjacent and contiguous, as defined by G. S. 160A-41(1) as of the 6th day of January, 2009, the date upon which this annexation proceeding was begun.

AA.00000322 (24)

The aggregate external boundary line of the area to be annexed is 4,107 feet, of which 1,024 feet (or 24.93%), coincides with the City boundary. Therefore, at least one eighth (or 12.5%) of the said external boundary coincides with the City boundary.

No part of the area to be annexed is included within the boundary of another incorporated municipality.

The area to be annexed is developed for urban purposes in that 66.67% of the total number of lots and tracts in said area are used for residential, commercial, industrial, institutional or governmental purposes as is shown below. 100.00% of the total of residential and vacant acreage consists of lots and tracts three (3) acres or less in size.

Section 3. It is the purpose and intent of the City of Marion to provide services to the area being annexed under this ordinance, as set forth in the report of plans for services approved by the City Council on January 20, 2009 and filed in the office of the Clerk for public inspection on January 23, 2009.

Section 4. The City Council hereby finds and declares that, on the effective date of annexation prescribed in Section 8 hereof, the City of Marion will have sufficient funds approved, in the amount of $0, to finance the estimated cost of construction of water and sewer facilities found necessary in the report of plans for services to extend the basic water system of the City of Marion into the area to be annexed under this ordinance. (No water or sewer extensions are necessary in the area to be annexed).

Section 5. From and after the effective date of this annexation, the territory annexed and its citizen and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City.

Section 6. The newly annexed territory described above shall be subject to City taxes according to G.S 160A-58.10.

Section 7. The Mayor of the City of Marion shall cause an accurate map of the annexed territory described in Section 1 hereof, together with a duly certified copy of the ordinance, to be recorded in the office of the register of deeds of McDowell County, and to the office of the Secretary of State in Raleigh. Such a map shall also be delivered to the McDowell County Board of Elections, as required in G.S. 163-288.1.

Section 8. This ordinance shall become effective on June 30, 2009.

As to qualified tracts of agricultural land, horticultural land and forestland, the annexation will become effective on the last day of the month in which the tract or part thereof becomes ineligible for present-use classification under G.S 105-227.4 or no longer meets the requirements of G.S 160A-37(f1)(2).

Adopted this 7th day of April, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Clerk

APPROVED AS TO FORM:

City Attorney

Ordinance Number: O-09-04-07-6

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL

I, _____, Notary Public of McDowell County, North Carolina, do hereby certify that before me this day personally appeared J. Robert Boyette, who, after first being duly sworn, deposes and says that he is acquainted with A. Everette Clark, who is Mayor of the City of Marion, North Carolina, the corporation executing the foregoing Ordinance to Extend the Corporate Limits of the City of Marion, North Carolina, that he knows the common seal of the City of Marion and that he, the said J. Robert Boyette, Clerk of the City Council of the said City, that he saw the foregoing instrument signed in the name of said corporation by A. Everette Clark, Mayor, as aforesaid, that he saw the Mayor affix the common seal of the said corporation thereto, and that he, the said J. Robert Boyette, Clerk as aforesaid signed his name in attest action of execution thereof, all ordered by the City Council of the City of Marion, North Carolina, for purposes therein set forth,

AA.000000323 (24)

WITNESS my hand this the _____ day of _____ 2009

(Seal)

_____
Notary Public

My Commission Expires: _____

PUBLIC COMMENT PERIOD: There were no unscheduled citizens in attendance to speak to Council.

APPROVE SUBMISSION OF FEDERAL JUSTICE ASSISTANCE GRANT: The City Manager advised that as previously reported, the Federal government earmarked $19,177 in Justice Assistance Grant (JAG) funding for the City. This funding can be used for a variety of purposes, including the purchase of equipment, funding for new hires and job retention. The City Manager stated that he had directed the Police Chief to prepare a JAG grant application to retain one police officer that otherwise would have to be laid off, given the City's financial condition. A summary of the grant application was presented to Council for their review.

The City Manager advised that the grant application does not require a public hearing, but does require Council to review and approve the grant application at a public meeting at least 30 days before the grant deadline of May 18 and to receive citizen comments.

The City Manager stated that he would recommend approval of the JAG grant application by Council so that the grant request can be submitted.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, Council voted unanimously to approve the JAG Grant Application in the amount of $19,177, for the purpose of retaining one police officer, as submitted.

CONSIDER APPROVAL OF ORDINANCE REVISING PLANNING AND INSPECTIONS FEES: The City Manager stated that last June, Council approved an ordinance revising the City's Planning and Inspections fees. This ordinance established a $30.00 permit for zoning compliance permits that do not require building permits. The City Manager noted that the City has issued zoning permits for many years as a means of ensuring zoning compliance. The idea behind charging for the permits was to provide some revenues to offset staff time spent reviewing site plans and checking for zoning compliance. The City Manager reported that staff does not charge for such permits when there is no change in use, but only when there is a change in use or something that would trigger different zoning requirements that need review. No additional charge is made for a zoning permit when a building permit was required.

The City Manager advised that Mayor Clark has suggested that the City should not charge for zoning permits.

The City Manager presented Council with a draft Planning and Inspections Fee Ordinance that would eliminate the charge for such permits. The last sentence of Section 1, establishing a fee for zoning compliance permits, is struck through and proposed for deletion.

The City Manager advised that Planning and Development Director Heather Cotton checked in mid March to see what other cities and counties charge for zoning compliance permits and came up with a list of charges ranging from $5.00 to $250.00.

The City Manager stated that he would offer that the zoning compliance permits are needed to ensure zoning compliance and to allow the City to catch problems before they arise and that Council certainly has the authority to determine if and how much should be charged for such permits.

AA.000000324 (24)

Councilman Owenby stated that he felt that a small charge could be justified for review of certain permits, to offset staff time.

Mayor Clark stated that the amount charged is not an issue; the point is that if someone is occupying a building and moves out, and someone else moves into the building, he feels that any charge is a hindrance to business development and recruitment. Mayor Clark stated that he understands that a building permit is necessary; however, he feels that this is more than what we should be doing to our citizens and feels that there should not be a charge for this type of permit.

Councilman Cuthbertson asked how much staff time is spent on such permits and what triggered zoning compliance permits.

The City Manager stated that at times the amount of staff time needed to review zoning compliance permits can be minimal and explained situations that would trigger the issuance of a zoning compliance permit.

Mr. Jim Brady of Rutherford Road was present for the discussion and advised that he thought that a small charge was reasonable to offset staff time required to review zoning compliance permits.

Mayor Clark stated that people are having a hard enough time going into business and the City needs to help such people as much as possible, not make it harder on them.

The City Manager stated that if the charge for zoning compliance permits is eliminated, the City will still issue such permits, but there would just not be a charge for it.

Mayor Clark stated that he was fine with issuing the permits as long as there is no charge.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted to adopt the following ordinance to delete the charge for zoning compliance permits:

AN ORDINANCE ESTABLISHING FEES FOR THE PLANNING AND INSPECTIONS DEPARTMENT AND FIRE INSPECTIONS

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

SECTION 1. CERTIFICATE OF OCCUPANCY/COMPLIANCE. The City of Marion shall charge a $60.00 fee for a certificate of occupancy (C.O.) for a change of use for a building, land, or structure in the City of Marion if a building permit is required. The fee for the certificate of occupancy can be credited to the building permit. This fee includes Zoning and Building Code review as well as an initial and final inspection.

SECTION 2. SIGN PERMITS. This section shall apply to all signs regulated pursuant of Section 706 *Signs, billboards and other advertising structures* of Appendix A *Zoning* of the Code of the City of Marion.

On Premise Signs. The permit fee for an on-premise sign that is twenty-four (24) square feet or less that does not require a footing and/or an electrical inspection shall be $30.00 plus $1.00 for each additional square foot over 24 square feet. An on-premise sign that is twenty-four (24) square feet or less that does require a footing and/or an electrical inspection shall be $60.00 plus $1.00 for each additional square foot over 24 square feet. The fee for a temporary two (2) week spectacular sign or directional sign permit and all other thirty (30) day temporary sign permits shall be $20.00. No fee shall be charged for a temporary sign permit for non-profit organizations with offices or locations within the City Limits.

Off-Premise Signs. The initial fee for an off-premise sign permit shall be $250.00 plus $1.00 for each additional square foot over one hundred square feet. The fee shall include footing and/or an electrical inspection. An annual renewal fee shall be charged for all off-premise advertising signs. Failure to renew an off-premise sign shall result in a revocation of permit. The annual off-premise sign fee will be as follows:

OFF-PREMISE SIGN FEE SCHEDULE	
Sign Face	**Annual Renewal Fee**
0-100 square feet	$125.00
101-200 square feet	$125.00 + $0.25 per square foot

AA.00000325 (24)

201-300 square feet	$125.00 + $0.50 per square foot

SECTION 3. FEES FOR APPLICATION TO THE BOARD OF ADJUSTMENT, PLANNING COMMISSION AND CITY COUNCIL. A fee of $200.00 will be charged for each application processed through the Planning and Inspections Department that requires action by the Board of Adjusiment, Planning Commission and/or City Council excluding cell tower applications and subdivision review applications. This fee includes administrative processing, staff analysis, advertising, and public notice.

SECTION 4. CELL TOWERS. A Cell tower permit application fee shall be $2,500.

SECTION 5. SUBDIVISION REVIEW. The following fees shall apply to subdivision review applications.

SUBDIVISION REVIEW FEE SCHEDULE	
Review Process	**Application Fee**
Sketch Plan/Preliminary Plat	$100.00
Final Minor Subdivision Plat	$50.00
Final Major Subdivision Plat	$200.00 + $2.00 per lot

SECTION 6. GIS MAPS. The following fees shall apply for the production of a city map.

GIS MAP PRODUCTION FEES			
Size	**Black and White**	**Color**	**Aerial**
8.5" x 11"	$2.00	$4.00	$6.00
11" x 17"	$6.00	$8.00	$14.00
17" x 22"	$8.00	$10.00	$20.00
22" x 34"	$12.00	$16.00	$32.00
34" x 44"	$16.00	$24.00	$48.00

SECTION 7. COPIES OF CITY CODE AND ORDINANCES. The following fees shall apply for requested copies of the Zoning Regulations, Subdivision Regulations, and all other sections of the Code and Ordinances:

DOCUMENT REPRODUCTION FEES	
Document	**Fee**
City Code Chapter 21 Zoning	$15.00
City Code Chapter 16 Subdivision	$10.00
Sections of Code & Ordinances	$0.20 per page
City Code on CD	$5.00

SECTION 8. BUILDING PERMITS. Building permit fees for all new buildings and additions to existing buildings constructed in the City of Marion will be based on the total number of square feet in the building, addition or structure by using the permit chart below. There will be a minimum fee of $60.00 per trade. Dwelling units in a multi-family structure are calculated individually. Building permit fees includes plan review for zoning compliance.

Building permit fees shall be determined by using the following formula:
A x B = Fee
A= Total gross building floor area
B= Fee per square foot (see fee table below)

SECTION 9. HOMEOWNERS RECOVERY FUND: The City shall charge all licensed general contractors a $10.00 fee for the construction and/or alteration of a single-family residential dwelling unit, including townhouses and condominiums. The fee will be collected for each dwelling unit and will be in addition to the City's regular building permit. The City will forward $4.00 of each fee collected to the North Carolina Licensing Board for General Contractors. (G.S. 87-15.6)

AA.0000000326 (24)

SECTION 10. RENOVATION TO EXISTING BUILDINGS. Renovation and/or alteration permits will be required for renovation to existing buildings, and for enclosing porches or carports, installing or removing structural supports. Building permit fees will be based on the Permit Chart with a minimum fee per trade of $60.00.

Building permit fees shall be determined by using the following formula:
A x B x 0.50 = Fee
A= Total gross building floor area
B= Fee per square foot (see fee table below)

SECTION 11. ELECTRICAL INSPECTIONS. Fees for electrical inspections shall be determined by the Permit Chart.

SECTION 12. PLUMBING INSPECTIONS. Fees for plumbing inspections shall be determined by the Permit Chart.

SECTION 13. MECHANICAL INSPECTIONS. Fees for mechanical inspections shall be determined by the Permit Chart.

PERMIT CHART:

BUILDING PERMIT FEE SCHEDULE							
Size	**Building**	**Electrical**	**Plumbing**	**Heating**	**A/C**	**Insulation**	**Total**
Assembly							
0-10,000 sq ft	0.10205	0.05525	0.0468	0.00845	0.00845	0.0156	0.2366
10,001-50,000 sq ft	0.10244	0.04511	0.00351	0.00689	0.00689	0.01235	0.17693
50,000+ sq ft	0.08879	0.03549	0.0273	0.00546	0.00546	0.00182	0.16419
Business							
0-10,000 sq ft	0.09009	0.05525	0.03965	0.0312	0.0312	0.0156	0.26312
10,000-50,000 sq ft	0.09282	0.0546	0.03965	0.03003	0.03003	0.00962	0.25662
50,000+ sq ft	0.08333	0.04095	0.03003	0.00962	0.00962	0.00546	0.17888
Educational							
0-10,000 sq ft	0.10205	0.0468	0.0468	0.00845	0.00845	0.0156	0.22828
10,000-50,000 sq ft	0.08879	0.03549	0.03549	0.00611	0.00611	0.01235	0.18434
50,000+ sq ft	0.0806	0.03146	0.03146	0.00546	0.00546	0.00962	0.1638
Factory/Industrial							
0-10,000 sq ft	0.0468	0.02405	0.0156	0.00845	0.00845	0.00845	0.11167
10,000-50,000 sq ft	0.03549	0.01781	0.00962	0.00546	0.00546	0.00546	0.07917
50,000+ sq ft	0.03419	0.01365	0.00546	0.00416	0.00416	0.00182	0.06318
Hazardous							
0-5,000 sq ft	0.0533	0.01365	0.01365	0.01365	0.01365	0.01781	0.12558
5,001+ sq ft	0.0403	0.01092	0.01092	0.01092	0.01092	0.01365	0.09763
Institution							
0-10,000 sq ft	0.15613	0.08645	0.08645	0.0468	0.0468	0.0156	0.43849
10,000-50,000 sq ft	0.12428	0.0533	0.05876	0.03549	0.03549	0.00689	0.31395
50,000+ sq ft	0.08879	0.03549	0.03549	0.0273	0.0273	0.00546	0.21983
Mercantile							
0-10,000 sq ft	0.06721	0.0312	0.0312	0.02405	0.02405	0.0156	0.19344
10,000-50,000 sq ft	0.07098	0.03146	0.02327	0.01781	0.01781	0.01235	0.17342
50,000+ sq ft	0.0533	0.02184	0.00962	0.01235	0.01235	0.00546	0.11466
Storage							
0-10,000 sq ft	0.0468	0.01079	0.01079	0.01079	0.01079	0.00598	0.09607
10,000-50,000 sq ft	0.04615	0.00962	0.00962	0.00273	0.00689	0.00689	0.08164
50,000+ sq ft	0.03549	0.00689	0.00689	0.00546	0.00182	0.00273	0.05915
Residential							
	0.09373	0.0468	0.0468	0.03003	0.03003	0.01196	0.25948

SECTION 14. MANUFACTURED HOMES. The permit fee for a manufactured home shall be $150.00. The mobile home permit will include all trades. Modular home fees shall not be considered a manufactured home.

SECTION 15. MISCELLANEOUS INSPECTIONS. Fees for miscellaneous inspections will be as follows:

AA.00000327 (24)

MISCELLANEOUS INSPECTION PERMITS	
Inspection Type	**Fee**
Fuel Storage Tank	$60.00
Swimming Pools	$60.00
Insulation	$60.00
Demolition	$60.00
Other Required Inspection	$60.00
Return Inspection	$60.00

Section 16. WORK WITHOUT PERMIT. The City of Marion shall charge a penalty double the standard permit fee for all activities requiring a zoning or building permit and/or inspection.

Section 17. This ordinance shall become effective upon its adoption.

Adopted this 7th day of April, 2009.

A. Everette Clark
Mayor

ATTEST:
J. Robert Boyette
City Manager/ Clerk

Ordinance Number: O-09-04-07-7

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager stated that he sent a letter to the Federal Surface Transportation Board, asking for a six month extension in the City's negotiating period with Norfolk Southern (NS) regarding the possible acquisition of the old Peavine Rail Line. The City Manager stated that he had subsequently spoken with Mr. George Meade of NS and been asked for the City's latest offer. The City Manager stated that he told Mr. Meade that the City was not in the financial position to offer anything but good will, the opportunity for positive publicity for NS and a tax deduction.

The Mayor and Council agreed by consensus for the City Manager to communicate again to NS that the City could not offer any money for the Peavine right of way.

The City Manager presented Council with information on the $2 million investment the Golden Leaf Foundation will make in McDowell County later this summer. He also presented Council with a list of projects that had been developed last year that could be eligible for funding, depending on the community process, and asked for Council direction regarding whether any of the priorities should be changed, beyond promoting the Sugar Hill Road Water and Sewer Extension, the Catawba River Greenway and MACA building renovations as top projects, in conjunction with other agencies.

Mayor Pro Tem Steve Little stated that he still feels that the City, the County, the School System and the Town of Old Fort should split the money equally, with the City getting one-fourth of the $2 million investment.

The City Manager stated that the City continues to work with the Sugar Hill Road commercial developer and hopes to receive confirmation in the near future regarding the development the business or businesses to locate in the commercial center.

The City Manager stated that he hoped to receive any day now confirmation from WLOS and UNC-TV that they will pay the City' site planning, surveying and appraisal expenses required by

AA.00000328 (24)

the State before the City incurs any such expenses as part of the effort to keep the towers on Mt. Ida.

The City Manager stated that DOT hopes to begin on the McDowell Avenue Street Extension in May. DOT suggested that the removal of the Clay Street traffic signal be requested by the City as part of this project, since the McDowell Avenue/East Court Street intersection will be fully signalized. The City Manager stated that the idea of a traffic signal at the McDowell Avenue/Oak Street intersection had been suggested and that DOT was willing to give the City the signal equipment from this intersection, upon removal.

The City Manager stated that the City would need to send a letter requesting the removal of the East Court Street/Clay Street traffic signal upon completion of the McDowell Avenue street extension, and also requesting the donation of the signal equipment. Council stated no objections to the City Manager sending such a request.

Mayor Pro Tem Little stated that he feels that the City should first start out without a signal at the McDowell Avenue/Oak Street intersection and see if a signal is needed.

The City Manager stated that plans had been finalized for the Farmer's Market permanent structure, to be located in the City's West Henderson Street parking lot. The City Manager advised that the City's $30,000 share of the materials cost had been reduced to $15,000, with the pledge of $15,000 of funding by the McDowell County Farm Bureau. The City Manager stated that he and Marion Business Association Executive Director Freddie Killough had made several contacts for funding, which could result in $10,000-$15,000 being raised. The City Manager stated that inmate labor could begin the construction on May 4 and asked Council whether it wished to wait until all funding was received to start the construction.

Councilman Owenby stated that the City should ask the county for a donation since County residents will be utilizing the facility as well as City residents.

Councilman Edwards advised that the State and Federal governments are reportedly strengthening regulations regarding the sale of farm products and may make it harder for farmers to raise and sell food products.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to start construction of the Farmer's Market structure in May, as the fundraising effort continues. It was agreed that additional N.C. STEP grant funds could be dedicated to the project, if fundraising falls short.

It was the consensus of Council that the City Manager should ask McDowell County for a $5,000 contribution to the Farmer's Market structure.

The City Manager advised that Council had previously discussed honoring one of its most famous natives, University of North Carolina basketball coach Roy Williams. The City Manager asked for Council's opinion about a private fundraising effort to fund the placement of a historical marker near City Hall to honor Coach Williams and mark his birthplace, in the former Marion General Hospital on James Drive.

Mayor Clark stated that it would be proper to obtain the permission of Coach Williams for such a marker. Councilman Edwards suggested that Judge Bob Hunter be contacted for advice on how to obtain such permission from Coach Williams, as he is a member of the Ram's Club at the University of North Carolina at Chapel Hill.
Council agreed by consensus for the City Manager to talk to Judge Hunter about this idea and to draft a letter from the Mayor and City Council to Coach Williams, congratulating him on winning his second National Championship at the University of North Carolina the evening before.

AA.00000329 (24)

COUNCILMAN COMMENTS:

Councilman Martin if any information pertaining to the recommendation of the ABC Board for a second store had been received.

The City Manager stated that no information had been received to date, but that he would contact ABC Board Chairman Jim Isaacs to determine the status of the recommendation and then would advise Council.

Councilman Cuthbertson advised that the Street Committee needs to meet to review the idea of a sidewalk in front of First United Methodist Church on Robert Street, as had been suggested at the April 7 City Council meeting.

It was agreed that the Street Committee will meet on Friday, April 17 at 11:00 a.m. to review this request.

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

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.00000330 (24)

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 21, 2009 at 7:00 P.M. in the City Council Chamber located at 194 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 Mike Edwards arrived for this meeting during the presentation of the Bridge Inspection Report.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, Planning and Development Director; Mika Elliott, Police Chief; Chris Hollifield, Public Works Director.

GUESTS PRESENT: Mr. R. K. Hawkins 527 East Oak Street, Marion, NC.

CONSENT AGENDA: Upon a motion by Owenby, seconded by Councilman Cuthbertson, those members of Council present voted to approve the consent agenda as follows:

A. Approval of Minutes – April 7, 2009 Regular City Council Meeting Minutes

B. Receive Certificate of Sufficiency – Riverview Holdings/US 221 South Satellite Annexation Request

CERTIFICATE OF SUFFICIENCY
RIVERVIEW HOLDINGS/HAMPTON INN/US 221 SOUTH
SATELLITE ANNEXATION"

To the City Council of the city of Marion:

I, J. Robert Boyette, City Clark, do hereby certify that I have Investigated the petition attached herein and have found as a fact that said petition is singed 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 here unto set my hand and affixed the seal of the City of Marion this the 8th day of April, 2009.

(Seal)

J. Robert Boyette, City Clerk

C. Approve Resolution Fixing the Date of Public Hearing on the Question of Annexation – Riverview holding/US 221 South Satellite Annexation Request

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
SUPER 8 MOTEL/US 221 SOUTH

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to include the Super 8 Annexation Territory located at 4281 NC 221 South and having the PIN 1710.03.21-3345, as adopted by City Council on March 24, 2009 Ordinance Number O-09-03-24-1, zoning the area as C-2 General Business Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

AA.00000331 (24)

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing on April 2, 2009.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective upon its adoption.

Adopted this the 21st day of April 2009.

A. Everette Clark
Mayor

ATTEST: _____
J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-09-04-21-4

D. Approve Resolution Opposing Senate Bill 1004 and House Bill 1252 to Prohibit Local Governments from Providing High Speed Broadband Services

RESOLUTION OF THE CITY OF MARION
AGAINST SENATE BILL 1004 and HOUSE BILL 1252
Level Playing Field Act

WHEREAS, Senate Bill 1004 and House Bill 1252, *The Level Playing Field Act*, have been introduced in the 2009 Session of the General Assembly of North Carolina, and referred to the Senate Commerce Committee and House Committee on Science and Technology, respectively; and

WHEREAS, these bills do not provide a "level playing field" to cities, towns and counties, but greatly hinder local governments from providing needed communications services, especially advanced high-speed broadband services, in underserved areas; and

WHEREAS, the bills do not provide a "level playing field," but instead impose numerous obligations on cities and towns that private broadband companies do not have to meet; and

WHEREAS, private companies, despite having received favorable regulatory and tax treatment to enable broadband investment, have chosen to avoid the financial commitment necessary to provide top quality services, instead offering lesser quality, slow non-state-of-the-art infrastructure technologies that are not even available to all residents; and

WHEREAS, while private companies declare top quality service is cost-prohibitive in our country, the United States continues to lose ground to other nations in broadband access, cost and growth in number of users, falling behind the United Kingdom, Korea, France, Japan and Canada to name a few, and Japan has internet access that is at least 500 times faster than what is considered high-speed in the United States and at less cost; and

WHEREAS, the U.S. Congress provided funds in the American Recovery and Reinvestment Act (federal stimulus) to reverse our county's catastrophic broadband decline by making local and state governments, and not private communication companies, directly eligible for $4.7 billion in federal grants to provide affordable access to high capacity broadband services in unserved and underserved areas; and

WHEREAS, the bills would prohibit North Carolina cities and towns from using federal grant funds to deploy or operate locally-owned or operated broadband systems, thereby denying N.C. residents access to billions of dollars of federal assistance available to the rest of the country and hindering employment opportunities; and

WHEREAS, deployment of true high-speed broadband internet is a new public utility vital to the future economic development, educational outreach, and community growth in North Carolina necessary to replace lost textile, tobacco, furniture and manufacturing jobs; and

WHEREAS, the General Assembly has already established 1) statutory provisions for Public Enterprises (NCGS Chapter 160A, Article 16); 2) conservation finance provisions in the Budget and Fiscal Control Act (NCGS Chapter, 159 Article 3); and 3)oversight by the Local Government Commission (NCGS Chapter, Article 2) and a local government must comply with all of those requirements in order to undertake providing an enterprise service to its community; and

WHEREAS, the bills are counter to the Local Development Act of 1925 in NCGS Chapter 158 that allows local governments to aid and encourage economic development in communities throughout North Carolina; and

WHEREAS, North Carolina law has long permitted local governments to engage in public enterprises and there is no justification for treating communications enterprises differently from other public enterprises that are essential for a sound economy; and

WHEREAS, historically it was government that funded much of the current corporate telecommunications infrastructure in the United States and government paid for and developed the Internet; and

WHEREAS, there are telecommunications designers, equipment manufacturers and suppliers in North Carolina who will be negatively affected if local governments are not allowed to provide needed communications services, meaning that North Carolina will stand to lose more jobs by not investing in top-quality broadband infrastructure than it will lose due to government provision of such services; and

WHEREAS, many for-profit companies with operations in North Carolina joined our local governments in opposing these bills;

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Marion opposes Senate Bill 1004 and House Bill 1252 and urges all members of the North Carolina General Assembly to vote "no" in committee and, if necessary, on the floor of the General Assembly.

ADOPTED this the 21st day of April, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Resolution Number: R-09-04-21-2

E. Approve Closure of Main Street for Memorial Day Services

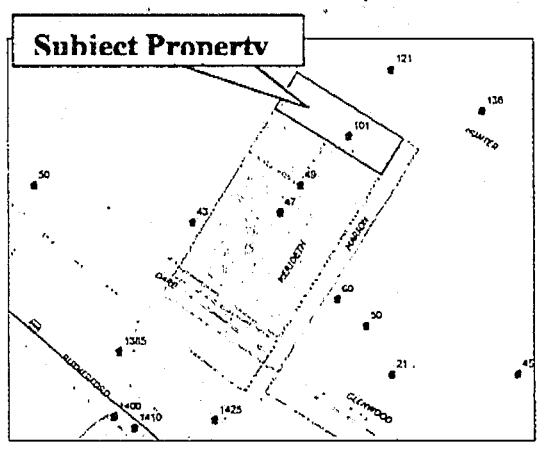
The City Council approved the request of Mr. Frank Dean to close Main Street between Court and Henderson Streets on the afternoon of Sunday, May 24 for a Memorial Day Service on the Courthouse lawn.

PUBLIC HEARING – ASSIGN ZONING TO MARION STREET/WHITE PROPERTY ANNEXATION AREA: Mayor Clark opened the Public Hearing.

Planning and Development Director Heather Cotton advised that on February 17, 2009, City Council adopted Ordinance No. O-09-02-17-3 extending the corporate limits of Marion to include Marion Street – White Property Annexation Area located at 101 Marion Street and having the PIN No. 1711.13-23-2863. The annexation became effective on February 28, 2009.

Ms. Cotton stated that the purpose of this ordinance is to assign a zoning designation to the annexation area that is most compatible with the existing uses within the area and to provide a mechanism to regulate such uses. Based on Marion City Code, the annexation area is most compatible with Section 21-203 *R-2 General Residential Zoning District*. The R-2 General Residential Zoning District is established as a district where the principal use of land is for residential purposes.

AA.000000333 (24)

Ms. Cotton reported that thee area 

includes one lot with a single-family residence. The property is contiguous to an existing R-2 General Residential Zoning District, and is compatible with similar uses on Marion Street that are located outside the city limits.

Ms. Cotton advised that the Planning Board voted unanimously at their meeting on April 2 to recommend that the property be zoned R-2 General Residential.

There were no citizens present to discuss this Ordinance.

Mayor Clark closed the Public Hearing.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, those members of Council present voted to adopt the following ordinance assigning R-2 General Residential zoning to the Marion Street – White Property Annexation Area:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
MARION STREET – WHITE PROPERTY

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to include the Marion Street - White Property Annexation Territory located at 101 Marion St. and having the PIN O-09-02-17-3, as adopted by City Council on February 17, 2009 Ordinance Number O-09-02-17-3, zoning the area as R-2 General Residential Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing on April 2, 2009.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective upon its adoption.

Adopted this the 21st day of April 2009.

A. Everette Clark
Mayor

ATTEST: _____
J. Robert Boyette
City Manager/Clerk

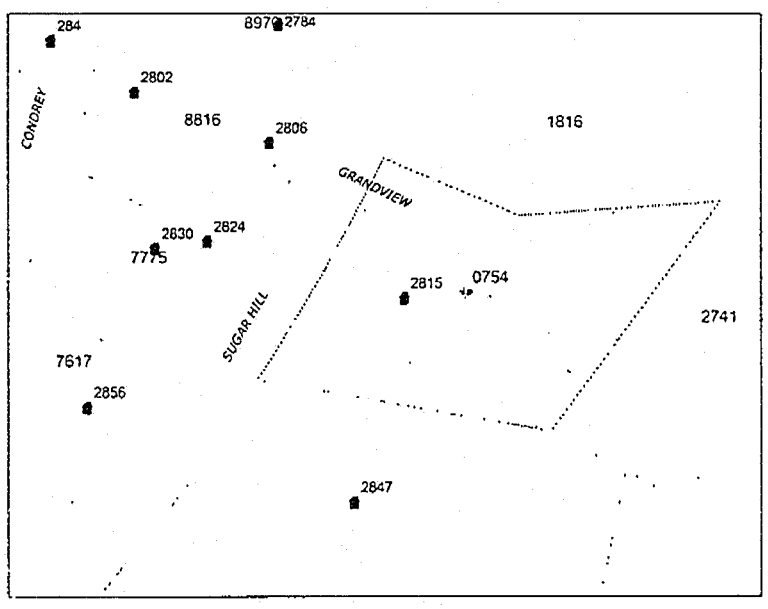
Ordinance Number: O-09-04-21-1

PUBLIC HEARING – ASSIGN ZONING TO SUGAR HILL ROAD/GILLANI PROPERTY ANNEXATION AREA: Mayor Clark opened the Public Hearing.

Planning and Development Director Heather Cotton advised that on February 17, 2009, City Council adopted Ordinance No. O-09-02-17-1 extending the corporate limits of Marion to include the Gillani property located at 2815 Sugar Hill Road. The annexation became effective on February 28, 2009.

Ms. Cotton stated that the purpose of this ordinance is to assign a zoning designation to the annexation area that is most compatible with the existing uses within the area and to provide a mechanism to regulate such uses. Based on the Marion City Code, the annexation area is most compatible with Section 21-205 *C-2 General Business Zoning District.* The C-2 General Business Zoning District is established as a district where the principal use of land is for commercial purposes.

Ms. Cotton stated that the area includes one lot with a convenience store and gas station. The property is not contiguous to an existing C-2 General Business Zoning District, but is in close proximity to similar uses located outside the city limits.



Ms. Cotton advised that the Planning Board voted unanimously at their meeting on April 2 to recommend that the property be zoned C-2 General Business.

There were no citizens present to discuss this Ordinance.

Mayor Clark closed the Public Hearing.

Upon a motion by Councilman Owenby, seconded Councilman Cuthbertson, those members of Council present voted to adopt the following Ordinance assigning C-2 General Business zoning to the Sugar Hill Road/Gillani Annexation Area:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
GILLANI / SUGAR HILL ROAD

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to include the Gillani/Sugar Hill Road Annexation Territory located at 2815 Sugar Hill Road and having the PIN0790.04-94-0754, as adopted by City Council on February 17, 2009 Ordinance Number O-09-02-17-1, zoning the area to C-2 General Business Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing on April 2, 2009.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective upon its adoption.

Adopted this the 21st day of April 2009.

A. Everette Clark
Mayor

ATTEST:

J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-09-04-21-2

PUBLIC HEARING – ASSIGN ZONING TO US 221 SOUTH/DOLLAR PROPERTY ANNEXATION AREA: Mayor Clark opened the Pubic Hearing.

Planning and Development Director Heather Cotton advised that on February 17, 2009, City Council adopted Ordinance No. O-09-02-17-2 extending the corporate limits of Marion to include the L.D. Dollar Inc. located at 4323 US 221 South. The annexation became effective on February 28, 2009.

Ms. Cotton reported that the purpose of this ordinance is to assign a zoning designation to the annexation area that is most compatible with the existing uses within the area and to provide a mechanism to regulate such uses. Based on Marion City Code, the annexation area is most compatible with Section 21-205 *C-2 General Business Zoning District*. The C-2 General Business Zoning District is established as a district where the principal use of land is for commercial purposes.

Ms. Cotton stated that the area includes one lot with a convenience store and gas station. The property is contiguous to existing C-2 General Business Zoning District, as well as other commercial uses that are in proximity to the subject property, but are located outside the city limits.

Ms. Cotton advised that the Planning Board voted unanimously at their meeting on April 2 to recommend that the property be zoned C-2 General Business.

There were no citizens present to discuss this zoning issue.

Mayor Clark closed the Public hearing

Upon a motion by Councilman by Cuthbertson, seconded by Councilman Owenby, those members of Council present voted to adopt the following Ordinance assigning C-2 General Business Zoning to the US 221 South/Dollar Property Annexation Area:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
L.D. DOLLAR INC./US 221 SOUTH

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to include the L.D. Dollar Inc. Annexation Territory located at 4323 NC 221 South and having the PIN 1710.03.21-0264, as adopted by City Council on February 17, 2009 Ordinance Number O-09-02-17-2, zoning the area to C-2 General Business Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing on April 2, 2009.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

AA.000000336 (24)

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective upon its adoption.

Adopted this the 21st day of April 2009.

A. Everette Clark
Mayor

ATTEST:

J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-09-04-21-3

PUBLIC HEARING – ASSIGN ZONING TO US 221 SOUTH/SUPER 8 MOTEL PROPERTY ANNEXATION: Mayor Clark opened the Public Hearing.

Planning and Development Director Heather Cotton advised that on March 24, 2009, City Council adopted Ordinance No. O-09-03-24-1 extending the corporate limits of Marion to include the Super 8 Motel located at 4281 US 221 South. The annexation became effective on March 31, 2009.

Ms. Cotton reported that the purpose of this ordinance is to assign a zoning designation to the annexation area that is most compatible with the existing uses within the area and to provide a mechanism to regulate such uses. Based on Marion City Code, the annexation area is most compatible with Section 21-205 *C-2 General Business Zoning District*. The C-2 General Business Zoning District is established as a district where the principal use of land is for commercial purposes.

Ms. Cotton stated that the area includes one lot with a motel. The property is contiguous to existing C-2 General Business Zoning District, as well as other commercial uses that are in proximity to the motel, but are located outside the city limits.

Ms. Cotton advised that the Planning Board voted unanimously at their meeting on April 2 to recommend that the property be zoned C-2 General Business.

There were no citizens present to discuss this Ordinance.

Mayor Clark closed the Public Hearing.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, those members of Council present voted to adopt the following Ordinance assigning C-2 General Business Zoning to the US 221 South/Super 8 Motel Property Annexation Area:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
SUPER 8 MOTEL/US 221 SOUTH

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to include the Super 8 Annexation Territory located at 4281 NC 221 South and having the PIN 1710.03.21-3345, as adopted by City Council on March 24, 2009 Ordinance Number O-09-03-24-1, zoning the area as C-2 General Business Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

AA.000000337 (24)

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing on April 2, 2009.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective upon its adoption.

Adopted this the 21st day of April 2009.

A. Everette Clark
Mayor

ATTEST:

J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-09-04-21-4

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

REQUEST FOR USE FOR DEPOT – MCDOWELL TOURISM DEVELOPMENT AUTHORITY: The City Manager presented Council with a letter from Ms. Carol Price, Executive Director of the McDowell Tourism Development Authority (TDA), requesting a discounted rate for the rental of the Marion Depot on June 27, 2009.

Ms. Price's letter stated that the Blue Ridge National Heritage Area approved the TDA's $7,500 matching grant request to produce an oral history of McDowell County. The project creates a multi-faceted body of work, which not only results in tourism promotion, but also provides a permanent, public record to be shared with residents and other non-profit organizations. Family members will be able to re-visit their relatives as they recount personal stories surrounding the development of Marion and McDowell by accessing local library copies.

The letter further stated that non-profit organizations will have unlimited access to the project records. A new website, created solely for this project, is the public delivery mechanism and includes non-profit access. An organization will request to use these records then be given a pass code allowing them the ability to download any archived video or audio file.

The letter stated that the TDA has established a recording schedule beginning April 25 and ending October 10. Audio recordings will be made at area festivals including Pioneer day, the Honey Bee Arts & Crafts Festival and both county fall festivals. Video records will be made in June. The TDA has rented the Old Fort Depot for this purpose, will video local historians at the Historic Carson House and would like to reserve the Marion Depot for June 27, if a discounted rental rate can be provided.

A discussion followed.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, those members of Council present voted to deny the request from the McDowell Tourism Development Authority for a discounted rate for use of the Marion Depot on June 27, to be consistent with past City Council decisions denying requests from governmental and non-profit agencies for free use or a reduced rate for rental of City facilities, and to avoid setting a precedent for such requests in the future.

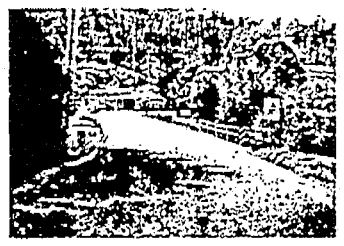
PRESENTATION OF BRIDGE INSPECTION REPORTS: Public Works Director Chris Hollifield gave the following presentation regarding the recent inspection of City bridges by an inspector contracted by DOT:

Claremont Avenue Bridge Inspection Report

Presentation to Council
21 April 2009

City of Marion, Public Works Department

Extents of Bridge Location





City of Marion, Public Works Department

Bridge Ratings

- 100 point scale – 100 being top of range
- 50 is the threshold score for replacement
  - A score of <50 does not mean a bridge is dangerous
- Claremont Ave. rated in the 40's several years ago until....

City of Marion, Public Works Department

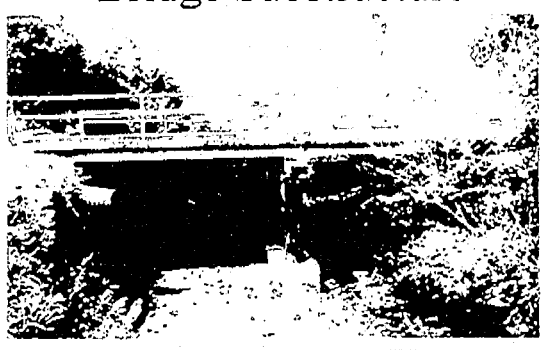
Bridge Ratings

- 100 point scale – 100 being top of range
- 50 is the threshold score for replacement
  - A score of <50 does not mean a bridge is dangerous
- Claremont Ave. rated in the 40's several years ago until....

City of Marion, Public Works Department

AA.000000339 (24)

Bridge Substructure



City of Marion, Public Works Department

2009 Bridge Score

- This year the bridge scored:
  - 47.1 out of a possible 100
- Why?
  - Deterioration of materials
  - Railings – Condition and Material
  - Age – built in 1958

City of Marion, Public Works Department

North Abutment Wall



City of Marion, Public Works Department

North Abutment Wall



City of Marion, Public Works Department

South Abutment Wall



City of Marion, Public Works Department

Abutment Wall Settling



City of Marion, Public Works Department

Rusted Abutment Bearing Plate



City of Marion, Public Works Department

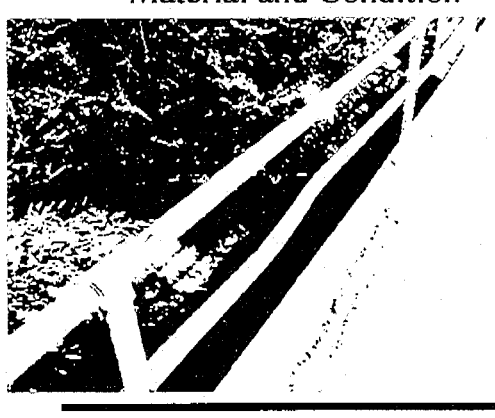
Rust Deformation on Girder Flanges



City of Marion, Public Works Department

Railing

Material and Condition



City of Marion, Public Works Department

AA.000000341 (24)

Bridge Replacement Costs

- DOT TIP program vs. private contractor
  - DOT TIP program is 80/20 cost share
  - DOT engineered bridge/box culvert cost
    - ~ $600,000 – City's share $120,000
    - TIP "usually" a 4 year timeframe
    - Top of the range bridge should last 100+ years
  - Private contractor bridge/box culvert cost
    - ~ $100,000
    - Cheaper option
    - Less than top of range, but could last 50+ years

City of Marion, Public Works Department

Councilman Edwards arrived during the discussion of this item.

The City Manager stated that City staff asked the inspector about the remaining life of this 51 year old Claremont Avenue bridge. The inspector stressed that the bridge is not in danger of collapse and could last another 5-10 years, due to the lack of heavy truck traffic crossing the bridge. He noted that the City had worked with local bridge builder Ford Miller to build a bridge off of Highway 226 South for far less expense than quoted by DOT a few years ago.

Mayor Pro Tem Little stated that the $600,000 cost quoted by the DOT inspector was outrageous and represented overkill for such a small bridge.

Councilman Cuthbertson stated that a culvert should be constructed over the creek instead of a bridge so that no inspections would be needed in the future. He added that the City had constructed culverts at other locations downstream over Young's Fork.

Mayor Clark suggested that the City contact a private contractor, such as Mr. Ford Miller, to look at the bridge and to provide a quote for a new bridge or for a culvert in place of a bridge.

The City Manager suggested that Mr. Miller also be consulted to see if repairs could be made to the existing bridge, to buy a few more years of life, as the City had done in the early 1990's.

After brief discussion, Council directed that the City Manager seek estimates from a private contractor for several options regarding the Claremont Avenue bridge, including a new bridge, a culvert and repairs to the existing bridge. The City Manager stressed again that the bridge was not in danger of collapse and had several years of life remaining according to the bridge inspector. He stated that he would bring the cost estimates back to Council for review at a future meeting.

CONSIDER ADOPTION OF RESOLUTION AUTHORIZING THE SALE OF CITY PROPERTY ON WEST WILHEMENIA STREET BY NEGOTIATED OFFER AND UPSET BID: The City Manager advised that Mr. Calvin Little of Asheville submitted a bid to purchase the 0.32 acre property owned by the City on West Wilhemenia Street for $2,000.

For information, The City Manager presented Council with a map showing the property and a copy of the tax card for the property. The City Manager stated that, if Council wished to accept the offer of Mr. Little, action was needed to adopt a resolution, in which case the City would publish notice of Council's acceptance of the offer and allow the public ten days to submit an upset bid. The City Manager added that Council could also reject the offer or make a counteroffer. The City Manager noted that Council accepted $2,500 from Mr. Kendrick Swepson for the purchase of a slightly smaller parcel on West Grayson Street.

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Councilman Cuthbertson stated that, if the property is worth more than $2,000, someone will submit an upset bid. He added that the sale of the property would put the property back on the tax rolls. Councilman Martin stated that he agreed with these points. Mayor Clark added that it would be good for the City to sell the property so that City staff would not have to maintain it.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, Council voted unanimously to adopt the following Resolution accepting the offer of Mr. Calvin Little to purchase the City owned property on West Wilhemenia Street for $2,000, subject to publication and upset bid:

Resolution Authorizing the Sale of Certain Property Owned by the City of Marion by Negotiated Offer and Upset Bid

WHEREAS, the City Council of the City of Marion desires to dispose of certain surplus property of the City; and

WHEREAS, N.C.G.S. 160A-269 authorizes a city to convey by negotiated offer and upset bid any real or personal property; and

WHEREAS, Mr. Calvin Little has submitted a bid in the amount of $2,000 for the purchase of approximately 0.32 acres of property owned by the City of Marion located on West Wilhemenia Street (McDowell County Parcel Identification Number 1701.18-22-7385).

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

1. The parcel owned by the City of Marion on West Wilhemenia Street (McDowell County Parcel Identification Number 1701.18-22-7385) that is approximately 0.32 acres in size is hereby declared to be surplus to the needs of the City of Marion.

2. The City Council accepts the offer of Mr. Calvin Little to purchase the above described property for $2,000, subject to the upset bid process being followed as required by N.C.G.S. 160A-269.

3. The City Clerk shall notify Mr. Calvin Little of the acceptance of this offer, receive a five percent bid deposit from the bidder, and cause a notice of this resolution to be published in accordance with G.S. 160A-269. Such notice shall state that prospective bidders have ten days from the date the notice is published to offer an upset bid, pursuant to G.S. 160A-269.

4. Once the upset bid process is completed, in accordance with G.S. 160A-269, the City Manager is designated to dispose of the above described property to the bidder selected by City Council, for a minimum price of $2,000.

Adopted this the 21st day of April, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-09-04-21-3

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that the annual City Open House for the Third Graders across the County is scheduled for Friday, May 1. He stated that Debi Sherlin had confirmed that Old Fort Elementary would not be participating. The local home school group has asked to participate this year and will be placed on the schedule in place of Old Fort Elementary.

The City Manager advised that DOT would begin work on the McDowell Avenue Street Extension in June. The City Manager stated that he would advise when a schedule is set.

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The City Manager advised that the County continues to study the proposal made for the City to sell water to the County's Nebo water system at a bulk rate through the master meter on Highway 70 East. He stated that the proposal was discussed at the April 16 Joint Utility Committee meeting and that the County asked for a discount for water used for flushing in the Nebo water system.

Mayor Pro Tem Little stated that he would be in favor of discounting the water for fire fighting purposes but nothing more.

Mayor Clark that that the meters on the Nebo line are owned by the City and that the City should remove the radio transponders on the Nebo water system if the County accepts the City's offer for the County to assume full operations of the Nebo water system.

A discussion was held regarding Council formally approving an offer for the County to assume full operations of the Nebo water system.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, Council voted unanimously that a proposal be made to McDowell County regarding the Nebo water system, as follows:

1. The City proposes to sell water to McDowell County for the Nebo Water System at the City's inside water rate (currently $1.90 per 1,000 gallons plus a small service charge per month). The rate and service fee charged would change as the City's inside water rates and fees are adjusted.

2. The City proposes to bill the County for all water passing through the master meter located at the intersection of US Highway 70 and NC Highway 126. An adjustment would be made for water used for firefighting purposes involving putting out fires, but not to include fire training purposes, the washing of fire vehicles or filling swimming pools out of fire trucks.

3. The City proposed to transfer City water customers located to the east of the master meter to the County.

4. The City proposes for the County to assume the operation of the Nebo water system, with the City having no responsibility for meter reading, billing, maintenance, repairs, capital improvements, testing or water quality beyond the master meter.

5. The City proposes to give the County water meters that are already in place in the Nebo water system, but would remove radio transponders in place at each meter, since these radio transponders would be of no use to the County.

The City Manager advised that the Appalachian State University Public Administration (MPA) program is working with the N.C. Rural Center to assist N.C. STEP communities with implementation of their projects. Other universities across the state are involved as well. ASU has volunteered to work with Marion and Valdese, because they know about these cities by reputation and experience. The City Manager stated that ASU is close to working out a deal for the Rural Center to fund interns to assist Valdese and us with our implementation, which could include finishing up our Comprehensive Land Use Plan.

Under this arrangement, Marion and Valdese would be provided with three full-time interns for the summer and two part-time interns (20 hours per week) for the next two years. The Rural Center would pick up almost all of the costs and the City's local match would be anticipated to be no more than 10 percent, or $7,500 total, spread out over the next 2-3 budget years. The City Manager stated that he had talked to Planning and Development Director Heather Cotton and Marion Business Association Executive Director Freddie Killough about this idea and both were thrilled about the prospect of having help with completing the Comprehensive Plan and implementing N.C. STEP projects.

The City Manager advised that he had given ASU a tentative approval for this proposal, without objection from Council. Valdese has also agreed to participate. He added that the City should easily be

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able to find $2,500 per year in our budget for this year and the next couple of years in exchange for receiving this intern assistance. The Mayor and Council members expressed no objection to this proposal.

The City Manager stated that in looking at ways to cut the 2009-10 Budget, Dean has suggested adjusting the frequency of collection of collection of cardboard recycling dumpsters. These dumpsters are placed at various businesses around town (36 in total) for City garbage customers to recycle cardboard. The City pays GDS about $36,000 per year for this service. By reducing the frequency of collection to match more closely the amount of cardboard going into each dumpster, the City could save at least 20 percent, or $7,200 per year. The City Manager stated, in the future, we might need to look at removing some of these dumpsters, but this would likely result in complaints from businesses. Businesses should experience no ill effects from reducing the frequency of collection. If a particular dumpster becomes full in between collections, the City could always ask GDS to empty that dumpster.

The City Manager also stated that he would also likely recommend that the City withdraw its membership from the Future Forward economic development group from the Catawba River water quality initiative. Both these efforts are run out of the Western Piedmont Council of Governments in Hickory and the City receives no benefit from membership. The City could save $1,500 per year or more by canceling these memberships.

The Mayor and City Council expressed no objections to these budget proposals.

The City Manager added that he hoped to have the proposed 2009-10 City budget ready for Council for review by the May 19 Council meeting, if not sooner. He stated that City departments have done an excellent job developing recommendations for addressing the City's expected budget shortfall for 2009-10. The City Manager stated that he hopes to present a budget that will not lay off any City employees, although some vacant positions may need to be eliminated.

Councilman Martin stated that he appreciates the City Manager and department heads working hard on the 2009-10 budget and trying to avoid layoffs.

Councilman Edwards stated that Court Employees are being charged for pencils and paper that they use in the Courtroom.

The City Manager stated that Federal Stimulus funding will hopefully be received for the Wastewater Improvements Project and greatly reduced the City's debt service payments for this project. An announcement is expected within the next week regarding this funding.

Councilman Owenby asked that the City Manager bring council up to date on the sales tax issue with McDowell County. The City Manager stated that, at the April 16 Joint Utility Committee meeting, the City representatives asked the County not to take additional funds (an estimated $27,000 or more per year) to be received by the Town of Old Fort due to the County's change in the method of sales tax distribution out of the City's share of sales tax reimbursements from the County. The City Manager stated that the County Manager agreed to take such a request to the County Commissioners for review at their May meeting.

Mayor Clark stated that the City having to lose $27,000 more in sales tax revenues to fund an additional amount for Old Fort greatly upset him, especially since the County had not previously discussed this proposal with City Council.

COUNCILMAN COMMENTS:

Councilman Cuthbertson asked how long Virginia Road would be closed for culvert repairs. Public Works Director Chris Hollifield stated that the road will be closed for approximately one more week.

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Councilman Cuthbertson asked if any of the cardboard recycling dumpsters being emptied by GDS are full. The City Manager and Mr. Hollifield stated that some are full, in which case the frequency of collection would not be reduced. However, for those that are no full, the frequency of collection would be reduced to save money.

Councilman Cuthbertson stated that the Arbor Day program on April 17 at Eastfield Elementary School was very successful. Mayor Clark stated that an area along the front entrance to the School was chosen for planting and that the fifth graders planted 10 crape myrtle trees.

Councilman Cuthbertson stated that he had received information from Charter Communications telling him that, for $147.00 a month, he could get certain services that Charter does not have available in Marion. He said that such promises constituted false advertising in his opinion. Mayor Clark suggested that Councilman Cuthbertson call the North Carolina Attorney General's Office. Mayor Pro Tem Little stated that Charter likely has a statement on the offer in small print that the offer only applies where available.

Mayor Clark stated that he would be going to Texas on Thursday to Southern Municipal Conference Meeting and that the North Carolina League of Municipalities would be paying for the trip. Mayor Clark serves as Vice Chair of the Southern Municipal Conference, which represents 15 southern states.

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

A. Everette Clark, Mayor

ATTEST:

J. Robert Bovette, City Manager

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STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, May 5, 2009 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

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

Councilman Mike Edwards was not present for this meeting due to illness.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Mika Elliott, Police Chief; Chris Hollifield, Public Works Director; Harriett Thomas, CPA, Finance Director; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Paula Kempton and Beth Pollard, Isothermal Planning and Development Commission, PO Box 841 Rutherfordton, NC 28139; Phillip & Kay Tate, PO Box 1275, Marion, NC .

CITIZEN OF THE MONTH – SELECTED BY MAYOR PRO TEM: Councilman Lloyd Cuthbertson selected the Citizen of the Month for May 2009.

KAY PETTY TATE

Councilman Cuthbertson advised that Mrs. Kay Petty Tate is a native of Pittsboro, North Carolina and a 1973 graduate of UNC-Greensboro with a B.S. Degree in English. Kay also holds a Masters of Arts Degree in Education from Western Carolina University.

In 1973, Kay married Phillip J. Tate and moved to Marion. She began her career as a teacher and educator at East McDowell Junior High School where for 21 years she taught Academically Gifted language arts and social studies to students in grades 7 through 9. In 1979, Kay set up the county wide AG Program in the elementary schools.
After leaving East Junior High, Kay worked as a Central Office administrator overseeing the AG program, the testing program, and the English as a Second Language program among other duties.

In October, 2006, Kay retired after 33 years of service with McDowell County Schools.

Kay has held various leadership positions at First United Methodist Church in Marion. Presently, she sings in the choir, serves on the Church Council and chairs the board of the Early Childhood Enrichment Center at First United Methodist. She is proud that the daycare at First United Methodist Church has just received its 5-star license.

Kay is also a current member of the Marion Lion's Club and has served on the Board of Directors of MACA for eight years.

Her daughter Karen resides in Asheville and is married to Paul Lloyd. They have one son, Tate Lloyd, who is two and a half years old. After her retirement, Kay has helped care for her grandson.

Kay's hobbies include cooking, reading, walking, and international travel. She is also a licensed Property and Casualty, and Life Insurance agent.
In addition to her local activities and interests, Kay helps look after her mother who still lives in Pittsboro.

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Mayor Clark and Council Members all shared kind words about Mrs. Kay Petty Tate and commended her for all she has given to the community through the years.

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, those members of Council present voted to approve the consent agenda as follows:

A. Approval of Minutes – April 21, 2009 Regular City Council Meeting

RECOGNIZE FINANCE DIRECTOR HARRIETT THOMAS FOR GRADUATION FROM UNC SCHOOL OF GOVERNMENT MUNICIPAL ADMINISTRATION COURSE: The City Manager advised that he would like to publicly recognize the City's Finance Director Ms. Harriett Thomas for completion of the Municipal Administration Course at the UNC School of Government at Chapel Hill.

The City Manager stated that the program in Municipal Administration is designed for managers, department heads, and officials whose responsibilities require a broad understanding of functions beyond individual area of specialization. The course is approximately 150 hours in length, and more than 60 instructors participate in leading the program. Course instruction covers North Carolina local government law and administration, planning and regulation of development, and the delivery of specific city or county services.

The City Manager presented Ms. Thomas with a certificate that read as follows:

School of Government
The University of North Carolina at Chapel Hill
Harriett E. Thomas
Having successfully completed the course of instruction in
MUNICIPAL ADMINISTRATION
is awarded this certificate
Given this twenty-third day of April 2009

Michael Smith, Dean School of Government	Gregory S. Allison, Director Municipal and County Administration Courses

The Mayor, City Council and City Manager commended Ms. Thomas for the completion of this course and for all she does for the City every day.

PUBLIC HEARING – CLOSEOUT OF COMMUNITY DEVELOPMENT BLOCK GRANT INFRASTRUCTURE HOOKUP GRANT: Mayor Clark opened the Public Hearing.

Ms. Beth Pollard of Isothermal Planning and Development Commission (IPDC) appeared before Council and advised that the purpose of this hearing was to receive comments from the residents concerning the City closing out a 2008 Community Development Block Grant Infrastructure (CDBG) Sewer Hook Up Project. In January 2008, the City of Marion received $75,000 in CDBG funds from the North Carolina Department of Commerce to connect approximately 17 income qualified residents to the public utility system. Ms. Pollard stated that as part of the grant, the City connected 13 units to City sewer and expended approximately $53,333.65. Any remaining funds will be de-obligated.

There was no one present to speak during the public hearing.

Ms. Paula Kempton of IPDC added that she would like to thank Finance Director Harriett Thomas and Public Works Director Chris Hollifield for their hard work on this project.

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Mayor Clark closed the Public Hearing.

Upon a motion by Councilman Cuthbertson, seconded by Mayor Pro Tem Little, those members of Council present voted to close out the City's Community Development Block Grant (CDBG) Infrastructure Hookup Grant project.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens in attendance to speak to Council.

APPROVE INTERLOCAL AGREEMENT WITH MCDOWELL COUNTY – SUGAR HILL ROAD WATER AND SEWER EXTENSION: The City Manager presented Council with a copy of a proposed Sugar Hill Road Water and Sewer Extension Interlocal Agreement between the City and County. The agreement calls for the City to handle all administration of the water and sewer extension, to handle all grants and financing, to fund 60 percent of the local cost of the project and to guarantee 60 percent of the jobs. The agreement states that the County would fund 40 percent of the local cost of the project, reimburse the City for 40 percent of the annual debt service cost and guarantee 40 percent of the jobs. The County Commissioners approved this agreement on April 20.

The City Manager stated that he would recommend adoption of the agreement by Council so that the City can sign the Rural Center grant contract, which will fund 50 percent of the cost of the Sugar Hill Road water and sewer extension, as approved by the Rural Center Board at their April 29 meeting.

A discussion followed. Mayor Clark suggested that the City clarify to the County that the City will own all water and sewer lines constructed as part of the project. Mayor Pro Tem Little stated that the City could do so through a transmittal letter.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, those members of Council present voted to approve the Interlocal Agreement between the City and County for the Sugar Hill Road Water and Sewer Extension Project as follows:

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL

AGREEMENT FOR SUGAR HILL ROAD WATER AND SEWER IMPROVEMENTS

THIS CONTRACT is made and entered into this ____ day of _____ 2009 by and between the County of McDowell, a North Carolina Municipal Corporation, hereinafter referred to as "the County", and the City of Marion, a North Carolina Municipal Corporation, hereinafter referred to as "the City".

WITNESSETH

WHEREAS, McDowell County and City of Marion are political subdivisions of the State of North Carolina, both having the power and authority to enter into this agreement, and the signatories hereto have been authorized to execute this document on behalf of the McDowell County Board of Commissioners and the Marion City Council; and

WHEREAS, an area of McDowell County along Sugar Hill Road between Shady Lane and Interstate 40 has a demonstrated need for water and sewer services, to allow commercial development to take place that will be beneficial to the City and County; and

WHEREAS, the County and the City have a mutual interest in providing public water and sewer services to the residents and businesses in this area; and

WHEREAS, the County and the City are working with a developer who plans to construct a large commercial development on Sugar Hill Road near Interstate 40 and who is need of water and sewer service; and

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WHEREAS, the City is applying for a grant from the North Carolina Rural Center Economic Infrastructure Program to pay for one-half of the costs of the water and sewer extension to the area; and

WHEREAS, the County and the City have agreed to guarantee jobs for the proposed commercial development, as part of the Rural Center Economic Infrastructure Grant and to reimburse the Rural Center on a 60 percent City/40 percent County basis for any funds that must be paid back to the Rural Center in the event the commercial project does not produce the jobs required to receive said grant funds; and

WHEREAS, the City has agreed to connect the subject water and sewer improvements to its water and sewer system; and

WHEREAS, the County and the City have mutually agreed to a scope of water improvements and sewer improvements to extend water and sewer service on Sugar Hill Road to Interstate 40 and to jointly provide the local matching funds for the Economic Infrastructure Grant on a 60 percent City/40 percent County basis.

NOW THEREFORE, in consideration of the mutual covenants, conditions and terms contained herein, the parties hereto, intending to be legally bound hereby, agree as follows:

1. The County and the City mutually agree that this agreement shall become effective upon its adoption and it shall continue in effect until the subject water and sewer improvements have been constructed and until all of the individual and collective responsibilities provided for herein have been accomplished by each of the parties to this agreement.

2. The City of Marion hereby agrees to the following responsibilities:

- The City agrees to execute agreements with the State of North Carolina, the North Carolina Rural Center and any other funding agencies that are necessary to provide funding for the subject water and sewer improvements.

- The City agrees to contract with McGill Associates to complete the plans and specifications for the subject water and sewer improvements, secure the requisite governmental permits and approvals, provide the construction phase inspection services, and administer contractor warranties subsequent to construction.

- The City agrees to budget and appropriate 60 percent of the local matching funds for the subject water and sewer improvements.

- The City agrees to borrow any funds necessary for the subject water and sewer improvements and to manage the resulting debt by soliciting competitive proposals for the loan; applying to the North Carolina Local Government Commission for permission to borrow the funds; negotiating the terms of the loan; collecting the County's share of the annual debt service and other costs associated with the loan; making the annual debt service payments; and maintaining compliance with applicable state law and the resulting loan agreement.

- The City agrees to survey and acquire the necessary real property easements and other rights necessary to construct the subject water and sewer improvements.

- The City agrees to administer the subject grants and administer the construction of the subject water and sewer improvements.
- The City agrees to routinely inspect the construction of the subject water and sewer improvements to insure that said improvements are designed and construction in accordance with City and State standards.

- The City agrees to connect the subject water and sewer improvements to its water and sewer systems upon completion of construction, to accept the customers who connect to the subject improvements as City customers, and to assess rates and fees that are consistent with the City's adopted schedule of water and sewer rates and fees.

- The City agrees to operate and maintain the subject water and sewer improvements in accordance with the laws and regulations of the State of North Carolina.

- The City agrees to join with the County in guaranteeing the jobs for the proposed commercial development, as part of the North Carolina Rural Center Economic Infrastructure grant, to pay

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back the Rural Center for any grant funds that must be returned in the event the commercial project does not produce the jobs required to receive said grant funds and to invoice the County for 40 percent of the total of any grant funds that must be returned in the event the commercial project does not produce the jobs required to receive said grant funds.

3. The County of McDowell hereby agrees to the following responsibilities:

   - The County agrees to budget and appropriate 40 percent of the local matching funds for the subject water and sewer improvements.

   - The County agrees to make annual payments of pro rated debt service to the City no later than 30 days prior to the dates that such payments are due to be paid to the lender by the City.

   - The County agrees to join with the City in guaranteeing the jobs for the proposed commercial development, as part of the North Carolina Rural Center Economic Infrastructure grant and to reimburse the City within 30 days of request for 40 percent of any funds that must be paid back to the Rural Center in the event the commercial project does not produce the jobs required to receive said grant funds.

4. The County's responsibilities under this agreement do not extend to paying costs associated with capital improvements or major repairs to the subject water and sewer improvement after said improvements have been completed.

5. The County and the City both represent that no litigation is pending or threatened against either party which would impair their ability to perform their respective duties and obligations under the terms, covenants and provisions of this agreement.

6. The Parties agree that should any disputes arise under this agreement, including but not limited to disputes pertaining to design, construction or monetary compensation said disputes shall be resolved, if at all possible, through good faith negotiations between the parties. It is the intent of both parties that pursuit of legal action shall be a remedy of last report and that a negotiated resolution, including the use of outside experts or arbitrators, shall be the preferred means of resolving disputes hereunder. It is further agreed that in the event such disputes cannot be resolved within sixty (60) days from the date they first arise, either party may seek such other remedies as may be available to it.

7. Default and Termination. This agreement may be terminated for cause prior to its stated expiration date by either party in accordance with the terms and conditions set forth herein. The rights of the parties to terminate this agreement shall be strictly construed in accordance with the provisions contained herein. Upon the happening of any of the following events of default by either party, the aggrieved party shall have the right to terminate this agreement:

   a) The failure of either party to perform or observe any of its material covenants, agreements, obligations and/or duties created by this agreement.

   b) The determination that any representation, warranty or covenant made by either party is false and/or misleading in any material respect.

   c) The commencement of any bankruptcy, insolvency, liquidation and / or similar proceeding against either party, which materially and adversely affects its ability to perform its duties or obligations under this agreement.

   d) The failure of the County to make any payment required to be made by it pursuant to the terms of this agreement within sixty (60) days of its receipt of notice from the City that any such payment is overdue.

   e) Any action by the City to divest itself of its water and / or sewer systems.

8. Upon the happening of any event described in the preceding section, the aggrieved party shall provide written notice to the party committing the alleged violation setting forth in detail the alleged failure and/or deficiency. Thereafter, within ten (10) days of receipt of notice of the alleged default, the parties to this agreement shall meet to discuss the circumstances and attempt to reach a resolution. If either party fails to fully perform or comply with all of the conditions, provisions and covenants of this agreement, and if the nonperformance or failure shall continue for more than thirty (30) days after written notice thereof by the other party, or if the nonperformance or failure cannot be reasonably

remedied within the same thirty (30) day period and the party which is in violation of the agreement has not proceeded with or commenced the remedy in good faith, within fifteen (15) days of the receipt of such notification, that party will be considered to be in default of this agreement. If the alleged default continues or the parties disagree as to whether the matter has been resolved, the aggrieved party may send written notice to the party committing the alleged default declaring an impasse and proceed to enforce all rights and remedies available to it either in equity or at law.

9. Each of the parties to this agreement shall be entitled to pursue a claim against the other for any non-monetary remedies available and any additional actual damages suffered as a result of any default by the other party, in addition to attorney's fees. Notwithstanding anything in the agreement to the contrary, neither party shall be responsible to the other for any indirect, third-party or consequential damages arising from a breach of this agreement.

10. To the extent allowed by law, each party shall indemnify, defend and hold harmless the other party, its elected and appointed officers, and its duly authorized agents, servants and employees from any and all costs, expenses or liabilities (including costs, expenses or liabilities to third parties and attorney's fees) which are caused by or arise from its breach of this agreement or the negligent or willful acts of omission of the party in breach of the agreement or its agents, servants, employees or subcontractors provided such cost, expenses or liabilities do not arise as a result of the negligent or willful acts or omissions of the other party.

11. **NOTICES:** For the purposes of this agreement, all notices required shall be deemed to have been properly served and shall be only served when posted by Certified United States Mail, Postage Prepaid, Return Receipt Requested, addressed to the Party to whom directed at the address herein set forth or at such other address as may from time to time be designated in writing by either party:

To McDowell County:	**To City of Marion:**
County of McDowell	City of Marion
60 East Court Street	Post Office Drawer 700
Marion, NC 28752	Marion, NC 28752-0700
Facsimile Number: (828) 659-3484	Facsimile number: (828) 652-1983
Attention: County Manager	Attention: City Manager

12. This agreement embodies the entire agreement between the parties in connection with this transaction, and there are no oral or parole agreements, representations or inducements existing between the parties relating to this transaction, which are not expressly set forth herein. This agreement may not be modified except by a written agreement signed by all parties to this agreement. Neither party shall be entitled to sell, convey or otherwise alienate the rights and obligations created herein without the prior written permission of the other party to this agreement.

13. Nothing contained herein shall be construed to place the parties in the relationship of partners or joint venturers, and neither party shall have the power to obligate or bind the other party in any manner whatsoever.

14. No written waiver by any party to this agreement at any time of any breach of any other provision of this agreement shall be deemed a waiver of a breach of any provision herein or a consent to any subsequent breach of the same or any other provision.

15. The captions and article numbers appearing in this agreement are inserted only as a matter of convenience and do not define, limit, construe or describe the scope of such paragraphs or articles of this agreement or in any way affect this agreement.

16. This agreement shall be governed by and interpreted in accordance with the laws of the State of North Carolina.

17. Time shall be of the essence in this agreement and each and every term and condition thereof.

18. Words of any gender used in this agreement shall be held to include any other gender, and words in the singular number shall be held to include the plural, when the sense requires.

19. If any provision under this agreement or its application to any person or circumstance is held invalid by any court of competent jurisdiction, such invalidity does not affect any other provision of this agreement or its application that can be given effect without the invalid provision or application.

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20. In the event of litigation between the County and the City as to the terms, performance, or any other aspect of this agreement, this agreement shall remain in force and effect during such litigation.

21. This agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and it shall not be necessary in making proof of this agreement to produce or account for more than one such fully executed counterpart.

22. Except as provided herein, the rights and remedies provided for in this agreement are cumulative and are not exclusive of any rights or remedies that any party may otherwise have at law or in equity.

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first above written.

COUNTY OF McDOWELL, NORTH CAROLINA

By:_____
David Walker, Chairman
McDowell County Board of Commissioners

(SEAL)
Attest:
By:_____
Carrie Padgett, McDowell County Clerk

CITY OF MARION, NORTH CAROLINA

By:_____
A. Everette Clark, Mayor

(SEAL)
Attest:
By:_____
J. Robert Boyette, City Manager/City Clerk

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

By:_____
Alison Morgan, Finance Officer
County of McDowell

By:_____
Harriett Thomas, CPA, Finance Director
City of Marion

CONSIDER APPROVAL OF RULES AND REGULATIONS FOR HISTORIC MARION TAILGATE MARKET SHADE SHELTER: The City Manager presented Council with a draft set of rules and regulations for the Tailgate Market Shelter. These rules have been reviewed by Harriett Thomas, Freddie Killough and Chris Hollifield. City staff believes the rules address areas of concern related to the shelter. The City Manager stated that he would recommend adoption of these rules and regulations.

Mayor Pro Tem Little asked if parking would be available to citizens during week days and weekends. The City Manager stated that Council had previously discussed allowing parking under the shelter, but that the shelter's posts being bumped and damaged by vehicles is a concern. The City Manager stated that he has asked Public Works Director Chris Hollifield to come up with a way to protect the posts without taking away from the appearance of the facility.

Councilman Cuthbertson asked what the charge for the security deposit would be.

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The City Manager stated that there was presently no set amount and that the proposed rules and regulations would reserve the right to charge a fee at a later date.

A discussion followed.

Upon a motion by Councilman Cuthbertson, seconded by Mayor Pro Tem Little, those members of Council present voted to adopt the following Rules and Regulations for the Historic Marin Tailgate Market Shade Shelter as follows:

CITY OF MARION, NORTH CAROLINA

RULES AND REGULATIONS
FOR THE
HISTORIC MARION TAILGATE MARKET SHADE SHELTER

ADOPTED MAY 5, 2009

STATEMENT OF PURPOSE/ALLOWED USES

The Historic Marion Tailgate Market Shade Shelter (hereinafter called "Shelter"), located at the intersection of West Henderson and Logan Streets, is owned and operated by the City of Marion for the primary purpose of use by the Historic Marion Tailgate Market (hereinafter called "Tailgate Market"). This building is available to units of government, non-profit organizations and civic groups in accordance with these rules and regulations, as long as such use does not conflict with use by the Tailgate Market.

By adoption of these Rules and Regulations, the City Council of the City of Marion resolves that the Tailgate Market growers shall be given first priority use of the Shelter in perpetuity for as long as they wish to use the Shelter, subject to rules established by the Tailgate Market Committee. With permission from the City of Marion, units of government, non-profit organizations located in McDowell County or civic clubs located in McDowell County may request use of the Shelter for dates and times that do not conflict with the Tailgate Market. The Shelter may only be used for organized events sponsored by units of government, non-profit organizations located in McDowell County or civic clubs located in McDowell County, such as arts and crafts shows, special demonstrations, community concerts and other community promotion events.

RULES AND REGULATIONS

Violations of any of these rules and regulations or any damages to the Facility may result in forfeiture of all or part of any security deposit held by the City or in the City requiring payment for damages from the responsible person(s) or group(s).

1. Persons or organizations wishing to schedule the use of the Shelter and meeting the criteria listed above must contact City Hall at (828) 652-3551 or at 194 North Main Street, Marion, NC 28752. It is advised that this contact be made as far as possible in advance of the planned event. A contract and responsibility statement must be signed by the person who will be in charge of the event and the City reserves the right to require a deposit to be placed and/or a valid major credit card be used to pay for any damages to the Shelter. The Tailgate Market will at all times have first priority for use of the Shelter.

2. Restroom facilities are not provided at the Shelter. Organizations wishing to use the Shelter must make arrangements for restroom facilities in other building or for portable toilets in accordance with City ordinances. Permission must be obtained from the City of Marion Public Works Director before any portable toilet may be placed on City property or within view of any public street or public property.

3. Under no circumstances may the Shelter be used for flea market sales, personal promotion or other private uses, except with approval from the City Council.

4. The use of alcohol is prohibited on all City property, including in the Shelter and the surrounding parking lots. Possession of alcohol or evidence of consumption of alcohol at the Shelter will result in immediate eviction from the premises, forfeiture of security deposit and may result in criminal charges, fines and penalties.

5. The use of tobacco products is prohibited inside the Shelter.

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6. The person or group using the Shelter may not sublet the building to another person or group.

7. No decorations of any kind, i.e., plaques, pictures, or any other objects, shall be fastened to the posts, roof or any part of the Shelter by use of nails, tacks, screws, tape, etc., without permission from the City. Any group using the Shelter is required to pick up any trash or litter generated by the event.

8. Barbeque grills or any outside cooking device shall not be permitted under the Shelter. Any grease or cooking residue from grills or cooking devices used outside the Shelter for any event shall be cleaned from the area immediately following use.

9. No person(s), organization, etc. may use the Shelter for religious services.

10. No persons, firm or organization will be allowed to use the Shelter for the purpose of offering bingo games to the general public.

11. The officers of the Marion Police Department have authority to enter the Shelter at any time for the purpose on insuring compliance with all rules and regulations. Officers of the Marion Police Department shall have authority to open or look in any cups, ice chests and/or coolers on the premises, to monitor possible alcohol use or other improper activity. Violations of these rules and regulations may result in the event being shut down immediately.

12. No signs are permitted to be posted at the Shelter, except on vehicles or personal property. In no case shall signs be placed on the ground in or around the Shelter.

13. No skateboards, in-line skates, roller skates or bicycles are allowed inside or around the Shelter.

These new regulations shall be effective upon adoption.

Adopted this the 5th day of May, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RECEIVE STREET COMMITTEE RECOMMENDATION: The City Manager reported that the Street Committee met on April 17and reviewed the suggestion of Councilman Martin that a sidewalk be constructed in front of First United Methodist Church on Robert Street. The City Manager presented Council with a map showing the Street Committee recommendation of the construction of a 125 foot long sidewalk between the parking lot immediately west of the Church and the westernmost front entrance into the Church, to allow people a place to walk out of the grass. The City Manager stated that the Street Committee also recommended painting a crosswalk from the easternmost front entrance into the Church across Robert Street to the Marion Elementary School side, to allow people a safe and defined place to cross the street. The Street Committee felt that these proposed improvements would suffice and that additional sidewalks were not needed.

The City Manager stated that if Council wished to authorize this work, he would propose these improvements be worked into the schedule, to take place perhaps as soon as early June.

A brief discussion followed. Mayor Clark asked if there was adequate right of way on Robert Street for the sidewalk. The City Manager stated that the right of way on Robert Street should be sufficient, but that he would verify that point the next day.

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Mayor Clark asked if the First United Methodist Church had been made aware of the project. The City Manager stated that he could make the Church aware of the project and determine if there are any objections. Councilman Cuthbertson gave some possible contacts for the Church.

Upon a motion by Councilman Little, seconded by Councilman Cuthbertson, those members of Council present voted to approve the construction of a 125 foot long sidewalk between the parking lot immediately west of the Church and the westernmost front entrance into the Church and the painting of a crosswalk from the easternmost front entrance into the Church across Robert Street to the Marion Elementary School side, to allow people a safe and defined place to cross the street, as recommended by the Street Committee.

SCHEDULE BUDGET/PLANNING WORKSHOP: The City Manager advised he plans to distribute the proposed 2009-10 City Budget no later than the May 19 City Council meeting. He stated that Council typically holds one Budget/Planning Workshop in late May.

It was the consensus of Council to schedule the Budget/Planning Workshop for Thursday, May 28 at 6:00 P.M. at City Hall.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager stated that he was pleased to announce that the City had received official word on April 24 of the receipt of $2.6 million in Federal Stimulus Funding for the Wastewater Improvements Project. The funding consists of one-half grant and one-half no-interest, 20 year loan. The City Manager reported that the State decided only to award one water and sewer grant per jurisdiction, so the City did not receive funding for the Hospital Pump Station Replacement (for which the City requested $112,000 in funding). The City Manager stated that the award of this grant brought the City's grant total for the overall $6.6 million project to $5.3 million.

The City Manager stated that Mayor Clark worked tirelessly to secure this funding for the City, as he did for other grants for the projects.

Mayor Pro Tem Little stated that the City owes Mayor Clark a debt of gratitude for his persistence in lobbying for this money. He advised that Mayor Clark knew what to say and to whom it should be said.

The City Manager stated that the City's Wastewater Improvements Project ended up being the highest ranked wastewater project in the State.

Mayor Clark described some of the lobbying efforts that led to the receipt of this and other grants for the project. He stated that the City was helped by having an excellent projects, but that contacts with decision makers also helped.

The City Manager advised that he hoped to receive confirmation soon that that the Appalachian State University Public Administration (MPA) program can provide interns to help implement the City's N.C. STEP Program. The City Manager stated that the latest word is that the N.C. Rural Center is trying to avoid cities from having any costs related to the program. The City had previously been told that we would need to pick up 10 percent of the costs or $7,500, paid over three budget years.

The City Manager advised that the annual City Open House for the Third Graders across the County was last Friday, May 1st and was a great success. He thanked Administrative Assistant Debi Sherlin for her hard work in coordinating the event and all City departments for their efforts.

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The City Manager advised that the City had bid out the downtown wireless network installation. The low bid came in at $30,600 from Trificient, a company from Mt. Airy with whom the City previously worked on cost estimates regarding this proposal. The City Manager stated that staff had former cable consultant John Howell review the bids and he recommended Trificient. The City Manager advised that the City had $30,000 of N.C. STEP Program funds earmarked for this project and can cover the additional $600 through the STEP Program as well.

Public Works Director Chris Hollifield stated that staff is underway with the annual water flushing of the City's system. The flushing will continue through May 8.

The City Manager stated that the Community Building Park Splash Pad will open for the season on Friday, May 15.

The City Manager stated that he had received earlier that day a photograph of J. A. McDonald, a former Mayor to display in the conference room. The City did not previously have a photograph of former Mayor McDonald. He added that the City is still missing photos of five former Mayors and efforts will continue to search for these photos.

COUNCILMAN COMMENTS:

Mayor Clark stated that the City's medical insurance premiums are only increasing by 0.5 percent for 2009-10. Mayor Clark stated that he services on the North Carolina League of Municipalities Risk Management Services Board, which sets insurance premiums, and that many other cities were seeing large increases in premiums and that the City's good claim history and Wellness Program kept its premiums flat.
Mayor Clark gave a brief overview of the Southern Municipal Conference he attended last week in Texas.

Councilman Cuthbertson suggested that the City use the new culvert under the new McDowell Tech entrance off of Highway 226 South as an idea for a future replacement of the Claremont Avenue bridge. The City Manager asked Public Works Director Chris Hollifield to suggest this culvert as an option to local bridge builder Ford Miller when the City is obtaining estimates for a new bridge, new culvert and bridge repairs.

Councilman Cuthbertson mentioned the recent Arbor Day held at Eastfield Elementary and how the tree planting had beautified the school entrance. He stated that the teachers and students at Eastfield were taking great pride in the new trees and in enhancing the School's appearance.

Councilman Cuthbertson stated that Forbes magazine had recently ranked the Hickory-Morganton-Lenoir metropolitan area as the second worst job market among medium cities in the United States. The metro area has a 16 percent unemployment rate just like McDowell and Rutherford Counties.

ADJOURNMENT: Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, those members of Council present voted to adjourn.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.00000357 (24)

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ADJOURNMENT: Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, those members of Council present voted to adjourn.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager

Printed twice
JRB

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STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, May 19, 2009 at 7:00 P.M. in the City Council Chamber located at 194 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 was not present for this meeting due to a work conflict.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Harriett Thomas, CPA, Finance Director; Heather Cotton, AICP, Planning and Development Director; Mika Elliott, Police Chief; Chris Hollifield, Public Works Director; Mike Conley, Reporter, McDowell News.

GUESTS PRESENT: Butch Justice, 3127 Highway 226 South, Marion; Stephen Buckner, 80 Atwood Drive, Marion, NC.

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – May 5, 2009 Regular City Council Meeting Minutes

B. Approve Capital Projects Ordinance – Sugar Hill Road Water and Sewer Extension:

CITY OF MARION, NORTH CAROLINA
WATER AND SEWER CAPITAL PROJECTS FUND ORDINANCE
SUGAR HILL ROAD WATER AND SEWER EXTENSION

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

Section 1. That the Budget Ordinance for the City of Marion, North Carolina for the fiscal year 2008-09 as adopted by the Marion City Council on the 17th day of June 2008 is hereby amended as follows to include the expenditures associated with Water and Sewer Capital Projects by adopting the following Water and Sewer Capital Projects Fund Ordinance:

WATER AND SEWER CAPITAL PROJECTS FUND

a. Water and Sewer Capital Projects Fund Expenditures, Sugar Hill Road Water and Sewer Extension Project, Construction Costs, Account Number 31-815-0400, is increased from $-0- to $1,954,200.

b. Water and Sewer Capital Projects Fund Revenues, Sugar Hill Road Water and Sewer Extension Project, Loan Proceeds, Account Number 31-375-0100, is increased from $-0- to $977,100.

c. Water and Sewer Capital Projects Fund Revenues, Sugar Hill Road Water and Sewer Extension Project, Rural Center Grant, Account number 31-375-0200, is increased from $-0- to $977,100.

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 19th day of May, 2009.

A. Everette Clark, Mayor

Attest:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-09-05-19-2

C. Approve Budget Ordinance Amendments

CITY OF MARION, NORTH CAROLINA
2008-2009 BUDGET ORDINANCE
(Seventh Amendment)

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

Section 1. That the Budget Ordinance for the City of Marion, North Carolina for the fiscal year 2008-09 as adopted by the Marion City Council on the 17th day of June, 2008 is hereby amended as follows:

GENERAL FUND

a. General Fund Expenditures, Administration, Account Number 10-420-2100, Rent Equipment is increased from $2,600 to $4,800.

b. General Fund Expenditures, Police, Account Number 10-510-5100, Ammo & Guns is increased from $8,500 to $11,371.

c. General Fund Expenditures, Fire, Account Number 10-530-7200, On-Behalf Of Payments is increased from $-0- to $35,000.

d. General Fund Expenditures, Powell Bill, Account Number 10-570-0400, Professional Services is increased from $28,800 to $41,600.

e. General Fund Expenditures, Sanitation, Account Number 10-580-3300, Supplies & Materials is increased from $5,000 to $8,645.

f. General Fund Revenues, Account Number 10-319-1000, Prior Year Taxes is increased from $55,500 to $62,000.

g. General Fund Revenues, Account Number 10-321-0000, Privilege License Revenue is increased from $26,000 to $27,800.

h. General Fund Revenues, Account Number 10-334-1700, State Controlled Substance Revenue is increased from $2,298 to $5,169.

i. General Fund Revenues, Account Number 10-342-2300, On-Behalf Of Payments - Fire is increased from $-0- to $35,000.

j. General Fund Revenues, Account Number 10-344-5000, Solid Waste Disposal Tax is increased from $-0- to $1,039.

k. General Fund Revenues, Account Number 10-392-1000, Sale of Real Estate is increased from $2,295 to $9,953.

l. General Fund Revenues, Account Number 10-392-1100, Sale of Surplus Equipment is increased from $14,000 to $15,169.

m. General Fund Revenues, Account Number 10-392-3000, Police Department Property Insurance Reimbursement is increased from $-0- to $8,226.

n. General Fund Revenues, Account Number 10-399-0000, Fund Balance Appropriated is decreased from $480,736 to $472,989.

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WATER AND SEWER FUND

a. Water and Sewer Fund Revenues, Account Number 30-335-0100, Property Insurance Reimbursement is increased from $100 to $2,772.
b. Water and Sewer Fund Revenues, Account Number 30-377-0400, County Reimbursement – Sugar Hill Road is increased from $-0- to $18,700.

c. Water and Sewer Fund Revenues, Account Number 30-377-0500, CDBG/IS Hook-up Grant is increased from $28,937 to $53,334.

d. Water and Sewer Fund Expenses, Account Number 30-660-4500, Contracted Services - CDBG is increased from $15,960 to $31,714.

e. Water and Sewer Fund Expenses, Account Number 30-660-8000, Transfer to Capital Projects is decreased from $800,000 to $400,000.

f. Water and Sewer Fund Expenses, Account Number 30-810-3300, Materials & Supplies is increased from $87,400 to $90,072.

g. Water and Sewer Fund Revenues, Account Number 30-299-0000, Fund Balance Appropriated is decreased from $723,908 to $296,565.

INTERNAL SERVICE FUND

a. Internal Service Fund Expenses, Capital Outlay, Account Number 35-660-7400, Salaries, is increased from $9,000 to $11,000.

b. Internal Service Fund Revenues, Account Number 35-399-0000, Fund Balance Appropriated, is increased from $9,000 to $11,000.

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 19th day of May 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-09-05-19-3

D. Approve Proclamation – National Historic Preservation Month

Proclamation
National Historic Preservation Month
May 2009

WHEREAS, historic preservation is an effective tool for economic development, heritage tourism, managing growth, revitalizing neighborhoods, fostering local pride and maintaining community character while enhancing livability; and

WHEREAS, historic preservation is relevant for communities across the nation, both urban and rural, and for Americans of all ages, all walks of life and all ethnic backgrounds; and

WHEREAS, it is important to celebrate the role of history in our lives and the contributions made by dedicated individuals in helping to preserve the tangible aspects of the heritage that has shaped us as a people; and

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WHEREAS, the Marion City Council established a Historic Preservation Commission to protect our community's historic resources.

WHEREAS, "This Place Matters" is the theme for National Preservation Month 2009, cosponsored by the City of Marion and the National Trust for Historic Preservation.

NOW, THEREFORE, I, A. Everette Clark, Mayor of the City of Marion, do proclaim May 2009 as

National Preservation Month

and call upon the people of the City of Marion to join their fellow citizens across the United States in recognizing and participating in this special observance.

PROCLAIMED THIS THE 19th DAY OF MAY, 2009.

A. Everette Clark

A. Everette Clark, Mayor

PUBLIC HEARING – ADOPTION OF ANNEXATION ORDINANCE – RIVERVIEW HOLDINGS/US 221 SOUTH SATELLITE ANNEXATION: Mayor Clark opened the Public Hearing.

The City Manager advised that this public hearing was scheduled for the annexation request by Riverview Holdings for the Hampton Inn property on US 221 South. If adopted, the annexation of this property would be effective June 30, 2009.

There were no citizens present to discuss this annexation request.

Mayor Clark closed the Public Hearing.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, those members of Council present voted to adopt the following Ordinance to extend the corporate limits for the City of Marion to include the Riverview Holdings/Hampton Inn property on US 221 South to become effective June 30, 2009.

AN ORDINANCE TO EXTEND
THE CORPORATE LIMITS OF THE
CITY OF MARION, NORTH CAROLINA –
RIVERVIEW HOLDINGS/HAMPTON INN/US 221 SOUTH - 2009

WHEREAS, the City Council has been petitioned under G.S. 160A-58.1 to annex the area described below; and

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

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at City Hall at 7:00 P.M. on Tuesday, May 19, 2009, after due notice by publication on Wednesday, May 6, 2009; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-58.1(b);

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

Section 1. By virtue of the authority granted by G.S. 160A-58.2, the following described territory is hereby annexed and made part of the City of Marion as of June 30, 2009:

TRACT A: Situated, lying and being in Marion Township, McDowell County, North Carolina, and being that certain 2.50 acre tract shown as Tract A designated as Hampton Inn shown on a map and survey by R.L. Greene Surveying and Mapping, dated October 21, 1999, for McDowell Development Corporation and lying on the Northwest side of US Highway 221 and BEGINNING at an iron pin lying in the edge of US Highway 221, said BEGINNING point being the

AA.000000362 (24)

Easternmost corner of Tract One in Deed Book 565 at Page 554, McDowell County Registry, and running thence in and near US Highway 221, South 57 degrees 47 minutes 07 seconds West 239.12 feet to an iron; thence continuing with said highway South 57 degrees 47 minutes 07 seconds West 90.50 feet to an iron; thence North 35 degrees 14 minutes 08 seconds West 40 feet; thence North 35 degrees 14 minutes 08 seconds West 83.66 feet; thence North 18 degrees 17 minutes 32 seconds West 117.95 feet; thence North 37 degrees 26 minutes 53 seconds West 212.69 feet to an iron pin; thence North 39 degrees 01 minutes 31 seconds East 140.35 feet to an iron; thence South 53 degrees 38 minutes 41 seconds East 267.29 feet to an iron; thence South 53 degrees 38 minutes 41 seconds East 224.39 feet to a point; thence South 53 degrees 38 minutes 41 seconds East 40 feet to a point in US Highway 221, same being the point and place of BEGINNING;

TRACT B: BEGINNING at an iron pin set, said iron pin also being at the terminus of the second call of Tract A described above, said point also being located at the northwestern margin of US 221 and runs thence from said BEGINNING point with the western and northern boundary of Tract A the following five (5) calls and distances: 1) North 35 degrees 14 minutes 08 seconds West 40 feet to an iron pin, 2) North 35 degrees 14 minutes 08 seconds West 83.66 feet to an iron pin at the northern margin of the asphalt access, 3) North 18 degrees 17 minutes 32 seconds West 117.95 feet to an iron pin, 4) North 37 degrees 26 minutes 53 seconds West 212.69 feet, and 5) North 39 degrees 01 minutes 31 seconds East 140.35 feet; thence North 53 degrees 38 minutes 41 seconds West 155.51 feet to an iron pin; thence South 57 degrees 47 minutes 07 seconds West 150.61 feet to an iron pin; thence South 57 degrees 47 minutes 07 seconds West 150.61 feet to an iron pin; thence South 53 degrees 38 minutes 34 seconds East 382.93 feet to an existing iron pin; thence South 19 degrees 07 minutes 42 seconds East 254.08 feet (crossing access easement) to an iron pin; thence South 19 degrees 07 minutes 42 seconds East 36.68 feet to a point in the northwestern margin of US 221; thence with US 221 North 57 degrees 47 minutes 07 seconds East 148.61 feet to the point and place of BEGINNING. Containing 2.50 acres and shown as Tract B on a survey by R.L. Greene Surveying and Mapping, drawing number 99-219.

DEED REFERENCE: Tracts A and B being all of that property conveyed to Riverview Holdings, LLC, by that deed recorded in Book 857 at Page 703, McDowell County Registry.

Section 2. Upon and after June 30, 2009, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City of Marion. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Marion shall cause to be recorded in the office of the Register of Deeds of McDowell County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the McDowell County Board of Elections, as required by G.S. 163-288.1.

ADOPTED this the 19th day of May, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Approved As To Form:

City Attorney

Ordinance Number: O-09-05-19-1

PUBLIC HEARING –APPLICATION FOR TAXICAB CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY - JUSTICE: Mayor Clark opened the Public Hearing.

The City Manager advised that Mr. Butch Justice had submitted an application for a Taxicab Certificate of Public Convenience and Necessity to Operate Victoria Cab Company. Mr. Justice plans to operate out of his U-Haul business on Highway 226 South. The City Manager stated that the required criminal background check has been completed on Mr. Justice and, as noted on the memo presented to Council, it came back clean except for a misdemeanor elections violation which Mr. Justice disclosed on his application. Mr. Justice paid a small fine for this violation. Mr. Justice has a valid North Carolina driver's license. Mr. Justice initially will be the only driver for the new cab company. The City Manager added that staff will have to receive a medical clearance from Mr. Justice and inspect the vehicle(s) he proposes to use as taxicabs.

AA.000000363 (24)

The City Manager further stated that Mr. Justice also submitted a letter, requesting that he not be required to display a lighted "TAXI" sign on the top of the vehicle(s) he will use as taxicabs. Section 17-5 of the enclosed City code chapter on taxicabs states that "each taxicab shall bear on the roof thereof an electrically lighted sign or device bearing the name of the owner or cab company and in addition may bear on the outside doors an identifying design approved by the chief of police."

Mr. Justice was present for this meeting and stated that he was planning to place a magnetic sign on his vehicle(s) and would ask that he not be required to place the lighted sign on the taxi due to cost.

The City Manager stated that as long as the taxis are marked in some fashion, he does not personally see that a lighted sign on top of a taxi is necessary.

The City Manager stated that Council action is needed to approve Mr. Justice's application for a Taxicab Certificate of Public Convenience and Necessity. He added that the City does not currently have anyone operating a taxicab service in the City.

Councilman Cuthbertson asked what the operating hours would be.

Mr. Justice stated that he was planning to operate 7:00 AM – 11:00 PM and as needed for emergencies.

Councilman Owenby asked if Mr. Justice would be assisting with carrying in items if need be for his patrons. Mr. Justice stated that he would.

There were no citizens present to discuss this request.

Mayor Clark closed the Public Hearing.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, those members of Council present voted to approve the request by Mr. Adolph A. Justice, Jr. for a Taxicab Certificate of Public Convenience and Necessity and to approve the following ordinance deleting the requirement for a lighted sign on the top of taxicabs as follows:

ORDINANCE
AMENDING CHAPTER 17
TAXICABS
MARION CITY CODE

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

Section 1. That Chapter 17, Taxicabs, of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Section 2. Chapter 17 is amended by deleting Section 17-5 in its entirety and replacing it with the following:

Sec. 17-5. Identification of cab company.

Each taxicab shall bear an identifying design approved by the chief of police.

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 19th day of May, 2009.

A. Everette Clark
Mayor

ATTEST:

J. Robert Boyette
City Manager/Clerk

AA.000000364 (24)

Ordinance Number: O-09-05-19-5

PUBLIC HEARING – ZONING TEXT AMENDMENT: Mayor Clark opened the Pubic Hearing.

Planning and Development Director Heather Cotton advised that Staff has proposed an amendment to the Zoning Ordinance regarding the placement of off-premise temporary signs on fences for non-profit related activities. The proposed amendment would allow temporary banners or similar signs 32 square feet and smaller announcing events to be affixed to fences by non-profit organizations so long as they do not impede motorist's line of sight, with the requirement that such signs could be placed no more than seven days prior to an event and that such signs must be removed within one day after an event.

Mayor Clark asked if persons would have to get permission from property owners to place signs. Ms. Cotton stated that technically permission would be required; however, City staff would only respond to complaints by property owners. Mayor Clark stated that violations will probably occur, but that he is not opposed to the amendment.

There were no citizens present to discuss this zoning text amendment.

Mayor Clark closed the Public Hearing

Upon a motion by Councilman Cuthbertson, seconded by Mayor Pro Tem Little, those members of Council present voted to adopt the following Ordinance amending the Zoning Ordinance regarding the placement of off-premise temporary signs on fences for non-profit related activities as follows:

ORDINANCE
AMENDING CHAPTER 21
ZONING
MARION CITY CODE

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Section 21-131.10 Signs that do not require a permit. A permit is not required for the following signs, provided they are not prohibited as defined in section 21-131-11, and provided they comply with the conditions set forth. Signs permissible in this section shall not be considered in determining the total sign area for a property, however, if a sign exceeds the size or in any other way does not comply with these limitations, it shall be considered as a prohibited sign and/or shall be subject to all other provisions in Section 21-131.

(Q) Off-premises temporary civic event and temporary use signs are permitted in all zoning districts provided the following:

1. Such signs shall not contain either direct or indirect illumination.
2. Signs shall be located on private property with permission from the property owner
3. There shall be no more than one (1) portable sign per property at any one time, except that one (1) additional portable sign shall be allowed for each additional street frontage, and shall not exceed four (4) square feet in sign copy area.
4. Such signs shall contain no commercial messages.
5. Temporary signs, other than portable signs shall be limited to 32 square feet in sign copy area and shall be securely attached flush to a building, structure, or fence that is outside the clear visibility triangle as indicated in Section. 21-88 of the City Code, and shall not count toward total number of signs located on the property.
6. Such sign shall be erected no sooner than seven (7) days prior to the event and shall be removed no later than one (1) day following the event.

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 19th day of May 2009.

A. Everette Clark, Mayor

AA.00000365 (24)

ATTEST:

J. Robert Boyette, City Manager/ Clerk

Ordinance Number: O-09-05-19-4

APPEAL OF CIVIL CITATION: The City Manager advised that he had received a letter from Mr. Stephen Buckner of Virginia Road appealing two civil citations he had received on April 3 for having two dogs running loose in the City Limits. The City Manager stated that Mr. Buckner told conflicting stories that the dogs belong to him, however, that it could not be proved that the dogs belong to him. Mr. Buckner's letter stated that one of the dogs broke his chain and he does not know how the other dog got loose. The City Manager advised that Mr. Buckner essentially admitted guilt in his letter. Mr. Buckner then claimed his dogs from the shelter and his cousin subsequently gave them to someone else.

Copies of the citations and a statement from our Ordinance Enforcement Officer, April Noles, were presented to Council for their information. The City Manager reported that the information presented shows that the City had other calls and warnings issued regarding dogs at this location prior to the citations being issued to Mr. Buckner.

Upon a motion by Councilman Cuthbertson, seconded by Mayor Pro Tem Little, those members of Council present voted to deny Mr. Stephen Buckner's request to waive the penalty for the two $50.00 civil citations he received on April 3 due to his dogs running loose in the City.

CONSIDER APPROVAL OF APPLICATION FOR POOL ROOM/GAME ROOM PERMIT – GOOD TIMES FAMILY FUN CENTER – BALDWIN AVENUE: The City Manager stated the City had received an application from Mr. Carl Woody for a Pool Room/Game Room permit to operate Good Times Family Fun Center in the former Marion Manufacturing facility on Baldwin Avenue. The City Manager stated that Mr. Woody's background check came back clean. A copy of the City's Pool Room/Game Room Ordinance was presented to Council for their information. The establishment and operator appear to meet all listed criteria.

The City Manager stated that the Police Department is working with Mr. Woody to make sure he clearly understands the City's Noise Ordinance and what is expected of him. He noted that noise complaints had already been received the weekend prior at the location.

Mayor Clark stated that noise is a problem from the factory and that he has received complaints from surrounding neighbors. Mayor Clark stated that Mr. Woody had already had a group in the factory and that the police had to be called several times due to noise. He suggested that the City should take a zero tolerance approach to noise and that Council should consider revoking Mr. Woody's license if there are repeated noise violations in the future.

Upon a motion by Councilman Owenby, seconded by Councilman Cuthbertson, those members of Council present voted to approve the request of Mr. Carl Woody for a Pool Room/Game Room permit to operate Good Times Family Fun Center in the former Marion Manufacturing facility on Baldwin Avenue.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

CONSIDER REAPPOINTMENTS TO CITY ADVISORY BOARDS: The City Manager advised that there are three terms on City advisory boards that will expire on June 30: Mr. Dudley Thompson on the Planning Board/Board of Adjustment/Historic Preservation Commission, Mr. Jim Isaacs on the ABC Board and Ms. Nancy Clark on the Tree Board. Council action is needed to reappoint Mr. Thompson, Mr. Isaacs and Mrs. Clark to new three year terms to expire on June 30, 2012, or to reappoint someone else in their place. All three are willing to be reappointed.

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Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, those members of Council present voted to re-appoint Mr. Dudley Thompson to a three year term on the Planning Board/Board of Adjustment/Historic Preservation Commission, Mr. Jim Isaacs to a three year term on the ABC Board and Ms. Nancy Clark to a three year term on Tree Board, said terms to expire on June 30, 2012.

CONSIDER AWARD OF CONTRACT – PURCHASE OF TWO TON FLATBED DUMP TRUCK FOR UTILITY MAINTENANCE: Finance Director Harriett Thomas advised that, as shown on memos from staff, bids were sought on two occasions for the purchase of a replacement dump truck in Utility Maintenance. Bid requests were sent out to seven different automobile dealers to purchase a replacement for the flat-bed dump truck used by the Utility Maintenance Department. The first request generated only one bid from West Carolina Freightliner for $76,000. Requests were sent out a second time and the following bids were received:

- Shealy Truck Center (Mack) $95,742
- Ken Wilson Ford $77,990
- West Carolina Freightliner $76,000
- Bobby Jones Ford $70,199 - Did not meet our specifications
- Bobby Jones Ford $67,508 - Did not meet our specifications
- Bill Smith Ford no bid
- Everett Chevrolet $71,517
- Piedmont International $68,800 - **(marked down to $68,100.00)**

Ms. Thomas stated that the City had $65,000 included in the 2008-09 Water and Sewer Fund budget for this purchase. The first bid solicitation resulted in the receipt of one bid in the amount of $76,000, well above the budgeted amount. Ms. Thomas reported that staff rebid the truck and the lowest bid meeting specifications came in from Piedmont International in the amount of $68,800. The bid for a truck to meet Utility Maintenance requirements came in at $62,800; however it would cost an additional $6,000 to customize the truck to be used for snow removal, something that has been done for all large trucks purchased by the City. Ms. Thomas stated that staff have negotiated with Piedmont and were able to have the price of the truck reduced by $700, to $68,100.

The City Manager advised that staff have now bid this truck twice and do not believe that the City will obtain a lower price for a specialty type vehicle such as a dump truck. The cost of such specialty type vehicles does not appear to be affected to a large degree by the current economy, as companies have simply reduced production of such vehicles in response to lower demand instead of reducing prices to move inventory. Therefore, the recommendation would be for Council to award the contract for the purchase of a two ton flat bed dump truck in the Utility Maintenance Division to Piedmont International in the amount of $68,100, with $65,000 of the cost of the truck being charged to Utility Maintenance and the balance of $3,100 charged to the Street Department.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, those members of Council present voted to award the contract for the purchase of a two ton flat bed dump truck for Utility Maintenance to Piedmont international in the amount of $68,100.

CONSIDER APPROVAL OF CONTRACTS FOR GRADING AND CONSTRUCTION OF DIRT ROADS AND STREET RESURFACING/PAVING: The City Manager advised that bids were opened recently for the grading and construction of dirt roads, including Florence Avenue, East Railroad Street and Finley Avenue, and for the resurfacing of Railroad Street, James Drive and the City Hall parking lot and the paving of Florence Avenue, East Railroad Street and Finley Avenue. The Public Works Director had previously estimated that this work (minus the City Hall parking lot resurfacing) would cost $107,701. The City Manager stated that the total amount of the two low bids, from Harris Grading for the dirt road grading and construction and from J.T. Russell & Sons for the resurfacing (1.25" of asphalt) and paving (2" of asphalt), totals $90,328.82, without the City Hall parking lot resurfacing. The resurfacing of the City Hall parking lot adds $8,310 (City Council had previously approved a $7,000 Budget Ordinance Amendment for the City Hall parking lot resurfacing).

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The City Manager advised that he would recommend that Council award the contracts for this work to Harris Grading for the dirt road grading and construction in the amount of $32,278.82 and to J.T. Russell & Sons for the resurfacing and paving in the amount of $66,360.00 for 1.25" asphalt resurfacing and 2" asphalt paving for the dirt roads.

The City Manager stated that he would further recommend that, since bids have come in more than $17,000 below budget on the street grading/construction/paving/resurfacing work, Council authorize staff to seek the resurfacing of Montevista Avenue between North Main Street and the first speed hump near the Boldon residence behind Marion City Square, since the street surface in this area has become very poor due to continual heavy truck traffic. The City Manager stated that Public Works Director Chris Hollifield estimated that the City should be able to resurface this section for around $5,000 to $10,000 or less and still end up spending less than what was planned to spend previously based on his original estimates.

Councilman Cuthbertson suggesting going with 2" asphalt resurfacing for the Montevista Avenue section, to ensure that it holds up better to the heavy truck traffic on the street.

The City Manager stated that the City has worked successfully with Harris Grading previously, but have never worked with J.T. Russell. The City Manager stated that he and Mr. Hollifield had obtained positive references for J.T. Russell from the cities of Newton and Conover.

The bids results were as follows:

Resurfacing/Paving Work

Carolina Paving	1.25" asphalt on Railroad St & James Drive	$ 84,058.00
Hickory, NC	1.25" City Hall Parking Lot	22,778.34
	2" asphalt on Florence, Finley and E Railroad	51,000.00
		$ 157,836.34
MayMead	1.25" asphalt on Railroad St & James Drive	$ 41,541.00
Mountain City TN	1.25" City Hall Parking Lot	11,257.00
	2" asphalt on Florence, Finley and E Railroad	27,250.00
		$ 80,048.00
J.T. Russell & Sons	1.25" asphalt on Railroad St & James Drive	$ 33,050.00
Conover, NC	1.25" City Hall Parking Lot	8,310.00
	2" asphalt on Florence, Finley and E Railroad	25,000.00
		$ 66,360.00
Johnson Paving	1.25" asphalt on Railroad St & James Drive	$ 44,200.00
Marion, NC	1.25" City Hall Parking Lot	14,384.00
	2" asphalt on Florence, Finley and E Railroad	28,750.00
		$ 87,334.00

Dirt Road Grading/Roadbed Preparation Work

Harris Grading	Finley Ave. & E. Railroad Rd.	$24,724.40
	Florence Avenue	$ 7,554.42
Ronald Burleson	Finley Ave. & E. Railroad Rd	$32,120.00
	Florence Avenue	$11,845.00
Jerry Cable	Finley Ave. & E. Railroad Rd	$29,222.50
	Florence Avenue	$10,892.50

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, those members of Council present voted to award the contracts for this work to Harris Grading for the dirt road grading and construction in the amount of $32,278.82 and to J.T. Russell & Sons for the resurfacing and paving in the amount of $66,360.00 for 1.25" asphalt resurfacing and 2" asphalt paving for the dirt roads, and to

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authorize staff to negotiate with J.T. Russell & Sons for the 2" asphalt resurfacing of Montevista Avenue between North Main Street and approximately the area of the first speed hump behind the Marion City Square shopping center.

CONSIDER ADOPTION OF RESOLUTION AUTHORIZING THE SALE OF CITY PROPERTY ON WEST GRAYSON STREET BY NEGOTIATED OFFER AND UPSET BID:
The City Manager presented Council with a bid from Mr. and Mrs. Michael Steptoe of Marion to purchase a 0.28 acre property owned by the City on West Grayson Street for $500. This is one of three properties the City was given by Mr. Hill Evans several years ago. The City Manager stated that this property is essentially a hole that is covered with kudzu. The City Manager presented Council with a map showing the property and a copy of the tax card for the property, showing a tax value of $9,000 for the property.

The City Manager advised that if Council wished to accept the offer of Mr. and Mrs. Steptoe, Council would need to adopt a resolution, in which case the City would publish notice of Council's acceptance of the offer and allow the public ten days to submit an upset bid. Council may also reject the offer or make a counteroffer.

The City Manager noted that Council accepted $2,500 from Mr. Kendrick Swepson and $2,000 from Mr. Calvin Little for the purchase of slightly larger parcels on West Grayson Street and West Wilhemenia Street.

Councilman Cuthbertson suggested that Council should accept the offer. He added that the public can decide if the property is worth more by submitting one or more upset bids.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, those members of Council present voted to adopt the following Resolution Authorizing the Sale of Certain Property Owned by the City of Marion by negotiated offer and upset bid to Mr. and Mrs. Michael Steptoe in the amount of $500:

Resolution Authorizing the Sale of Certain Property Owned by the City of Marion by Negotiated Offer and Upset Bid

WHEREAS, the City Council of the City of Marion desires to dispose of certain surplus property of the City; and

WHEREAS, N.C.G.S. 160A-269 authorizes a city to convey by negotiated offer and upset bid any real or personal property; and

WHEREAS, Mr. and Mrs. Michael Steptoe have submitted a bid in the amount of $500 for the purchase of approximately 0.28 acres of property owned by the City of Marion located on West Grayson Street (McDowell County Parcel Identification Number 1701.14-22-5595).

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

1. The parcel owned by the City of Marion on West Grayson Street (McDowell County Parcel Identification Number 1701.14-22-5595) that is approximately 0.28 acres in size is hereby declared to be surplus to the needs of the City of Marion.

2. The City Council accepts the offer of Mr. and Mrs. Steptoe to purchase the above described property for $500, subject to the upset bid process being followed as required by N.C.G.S. 160A-269.

3. The City Clerk shall notify Mr. and Mrs. Steptoe of the acceptance of this offer, receive a five percent bid deposit from the bidder, and cause a notice of this resolution to be published in accordance with G.S. 160A-269. Such notice shall state that prospective bidders have ten days from the date the notice is published to offer an upset bid, pursuant to G.S. 160A-269.

4. Once the upset bid process is completed, in accordance with G.S. 160A-269, the City Manager is designated to dispose of the above described property to the bidder selected by City Council, for a minimum price of $500.

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Adopted this the 19th day of May, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-09-05-19-1

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that the Virginia Road culvert replacement project was completed in early May, the street over the culvert has been resurfaced and the street has been reopened. This project went very well and the City should have a culvert that will last for decades to come.

The City Manager presented Council with a letter from the N.C. Rural Center, providing formal notice that the City was awarded a $977,100 grant to fund one-half of the costs of the Sugar Hill Road Water and Sewer Extension. The City should soon receive a contract from the Rural Center that can be signed when the developer makes his announcement and written commitment.

The City Manager advised that the inmates began work on May 12 on the construction of the Farmer's Market structure. Jay and Chris are pricing options for protecting the structure's posts from vehicular traffic, wiring the structure and installing lights and ceiling fans. Additional donations receive beyond the amount required for basic materials can be put toward these purposes. The City Manager added that the City now has more than enough to cover the building materials and crane rental ($40,500 in committed funds, with the building materials and crane rental to cost less than $40,000). The City hopes to receive another $2,500-$10,000 in funding, which may allow the structure to be completely finished in time for the market opening in June.

The City Manager discussed options for a ribbon cutting/dedication for the Farmer's Market. Mayor Clark suggested inviting North Carolina Rural Center staff and setting the dedication date around the Rural Center's schedule. Council members agreed with the Mayor's suggestion and directed the City Manager to seek a dedication date in mid June, depending on the schedule of Rural Center staff.

The City Manager presented Council with the 2009-10 proposed budget and gave a few highlights regarding the proposed budget. He reminded Council of the Budget Workshop scheduled for Thursday, May 28, at 6:00 p.m. at City Hall.

Mayor Clark stated that he hates that there will be no raises for City Hall; however he appreciates how staff has cut the budget due to declining revenues.

Planning and Development Director Heather Cotton thanked the Public Works Department, and particularly Mr. Charles Stockton, for their help with the first annual Honey Bee Festival that was held the previous weekend.

Ms. Cotton gave an update on current McDowell Arts Council Association activities and projects.

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Finance Director Harriett Thomas advised that the City would be holding its annual Health Fair the following day at the Depot between 10:30 AM and 2:30 PM.

COUNCILMAN COMMENTS:

Mayor Pro Tem Little asked if staff knew the identity of the source of paint that was recently spilled on North Garden Street. The City Manager stated that the City had been unable to determine who spilled the paint.

Councilman Cuthbertson asked if the City could do something about the weeds on the Peavine Rail Line trail. It was suggested the McDowell Trails Association could help while doing their weekend clean ups.

Mayor Clark noted that the grass very high and unsightly at the Post Office on South Main Street. Ms. Cotton stated that City staff was dealing with this and about 40 other grass violations.

ADJOURNMENT: Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, those members of Council present voted to adjourn.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.00000371 (24)

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 2, 2009 at 7:00 P.M. in the City Council Chamber located at 194 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: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, AICP, Planning and Development Director; Mika Elliott, Police Chief; Chris Hollifield, Public Works Director; Chess Collins, Danielle Hagerman and Cole Setzer, Interns; Freddie Killough, Executive Director, Marion Business Association; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: James Nations, 370 Wilkerson Way, Marion, NC; Donald Jackson, 95 Summey Road, Old Fort, NC; Sam Dotson, PO Box 2350, Marion, NC; Fred Brown, 14427 US 221 North Marion, NC; Cliff McLarty, Madison Street, Marion, NC

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the consent agenda as follows:

A. **Approval of Minutes** – May 19, 2009 Regular City Council Meeting Minutes

B. **Approve Amended Annexation Report** - The City Manager advised that as previously discussed, property owners in the Highway 226 South/Fairview Road area asked for additional time for the annexation to take effect. One property owner asked that only the commercial road frontage on Highway 226 South be annexed, not residential property fronting on Fairview Road.

The City Manager advised that he would therefore propose that the enclosed amended annexation report and plan of services for the Highway 226 South/Fairview Road area be adopted.

The amended report eliminates the Justice and McCoyle properties, which will be handled through an annexation petition, once Ms. McCoyle surveys and subdivides her property to split off the commercial frontage on Highway 226 South.

2009 ANNEXATION AREAS – ANNEXATION REPORT AND PLAN OF SERVICES – AMENDED JUNE 2, 2009

The Annexation Report and Plan of Services for the City of Marion 2009 Annexation Areas is hereby amended as follows:

1. Section II, Boundary Descriptions, is amended by deleting the boundary description for the Highway 226 South Area in its entirety and replacing the boundary description with the following:

HIGHWAY 226 SOUTH AREA

BEGINNING at a point at the southeast corner of Lot 4290 Block 98 on the McDowell County Tax Map 1710.02; said point also being a point of the boundary of the current Marion Corporate Limits; thence following said boundary of Marion Corporate Limits in a northwesterly direction approximately 386 feet to a point, said point being the southwestern corner of Lot 2325 Block 98 on the McDowell County Tax Map 1710.02, said point also being the southeastern boundary of Fairview Road (SR 1741); thence following western boundary of said Lot 2325 and eastern boundary of Fairview Road (SR 1741) in a northeasterly direction 227 feet to the northwest point of Lot 3335 Block 98 on the McDowell County Tax Map 1710.02, said point also being the northeastern

boundary of Fariview Road (SR 1741); thence following the northern boundary of said Lot 3335 in a southeasterly direction 136 feet to a point northeastern corner of said Lot 3335; said point also being a point on the western boundary of Lot 4248 Block 98 on the McDowell County Tax Map 1710.02; thence following the western boundary of said Lot 4248 in a northeasterly direction 189 feet; thence following the northern boundary of said Lots 4248 and 4290 in a generally southerly direction 151 feet to a point, said point also being the boundary of the Marion Corporate Limits, thence following the eastern boundary of said Lot 4290 and the Marion Corporate Limits 212 feet to the point of BEGINNING.

2. Section III, Statement Showing that the Areas Proposed to be Annexed Meet the Legislative Standards Prescribed by G.S. 160A-36, is amended by deleting the statement for the Highway 226 South Area in its entirety and replacing it with the following:

The proposed annexation area meets the general standards of G. S. 160A-36 as follows:

The area is adjacent and contiguous, as defined by G. S. 160A-41(1) as of the 6th day of January, 2009, the date upon which this annexation proceeding was begun, and shown on the map included herein marked Exhibit A.

The aggregate external boundary line of the area to be annexed is 1,295.7 feet, of which 597.5 feet (or 46.11%), coincides with the City boundary, as shown on the map included herein marked Exhibit A. Therefore, at least one eighth (or 12.5%) of the said external boundary coincides with the City boundary.

No part of the area to be annexed is included within the boundary of another incorporated municipality (See Exhibit B).

The area to be annexed is developed for urban purposes in that 100.00% of the total number of lots and tracts in said area are used for residential, commercial, industrial, institutional or governmental purposes as is shown below. 100.00% of the total of residential and vacant acreage consists of lots and tracts three (3) acres or less in size.

Total number of lots and tracts	
Number of lots and tracts used for:	
Residential	3
Commercial	1
Industrial	0
Institutional	0
Governmental	0
Total	4
Percentage of lots and tracts developed for urban purposes	100.00%
Total Residential and Vacant Acreage	1.40
Total Residential and Vacant Acreage in lots and tracts three (3) acres or less	1.40
Percentage of Residential and Vacant Acreage in lots and tracts three (3) acres or less	100.00%

3. Section IV, Statement Setting Forth Plans for Extending City Services to the Area Proposed to be Annexed and Methods of Financing These Services, is amended by deleting the statement for the Highway 226 South Area in its entirety and replacing it with the following:

HIGHWAY 226 SOUTH AREA

POLICE PROTECTION

The Marion Police Department presently provides police services for all areas of the City of Marion including preventative and directed patrol, criminal response and investigation, traffic enforcement and other services such as funeral escorts, alarm response, vacation home checks, and animals running at-

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large. The full-time force is composed of the Chief of Police, 24 other sworn officers, 4 telecommunication officers and 1 police aide/ordinance enforcement officers. At least 1 telecommunication officer and 4 sworn officers are on duty at all times. All telephone calls are automatically tape-recorded. The telecommunication officer has direct communications capability with all City police cars as well as the McDowell County Sheriff's Office, McDowell County Rescue Squad, North Carolina Highway Patrol dispatch, City of Marion Public Works, and all law enforcement agencies in "Region C." The department is connected to the North Carolina Division of Criminal Information (DCI), which provides the department access to motor vehicle, boat, and airplane registration information, driver's license information, stolen property and wanted or missing persons. Network access is also available to the National Crime Information Center (NCIC), Interpol and out of state and Canada motor vehicle information.

Response time to the proposed area of annexation is zero (0) to ten (10) minutes, if a patrol vehicle is readily available. Every effort will be made to patrol the streets in this area three (3) times each 24 hours.

There is no additional street mileage for the proposed annexation area, since the area is already on the patrol route. Therefore, the estimated additional expenses to provide police services to the proposed area of annexation would be $0.00 per year.

No additional personnel will be required to provide service to this area.

The total annual cost to provide police protection to this area is estimated to be $0.00.

The City will ensure that on the effective date of annexation police protection will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

FIRE PROTECTION

The City of Marion is served by the fire department located at the intersection of West Court Street and Logan Street. The fire department is currently protecting an area ranging up to six miles from the station including the area to be annexed. Equipment from this station can respond to the area proposed for annexation in 1 to 4 minutes depending on traffic conditions. The route to this area is easily accessible to fire fighting equipment.

The fire department has two diesel-powered pumpers, one 1,000 GPM (gallons per minute) pumper and two 1,250 GPM pumpers. The department also has two diesel powered pumper/tankers that carry 1,000 gallons of water. The pump capacities of each truck are 1,250 GPM and 1,500 GPM, respectively. The department also has a four-wheel drive brush unit, an equipment van, a four wheel drive pickup truck and the Chief's car.

There are six paid firefighters and at least one is on duty at all times. The duty firefighter and 26 volunteers are dispatched by the 911 County Emergency Operations Center. All firefighters have pagers and many have portable hand held radios. The fire department also maintains a fire inspections department that handles fire safety inspections of businesses and industries in the city. The fire department is also involved in the field of fire education.

Because of the proximity of the area to be annexed to the station, and because the area is located within the Marion Area Fire District which is already being served by this department, no additional personnel or equipment will be needed. There will be no additional cost as this area is already included in the present operating budget.

The annexation area is located in the Marion Area Fire District. The amount of Service District Tax paid by McDowell County to the City will be reduced by approximately $77.58 per year due to the annexation of this area. No other county volunteer fire departments will be affected as a result of the annexation of this area.

There should be no change in property insurance rating when the area is annexed into the city. Since the area to be annexed are already served by existing city water lines and fire hydrants, property owners in the area to be annexed should already be receiving the insurance rating in effect for the city. However, because of the difference in policies of insurance companies, individual property owners should check with their insurance representative to determine what effect, it any, annexation will have on their insurance rates.

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The City will ensure that on the effective date of annexation fire protection will be provided in the area annexed on substantially the same basis and in the same manner as provided by the Marion Fire Department in the rest of the City.

WATER AND SEWER SERVICE

Within the proposed annexation area, there are 3 customers currently on City water and sewer service. Once the area is annexed, the loss in revenues is estimated to be approximately $61.93 monthly or $743.16 annually.

Water service is available to all properties located in the area proposed for annexation and sewer service is available to part of the area. A sewer extension of approximately 510 feet will be needed along Scott Drive and Highway 226 South. The estimated cost of the sewer extension is $28,080.

The City will ensure that on the effective date of annexation water and sewer service will be provided in the area annexed on substantially the same basis as provided in the rest of the City. Water and sewer improvements will be completed in accordance with the time schedule in the General Statutes and provided within two (2) years of the effective date of the annexation.

Funds for water and sewer service will come from anticipated revenues in the area and be budgeted in the City's Water and Sewer Fund.

Exhibits C and D show the location of existing and proposed water and sewer lines.

STREET MAINTENANCE

All of the streets in the area proposed for annexation are paved. All streets in the annexation area are maintained by the State of North Carolina. It is proposed that the State of North Carolina will continue maintenance on the public streets in the area.

The City will ensure that on the effective date of annexation street maintenance services will be provided in the area annexed on substantially the same basis as provided in the rest of the City.

STREETLIGHTS

To provide streetlights in the area proposed for annexation, the City will follow the current policy of a streetlight on every other pole in a residential or commercial area.

Exhibit E shows the location of the existing and proposed lights. Upon annexation, the City will work closely with Duke Energy to determine the best location for the lights.

The area to be annexed will not require the installation of any streetlights, since streetlights are already in place.

The City will ensure that on the effective date of annexation streetlights will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.
SOLID WASTE COLLECTION AND RECYCLING

Present City policy provides for solid waste collection and recycling collection once a week at each residence in the city.

For residential collection, the City is currently using a solid waste packer unit and three pickup trucks. Each truck is equipped with a 4 cubic yard capacity for the collection of solid waste. The trucks are able to collect solid waste from approximately 20 residences before unloading into the packer unit. There are approximately 2,500 residential units within the current City Limits. Each truck will average collecting solid waste from approximately 200 residences in a six to seven hour period. There are 4 residential units in the area proposed for annexation. A curbside recycling truck will be used to provide recycling pickup at each residence once each week.

No additional employees or equipment will be required to provide solid waste collection service to this area. It is estimated that there will be no annual costs to provide solid waste collection service as City solid waste vehicles are already passing the area to be annexed. One time costs, involving $30.00 for the purchase of recycling bins, will also be needed to serve the area to be annexed. Solid waste collection and recycling collection service is currently provided in the city by City of Marion personnel and equipment

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and will also be provided to the area to be annexed by City of Marion personnel and equipment. These funds for this service will come from revenues collected in the area and budgeted in the City's General Fund.

The City will attempt to contact any solid waste firm servicing the annexation area as required, or which has stated its interest in contracting with the City. If required by the General Statutes, the City will offer to contract with the solid waste firms or will pay such firms for their monetary loss in compliance with the General Statutes.

The City will ensure that on the effective date of annexation solid waste collection service will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

4. Section IV, Estimated Revenues, is amended by deleting the estimated revenues for the Highway 226 South Area in its entirety and replacing it with the following:

HIGHWAY 226 SOUTH AREA

PROPERTY TAXES

Based on tax listings at the beginning of January 2009, it is estimated that the proposed annexation will bring in the following tax revenues based on the current City tax rate of $.51 per $100.00 of property value.

Current Taxable Value	$193,960.00
Estimated Property Taxes	989.20

WATER AND SEWER REVENUES

Some structures in the area to be annexed are already connected to City water. The annexation of this area will result in water rates being reduced by 60 percent, resulting in a savings for residents and property owners and a revenue loss for the City of an estimated $743.16 per year.

OTHER REVENUES

Because of changes in distribution formulas from year to year estimates on the following revenues may fluctuate. These estimates are based on formulas and information received from the North Carolina Department of Commerce (Division of Community Assistance), North Carolina Department of Transportation, North Carolina Department of Revenue, Isothermal Planning and Development Commission, North Carolina Office of Budget and Management and Duke Energy.

Local Sales Tax	$536.97
Powell Bill Revenue	184.21
Utility Franchise Tax	168.00
Beer and Wine Tax	33.81

POPULATION INCREASE

The City's current population is based on the 2000 Census and annual population certifications from the State of North Carolina. Annexation of this area and other proposed annexations to take effect on June 30, 2009 will increase the population by approximately 160 people for a population of 7,462.

5. Section V, Revenues and Cost Estimates, is amended by deleting the revenues and cost estimates for the Highway 226 South Area in its entirety and replacing it with the following:

HIGHWAY 226 SOUTH AREA

ESTIMATED ANNUAL REVENUES

Property Tax	$ 989.20
Local Sales Tax	536.97
Powell Bill	184.21
Utility Franchise Tax	168.00
Beer and Wine Tax	33.81
Total Estimated Annual Revenues	$1,912.19

ESTIMATED ANNUAL EXPENDITURES

Police Department	$ 0.00
Fire Department	0.00
Street Department	0.00

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Streetlights	0.00
Solid Waste/Recycling	0.00
Total Estimated Annual Expenditures	$ 0.00
ESTIMATED LOSS IN REVENUE	
Fire Service District Tax	$ 77.58
Water and Sewer Revenues	743.16
Total Estimated Revenue Loss	$ 820.74
ESTIMATED ONE-TIME EXPENDITURES	
Sewer Extension	$28,080.00
Recycling Containers	$ 30.00
Total One-Time Expenditures	$28,110.00

6. Exhibit A, General Location Maps, is amended by deleting the map for the Highway 226 South Area in its entirety and replacing it with the map on the following page:

7. Exhibit B, Existing Land Use Maps, is amended by deleting the map for the Highway 226 South Area in its entirety and replacing it with the map on the following page:

8. Exhibit E, Street Light Maps, is amended by deleting the map for the Highway 226 South Area in its entirety and replacing it with the map on the following page:

This amended Annexation Report and Plan of Services for 2009 Annexation Areas is hereby adopted by the City Council of the City of Marion this the 2nd day of June, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

C. Approve Waiver of Civil Citation

Council approved the waiver of a $50.00 Civil Citation issued to Mr. Rob Radford of Kathy Street for a sign violation. The City Manager advised Council that normal procedures were not followed prior to the issuance of this citation; therefore, he would recommend waiving the $50.00 penalty.

PRESENTATION OF CHECK FOR FARMER'S MARKET STRUCTURE CONSTRUCTION BY McDOWELL COUNTY FARM BUREAU: The President of McDowell County Farm Bureau, Mr. James Nations, presented a $15,000 check to the City from the McDowell County Farm Bureau for the Farmer's Market Structure construction. Mr. Nations advised that the Farm Bureau was excited about the project and the positive impact it would have for farmers across the region and for the downtown area. He added that he hoped the structure could be under roof in the near future.

Mayor Clark thanked Mr. Nations and stated that this and other donations made such an endeavor possible. He added that he appreciated what Farm Bureau does for the community and for helping with the Farmer's Market Project.

Mayor Clark also stated that Mr. Nations served lunch to the inmates working on the structure earlier that day. Mayor Clark also recognized other McDowell County Farm Bureau Board members who were present, along with Mr. Sam Dotson, who oversees the North Carolina

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Department of Correction Inmate Work Program.

The City Manager gave a brief update on the Farmer's Market construction and stated that this project has been a true community effort. The City Manager advised that staff had reviewed the plans for the structure and had taken the opportunity to look at the plans and materials a little more closely, to seek ways to save money on the project, while also ensuring a sae and strong structure at the same time. The City Manager stated that one change that Council had already approved is the use of a metal roof, which will lighten the weight of the structure significantly, while also saving thousands of dollars.

The City Manager stated that the design had also been reviewed to make sure that the posts for the structure are set in the strongest possible ways. The City Manager presented a letter from the City's consulting engineer, McGill Associates, and a structural engineer, Sutton-Kennerly Associates, advising that the original post design, calling for the posts to be set on a poured concrete footer and attached using anchor bolts, was far preferable to sinking the posts in the ground and pouring concrete around them. The City Manager stated that he would recommend that this post design be followed, based on the recommendations of the engineers.

The City Manager stated that he would also propose to have a licensed local contractor on site to oversee the work of the inmate labor and to assist the City's Building Inspector. The City Manager added that he still believes the project can be completed using N.C. STEP Program grant funds and donations, at no cost to the local taxpayers. The only setback may be having to wait on wiring the structure.

Mayor Pro Tem Little stated that he appreciates all that has been done by City staff, inmate labor and others on this project.

Councilman Cuthbertson stated that, not only is the structure going to be built strongly and economically, it will also look good and be an asset to the City.

Mayor Pro Tem Little stated that a metal roof will be more attractive.

Councilman Martin stated that he would like to see staff go ahead and get an estimate on the wiring and lights for the structure. The City Manager advised that staff would be obtaining such an estimated and that there could be grant opportunities to equip the shelter once it is constructed.

The City Manager stated that the project would not be possible without the labor being provided by the Inmate Work Program. Mayor Clark noted that he had been impressed with the work of the inmates and added that the inmates were heartbroken over the recent collapse of the trusses and that their assistance was invaluable.

Upon a motion by Councilman Martin, seconded by Mayor Pro Tem Little, Council voted unanimously to authorize the City Manager to hire a licensed contractor to oversee the completion of the Farmer's Market structure.

Mr. Dotson stated that he was glad to be able to help the City with the project and stated that the Department of Correction is committed to completing the project for the City.

INTRODUCTION OF INTERNS FROM APPALACHIAN STATE UNIVERSITY PROVIDED AS PART OF N.C. STEP PROGRAM: The City Manager stated that the City will have three interns from Appalachian State University who will work with the City full time over the next three months and then part time for two years as part of the N.C. STEP Program.

Planning and Development Director Heather Cotton introduced Ms. Danielle Hagerman, Mr. Cole Setzer and Mr. Chess Collins, who will be working with the City this summer. Each intern

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told a little about themselves. Ms. Cotton described some of the projects on which the interns will work, including completion of the Comprehensive Plan and Downtown Streetscape/Traffic Flow Plan, assisting with implementation of N.C. STEP Program projects, looking at opportunities for energy savings, researching possible grants and performing other needed work.

Two of the interns will continue to work 20 hours per week through May and a new batch of interns will work with the City for the second year of the program, through May 2011. The N.C. Rural Center is providing funding of this program at no cost to the City.

Mayor Clark thanked all three of the interns and stated that he wants the City to be the best teacher it can be. He stated that the City of Marion had top notch staff and that the interns should be able to learn a great deal.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

ADOPTION OF ANNEXATION ORDINANCES: The City Manager advised that as previously reported, property owners in the Airport Road and Highway 226 South/Fairview Road Annexation Areas made requests to delay the effective date of the annexations by one year, until June 30, 2010.

Upon a motion by Councilman Little, seconded by Councilman Martin , Council voted unanimously to adopt the following Ordinance extending the Corporate Limits of the City of Marion to include the Airport Road Annexation Area as follows:

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF MARION UNDER THE AUTHORITY GRANTED BY CHAPTER 160A, ARTICLE 4A, PART 2 OF THE GENERAL STATUTES OF NORTH CAROLINA – AIRPORT ROAD AREA - 2009

WHEREAS, all of the prerequisites to adoption of this ordinance prescribed in Chapter 160A, Article 4A, Part 2 of the General Statutes of North Carolina, have been met; and

WHEREAS, the City Council has taken into full consideration of statements presented at the public hearing held on March 24, 2009, on the question of this annexation; and

WHEREAS, the City Council has concluded and hereby declares that annexation of the area described herein is necessary to the orderly growth and development of the City of Marion.

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

Section 1. From and after the effective date of this annexation, the following territory shall be annexed to and become a part of the City of Marion, and the corporate limits of the City of Marion shall be extended to include said territory more particularly described by metes and bounds as follows:

BEGINNING at a point at the northern corner of Lot 3479 Block 50 on the McDowell County Tax Map 1702.19, said point also being the western boundary of Airport Road (SR 1500); thence following the said boundary of Airport Road (SR 1500) in a northwesterly direction approximately 100 feet; thence crossing boundary of said Airport Road (SR 1500) in an easterly direction approximately 40 feet to a point on the eastern boundary of Airport Road (SR 1500), said point also being the western point of Lot 6970 Block 50 on the McDowell County Tax Map 1702.19; thence following the northern boundary of said Lot 6970 in an easterly direction 604 feet to the northeast point of said Lot 6970; thence following the eastern boundary of said Lot 6970 in a southerly direction 150 feet to a point on the eastern boundary of said Lot 6970, said point also being the current Marion Corporate Limits; thence following the boundary of the Marion Corporate Limits in a westerly direction approximately 758.45 feet to the point of BEGINNING.

Section 2. The City Council hereby finds and declares that the above described territory meets the requirements of G.S. 160A-36, in that:

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The area is adjacent and contiguous, as defined by G. S. 160A-41(1) as of the 6th day of January, 2009, the date upon which this annexation proceeding was begun, and shown on the map included herein marked Exhibit A.

The aggregate external boundary line of the area to be annexed is 2,017 feet, of which 1,065 feet (or 52.80%), coincides with the City boundary, as shown on the map included herein marked Exhibit A. Therefore, at least one eighth (or 12.5%) of the said external boundary coincides with the City boundary.

No part of the area to be annexed is included within the boundary of another incorporated municipality (See Exhibit B).

The area to be annexed is developed for urban purposes in that 66.67% of the total number of lots and tracts in said area are used for residential, commercial, industrial, instituticnal or governmental purposes as is shown below. 100.00% of the total of residential and vacant acreage consists of lots and tracts three (3) acres or less in size.

Section 3. It is the purpose and intent of the City of Marion to provide services to the area being annexed under this ordinance, as set forth in the report of plans for services approved by the City Council on January 20, 2009 and filed in the office of the Clerk for public inspection on January 23, 2009.

Section 4. The City Council hereby finds and declares that, on the effective date of annexation prescribed in Section 8 hereof, the City of Marion will have sufficient funds approved, in the amount of $0, to finance the estimated cost of construction of water and sewer facilities found necessary in the report of plans for services to extend the basic sewer and water system of the City of Marion into the area to be annexed under this ordinance. (No water or sewer extensions are necessary in the area to be annexed).

Section 5. From and after the effective date of this annexation, the territory annexed and its citizen and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City.

Section 6. The newly annexed territory described above shall be subject to City taxes according to G.S 160A-58.10.

Section 7. The Mayor of the City of Marion shall cause an accurate map of the annexed territory described in Section 1 hereof, together with a duly certified copy of the ordinance, to be recorded in the office of the register of deeds of McDowell County, and to the office of the Secretary of State in Raleigh. Such a map shall also be delivered to the McDowell County Board of Elections, as required in G.S. 163-288.1.

Section 8. This ordinance shall become effective on June 30, 2010.

As to qualified tracts of agricultural land, horticultural land and forestland, the annexation will become effective on the last day of the month in which the tract or part thereof becomes ineligible for present-use classification under G.S 105-227.4 or no longer meets the requirements cf G.S 160A-37(f1)(2).

Adopted this 2nd day of June, 2009.

A. Everette Clark, Mayor

ATTEST:

APPROVED AS TO FORM:

J. Robert Boyette, City Clerk

City Attorney

Ordinance Number: O-09-06-02-1

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL

I, _____, Notary Public of McDowell County, North Carolina, do hereby certify that before me this day personally appeared J. Robert Boyette, who, after first being duly sworn, deposes and says that he is

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acquainted with A. Everette Clark, who is Mayor of the City of Marion, North Carolina, the corporation executing the foregoing Ordinance to Extend the Corporate Limits of the City of Marion, North Carolina, that he knows the common seal of the City of Marion and that he, the said J. Robert Boyette, Clerk of the City Council of the said City, that he saw the foregoing instrument signed in the name of said corporation by A. Everette Clark, Mayor, as aforesaid, that he saw the Mayor affix the common seal of the said corporation thereto, and that he, the said J. Robert Boyette, Clerk as aforesaid signed his name in attest action of execution thereof, all ordered by the City Council of the City of Marion, North Carolina, for purposes therein set forth,

WITNESS my hand this the _____ day of _____ 2009

(Seal)

_____
Notary Public

My Commission Expires: _____

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Ordinance extending the Corporate Limits of the City of Marion to include the Highway 226 South/Fairview Road Annexation Area as follows:

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF MARION UNDER THE AUTHORITY GRANTED BY CHAPTER 160A, ARTICLE 4A, PART 2 OF THE GENERAL STATUTES OF NORTH CAROLINA – HIGHWAY 226 SOUTH-FAIRVIEW ROAD - 2009

WHEREAS, all of the prerequisites to adoption of this ordinance prescribed in Chapter 160A, Article 4A, Part 2 of the General Statutes of North Carolina, have been met; and

WHEREAS, the City Council has taken into full consideration of statements presented at the public hearing held on March 24, 2009, on the question of this annexation; and

WHEREAS, the City Council has concluded and hereby declares that annexation of the area described herein is necessary to the orderly growth and development of the City of Marion.

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

Section 1. From and after the effective date of this annexation, the following territory shall be annexed to and become a part of the City of Marion, and the corporate limits of the City of Marion shall be extended to include said territory more particularly described by metes and bounds as follows:

BEGINNING at a point at the southeast corner of Lot 4290 Block 98 on the McDowell County Tax Map 1710.02; said point also being a point of the boundary of the current Marion Corporate Limits; thence following said boundary of Marion Corporate Limits in a northwesterly direction approximately 386 feet to a point, said point being the southwestern corner of Lot 2325 Block 98 on the McDowell County Tax Map 1710.02, said point also being the southeastern boundary of Fairview Road (SR 1741); thence following western boundary of said Lot 2325 and eastern boundary of Fairview Road (SR 1741) in a northeasterly direction 227 feet to the northwest point of Lot 3335 Block 98 on the McDowell County Tax Map 1710.02, said point also being the northeastern boundary of Fariview Road (SR 1741); thence following the northern boundary of said Lot 3335 in a southeasterly direction 136 feet to a point northeastern corner of said Lot 3335; said point also being a point on the western boundary of Lot 4248 Block 98 on the McDowell County Tax Map 1710.02; thence following the western boundary of said Lot 4248 in a northeasterly direction 189 feet; thence following the northern boundary of said Lots 4248 and 4290 in a generally southerly direction 151 feet to a point, said point also being the boundary of the Marion Corporate Limits, thence following the eastern boundary of said Lot 4290 and the Marion Corporate Limits 212 feet to the point of BEGINNING.

Section 2. The City Council hereby finds and declares that the above described territory meets the requirements of G.S. 160A-36, in that:

The area is adjacent and contiguous, as defined by G. S. 160A-41(1) as of the 6th day of January, 2009, the date upon which this annexation proceeding was begun, and shown on the map included herein marked Exhibit A.

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The aggregate external boundary line of the area to be annexed is 1,295.7 feet, of which 597.5 feet (or 46.11%), coincides with the City boundary. Therefore, at least one eighth (or 12.5%) of the said external boundary coincides with the City boundary.

No part of the area to be annexed is included within the boundary of another incorporated municipality.

The area to be annexed is developed for urban purposes in that 100.00% of the total number of lots and tracts in said area are used for residential, commercial, industrial, institutional or governmental purposes. 100.00% of the total of residential and vacant acreage consists of lots and tracts three (3) acres or less in size.

Section 3. It is the purpose and intent of the City of Marion to provide services to the area being annexed under this ordinance, as set forth in the report of plans for services approved by the City Council on January 20, 2009, filed in the office of the Clerk for public inspection on January 23, 2009 and amended on June 2, 2009.

Section 4. The City Council hereby finds and declares that, on the effective date of annexation prescribed in Section 8 hereof, the City of Marion will have sufficient funds approved, in the amount of $28,080, to finance the estimated cost of construction of sewer facilities found necessary in the report of plans for services to extend the basic sewer and water system of the City of Marion into the area to be annexed under this ordinance. (No water extensions are necessary in the area to be annexed).

Section 5. From and after the effective date of this annexation, the territory annexed and its citizen and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City.

Section 6. The newly annexed territory described above shall be subject to City taxes according to G.S 160A-58.10.

Section 7. The Mayor of the City of Marion shall cause an accurate map of the annexed territory described in Section 1 hereof, together with a duly certified copy of the ordinance, to be recorded in the office of the register of deeds of McDowell County, and to the office of the Secretary of State in Raleigh. Such a map shall also be delivered to the McDowell County Board of Elections, as required in G.S. 163-288.1.

Section 8. This ordinance shall become effective on June 30, 2010.

As to qualified tracts of agricultural land, horticultural land and forestland, the annexation will become effective on the last day of the month in which the tract or part thereof becomes ineligible for present-use classification under G.S 105-227.4 or no longer meets the requirements of G.S 160A-37(f1)(2).

Adopted this 2nd day of June, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Clerk

APPROVED AS TO FORM:

City Attorney

Ordinance Number: O-09-06-02-2

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL

I, _____, Notary Public of McDowell County, North Carolina, do hereby certify that before me this day personally appeared J. Robert Boyette, who, after first being duly sworn, deposes and says that he is acquainted with A. Everette Clark, who is Mayor of the City of Marion, North Carolina, the corporation executing the foregoing Ordinance to Extend the Corporate Limits of the City of Marion, North Carolina, that he knows the common seal of the City of Marion and that he, the said J. Robert Boyette, Clerk of the City Council of the said City, that he saw the foregoing instrument signed in the name of said corporation by A. Everette Clark, Mayor, as aforesaid, that he saw the Mayor affix the common seal of the said corporation thereto, and that he, the said J. Robert Boyette, Clerk as aforesaid signed his name in attest action of execution thereof, all ordered by the City Council of the City of Marion, North Carolina, for purposes therein set forth,

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WITNESS my hand this the _____ day of _____ 2009

(Seal)

_____
Notary Public

My Commission Expires: _____

ADOPT RESOLUTION AUTHORIZING FINAL SALE OF CITY PROPERTY ON WEST WILHEMENIA STREET: The City Manager advised that at the April 21 Council meeting, Council adopted a resolution accepting the offer of Mr. Calvin Little to purchase a 0.32 acre parcel owned by the City on West Wilhemenia Street for $2,000, subject to upset bid.

After receiving the required five percent bid deposit from Mr. Little, notice was published in the McDowell News of the proposed sale on May 15 that interested persons had ten days to submit an upset bid. The City Manager stated that the ten day upset bid process passed with no further bids.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Resolution authorizing final acceptance of the offer to purchase City property as follows:

Resolution
Authorizing Final Acceptance of Offer
to Purchase Certain Property Owned by the City of Marion
after Solicitation of Upset Bids

WHEREAS, N.C.G.S. 160A-269 authorizes a city to convey by negotiated offer and upset bid any real or personal property; and

WHEREAS, Mr. Calvin Little has submitted a bid in the amount of $2,000 for the purchase of approximately 0.32 acres of City property located on West Wilhemenia Street (McDowell County Parcel Identification Number 1701.18-22-7385); and

WHEREAS, the City Council of the City of Marion adopted a resolution on April 21, 2009, in accordance with N.C.G.S. 160A-269, accepting the offer of Mr. Little to purchase the property, as described below, for a sum of $2,000; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion received a five percent bid deposit from Mr. Little; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion, on May 15, 2009, caused notice of the proposed sale of the property, as described below, to be published in The McDowell News; and

WHEREAS, the City of Marion has completed the ten day upset bid period required by N.C.G.S. 160A-269, without the receipt of any upset bids; and

WHEREAS, the City Council of the City of Marion desires to complete the sale of the property described below to Mr. Little.

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

1. The parcel owned by the City of Marion on West Wilhemenia Street (McDowell County Parcel Identification Number 1701.18-22-7385) that is approximately 0.32 acres in size is hereby declared to be surplus to the needs of the City of Marion.

2. The City Council accepts the offer of Mr. Calvin Little to purchase the above described property for $2,000 and directs the City Manager to proceed with the sale of said property, as authorized by N.C.G.S. 160A-269.

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3. All notices to the buyer shall indicate that the buyer is purchasing the property subject to any outstanding taxes or other liens affecting the property.

Adopted this the 2nd day of June, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-09-06-02-1

DISCUSS SALE OF CITY PROPERTY ON MOREHEAD ROAD:
The City Manager advised that he had received a letter from Rickey and Lisa Frady in reference to the two parcels they recently purchased from the City on Morehead Road. The City was given this property by the U.S. Marshals Service. At the time of the property donation, City taxes were owed on the property. The City Manager advised that the City taxes were released, since the City was the owner of the property; however, the City did not realize that County taxes were owed on the property until near the time of closing. The City Manager advised that Mr. and Mrs. Frady discussed the taxes with him at the time of closing and decided to pay the taxes and then request reimbursement from the City. Mr. and Mrs. Frady are now requesting that they be reimbursed for the $611.00 in County taxes that they paid at the time of closing.

A discussion followed.

Mayor Pro Tem Little stated that the City had no obligation or duty to refund these taxes.

It was the consensus of Council to deny this request.

CIVIL CITATION APPEAL – FAILURE TO DISPLAY HANDICAPPED PLACARD:
The City Manager advised that Mr. Willie Byrd submitted a letter requesting a waiver of the $10.00 penalty issued to him on May 14 for parking in a handicapped parking space in the Lowe's parking lot without having his handicapped placard displayed. A copy of the parking citation and handicapped placard were presented to Council for their information.

The City Manager advised that the Police Department verified that Mr. Byrd's wife possesses a valid handicapped placard, although the placard is not assigned to the vehicle Mr. Byrd was driving on May 14. The City Manager stated that Council has typically waived the $10.00 penalty for failure to display a handicapped placard, but technically the placard in question was not supposed to be used for the vehicle Mr. Byrd was driving.

Mayor Pro Tem Little asked if Mrs. Byrd was in the vehicle when Mr. Byrd received the citation. The City Manager stated that he understood that Ms. Byrd was in the vehicle.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, Council voted unanimously to waive the $10.00 penalty for a civil citation issued to Mr. Willie Byrd for parking in a handicapped parking space in the Lowe's parking lot, without having his handicapped placard displayed, on the condition that Mrs. Byrd was indeed in the vehicle.

APPROVE ORDINANCE – TRAFFIC SCHEDULE ADDITIONS: The City Manager presented Council with an ordinance reflecting various additions to the Traffic Schedule, including the planned installation of stop signs on Florence Avenue at Clark and Bostic Streets

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upon the City taking over maintenance of the street, traffic regulations involving June 30, 2009 annexation areas and adding the enforcement of fire lanes at the McDowell Square (Wal Mart) Shopping Center and at Lowe's to the Traffic Schedule.

The City Manager stated that these are the only two fire lanes for which property owners have requested official City enforcement and for which Council approval has been given. However, when approved by Council, enforcement of the fire lanes was not put in the form of an ordinance. Other fire lanes could be enforced by the City upon request by the property owner and approval by Council, according to the City Code. The City Manager stated that the ordinance, if approved, would take effect on June 30, 2009.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, Council voted unanimously to approve the following ordinance amending the Traffic Schedule as follows:

ORDINANCE
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 18-239 is amended by adding the following:

STREET NAME	**REGULATION**	**REG. APPLICATION**
FLORENCE AVENUE	STOP SIGN	AT CLARK STREET
		AT BOSTIC STREET
PINE STREET	STOP SIGN	AT TUNNEL ROAD
MORRIS STREET	STOP SIGN	AT TUNNEL ROAD
WESTMORELAND STREET	STOP SIGN	AT TUNNEL ROAD
US 221 NORTH BUSINESS EXTENSION	STOP SIGN	AT HANKINS ROAD
LOWE'S (US 70 WEST)	FIRE LANE	ALONG ENTIRE FRONTAGE OF BUILDING
MCDOWELL SQUARE SHOPPING CENTER (US 70 WEST)	FIRE LANE	ALONG ENTIRE FRONTAGE OF BUILDINGS IN SHOPPING CENTER

Section 3. This ordinance shall become effective on June 30, 2009.

Adopted this the 2nd day of June, 2009.

A. Everette Clark, Mayor

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ATTEST: _____
J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-09-06-02-3

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that City staff have recently installed a gate at the future entrance to the Catawba River Greenway off of Highway 70 West, to control access. McGill is finishing up the final greenway design and floodway and floodplain permitting process. He added that the City plans to go out to bid with the project in the next few months, hopefully by which time the McDowell Trails Association will have raised much, if not all, of the $60,000 local match for the City's PARTF grant for the project.

The City Manager advised that he had received approval and a signed contract for three inmates to work full time at the Public Works Department. He added that this labor will offset the elimination of two vacant positions in the Street Department for 2009-10. Public Works Director Chris Hollifield listed several projects on which the inmates would be working. The cost to the City will be $1.00 per day per inmate.

The City Manager advised that it looked like the City would receive one or two youth to work at the Fire Department for the summer, at no charge, as part of the federally funded Summer Youth Employment Program administered by Isothermal Planning and Development Commission. The City Manager stated that these youth would focus on fire hydrant painting and maintenance.

The City Manager advised that construction of the downtown wireless network should begin in June. All costs will be covered by the N.C. STEP Program grant. The City Manager noted that installation of at least one, and hopefully web cameras, will also be included.

The City Manager advised that the County Commissioners had the day before approved the City's request to increase the Marion Area Fire District tax by two cents to fund equipment and operating costs related to the Fire District. He stated that he would have information for further discussion at the next City Council Meeting.

Mayor Pro Tem Little stated that he appreciates the County's approval of the tax increase so that replacements can be made to equipment in the Fire Department.

The City Manager advised that Mayor Clark had received a letter from UNC basketball coach Roy Williams, granting permission for the City to place historical markers and signs honoring him, since Marion is the birthplace of Coach Williams. The City Manager presented the letter to Council. Mayor Pro Tem Little stated that he was a Wake Forest alumnus, but that the letter from Coach Williams was very gracious and showed great humility. The City Manager added that the historical marker would be funded through private donations and not involve any City funds.

Ms. Cotton updated Council on current projects and activities of the McDowell Arts Council Association.

COUNCILMAN COMMENTS:

Mayor Pro Tem Little recognized Mr. Cliff McLarty in the audience and advised of a likely impending commercial development announcement on Sugar Hill Road at I-40.

Councilman Cuthbertson advised that possible cuts to the State budget, as part of an effort to reduce a $4.6 billion budget deficit, could have impacts on municipal budgets. He added that he

A.A.00000386 (24)

had read about budget reductions being undertaken by the City of Morganton, including required furloughs for City employees. Councilman Cuthbertson stated that he hoped the City would not have to take such steps.

ADJOURNMENT: Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, council voted unanimously to adjourn.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, June 16, 2009 at 7:00 P.M. in the City Council Chamber located at 194 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 arrived for this meeting at 7:30 P.M. during the Public Hearing discussion of the Zoning Map Amendment for the Eastfield Phase 5 Area.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, Planning and Development Director; Scott Spratt, Patrol Lieutenant; Chris Hollifield, Public Works Director; Jim Neal, Fire Chief; Freddie Killough, Marion Business Association Director; Chessie Collins, Cole Setzer and Danielle Hagerman, Interns; Mike Conley, News Reporter, McDowell News

GUESTS PRESENT: Jim Isaacs, Bill Smith, Robert Ayers and Gene Pittman, Marion ABC Board Representatives; Diane Neal, 352 Hillside Drive, Marion NC; Joe, Pittman and Katlyn Neal, Marion NC; Marion Fire Department Representatives Doug Crisp, J.J. Laughridge, James Mace, Ray McDaniel, Fred Nanney, Kevin Owenby, Roger McCarthy, Dennis Laws, Wayne Durkee, Kevin Sisk, Phillip Finley and Bart Kicklighter.

CONSENT AGENDA: Upon a motion by Cuthbertson, seconded by Councilman Owenby, those members of Council present voted to approve the Consent Agenda as follows:

A. Approval of Minutes – May 28, 2009 Budget Workshop/Planning Session Meeting Minutes and June 2, 2009 Regular City Council Meeting Minutes

B. Approve Budget Ordinance Amendments

CITY OF MARION, NORTH CAROLINA

AA.000000387 (24)

2008-2009 BUDGET ORDINANCE
(Eighth Amendment)

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

Section 1. That the Budget Ordinance for the City of Marion, North Carolina for the fiscal year 2008-09 as adopted by the Marion City Council on the 17th day of June, 2008 is hereby amended as follows:

GENERAL FUND

a. General Fund Expenditures, Police, Account Number 10-510-3330, National Night Out Supplies is increased from $2,730 to $3,730.

b. General Fund Expenditures, Powell Bill, Account Number 10-570-4500, Contracted Services is increased from $104,000 to $139,000.

c. General Fund Expenditures, Recreation, Account Number 10-620-1300, Utilities is increased from $22,000 to $26,000.

d. General Fund Expenditures, Non-departmental, Account Number 10-660-6100, Downtown Development is increased from $72,000 to $79,296.

e. General Fund Revenues, Account Number 10-319-0000, Tax Penalties & Interest is increased from $25,500 to $31,000.

f. General Fund Revenues, Account Number 10-319-1000, Prior Year Taxes is increased from $62,000 to $64,000.

g. General Fund Revenues, Account Number 10-321-1000, Wine & Beer Tax Revenue is increased from $32,000 to $32,793.

h. General Fund Revenues, Account Number 10-334-1700, State Controlled Substance Revenue is increased from $5,169 to $6,369.

i. General Fund Revenues, Account Number 10-344-4000, County Contribution - Recycling is increased from $2,250 to $3,750.

j. General Fund Revenues, Account Number 10-344-5000, Solid Waste Disposal Tax is increased from $1,039 to $2,198.

k. General Fund Revenues, Account Number 10-370-0200, Powell Bill DOT Reimbursement is increased from $29,150 to $49,150.

l. General Fund Revenues, Account Number 10-392-1000, Sale of Real Estate is increased from $9,953 to $11,953.

m. General Fund Revenues, Account Number 10-392-1100, Sale of Surplus Equipment is increased from $15,169 to $18,169.

n. General Fund Revenues, Account Number 10-342-1300, National Night Out Revenue is increased from $1,450 to $2,800.

o. General Fund Revenues, Account Number 10-399-0000, Fund Balance Appropriated is increased from $472,989 to $481,783.

WATER AND SEWER FUND

a. Water and Sewer Fund Revenues, Account Number 30-337-0000, Reimbursement - Septic is increased from $9,000 to $14,015.

b. Water and Sewer Fund Revenues, Account Number 30-372-0000, Cut on Fees – Late Penalties is increased from $75,000 to $80,000.

c. Water and Sewer Fund Revenues, Account Number 30-377-0400, County Reimbursement – Sugar Hill Road is decreased from $18,700 to $-0-.

d. Water and Sewer Fund Revenues, Account Number 30-299-0000, Fund Balance Appropriated is increased from $296,565 to $305,250.

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INTERNAL SERVICE FUND

a. Internal Service Fund Revenues, Account Number 35-391-1000, Sales to Water & Sewer Fund, is increased from $50,000 to $60,000.

b. Internal Service Fund Expenditures, Account Number 35-660-3300, Inventory Purchases, is increased from $175,000 to $185,000.

CAPITAL RESERVE FUND

a. Capital Reserve Fund Revenues, Account Number 75-371-0000, McDowell County – South Garden Street Parking Revenue, is increased from $-0- to $12,500.

b. Capital Reserve Fund Revenues, Account Number 75-399-0000, Fund Balance Appropriated - GF, is decreased from $453,000 to $440,500.

WATER AND SEWER CAPITAL PROJECTS FUND

a. Water and Sewer Capital Projects Fund Expenses, Automated Meter Reader Project, Meter Reader Expense, Account Number 31-171-0100, is increased from $900,000 to $902,706.

b. Water and Sewer Capital Projects Fund Revenues, Automated Meter Reader Project, Interest Income - Meters, Account Number 31-361-0000, is increased from $-0- to $2,895.

c. Water and Sewer Capital Projects Fund Revenues/Expenses, Automated Meter Reader Project, Transfer To/From Water & Sewer - Meters, Account Number 31-385-0500, is increased from $-0- to $189.

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 16th day of June 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–09–06–16–11

C. Adopt Resolution Authorizing Acceptance of American Recovery and Restoration Act Grant and Loan for Wastewater Improvements Project:

RESOLUTION

ACCEPTANCE OF AMERICAN RECOVERY AND REIVESTMENT ACT OF 2009 LOAN ASSISTANCE FROM THE CLEAN WATER STATE REVOLVING FUND

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

WHEREAS, the North Carolina Department of Environment and Natural Resources has offered a State Revolving Loan in the amount of $2,601,364 for the construction of the Corpening Creek WWTP Improvements, and

WHEREAS, the City of Marion intends to construct said project in accordance with the approved plans and specifications,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Marion does hereby accept the State Revolving Loan offer of $2,601,364.

AA.00000389 (24)

That the City of Marion does hereby give assurance to the North Carolina Department of Environment and Natural Resources that all items specified in the loan offer, Section II - Assurances will be adhered to.

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

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

ADOPTED this the 16th day of June 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Resolution Number: R-09-06-16-2

D. Approve Personnel Policy Amendment

City of Marion
Personnel Policy Amendment

The Personnel Policy of the City of Marion, as adopted on February 21, 2006, is hereby amended as follows:

Section 1. That Article VI, Work Conditions and Expectations, Section 11. Controlled Substances, Random Testing is amended by deleting the first paragraph in its entirety and replacing it with the following:

> Random testing will be done on a percentage basis in a fair and equal manner for employees with DOT-required CDL positions and all safety-sensitive positions such as Public Safety employees and volunteers.

Section 2. This amendment shall become shall become effective on July 1, 2009.

Adopted this the 16th day of June 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Policy Number: P-09-06-16-1

E. Adopt Resolution Directing the Clerk to Investigate a Petition for Satellite Annexation – Forsythe Street/Freeman Property

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-58.1 – FREEMAN/FORSYTHE STREET - 2009

WHEREAS, a petition requesting annexation of the non-contiguous 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;

AA.00000390 (24)

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 contiguous area described herein will be held at City Hall at 7:00 P.M. on Tuesday, July 21, 2009.

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

BEGINNING at a point at the southeastern corner of Lot 4671 Block 02 on the McDowell County Tax Map 1712.13; thence following the southern boundary of said Lot 4671 118 feet in a westerly direction to a point, said point being the southwestern corner of said Lot 4671; thence following the western boundary of said Lot 4671 44.8 feet in a northerly direction to a point, said point being the northwestern corner of said Lot 4671; thence following the northern boundary of said Lot 4671 120 feet in an easterly direction to a point, said point being the northeastern corner of said Lot 4671; thence following the eastern boundary of said Lot 4671 60 feet in a southerly direction to the point of BEGINNING.

Section 3. Notice of the public hearing shall be published once 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 the 16th day of June, 2009.

A. Everette Clark,
Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-09-06-16-3

F. Receive Certificate of Sufficiency – Forsythe Street/Freeman property Satellite Annexation

CERTIFICATE OF SUFFICIENCY – FREEMAN PROPERTY/FORSYTHE STREET - 2009

To the City Council of the City of Marion:

I, J. Robert Boyette, City Clerk, do hereby certify that I have 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-58.1.

In witness whereof, I have hereunto set my hand and affixed the seal of the City of Marion this the 16th day of June, 2009.

(Seal)

J. Robert Boyette, City Clerk

G. Adopt Resolution Fixing the Date of Public Hearing

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-58.1 – FREEMAN/FORSYTHE STREET - 2009

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

AA.000000391 (24)

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 contiguous area described herein will be held at City Hall at 7:00 P.M. on Tuesday, July 21, 2009.

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

BEGINNING at a point at the southeastern corner of Lot 4671 Block 02 on the McDowell County Tax Map 1712.13; thence following the southern boundary of said Lot 4671 118 feet in a westerly direction to a point, said point being the southwestern corner of said Lot 4671; thence following the western boundary of said Lot 4671 44.8 feet in a northerly direction to a point, said point being the northwestern corner of said Lot 4671; thence following the northern boundary of said Lot 4671 120 feet in an easterly direction to a point, said point being the northeastern corner of said Lot 4671; thence following the eastern boundary of said Lot 4671 60 feet in a southerly direction to the point of BEGINNING.

Section 3. Notice of the public hearing shall be published once 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 the 16th day of June, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-09-06-16-3

SPECIAL PRESENTATION BY MAYOR AND CITY COUNCIL: The City Manager advised that in the summer of 1969, many exciting things happened. The first ATM machine was installed, the first moon landing occurred, The Woodstock Music Festival was held in Upstate New York, Wal-Mart was incorporated and the Miracle Mets won the World Series. Most importantly, on June 19, 2009, Jim Neal joined the Marion Fire Department.

The City Manager stated that, according to research, it appears that Jim is the first person to reach 40 years of service with the City of Marion in any capacity. He noted that the first 33 years of service were with no pay, as Jim served as a volunteer. The City Manager stated that Jim has served for the past seven years as Fire Chief after retiring from the insurance industry.

City Council members, family members, friends and active and retired members of the Fire Department all shared kind words about Jim Neal.

Mayor Clark stated that the City did not have to worry about the Fire Department with Jim Neal serving as Chief. He appreciates all the years of service and cannot say thanks enough.

Mayor Clark presented Jim with a 40 year service Pin. Jim's wife Diane pinned it on him.

Mayor Clark then presented Jim with a plaque that read as follows:

AA.000000392 (24)

Presented with Admiration to
Chief Jim Neal
In Appreciation and Recognition of
40 Years of Service to the City of Marion
Fire Department
While Always Exercising
"Courage Under Fire"
Presented this 16th day of June, 2009
By
Mayor A. Everette Clark and
Marion City Council Members

Mayor Clark also presented Jim with a bronze medallion.

Jim stated that he was most surprised and honored with all the kind words, however, the honors do not go to one person, they belong to all the fine people with whom he has served. Jim stated that the biggest portion of this honor belongs to the Chiefs under whom he served, including Glen Laughridge, Arthur Edwards and Tom Milligan.

PUBLIC HEARING ADOPTION OF 2009-10 BUDGET ORDINANCE: Mayor Clark opened the Public Hearing.

The City Manager advised that this public hearing is required on the proposed 2009-10 City Budget. The proposed budget totals $9,507,219 which represents a decrease of 9.90 percent, or $1,044,256, over the amended 2008-09 budget and a decrease of 4.12 percent, or $408,049, over the original 2008-09 budget. The City Manager stated that the budget did not propose a tax increase for the 42nd consecutive year.. He advised that six positions had been eliminated in the budget and that City employees would receive no cost of living raise. The City Manager stated that, at the May 28 Budget Workshop, Council directed no changes to the proposed budget.

Councilman Owenby asked that the City Manager explain the six positions that had been eliminated.

The City Manager stated that these were positions that are vacant and not being filled.

Councilman Martin stated that he was glad to hear that no one has lost their job.

The City Manager stated that there have been no layoffs thus far, other than one that took place a few months ago with a planned reduction in water meter reading staff, and that he hoped that the proposed budget could be implemented without any layoffs. He added that the City hoped to receive a COPS grant to retain two police officer positions, the receipt of which would ensure no layoffs.

Councilman Cuthbertson stated that he had been on Council for sixteen years and this is the first time there had been no raises for City employees.

Mayor Clark closed the Public Hearing.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, those members of Council present voted to adopt the following Ordinance adopting the 2009-10 City of Marion Budget as follows:

BUDGET ORDINANCE

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

AA.000000393 (24)

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, 2009 and ending June 30, 2010 in accordance with the chart of accounts heretofore established by the City:

Administration	$ 402,886
Purchasing and Warehousing	34,424
Inspection	212,986
Police	1,693,249
Fire	423,592
Public Works Administration	96,295
Fleet Maintenance	64,513
Street	757,901
Powell Bill	182,666
Sanitation	522,333
Recreation	103,800
Cemetery	28,350
Non-Departmental	546,874
Total	**$ 5,069,869**

Section 2. It is estimated that the following revenues will be available in the General Fund for the fiscal year beginning July 1, 2009 and ending June 30, 2010:

Prior Year's Taxes	$ 90,400
Vehicle Tax-Collected by County	147,700
Current Taxes	1,654,600
Tax Penalties & Interest	25,000
Privilege License Sales	26,000
Peddler's Permit	120
Interest Earned	55,000
Powell Bill Interest Earned	600
Rents and Concessions	46,000
Misc. Revenues	1,050
Drink Commissions	1,500
Bad Check Fees	150
P/D Ser Copies Fingerprints	750
Refunds/ Reimbursements	1,200
Utilities Franchise Tax	520,000
Beer/Wine Revenue	34,000
Powell Bill Allocation	182,666
Sales Tax Distribution	1,094,000
ABC Revenues	165,000
ABC Officer Revenues	6,750
Court Costs, Fees & Charges	3,000
Parking Violations	7,500
County Fire Protection	220,000
State Fire Protection Reimbursement	2,700
Recycling Bin Deposit	200
Cemetery	6,000
DOT Reimbursement Grass Mowing	1,850
Garbage Fees	143,000
Zoning Income - Inspection Fees	24,000
Sale of Garbage/Leaf/Recycling Bags	500
Cable TV Revenues	80,000
Sales of Surplus Equipment	8,000
McDowell County Schools	23,166
JAG Grant	19,177
Wellness Grant	1,750
Mountain Glory Revenues	20,000
County Recycling Contribution	2,250
Solid Waste Disposal Tax	4,000
Fund Balance	450,290
TOTAL	$5,069,869

Section 3. The following amounts are hereby appropriated in the Capital Reserve Fund – General for the fiscal year beginning July 1, 2009 and ending June 30, 2010:

AA.000000394 (24)

Reserve for Future Appropriations	$ 515,918
TOTAL	**$ 515,918**

Section 4. It is estimated that the following revenues will be available in the Capital Reserve Fund – General for the fiscal year beginning July 1, 2009 and ending June 30, 2010:

Fund Balance Appropriated	$ 465,418
Transfer from General Fund	32,000
Interest on Investments	18,500
TOTAL	**$ 515,918**

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, 2009 and ending on June 30, 2010 in accordance with the accounts heretofore approved for the City:

Utility Line Operation	$ 1,325,905
Water Filter Plant	626,671
Waste Treatment Plant	1,007,688
Non-Departmental	524,835
TOTAL	**$ 3,485,099**

Section 6. It is estimated that the following revenues will be available in the Water / Sewer Fund for the fiscal year beginning July 1, 2009 and ending June 30, 2010:

Fund Balance	$ 132,967	
Interest Earned	8,000	
Miscellaneous Income	1,020	
Bad Check Fees	2,000	
Time Payment Interest	1,200	
Fire Protection Taps	2,500	
Transfer Fee	1,200	
Reimbursement – Septic	8,900	Reimbursement - Pump Stations
	1,500	
Owner Temporary Sales	860	
Water Sales	1,055,000	
Water Sales – Nebo	48,000	
Cut on Fees/Late Penalties	80,000	
Sewer Service	660,000	
Water Taps	100,000	
Sewer Taps	50,000	
Delinquent Accounts Collected	500	
Tank Truck Charges	1,200	
Water Service Charge	864,000	
Sewer Service Charge	431,000	
		County Reimbursement – 221N
	14,252	
County Payment – Nebo Maintenance	21,000	
TOTAL	**$ 3,485,099**	

Section 7. The following amounts are hereby appropriated in the Capital Reserve Fund – Water/Sewer for the fiscal year beginning July 1, 2009 and ending June 30, 2010:

Reserve for Future Appropriations:	$ 249,650
TOTAL	**$ 249,650**

Section 8. It is estimated that the following revenues will be available in the Capital Reserve Fund – Water/Sewer for the fiscal year beginning July 1, 2009 and ending June 30, 2010:

Fund Balance Appropriated	$ 244,650
Interest on Investments	5,000

AA.000000395 (24)

TOTAL	**$ 249,650**

Section 9. The following amounts are hereby appropriated in the Internal Service Fund for the fiscal year beginning July 1, 2009 and ending June 30, 2010:

Inventory (Supplies)	$ 180,000
Salaries and benefits	38,683
TOTAL	**$ 218,683**

Section 10. It is estimated that the following revenues will be available in the Internal Service Fund for the fiscal year beginning July 1, 2009 and ending June 30, 2010:

Purchase by Other Funds	$ 195,000
Fund Balance Appropriated	23,683
TOTAL	**$ 218,683**

Section 11. There is hereby levied a tax at the rate of fifty-one ($ .51) per one hundred ($100) valuation of property as listed for taxes as of January 1, 2009 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 $ 347,099,970 and estimated rate of collection of
94%.

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 16th day of June, 2009

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–09–06–16–1

PUBLIC HEARING – ZONING MAP AMENDMENT – NORTH MAIN STREET: Mayor Clark opened the Public Hearing.

AA.000000396 (24)

The property is located at 1450 and 1460 N. Main St with the Parcel Identification Number (PIN) 1702.03-12-9903.

The existing use of the property is residential. Based on the McDowell County Property Record Card, the property is approximately 0.54 acres.

The property is surrounded by commercial uses. The proposed zoning district is shown as follows:

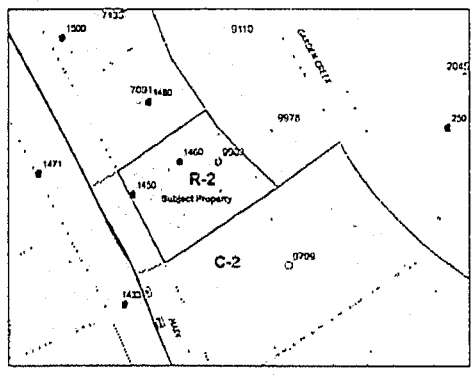


Figure One: Current Zoning

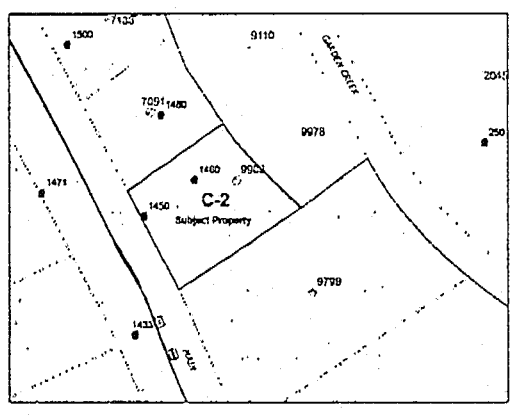


Figure Two: Proposed Zoning

Ms. Cotton stated that the applicant proposes to zone the area to the C-2 General Business Zoning District. The purpose of the C-2 General Business Zoning District is to provide for general and commercial activity along major thoroughfares and at other convenient points in the City. Regulations are designed to preserve the traffic carrying capacity of the streets and to provide for off-street parking. It is not the intent of this district to encourage extensive strip commercial development, but rather to provide concentrations of general commercial activities.

The property is located in close proximity to downtown and is located along a major commercial thoroughfare. The area surrounding the subject property has been commercial for many years.

The request is consistent with the current comprehensive plan and is not anticipated to change in future revisions.

Staff finds that the proposed rezoning will not have a negative impact on the surrounding area and is consistent with surrounding uses and recommends the zoning district designation from R-2 General residential to C-2 General Business.

Ms. Cotton advised that the Planning Board voted unanimously at their meeting on June 4 to recommend the approval of this request.

There were no citizens present to discuss this item.

Mayor Clark closed the Public Hearing.

Upon a motion by Owenby, seconded by Councilman Martin, those members of Council present voted to adopt the following Ordinance amending the zoning district designation for this property from R-2 General Residential to C-2 General Business:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE

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

AA.000000397 (24)

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map for property located 1450 and 1460 North Main St, and having the PIN 1702.03-12-9903 from the R-2 General Residential Zoning District to the C-2 General Business Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing on June 4, 2009.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective upon its adoption.

Adopted this the 16th day of June 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

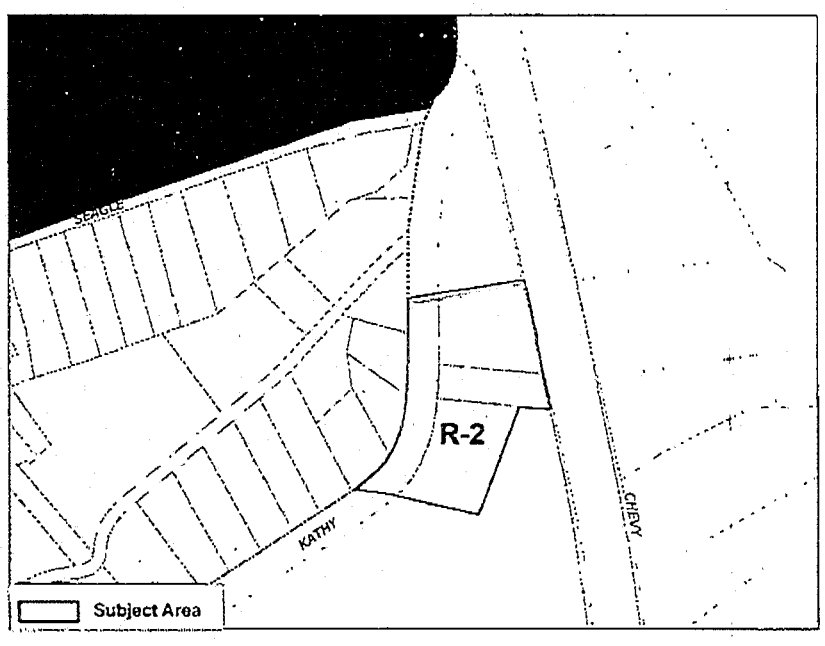
Ordinance Number: O-09-06-16-2

PUBLIC HEARING – ZONING MAP AMENDMENT – ASSIGN ZONING TO EASTFIELD PHASE 4 ANNEXATION AREA: Mayor Clark opened the Public Hearing.

Planning and Development Director Heather Cotton advised that on April 7, 2009, City Council adopted Ordinance No. O-09-04-07-1 extending the corporate limits of Marion to include the Eastfield Phase IV Annexation Area. The annexation will become effective on June 30, 2009.

Ms. Cotton advised that the purpose of this ordinance is to assign appropriate zoning designations to the annexation area that are most compatible with the existing uses within the area and to provide a mechanism to regulate such uses. Based on Marion City Code, the Eastfield Phase IV Annexation Area is most compatible with Section 21-202, *R-2 General Residential* zoning district. The R-2 General Residential Zoning District is established as a district where the principal use of land is for residential purposes. The Eastfield Phase IV area is approximately 2.28 acres in size consisting of 3 lots, which are used for single-family residential purposes.

Ms. Cotton advised that the Planning Board voted unanimously at their meeting on June 4 to recommend the approval of this request.



There were no citizens present to discuss this item.

Mayor Clark closed the Public Hearing.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby those members of Council present voted to adopt the following Ordinance to assign R-2 General

AA.00000398 (24)

Residential zoning to the Eastfield Phase IV Annexation Area:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
EASTFIELD PHASE IV

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to include Eastfield Phase IV Annexation Territory, as adopted by City Council on April 7, 2009 Ordinance Number O-09-04-07-1, zoning the area as R-2 General Residential Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing on June 4, 2009.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective June 30, 2009.

Adopted this the 16th day of June 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-09-06-16-3

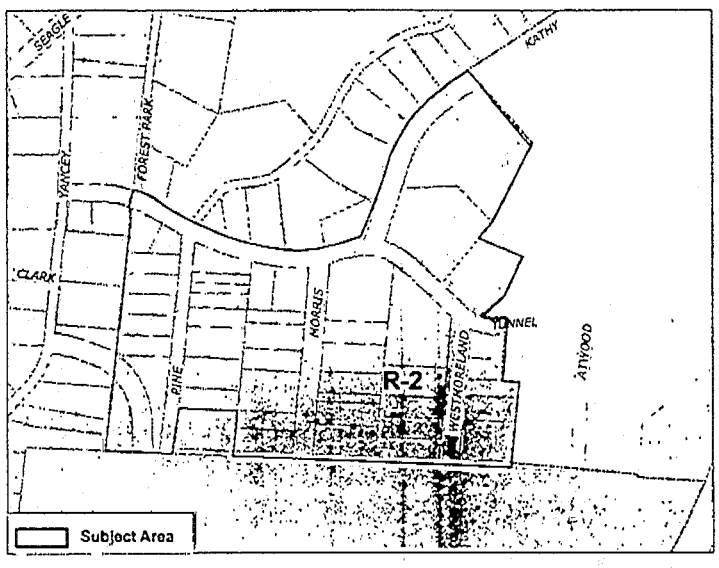
PUBLIC HEARING – ZONING MAP AMENDMENT – ASSIGN ZONING TO EASTFIELD PHASE 5 ANNEXATION AREA: Mayor Clark opened the Public Hearing.

Mayor Pro Tem Little arrived during the discussion of this item.

Planning and Development Director Heather Cotton advised that on April 7, 2009, City Council adopted Ordinance No. O-09-04-07-2 extending the corporate limits of Marion to include the Eastfield Phase V Annexation Area. The annexation will become effective on June 30, 2009.

The purpose of this ordinance is to assign appropriate zoning designations to the annexation area that are most compatible with the existing uses within the area and to provide a mechanism to regulate such uses. Based on Marion City Code, the Eastfield Phase V Annexation Area is most compatible with Section 21-202, *R-2 General Residential* zoning district. The R-2 General Residential Zoning District is established as a district where the principal use of land is for residential purposes. The Eastfield Phase V area is approximately 15.77 acres in size consisting of 31 lots, which are used for a mixture of residential land uses.

AA.000000399 (24)



Ms. Cotton advised that the Planning Board voted unanimously at their meeting on June 4 to recommend the approval of this request.

There were no citizens present to discuss this item.

Mayor Clark Closed the public hearing.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, Council voted unanimously to adopt the following Ordinance assigning R-2 General Residential to the Eastfield Phase V Annexation area:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
EASTFIELD PHASE V

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to include Eastfield Phase V Annexation Territory, as adopted by City Council on April 7, 2009 Ordinance Number O-09-04-07-2, zoning the area as R-2 General Residential Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing on June 4, 2009.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective June 30, 2009.

Adopted this the 16th day of June 2009.

A. Everette Clark, Mayor

AA.000000400 (24)

ATTEST:

J. Robert Boyette, City Manager/Clerk

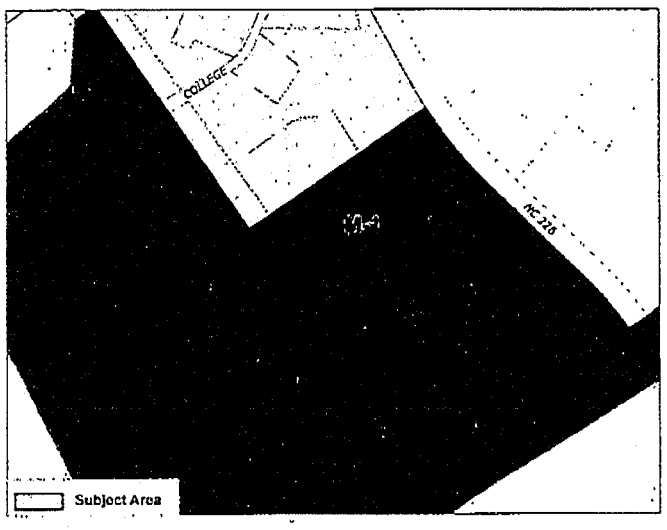
Ordinance Number: O-09-06-16-4

PUBLIC HEARING ZONING MAP AMENDMENT – ASSIGN ZONING TO HIGHWAY 226 SOUTH/ITL ANNEXATION AREA: Mayor Clark opened the Public Hearing.

Planning and Development Director Heather Cotton advised that on April 7, 2009, City Council adopted Ordinance No. O-09-04-07-3 extending the corporate limits of Marion to include the Highway 226 South - ITL Annexation Area. The annexation will become effective on June 30, 2009.

The purpose of this ordinance is to assign appropriate zoning designations to the annexation area that are most compatible with the existing uses within the area and to provide a mechanism to regulate such uses. Based on Marion City Code, the Highway 226 South - ITL Annexation Area is most compatible with Section 21-206, *M-1 Industrial Zoning District* zoning district. The M-1 Industrial Zoning District is established as a district where the principal use of land is for industrial and manufacturing purposes. The Highway 226 South - ITL area is one lot approximately 10.96 acres in size, which is being utilized for industrial purposes by Industrial Timber & Land Company.

Ms. Cotton advised that the Planning Board voted unanimously at their meeting on June 4 to recommend the approval of this request.



There were no citizens present to discuss this item.

Mayor Clark Closed the Public Hearing

Upon a motion by Councilman Owenby, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Ordinance assigning M-1 Industrial zoning to the Highway 226 South/ITL Annexation Area:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
ITL – HIGHWAY 226 SOUTH

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

AA.00000401 (24)

Section 2: The City of Marion is amending the Official Zoning District Map to include ITL –Highway 226 South Annexation Territory, as adopted by City Council on April 7, 2009 Ordinance Number O-09-04-07-3, zoning the area as M-1 Industrial Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing on June 4, 2009.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective June 30, 2009.

Adopted this the 16th day of June 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

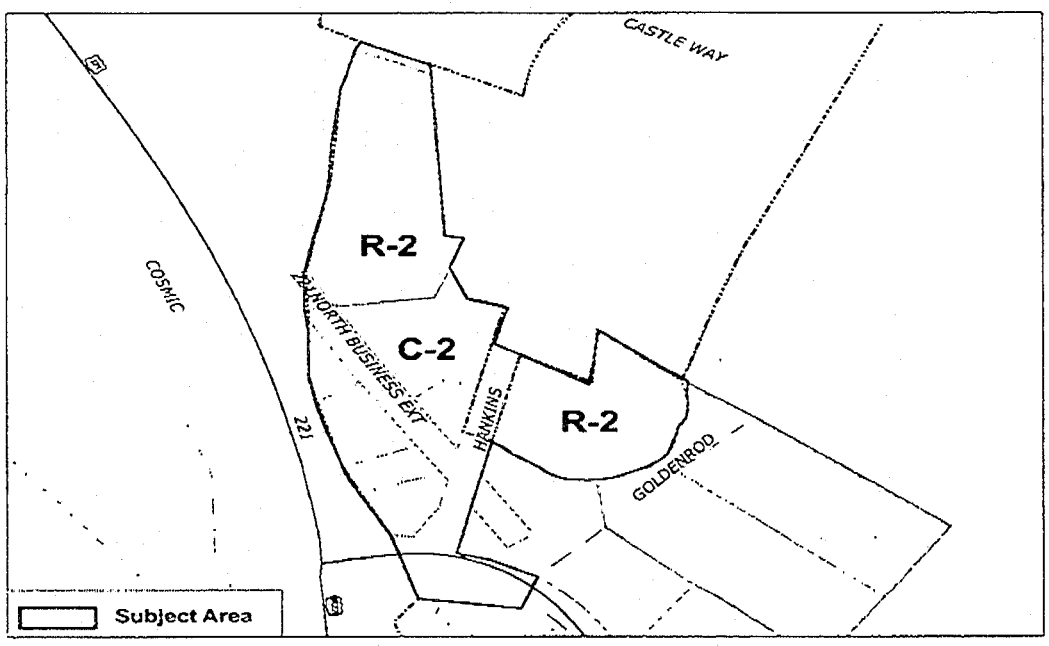
Ordinance Number: O-09-06-16-5

PUBLIC HEARING ZONING MAP AMENDMENT – ASSIGN ZONING TO HIGHWAY 221 NORTH/HANKINS AREA: Mayor Clark opened the Public Hearing.

Planning and Development Director Heather Cotton advised that on April 7, 2009, City Council adopted Ordinance No. O-09-04-07-4 extending the corporate limits of Marion to include the Highway 221 North – Hankins Road Annexation Area. The annexation will become effective on June 30, 2009.

The purpose of this ordinance is to assign appropriate zoning designations to the annexation area that are most compatible with the existing uses within the area and to provide a mechanism to regulate such uses. Based on the Marion City Code, the Highway 221 North – Hankins Road Annexation Area is most compatible with Section 21-202, *R-2 General Residential and C-2 General Business* zoning districts. The R-2 General Residential Zoning District is established as a district where the principal use of land is for residential purposes. Approximately 2.35 acres of the annexation area consists of 2 lots being utilized for residential purposes. In addition, there is one large parcel that is being used for non-commercial purposes as a church. The proposed zoning designation for these areas is R-2 General Residential. The remaining parcels that border Highway 221 North are primarily used for commercial purposes, and as such Staff is recommending that these parcels be designated as C-2 General Business.

AA.00000402 (24)



Ms. Cotton advised that the Planning Board voted unanimously at their meeting on June 4 to recommend the approval of this request.

There were no citizens present to discuss this item.

Mayor Clark closed the Public Hearing.

Upon a motion by Councilman Mayor Pro Little, seconded by Councilman Martin, Council voted unanimously to adopt the following Ordinance to assign R-2 General Residential and C-2 General Business zoning to the Highway 221 North/Hankins Road Annexation Area:

ORDINANCE
AMENDING APPENDIX A ZONING
MARION CITY CODE
HIGHWAY 221 NORTH – HANKINS ROAD

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to include Highway 221 North – Hankins Road Annexation Territory, as adopted by City Council on May 20, 2008 Ordinance Number O-09-04-07-4, zoning the area as R-2 General Residential Zoning District and C-2 General Business as further identified on the map attached hereto as Exhibit A.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing on June 4, 2009.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective June 30, 2009.

Adopted this the 16th day of June 2009.

A. Everette Clark, Mayor

AA.00000403 (24)

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-09-06-16-6

PUBLIC HEARING ZONING MAP AMENDMENT – ASSIGN ZONING TO YANCEY ROAD ANNEXATION AREA: Mayor Clark opened the Public Hearing.

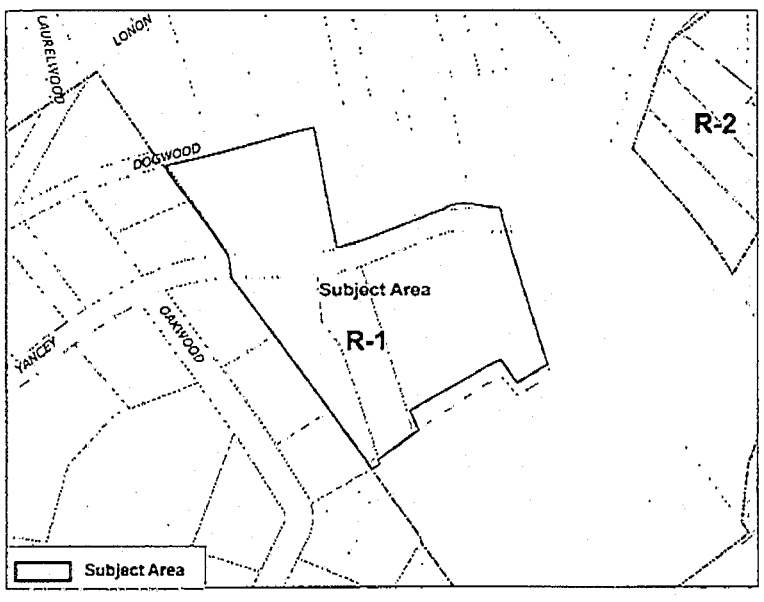
Planning and Development Director Heather Cotton advised that on April 7, 2009, City Council adopted Ordinance No. O-09-04-07-5 extending the corporate limits of Marion to include the Yancey Road Annexation Area. The annexation will become effective on June 30, 2009.

The purpose of this ordinance is to assign appropriate zoning designations to the annexation area that are most compatible with the existing uses within the area and to provide a mechanism to regulate such uses. Based on Marion City Code, the Yancey Road Annexation Area is most compatible with Section 21-202, *R-1 Single Family Residential* zoning district. The R-1 Single-Family Residential Zoning District is established as a district where the principal use of land is for one residential unit per lot. The annexation area is approximately 3.87 acres in size consisting of 4 lots, which are used for single-family residential purposes.

Ms. Cotton advised that the Planning Board voted unanimously at their meeting on June 4 to recommend the approval of this request. She advised that a property owner in the annexation area specifically requested the R-1 zoning designation.

There were no citizens present to discuss this item.

Mayor Clark closed the Public Hearing.



Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, Council voted unanimously to adopt the following Ordinance assigning R-1 Single Family Residential zoning to the Yancey Road Area:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
YANCEY ROAD

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

AA.0000000404 (24)

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-09-06-16-6

PUBLIC HEARING ZONING MAP AMENDMENT – ASSIGN ZONING TO YANCEY ROAD ANNEXATION AREA: Mayor Clark opened the Public Hearing.

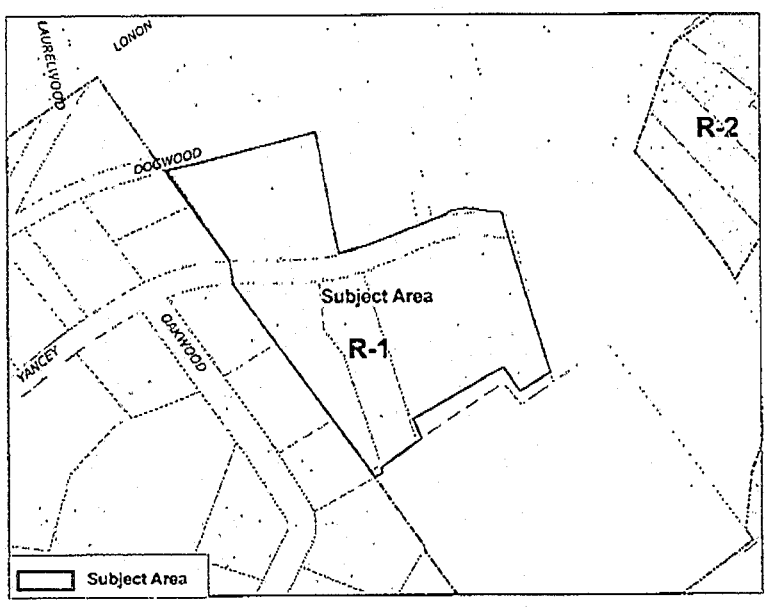
Planning and Development Director Heather Cotton advised that on April 7, 2009, City Council adopted Ordinance No. O-09-04-07-5 extending the corporate limits of Marion to include the Yancey Road Annexation Area. The annexation will become effective on June 30, 2009.

The purpose of this ordinance is to assign appropriate zoning designations to the annexation area that are most compatible with the existing uses within the area and to provide a mechanism to regulate such uses. Based on Marion City Code, the Yancey Road Annexation Area is most compatible with Section 21-202, *R-1 Single Family Residential* zoning district. The R-1 Single-Family Residential Zoning District is established as a district where the principal use of land is for one residential unit per lot. The annexation area is approximately 3.87 acres in size consisting of 4 lots, which are used for single-family residential purposes.

Ms. Cotton advised that the Planning Board voted unanimously at their meeting on June 4 to recommend the approval of this request. She advised that a property owner in the annexation area specifically requested the R-1 zoning designation.

There were no citizens present to discuss this item.

Mayor Clark closed the Public Hearing.



Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, Council voted unanimously to adopt the following Ordinance assigning R-1 Single Family Residential zoning to the Yancey Road Area:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
YANCEY ROAD

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

AA.000000405 (24)

Section 2: The City of Marion is amending the Official Zoning District Map to include Yancey Road Annexation Territory, as adopted by City Council on April 7, 2009 Ordinance Number O-09-04-07-5, zoning the area as R-1 Single-Family Residential Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing on June 4, 2009.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective June 30, 2009.

Adopted this the 16th day of June 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

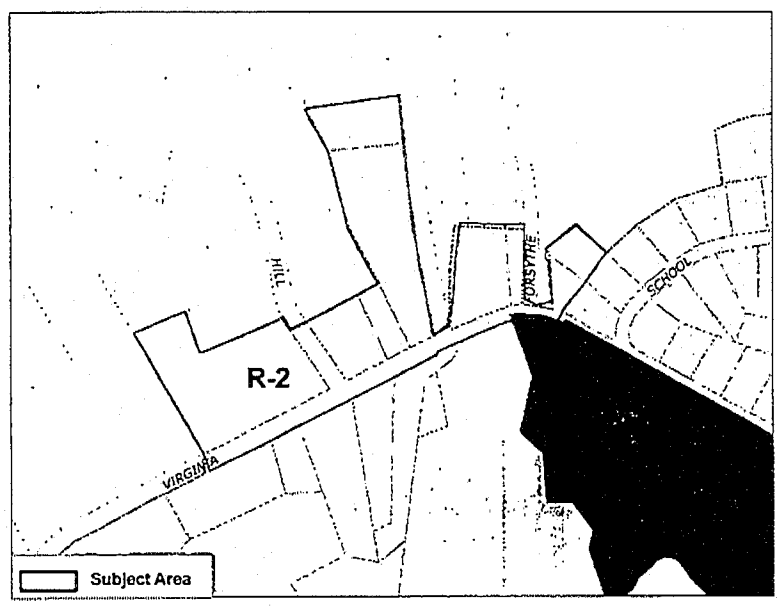
Ordinance Number: O-09-06-16-7

PUBLIC HEARING – ZONING MAP AMENDMENT – ASSIGN ZONING TO VIRGINIA ROAD ANNEXATION AREA: Mayor Clark opened the Public Hearing.

Planning and Development Director Heather Cotton advised that on April 7, 2009, City Council adopted Ordinance No. O-09-04-07-6 extending the corporate limits of Marion to include the Virginia Road Annexation Area. The annexation will become effective on June 30, 2009.

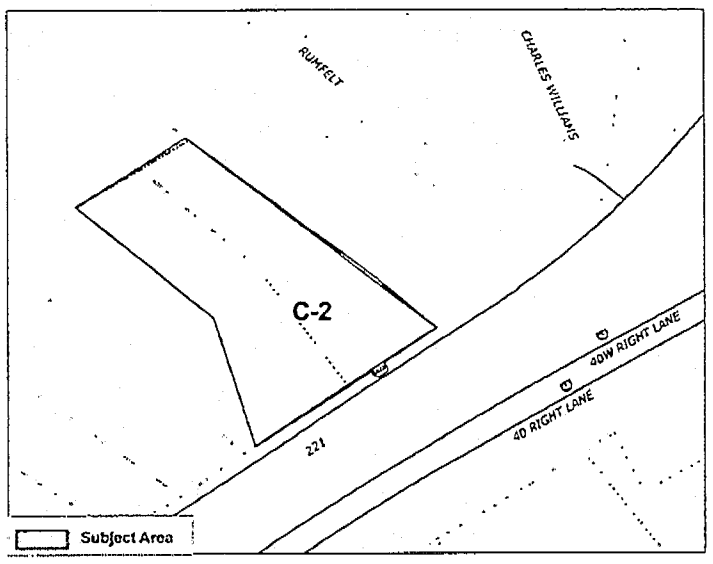
The purpose of this ordinance is to assign appropriate zoning designations to the annexation area that are most compatible with the existing uses within the area and to provide a mechanism to regulate such uses. Based on the Marion City Code, the Virginia Road Annexation Area is most compatible with Section 21-202, *R-2 General Residential* zoning district. The R-2 General Residential Zoning District is established as a district where the principal use of land is for residential purposes. The annexation area is approximately 4.75 acres in size consisting of 9 lots, which are used primarily for residential purposes.

Ms. Cotton advised that the Planning Board voted unanimously at their meeting on June 4 to recommend the approval of this request.



Based on Marion City Code, the Hampton Inn Annexation Area is most compatible with Section 21-205, *C-2 General Business* zoning district. The C-2 General Business Zoning District is established as a district where the principal use of land is for highway commercial purposes. The Hampton Inn is two parcels approximately 11.96 acres in size, which are being utilized for commercial purposes by the Hampton Inn.

Ms. Cotton advised that the Planning Board voted unanimously at their meeting on June 4 to recommend the approval of this request.



Mayor Pro Tem Little commented that the annexation of the Hampton Inn was expected years ago and that he was glad to see the property finally come in the City.

Upon a motion by Mayor Pro Tem, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Ordinance assigning C-2 General Business zoning to the Riverview Holdings/US 221 South/Hampton Inn Annexation Area:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
HAMPTON INN/HIGHWAY 221 SOUTH

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to include the Highway 221 South/Hampton Inn Annexation Territory, as adopted by City Council on May 19, 2009 Ordinance Number O-09-05-19-1, zoning the area as M-1 Industrial Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing on June 4, 2009.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective June 30, 2009.

Adopted this the 16th day of June 2009.

A. Everette Clark, Mayor

AA.000000407 (24)

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-09-06-16-9

PRESENTATION BY ABC BOARD: The City Manager advised that the ABC Board has requested permission to talk to Council regarding the idea of a second store. ABC Board Chairman Jim Isaacs advised that the ABC Board has studied the idea of a second store for some time and had recommended that a second store be built on US 221 North. ABC Board Member Robert Ayers provided details on the site, which is owned by Mr. Allen Gurley, and the proposed building. Mr. Ayers stated that Mr. Gurley would construct the building and the ABC Board would lease from Mr. Gurley. He added that Mr. Gurley will want a minimum five year lease.

Mr. Isaacs presented financial projections on the anticipated revenues and expenditures from a second store, based on a projected 20 percent or 50 percent increase in sales. The City Manager asked if these projections included the possible impact of a new ABC store in Spruce Pine. Mr. Isaacs stated that the projections did not account for the possible reduction of sales related to the new Spruce Pine store, since the amount of such an impact was unknown. The City Manager stated that the 2009-10 City budget called for a 25 percent reduction in ABC revenues due to the new Spruce Pine ABC store.

Mr. Isaacs stated that the current ABC Store on East Court Street has been in the same location since April 1984. The building is owned by the ABC Board and there is no debt attached to the property.

Plans and drawings were presented to Council for review and discussion. Mr. Ayers stated that a new store would take about four months to construct and be up and running.

Mr. Isaacs stated that the ABC Store is in desperate need of warehouse storage. The present store also has no loading dock. Mr. Isaacs stated that the ABC Board feels that a second store on US 221 North will increase business by capturing tourist sales. He added that the ABC Board wants to keep the current store and have Mr. Eugene Pittman manage both stores.

Mayor Pro Tem Little asked if the ABC Board had been able to make reasonable thoughts about what the new ABC store in Spruce Pine would do to the proposed location of this second store.

Mr. Ayers stated that the ABC Board does not feel that the new Spruce Pine ABC store would affect sales at the US 221 North location that much.

Councilman Cuthbertson stated that he had heard some rumblings in the General Assembly about allowing liquor sales in private stores, which would greatly hurt municipal revenues.

Mr. Ayers stated that such proposals are introduced in the General Assembly but always result in massive opposition from local governments. He added that if the second store is not built, the ABC Board will be forced to spend a lot of money on the present location.

Mayor Clark stated that there is a lot of uncertainty with this proposal. If a new store is built and sales do not go as well as projected, the ABC Board is left holding a lease and City revenues will suffer, something the City can ill afford at this time. Mayor Clark asked if the ABC Board had thought about closing the old store and keeping the new one if sales do not increase as projected.

Mr. Ayers stated that such an idea was indeed a possibility.

Mr. Ayers added that it would cost approximately $75,000 to stock the new store and the NC laws do not allow liquor to be used as collateral.

AA.000000408 (24)

Mayor Clark asked what the best guesstimate would be on how a second store would affect revenues for the City of Marion.

The City Manager stated that what the Spruce Pine ABC store does to City ABC revenues is anyone's guess. He estimated that it would take increased sales of 30 to 50 percent, depending on the effect of Spruce Pine ABC store, for the City to retain the estimated amount of ABC revenues for 2009-10.

Mayor Clark stated that when Spruce Pine opens they will have regular customers; therefore, it may be best for Marion to try to move ahead with the new store and get customers.

Mr. Eugene Pittman stated that the Spruce Pine ABC Store should be open in August, so there is no way the new Marion store can beat this schedule.

Mayor Pro Tem Little stated that now is the time to move forward. He advised that there will be lots of uncertainties over the next five years but, all things considered, he is in favor of proceeding.

Mayor Clark stated that often times this type of venture is a gamble.

Mayor Pro Tem Little stated that he has the utmost confidence in the four gentlemen here tonight representing the ABC Board and respects their recommendations.

The City Manager stated he firmly believed that the second ABC store will pay off long term. However, he expressed concern about the short term impact on the City budget if sales fall short of projections. The City Manager cautioned that the 2009-10 City budget has been cut as much as possible and that if ABC revenues fall short over the next few years, the losses will likely have to be taken from General Fund reserves.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to authorize the ABC Board to proceed with a second store, as recommended.

Details will continue to be worked out by the ABC Board and City staff.

The revenue and expenditure projections for the second store, as presented by Mr. Isaacs, are as follows:

AA.000000409 (24)

MARION ABC BOARD
Projected Info Re: Addition of Second Store

	20% Increase	50% Increase
Sales-Reg. Sales	$ 2,177,273	$ 2,721,590
LBD Sales	177,114	177,114
Mixer Sales	9,885	12,350
Less: Sales Based Taxes	(479,940)	(594,668)
Net Sales	1,884,332	2,316,386
Cost Of Goods Sold	(1,285,114)	(1,579,775)
Gross Profit	599,218	736,611
Operating Expenses	(472,732)	(486,990)
Interest Expense	(6,000)	(6,000)
Income From Operations	120,486	243,621
Interest Income	8,300	8,300
Income Before Distributions	128,786	251,921
Law Enforcement & Alchohol Rehab Distributions	(25,875)	(27,050)
Net Income Before Dist. Of Profits To City	$ 102,911	$ 224,871

PRESENTATION OF CERTIFICATE FROM N.C. RURAL CENTER – COMPLETION OF N.C. STEP PROGRAM: Mayor Clark recognized Marion Business Association Executive Director Ms. Freddie Killough.

Ms. Killough presented Council with a certificate that had been received from the Rural Center, marking the City's completion of the initial three years of the N.C. STEP Program. Ms. Killough stated that the City's work with the N.C. STEP Program will continue with the completion of implementation projects and assistance from interns.

The certificate read as follows:

AA.000000410 (24)

The City of
Marion
is hereby awarded this
Certificate of Appreciation
for outstanding partnership in the
North Carolina Small Towns
Economic Prosperity Program
and Commitment to a bright future
for all of Rural North Carolina

May 5, 2009 ---------- Date

Billy Ray Hall ---------- President

Mayor Clark thanked Ms. Killough and all the others who have assisted with this project. Ms. Killough credited Planning and Development Director Heather Cotton and other staff and volunteers for their hard work with the N.C. STEP Program project.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

APPROVAL OF WATER AND SEWER RATE AND TAP FEE ORDINANCE:

The City Manager stated that the proposed Water and Sewer Rate and Tap Fee Ordinance provides for a six percent rate increase in all service categories, effective with the August 1, 2009 billing (reflecting July usage). This is the fourth year of a five year six percent rate increase instituted by Council in 2006. Revenue from the new rates was included in the 2009-10 budget which was approved by Council earlier in the agenda.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Ordinance establishing water/sewer rates, connection fees, cost recovery charges and other miscellaneous charges.

ORDINANCE
ESTABLISHING WATER/SEWER RATES, CONNECTION
FEES, COST RECOVERY CHARGES AND OTHER MISCELLANEOUS CHARGES

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

Section 1. That new water/sewer rates, connection (tap fees) fees, cost recovery charges and other miscellaneous charges are hereby established as follows:

	INSIDE CITY	**OUTSIDE CITY**
Water Rates:	**$2.01 per 1,000 Gallons, plus $11.38 Service Charge per month**	**$5.04 per 1,000 Gallons, plus $28.43 Service Charge per month**
Minimum Rate for 2,000 gallons or less	**$12.66**	**$31.65**
Master Meter Rate	**$2.01 per 1,000 Gallons, plus $9.08 Service Charge per Month**	**$5.04 per 1,000 Gallons, plus $22.70 Service Charge per month**

AA.0000000411 (24)

Master Meter Minimum Rate for 2,000 gallons Or less (per unit served)	**$10.34**	**$25.84**
	INSIDE CITY	**OUTSIDE CITY**
Sewer Rates:	**$2.01 per 1,000 Gallons, plus $11.38 Service Charge per month**	**$5.04 per 1,000 Gallons, plus $28.43 Service Charge per month**
Minimum Rate for 2,000 gallons or less	**$12.66**	**$31.65**
Master Meter Rate	**$2.01 per 1,000 Gallons, plus $9.08 Service Charge per month**	**$5.04 per 1,000 Gallons, plus $22.70 Service Charge per month**

Master Meter Minimum Rate for 2,000 gallons Or less (per unit served)	**$10.34**	**$25.84**
	INSIDE CITY	**OUTSIDE CITY**
Metered Sewer Rates for Private Wells	**$2.91 per 1,000 Gallons, plus $11.38 Service Charge per month**	**$7.27 per 1,000 Gallons, plus $28.43 Service Charge per month**

Important Notices:

All sewer charges are based on water meter readings, unless a sewer metering device approved by the City has been installed.

When more than one unit is served by a Master Meter, such as a mobile home park, shopping center or apartment complex, the monthly service charge is $10.34 for water and $10.34 for sewer in the City, and $25.84 for water and $25.84 for sewer outside the City, whether said units are occupied or not.

A residence using a private well, with no water meter, shall pay a flat rate of $31.65 per month per residential unit for sewer service, if located outside the City Limits. If the residence using a private well, with no water meter, is located inside the City Limits, a flat rate of $12.67 per month per residential unit shall be charged for sewer service.

WATER SERVICE CONNECTION FEES (TAP FEES) AND COST RECOVERY CHARGES (CRC):

WATER METER SIZE	INSIDE CITY TAP FEE	INSIDE CITY CRC CHARGE	OUTSIDE CITY TAP FEE	OUTSIDE CITY CRC CHARGE
¾"	$ 540	$ 540	$ 1,350	$ 1,350
1"	630	1,620	1,575	4,050
1 ½"	1,260	3,240	3,150	8,100
2"	1,440	6,480	3,600	16,200
3"	3,060	12,960	7,650	32,400
4"	3,690	22,500	9,225	56,250
6"	5,940	54,000	14,850	135,000
8"	8,100	67,500	20,250	168,750

AA.00000412 (24)

10"	10,800	90,000	27,000	225,000
12"	14,400	112,500	36,000	281,250

Tap Fees (Domestic Water Service):
The Charge listed for a ¾" domestic water service includes the cost of a back-flow preventor required by the City.

The charge to add a ¾" back-flow preventor to an existing domestic service is as follows:

INSIDE CITY	OUTSIDE CITY
$ 10.00	$ 20.00

CHARGES FOR CONNECTIONS FOR FIRE PROTECTION/SPRINKLER LINES IN RESIDENTIAL AND/OR COMMERCIAL DEVELOPMENTS

SIZE SERVICE	INSIDE CITY	OUTSIDE CITY
2" SERVICE	$ 1,100	$ 2,750
3" SERVICE	2,800	7,000
4" SERVICE	3,200	8,000
6" SERVICE	4,400	11,000
8" SERVICE	6,000	15,000
10" SERVICE	8,200	20,500
12" SERVICE	11,600	29,000

CHARGES FOR CONNECTIONS FOR FIRE PROTECTION/SPRINKLER LINES IN RESIDENTIAL AND/OR COMMERCIAL DEVELOPMENTS-continued:

All connections to the city water system shall be equipped with a proper check-valve and/or back-flow preventor approved by the city public works director or city engineer prior to installation. It shall be the responsibility of the owner to have the approved check-valve or back-flow preventor installed. In addition, the owner of all properties connected to the city water system and using water for other than domestic services, shall submit a letter to the city water department on or before the first day of July each year certifying that the check-valve and/or back-flow preventor has been checked and is operating properly.

SEWER SERVICE CONNECTION FEES (TAP FEES) AND COST RECOVERY CHARGES (CRC):

WATER

METER SIZE	INSIDE CITY TAP FEE	INSIDE CITY CRC CHARGE	OUTSIDE CITY TAP FEE	OUTSIDE CITY CRC CHARGE
¾"	$ 1,080	$ 360	$ 2,700	$ 900
1"	1,170	1,080	2,925	2,700
1 ½"	1,260	2,160	3,150	5,400
2"	1,350	3,600	3,375	9,000
3"	1,440	7,200	3,600	18,000
4"	1,530	10,800	3,825	27,000
6"	1,620	22,500	4,050	56,250
8"	1,710	36,090	4,275	90,225
10"	1,800	51,840	4,500	129,600
12"	1,890	69,840	4,725	174,600

	INSIDE CITY	OUTSIDE CITY
RELOCATE WATER/ SEWER CONNECTION, (OWNERS REQUEST)	AT COST	COST PLUS 10%
INCREASE METER SIZE	DIFFERENCE IN TAP FEE AND COST RECOVERY CHARGES FOR WATER/SEWER	DIFFERENCE IN TAP FEE AND COST RECOVERY CHARGES FOR WATER/SEWER

AA.0000000413 (24)

DEPOSIT AND/OR PREPAYMENT FOR NEW ACCOUNTS:

RESIDENTIAL ACCOUNTS

	INSIDE CITY	OUTSIDE CITY
WATER DEPOSIT	$ 30.00	$ 60.00
SEWER DEPOSIT	$ 30.00	$ 60.00

In cases where an existing residential water and/or sewer customer has been a water and/or sewer customer of the city of Marion for a period of no less than five consecutive years, and has made no late payments in the previous twelve months, and moves to another location on the city's water and/or sewer system, the following procedure shall apply:

Any increase in the deposit required to be paid to bring the customer's deposit up to the current level listed above may be paid in three equal installments, to be added to the customer's first three water and/or sewer bills in the new location. If the customer fails to make any of the required payments, their service may be cut off pursuant to city policy.

COMMERCIAL, INDUSTRIAL AND MASTER METER ACCOUNTS

The water and/or sewer deposit for commercial, industrial, and master meter accounts shall be an amount equal to the average monthly charge for water and/or sewer service, but not less than the residential deposits. The initial deposits for commercial, industrial and master meter accounts shall be as follows:

INSIDE CITY

	WATER	SEWER	WATER AND SEWER
FAST FOOD/PIZZA RESTAURANTS	$100.00	$100.00	$ 200.00
OTHER RESTAURANTS (WITH SEATING)	$150.00	$150.00	$ 300.00
GROCERY STORES	$150.00	$150.00	$ 300.00
APARTMENT COMPLEXES (MASTER METER)	$150.00	$150.00	$ 300.00
CAR WASHES	$150.00	$150.00	$ 300.00
LAUNDRIES	$200.00	$200.00	$ 400.00

COMMERCIAL, INDUSTRIAL AND MASTER METER ACCOUNTS-continued:

INSIDE CITY

	WATER	SEWER	WATER AND SEWER
NURSING/FAMILY CARE HOMES	$200.00	$200.00	$ 400.00
INDUSTRY (50 OR MORE EMPLOYEES)	$500.00	$500.00	$1,000.00
INDUSTRY (LESS THAN 50 EMPLOYEES)	$200.00	$200.00	$ 400.00
OTHER MASTER METER ACCOUNTS	$100.00	$100.00	$ 200.00
GENERAL BUSINESS	$ 50.00	$ 50.00	$ 100.00

OUTSIDE CITY

	WATER	SEWER	WATER AND SEWER
FAST FOOD/PIZZA RESTAURANTS	$ 200.00	$ 200.00	$ 400.00
OTHER RESTAURANTS			

AA.00000414 (24)

(WITH SEATING)	**$ 300.00**	**$ 300.00**	**$ 600.00**
GROCERY STORES	**$ 300.00**	**$ 300.00**	**$ 600.00**
APARTMENT... COMPLEXES (MASTER METER)	**$ 300.00**	**$ 300.00**	**$ 600.00**
CAR WASHES	**$ 300.00**	**$ 300.00**	**$ 600.00**
LAUNDRIES	**$ 400.00**	**$ 400.00**	**$ 800.00**
NURSING/FAMILY CARE HOMES	**$ 400.00**	**$ 400.00**	**$ 800.00**
INDUSTRY (50 OR MORE EMPLOYEES)	**$1,000.00**	**$1,000.00**	**$2,000.00**
INDUSTRY (LESS THAN 50 EMPLOYEES)	**$ 400.00**	**$ 400.00**	**$ 800.00**
OTHER MASTER METER ACCOUNTS	**$ 200.00**	**$ 200.00**	**$ 400.00**
GENERAL BUSINESS	**$ 100.00**	**$ 100.00**	**$ 200.00**

COMMERCIAL, INDUSTRIAL AND MASTER METER ACCOUNTS-continued:

The city manager shall determine the appropriate deposit for any commercial, industrial or master meter customer not listed in the preceding schedule. At the end of six months of service, the city will determine the average use by averaging the three highest months. The customer will be billed for any additional amount for the proper deposit. If the amount is not received in thirty days, the utility bill will be increased each month for twelve consecutive months until the proper deposit has been received. If the average monthly deposit is lower than the amount the city has received from the initial deposit, the city will credit the water account of the customer for the amount of the difference in the initial deposit and the average monthly bill.

OTHER MISCELLANEOUS CHARGES

	INSIDE CITY	**OUTSIDE CITY**
CUT – OFF FEES:		
1 - 3 OCCURANCES	**$ 15.00**	**$ 15.00**
4 - 10 OCCURANCES	**$ 25.00**	**$ 25.00**
OVER 10 OCCURANCES	**$ 50.00**	**$ 50.00**
RECONNECT SERVICE SUMMER/SEASONAL RESIDENT	**$ 15.00**	**$ 37.50**
TEMPORARY SERVICE (SEVEN OR LESS DAYS)	**$ 15.00 PLUS ACTUAL WATER USAGE**	**$ 37.50 PLUS ACTUAL WATER USAGE**
TRANSFER EXISTING ACCOUNT TO NEW ADDRESS	**UPGRADE TO PROPER DEPOSIT (IF DEPOSIT IS ADEQUATE) CHARGE $ 15.00 TRANSFER FEE**	
METER TAMPERING:		
1ST OFFENSE	**$ 100.00**	**$ 100.00**
2ND OFFENSE	**$ 200.00**	**$ 200.00**
3RD OFFENSE	**$ 500.00**	**$ 500.00**

OTHER MISCELLANEOUS CHARGES-continued:

	INSIDE CITY	**OUTSIDE CITY**
RETURNED CHECK SERVICE CHARGE	**$ 25.00 OR 10% OF CHECK, WHICHEVER IS GREATER**	**$ 25.00 OR 10% OF CHECK, WHICHEVER IS GREATER**

AA.00000415 (24)

BANK DRAFT CUSTOMER – CHARGE FOR CLOSED ACCOUNT	**$ 25.00**	**$ 25.00**
CUSTOMERS REQUEST TO CHECK WATER METER FOR ACCURACY ¾" AND 1" METERS	**$ 25.00**	**$ 25.00**
LARGER METERS	**AT COST**	**AT COST**
DETERMINATION OF FLOW AND SERVICE CAPABILITIES	**AT COST**	**AT COST**

Section 2. The Ordinance adopted on November 18th, 2008 is rescinded upon the effective date of this Ordinance.

Section 3. All other ordinances, in conflict with this ordinance, are rescinded upon the effective date this ordinance.

Section 4. This Ordinance shall become effective July 1, 2009

ADOPTED this the 16th day of June, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-09-06-16-10

ADOPT RESOLUTION AUTHORIZING FINAL SALE OF CITY PROPERTY ON WEST GRAYSON STREET: The City Manager advised that at the May 19 Council meeting, Council adopted a resolution accepting the offer of Mr. and Mrs. Steptoe to purchase a 0.28 acre parcel owned by the City on West Grayson Street for $500, subject to upset bid. After receiving the required five percent bid deposit from Mr. and Mrs. Steptoe, the City published notice in the McDowell News of the proposed sale on June 2 that interested persons had ten days to submit an upset bid.

The City Manager advised that no upset bids had been received; therefore, Council could adopt a resolution authorizing the final sale of the property to Mr. and Mrs. Steptoe.

Upon a motion by Councilman Martin, seconded by Councilman Owenby, Council voted unanimously to adopt the following Resolution Authorizing Final Acceptance of the Offer to Purchase Certain Property Owned by the City of Marion:

Resolution Authorizing Final Acceptance of Offer to Purchase Certain Property Owned by the City of Marion After Solicitation of Upset Bids

WHEREAS, N.C.G.S. 160A-269 authorizes a city to convey by negotiated offer and upset bid any real or personal property; and

WHEREAS, Mr. and Mrs. Michael Steptoe have submitted a bid in the amount of $500 for the purchase of approximately 0.28 acres of City property located on West Grayson Street (McDowell County Parcel Identification Number 1701.14-22-5595); and

WHEREAS, the City Council of the City of Marion adopted a resolution on May 19, 2009, in accordance with N.C.G.S. 160A-269, accepting the offer of Mr. and Mrs. Steptoe to purchase the property, as described below, for a sum of $500; and

AA.000000416 (24)

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion received a five percent bid deposit from Mr. and Mrs. Steptoe; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion, on June 2, 2009, caused notice of the proposed sale of the property, as described below, to be published in The McDowell News; and

WHEREAS, the City of Marion has completed the ten day upset bid period required by N.C.G.S. 160A-269, without the receipt of any upset bids; and

WHEREAS, the City Council of the City of Marion desires to complete the sale of the property described below to Mr. and Mrs. Steptoe.

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

1. The parcel owned by the City of Marion on West Grayson Street (McDowell County Parcel Identification Number 1701.14-22-5595) that is approximately 0.28 acres in size is hereby declared to be surplus to the needs of the City of Marion.

2. The City Council accepts the offer of Mr. and Mrs. Michael Steptoe to purchase the above described property for $500 and directs the City Manager to proceed with the sale of said property, as authorized by N.C.G.S. 160A-269.

3. All notices to the buyer shall indicate that the buyer is purchasing the property subject to any outstanding taxes or other liens affecting the property.

Adopted this the 16th day of June, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-09-06-16-4

CONSIDER APPROVAL OF INTERLOCAL AGREEMENT WITH MCDOWELL COUNTY – SALES TAX DISTRIBUTION: The City Manager advised that as previously discussed, the County Commissioners have proposed the attached Interlocal Agreement to govern the distribution of sales tax within the County for the next five years. Under the agreement, the City will lose $250,000 in sales tax revenues in 2009-10 and $50,000 more each year for the next four years. The Commissioners reserve the right to revisit the agreement after the third year. The City Manager stated that, in addition, the Town of Old Fort will receive their distribution first, essentially out of the City's share, increasing the total sales tax loss per year for the City by an estimated $25,000 - $30,000 per year. The agreement contains no unrelated issues, such as the Nebo water system or the Skate Park.

The Commissioners were scheduled to approve this agreement at their June 8 meeting. The City Manager advised that he would recommend approval of this agreement, so that the City will have some certainty regarding sales tax revenues for at least the next three years.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, Council voted unanimously to adopt the following Interlocal Agreement concerning matters related to the distribution of Sales Tax as follows:

Interlocal Agreement
City of Marion and
McDowell County

Concerning Matters Related to the Distribution of Sales Tax

AA.00000417 (24)

This Interlocal Agreement is entered into within the context of the County of McDowell (County) and the City of Marion (City) working together, cooperatively, to promote projects and activities that are in the best interest of all city and county residents and within the financial ability of each entity.

WHEREAS, North Carolina General Statute GS 105-472 provides two formulas for sales tax distribution between a County and its municipalities. The methods are either on a Per Capita formula or an Ad Valorem formula. The Board of Commissioners annually choose the formula, and

WHEREAS, for several decades the County has used the Per Capita method for distributing a portion of sales tax revenue to the City, and

WHEREAS, since July 1, 2008, the Ad Valorem method has been used to distribute a portion of sales tax revenue to the City, and

WHEREAS, to help replace the substantial reduction in sales tax revenue to the City, the County has agreed to distribute certain revenue to the City as part of this Agreement, and

WHEREAS, the City and County agree to seek ways they can cooperate on goals and projects that are to the ultimate advantage of all residents of McDowell County, which include those who are residents of the City of Marion, within the context of adequate financial ability, and

WHEREAS, this Interlocal Agreement outlines a process for the County and City to accomplish these goals.

NOW, THEREFORE BE IT RESOLVED AS FOLLOWS:

The County will distribute sales tax to the City of Marion using the following formula.

1. The higher amount of sales tax that the City would have received under the Per Capita method is calculated. This calculation exempts any other municipality.
2. The lower amount of sales tax that the City will receive under the Ad Valorem method is calculated by the Department of Revenue.
3. The lower amount is subtracted from the higher amount to produce the difference between these two amounts. The Town of Old Fort is not a party to this Agreement and will receive their allocation as provided by G.S. 105-472.
4. $250,000 is then subtracted from the difference and this $250,000 is retained by the County to offset the annexation of the Marion Correctional Facility. This annexation resulted in an approximate amount of $160,000 shift in sales tax revenue from the County to the City.
5. The resulting amount will be distributed to the City in four quarterly installments during the fiscal year.
6. The $250,000 retained by the County will be increased by $50,000 annually for the five years of this Agreement.

Other Issues

1. This Interlocal Agreement will have a term of five years, beginning July 1, 2009 and ending June 30, 2014.

2. This Interlocal Agreement will be reviewed after the third year by the Board of Commissioners and the amount of sales tax retained by the County will be evaluated and can be adjusted within the legal context of G.S. 105-472.

Adopted, this the _____ day of _____, 2009 by the McDowell County Board of Commissioners and the _____ day of _____, 2009 by the Marion City Council.

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first above written.

COUNTY OF McDOWELL, NORTH CAROLINA

By:_____
County Commission, Chairman

(SEAL)
Attest
By:_____
McDowell County Clerk

AA.000000418 (24)

CITY OF MARION, NORTH CAROLINA

By: _____
Mayor of the City of Marion

By: _____
City Clerk

This Agreement has been preaudited by the City and County in the manner required by the Local Government Budget and Fiscal Control Act.

By:_____ By:_____

APPROVE PURCHASE OF PROPERTY FROM NCDOT AT SUGAR HILL ROAD AND MEADOW DRIVE: The City Manager stated that, as previously discussed, the City will need to construct a wastewater pump station at the intersection of Sugar Hill Road and Meadow Drive on property owned by the North Carolina Department of Transportation, as part of the Sugar Hill Road water and sewer extension. NCDOT has proposed selling the City this 0.34 acre property for $5,900. This property has a tax value of $10,500. The City Manager stated that he would recommend Council approval of the purchase of the property for this project.

A discussion followed.

Upon a motion by Councilman Cuthbertson, seconded by Mayor Pro Tem Little, Council voted unanimously to adopt the following Agreement to Purchase property owned by the North Carolina Department of Transportation at the corner of Sugar Hill Road and Meadow Drive, in the amount of $5,900, said property to be used to construct a wastewater pump station.

AGREEMENT TO PURCHASE

COUNTY OF McDowell I.W.O F0128 DATE: June 3, 2009
CLAIM OF NCDOT PARCEL 031

I, the undersigned agree to pay to the Department of Transportation the sum of $ 5,900.00 for the portion of the lands formerly owned by Leslie E. Hensley

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(The bidder's attention is directed to the fact that the State of North Carolina does not warrant title to lands. It will be the responsibility of the buyer to satisfy himself as to the title to the property involved. The buyer should also examine the property carefully inasmuch as it is his responsibility, through survey or otherwise, to satisfy himself on the area of land being offered for sale. The purchaser also agrees to accept title to the property subject to any outstanding liens, taxes or other assessments.)

I attach hereto my certified or cashier's check in the amount of $ 590.00 , which I understand will be returned to me if I am not the successful bidder. (If bid is $ 500.00 or less, full amount of purchase price must accompany bid. If more than $500.00, a deposit of $500.00 or 10% of bid, whichever is larger, is required. In the event I am the successful bidder, I further agree that I will, promptly upon request, furnish the Department o Transportation a certified or cashier's check in the same amount in exchange for my personal check which will be returned to me, and agree that the certified or cashier's check will be credited against the purchase price of the property. Upon delivery to me of the deed from the State of North Carolina, I will promptly pay any balance due to certified or cashier's check. Should my bid be accepted by the Department and I cannot complete the purchase of the property within a reasonable period of time, I hereby agree to forfeit my deposit and I will have no further claim against the Department.

It is my understanding, in placing the bid on this property, that the sale of the subject land must be approved by the Council of Sate of the State of North Carolina, and that there could be a delay of several months in confirming the sale and delivering the deed.

AA.00000419 (24)

It is requested that the following names be placed on the Deed:

City of Marion

SIGNATURE OF BIDDER

A. Everette Clark, Mayor
Address: City of Marion

RECOMMEND ACCEPTANCE

BY:_____

P.O. Drawer 700, Marion NC 28752

Telephone #: (828)652-3551

BID FORM - SALE OF REAL PROPERTY FRM 14-AA

DISCUSS EXTENSION OF FIRE CONTRACT WITH GLENWOOD FIRE DEPARTMENT: The City Manager advised that Council briefly discussed at the May 28 Budget Workshop the idea of extending the contract with Glenwood Fire Department for service to Marion Correctional Institution. The current agreement, first approved for five years in 2003, and then for one year in 2008, calls for Glenwood to retain State Fire Protection funds for the prison (about $18,000 per year). The current agreement with Glenwood expires on June 30, so Council direction is needed.

A discussion followed.

Mayor Clark stated that he would recommend leaving the agreement as is for one more year and then work toward the City and Glenwood Fire Department splitting the State money in the future, since both fire departments would respond to a fire at the Prison.

Councilman Martin questioned if the gain of $9,000 per year for the City would be worth the possible ill will that might be generated with the Glenwood Fire Department.

Mayor Pro Tem Little suggested working toward a 50-50 split of the State revenue between the City and the Glenwood Fire Department over several years.

Councilman Cuthbertson suggested extending the current agreement for one year and discussing the future distribution of the State money in the next year, perhaps at the next City Council Planning Session.

Upon a motion by Councilman Cuthbertson, seconded by Mayor Pro Tem Little, Council voted unanimously to approve the following contract with the Glenwood Fire Department, extending the contract for fire service to Marion Correctional Institution for one year, and for City Council to discuss the future distribution of the State Fire Protection revenues for Marion Correctional Institution further at the next Planning Session and over the next 12 months:

STATE OF NORTH CAROLINA

COUNTY OF MCDOWELL

CONTRACT FOR FIRE SUPPRESSION SERVICES

THIS CONTRACT is made this _____ day of _____, 2009, by and between the City of Marion, a municipal corporation (hereinafter referred to as "City") and the Glenwood Volunteer Fire Department, a North Carolina non-profit corporation and a duly organized rural fire department (hereinafter referred to as "Department").

W I T N E S S E T H :

WHEREAS, by an ordinance adopted June 17, 2003, the City annexed the area described in Exhibit "A" attached hereto (herein "Service Area"), which ordinance became effective on June 30, 2003; and

AA.00000420 (24)

WHEREAS, the City wishes to minimize the impact of the annexation upon the Department and still provide satisfactory service to the areas as prescribed by State law; and

WHEREAS, pursuant to North Carolina General Statute § 160A-37.1, the City and Department have the statutory authority to enter into a fire contract where the Department will provide fire protection services for the Service Area;

NOW, THEREFORE, in consideration of the premises and the mutual promises set forth herein, and for other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the City and the Department hereby agree to this contract for provision of fire protection services to the Service Area, according to the following terms and conditions:

1. SERVICE RESPONSIBILITY – FIRE SUPPRESSION SERVICE

The Department shall regularly serve as the first responding provider of fire suppression service to the Service Area with the minimum of the following: two firefighters with a fire truck capable of pumping at a rate of at least one thousand (1000) gallons per minute and carrying at least one thousand (1000) gallons of water. The Department's units and personnel, together with those of the City's Fire Department, shall both be routinely dispatched by the McDowell County Emergency Communications Center to all fire emergencies. The Department's services shall be in accordance with the minimum standards set forth by the North Carolina Department of Insurance/ Office of the State Fire Marshal.

It shall be the responsibility of the Department to equip and train its firefighters in a manner consistent with applicable regulations of the Occupational Safety and Health Administration of the U. S. Department of Labor. The Fire Department shall maintain Workmen's Compensation Insurance applicable to all fire department personnel regardless of status, at least to the extent required by law.

It shall be the duty of the Department to maintain adequate communications equipment to allow efficient and professional dispatching of emergency calls.

Notwithstanding the obligation of the Department to initiate fire and emergency services when its units arrive first at the scene as provided hereinabove, the primary fire and emergency service responsibility within the service area shall always remain with the City's Fire Department.

The City and the Department hereby acknowledge that each party may relocate its own vehicles and equipment based on emergency requirements, but that long term or permanent changes of a nature that substantially change the ability to deliver service as intended by the City and the Department are maters on which the City and the Department representatives must confer and reach mutual agreement.

2. SERVICE RESPONSIBILITY – MUTUAL AID AND ASSISTANCE

In addition to other services provided for herein, the Department and the City's Fire Department will provide mutual aid and assistance, including backup equipment and personnel, in those cases where assistance from another department is necessary to adequately respond to large fires or other exceptional emergencies or disasters in the Service Area.

3. COMPENSATION FOR SERVICES

The Department will be compensated for fire, rescue and emergency medical response by retaining any funds paid by the State of North Carolina for fire protection to the Service Area. The Department acknowledges that State funding is subject to cuts or elimination, and that the City will not be held liable for any revenue losses resulting from cuts in or elimination of State funding. The Department further acknowledges that under no circumstances will any payment for services be made by the City. Further, the funds shall not be used for subcontracting of primary and additional services provided for herein.

4. MAINTENANCE

The Department shall be responsible for continuing its customary equipment maintenance activities and shall immediately advise the City if the condition of the equipment or lack of equipment will interfere with the Department's ability to respond to the service area. The Department is to keep at least the minimum equipment as listed by The North Carolina Department of Insurance/Office of State Fire Marshal at no additional cost to the City and shall strive to keep above minimum equipment standards.

5. RESPONSE

AA.0000000421 (24)

In providing support to the City's Fire Department, the Department's response shall continue to be immediate and in the most professional manner possible. Response times shall be consistent with present response times of the Department in the annexed area.

6. TERM

The term of this Contract shall be for one year and commence on July 1, 2009 and end on June 30, 2010 at midnight.

7. WAIVER OF LIABILITY

The Department agrees to assume full responsibility of its provision of fire suppression services and emergency response services to the annexed area as required hereunder. Each party to this Contract shall assume any and all liability and responsibility for the death or injury to any personnel of their own command providing services hereunder. Neither party hereto shall assume responsibility or liability for property damaged or destroyed at the actual scene of any incident arising out of or related to firefighting and rescue operations, fire control tactics and strategy, emergency response actions or other operations as may be required due to the nature of the incident. Each party to this Contract shall assume all liability and responsibility for damage to its own apparatus and equipment. The execution of this Contract shall not be construed to be an assumption of any liability by either party hereto not otherwise imposed by law, and each party agrees to hold the other harmless and fully indemnify the other in the event in respect of any and all claims, losses and expenses, including reasonable fees and disbursements of counsel (before and at trial, in bankruptcy proceedings and in appellate proceedings), which may be incurred by a party (the "Indemnified Party") arising out of death or injury to personnel or property of the other party ("Indemnifying Party").

Whenever any claim shall arise for indemnification under this Section 7, the Indemnified Party shall notify the party or parties (as the case may be) against whom indemnification is sought (whether one party or more, the "Indemnifying Party") in writing by certified mail of the facts constituting the basis for such claim. Such notice shall specify all facts known to the Indemnified Party giving rise to such indemnification right and the amount or an estimate of the amount of the liability arising therefrom. The right to indemnification hereunder and the amount or the estimated amount thereof, as set forth in such notice, shall be deemed agreed to by the Indemnifying Party unless, within 15 days after the receipt of such notice, the Indemnified Party is notified in writing that the Indemnifying Party disputes the right to indemnification as set forth or estimated in such notice.

If the facts giving rise to any such indemnification right shall involve any actual or threatened claim or demand by any third party against the Indemnified Party or any possible claim by the Indemnified Party against any third party, such claim by or against a third party shall be referred to as a "Third-Party Claim." If the Indemnifying Party gives the Indemnified Party an agreement in writing, in form and substance reasonably satisfactory to counsel to the Indemnified Party, agreeing to indemnify and save the Indemnified Party harmless from all costs and liability arising from any Third-Party Claim, the Indemnifying Party may at its own expense undertake full responsibility for the defense or prosecution of such Third-Party Claim and may contest or settle it on such terms as it may choose. If the Indemnifying Party fails to deliver such an agreement of indemnity to the Indemnified Party, (1) the Indemnifying Party at its own expense may nevertheless participate with the Indemnified Party in the defense or prosecution of the Third-Party Claim and in any and all settlement negotiations relating thereto, and (2) the Indemnified Party may contest or settle the Third-Party Claim on such terms at it may choose, although the Indemnified Party shall not reach a settlement until it has consulted in good faith with the Indemnifying Party. Any such participation shall not relieve the Indemnifying Party of its obligations to indemnify the Indemnified Party under this Section 6. If by reason of any Third-Party Claim a lien, attachment, garnishment or execution is placed upon any of the property or assets of the Indemnified Party, the Indemnifying Party, if it desires to exercise its right to defend or prosecute such suit, shall furnish a satisfactory indemnity bond to obtain the prompt release of such lien, attachment, garnishment or execution.

The Department agrees to maintain adequate liability insurance coverage at all times in an amount not less than $500,000.00 for apparatus and general liability. The Fire Department currently maintains liability insurance coverage in an amount of $1,000,000 dollars and apparatus coverage in an amount of guaranteed replacement cost.

8. NONDISCRIMINATION GUARANTEES

In consideration of the signing of this Contract, the parties hereto for themselves, their agents, officials, employees and servants agree not to discriminate in any manner on the basis of race, color, creed or national origin with reference to the subject matter of this Contract, no matter how remote.

9. TERMINATION

AA.000000422 (24)

This Contract may be terminated unilaterally by either party at the expiration of any contract year, provided that written notice is given to the non-terminating party not less than 180 days in advance of the termination date. For purposes of giving said notice, the Department shall notify the City Manager of the City of Marion; the City shall notify the Chief of the Glenwood Fire Department, or its registered process agent.

10. AMENDMENT

This Contract may be amended by the agreement of both parties, reduced to writing and annexed hereto.

11. AGENT

The Department shall at all times comply with the laws of North Carolina regarding corporations, and shall at all times keep the City advised of the name and address of its registered agent for the service of process.

IN WITNESS WHEREOF, each party has caused this Contract to be executed by its duly authorized official as of the day and year first above written.

ATTEST:

City Manager/Clerk
(official seal)

CITY OF MARION

By: _____
Mayor

GLENWOOD VOLUNTEER FIRE DEPARTMENT

ATTEST:

_____
Secretary
(corporate seal)

By: _____
Fire Chief

****

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL

I, a Notary Public of the County and State aforesaid certify that J. Robert Boyette personally came before me this day and acknowledged that he is the City Manager/Clerk of the City of Marion, 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 and attested by himself as its City Manager/City Clerk.

Witness my hand and notarial seal this ___ day of _____, 2008.

_____
Notary Public
My Commission Expires: _____

****

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL

I, a Notary Public of the County and State aforesaid certify that _____ personally came before me this day and acknowledged that __he is the Secretary of Glenwood Volunteer Fire Department and that by authority duly given and as the act of the corporation the foregoing instrument was signed in its name by its President and attested by ____self as its Secretary.

Witness my hand and notarial seal this ___ day of _____, 2008.

_____
Notary Public
My Commission Expires: _____

Exhibit A - Description of Marion Correctional Institution Property

AA.000000423 (24)

BEGINNING on a planted stone in the old western line, the same being the second corner of tract recorded in Deed Book 420 at page 405, of the McDowell County Deed Registry and runs thence, with said Western line and the line of C. W. Greene (Book 354 at page 142) the following six courses and distances: North 00 degrees 31 minutes 27 seconds E 415.36 feet to an existing iron pin, the third corner of tract recorded in Deed Book 420 at page 405; North 05 degrees 00 minutes 39 seconds East955.65 feet to an existing iron pin; North 05 degrees 00 minutes 39 seconds East 88.99 feet to an existing iron pin set in the Southeast margin of State Road #1794, in the Seaboard Railroad right of way; North 28 degrees 20 minutes 18 seconds East 52.11 feet with said Seaboard Railroad right of way to an iron pin set in said railroad right of way; North 23 degrees 29 minutes 08 seconds East 159.07 feet with said state road and railroad rights of way to an iron pin set; North 18 degrees 17 minutes 22 seconds East 32.67 feet said railroad right of way to an iron pin set; thence with the T. R. Hall line Deed Book 93 at page262), South 83 degrees 35 minutes 12 seconds East 1,585.36 feet to an existing iron pin, the beginning corner of tract recorded in Deed Book 1 at page 293 of said Registry, said corner located, North 10 degrees 43 minutes 40 seconds East 41.30 feet from a double dogwood; thence, crossing the Duke Power Company right of way (Deed Book 180 at page 425), West to East, South 83 degrees 35 minutes 12 seconds East 297.59 feet to an iron pin set in the Northern line of right of way; thence with the Nathan Mason line, North 07 degrees 39 minutes 22 seconds East 726.88 feet passing a nail set in rhodendron at 703.48 feet to a point in the centerline of Youngs Branch; thence with the centerline of said branch the following four courses and distances: South 65 degrees 59 minutes 19 seconds East 128.07 feet to a point; thence South 55 degrees 18 minutes 30 seconds East 124.72 feet to a point; thence South 60 degrees 33 minutes 19 seconds East 122.43 feet to a point; thence South 57 degrees 44 minutes 24 seconds East 71.88 feet to a point; thence leaving said centerline, South 48 degrees 18 minutes 54 seconds West 127.55 feet passing a triple sycamore at 32.55 feet to a point in the centerline of a small branch; thence with small branch centerline and the line of Floyd E. Smith (Deed Book 117 at page 462) the following five courses and distances: South 15 degrees 03 minutes 08 seconds East 63.54 feet to a point; South 37 degrees 47 minutes 44 seconds East 33.57 feet to a point; South 12 degrees 19 minutes 46 seconds East 35.68 feet to a point; South 22 degrees 56 minutes 13 seconds East 91.88 feet to a point; South 17 degrees 29 minutes 50 seconds East 56.59 feet to a point at a pump house; thence, continuing with said Smith tract (Book 117 at page 462 and leaving said creek the following two courses and distances: South 08 degrees 34 minutes 24 seconds East 176.03 feet to a railroad iron; South 87 degrees 52 minutes 04 seconds East 193.80 feet to an iron pin set in the Floyd E. Smith line (Book 167 at page 705) South 07 25 54 West 935.34 feet to a planted stone in a stump hole; thence with said Smith line, South 54 degrees 24 minutes 11 seconds East 261.37 feet to a planted stone reset, the 12th corner of tract recorded in Deed Book 420, at page 405; thence with a new line so as to exclude a 1.41 acre deed lappage with Floyd Smith Deed Book 167 at page 705), South 44 degrees 34 minutes 00 seconds West 934.28 feet to an iron pin set at the base of a 28" pine stump, the 14th corner of tract recorded in Deed Book 420, at page 405; thence with the Patrick Lewis Haney line (Book 348 at page 931), South 62 degrees 24 minutes 29 seconds West 827.82 feet passing a planted stone on line at 530.82 feet to a iron pin set; thence South 07 degrees 24 minutes 29 seconds West 187.38 feet passing an iron pin set on line at 154.35 feet to a point in the centerline of North Muddy Creek; thence with said centerline of said North Muddy Creek the following thirty courses and distances: South 66 degrees 13 minutes 20 seconds West 17.39 feet; South 25 degrees 51 minutes 32 seconds West 34.14 feet; South 26 degrees 13 minutes 58 seconds East 65.17 feet; South 06 degrees 52 minutes 51 seconds East 45.07 feet; South 83 degrees 22 minutes 19 seconds West 45,36 feet; North 52 degrees 51 minutes 25 seconds West 76.94 feet; North 38 degrees 21 minutes 58 seconds West 91.86 feet; North 02 degrees 08 minutes 36 seconds East 44.41 feet; North 17 degrees 50 minutes 20 seconds West 30.21 feet; North 47 degrees 05 minutes 05 seconds West 61.32 feet; North 50 degrees 32 minutes 37 seconds West 108.84 feet; North 40 degrees 42 minutes 35 seconds West 154.90 feet; North 32 degrees 25 minutes 25 seconds West113.85 feet; North 54 degrees 04 minutes 42 seconds West 227.02 feet; North 25 degrees 27 minutes 15 seconds West 68.57 feet; North 21 degrees 07 minutes 58 seconds West 84.37 feet; North 44 degrees 15 minutes 41 seconds West 40.03 feet; North 61 degrees 05 minutes23 seconds West 75.25 feet; North 79 degrees 42 minutes 59 seconds West 37.03 feet; South 58 degrees 22 minutes 58 seconds West 35.83 feet; South 56 degrees 12 minutes 37 seconds West 59.64 feet; South 86 degrees 09 minutes 22 seconds West 41.32 feet; North 69 degrees 43 minutes 48 seconds West 44.68 feet; North 81 degrees 04 minutes 28 seconds West 63.18 feet; North 86 degrees 24 minutes 49 seconds West 117.14 feet; South 84 degrees 14 minutes 25 seconds West 89.51 feet; South 69 degrees 56 minutes 45 seconds West 52.86 feet; North 80 degrees 44 minutes 54 seconds West 33.97 feet; North 49 degrees 10 minutes 42 seconds West 50.88 feet; North 34 degrees 53 minutes 01 seconds West 128.52 feet; thence leaving said centerline of said North Muddy Creek, North 21 degrees 50 seconds 47 seconds East 78.09 feet passing an existing iron pin set on line at 22.15 feet unto the point of the BEGINNING, containing 124.92 acres, more or less, description based on survey revised by R. L. Greene Surveying & Mapping, dated December 5, 1990, License #L-1517.

DISCUSSION – REVISED POLICY ON LOANING OF CITY EQUIPMENT: The City stated that Council had previously adopted a policy strictly defining organizations to which City equipment could be owned. One of the allowances under this policy was for organizations with whom the City has a funding relationship. Since the McDowell Arts Council Association (MACA) will not be funded by the City in 2009-10, the City Manager recommended amending the policy to allow City equipment to be loaned to

AA.00000424 (24)

MACA. He also suggested adding the McDowell Trails Association to the list and advised that the Carson House had recently asked to be allowed to borrow City equipment.

A discussion followed.

Upon a motion by Councilman Cuthbertson, seconded by Mayor Pro Tem Little, Council voted unanimously to revise the policy on loaning of City equipment as follows:

City of Marion
Policy on Loaning of City Equipment

The City of Marion, with the exceptions listed below, strictly prohibits the loaning of City owned supplies or equipment to individuals, businesses, groups or outside agencies. The use of City owned vehicles and equipment by an employee for personal use is also strictly prohibited. With the permission of the City Manager, City owned equipment and supplies such as tables, chairs, the p.a. system and other approved equipment, not to include in any case vehicles or motorized equipment, may be loaned to the following outside agencies:

1. McDowell County
2. Town of Old Fort
3. McDowell County Schools
4. McDowell Technical Community College
5. Marion ABC Board
6. McDowell County Rescue Squad
7. McDowell Arts and Crafts Association
8. McDowell Trails Association
9. Carson House
10. Any non-profit agency with which the City has a funding relationship. As of July 1, 2009, these agencies will be restricted to the Marion Business Association (MBA), the McDowell Chamber of Commerce, the Marion Firefighter's Association and the McDowell Economic Development Association (MEDA).

Prior to any equipment or supplies being loaned under this policy, an employee or representative of the agency borrowing the equipment must sign a statement acknowledging the equipment or supplies that they are borrowing, accepting total responsibility for said equipment or supplies and acknowledging that the agency will immediately pay for any damages sustained by the equipment that is borrowed.

Adopted by the City Council of the City of Marion this the 16th day of June, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Policy Number: P-09-06-16-2

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that Mayor Clark had sent a letter to Coach Williams thanking him for his previous letter granting permission for the City to place historic markers and/or signs indicating that Marion is the birthplace of Coach Williams, said signs to be funded through private funding and not by City funds. The City Manager stated that he would work on designs for the marker and signs for Council to review.

The City Manager gave an overview of the progress on the Farmer's Market structure construction. He advised that the opening date for the market is June 30, only one week later than was originally projected. The City Manager stated that a dedication will be scheduled for the structure on the date and that hopefully North Carolina Rural Center representatives could attend.

AA.000000425 (24)

The City Manager reported that Public Works Director Chris Hollifield is working on a plan for the parking lot, which will preserve the majority of parking spaces in the parking lot and allow people to park under the shelter except when the market is in operation or a special event is being held.

The City Manager also showed a rendering prepared by Planning and Development Director Heather Cotton of a possible sign for the front of the shelter.

The City Manager advised that the City's three interns, Chess Collins, Cole Setzer and Danielle Hagerman, have been working hard the past few weeks on various projects. Mr. Collins, Mr. Setzer and Ms. Hagerman gave brief overviews regarding some of their work.

The City Manager advised that MA Fire District tax increase (to six cents) was recently approved. He said it would be helpful for Council to provide guidance on the advisory board and truck ownership issues. The City Manager stated that these issues can be discussed with the County at the Joint Utility Committee meeting on June 18.

The City Manager stated that the construction of the downtown wireless network installation is completed. All costs should be covered by the N.C. STEP Program grant. The City Manager also advised that staff has studied installing two downtown web cameras. Further information and recommendations will be developed on the exact cost and locations of the cameras.

The City Manager advised that Ronny Turner Construction is moving along with the construction of the force main sewer line that will pump wastewater flow from the Catawba River Wastewater Plant to the Corpening Creek Wastewater Plant. Ronny Turner will also be constructing the pump stations required and deconstructing the Catawba River Plant. Construction is scheduled to continue through October.

Laughlin Sutton Construction will begin work on the Corpening Creek Plant improvements by June 22. This construction will last well into 2010.

The City Manager advised that his final item is delinquent this year, with regards to the Annual Advisory Board/Volunteer Dinner. The City Manager asked if Council wanted to hold the dinner this year. It was the consensus of the Mayor and Council to hold the annual Advisory Board/Volunteer Dinner in August.

COUNCILMAN COMMENTS:

Councilman Mike Edwards advised that he had been contacted by Ms. Mildred Causby of School Street regarding a tree near or own city right of way that appears to be dead and needs attention. He stated that the tree may or may not be on the City right of way.

The City Manager advised that he would find out if the tree is located on City right of way or not and advise Ms. Causby of her options.

Mayor Pro Tem Little advised that the asphalt was breaking up on the Garden Street railroad crossing, due to continued damage from large trucks. The City Manager stated that staff would talk to McDowell Cement about this problem.

Mayor Pro Tem Little stated that he believed that the Garden Creek Road bridge replacement being undertaken by DOT is a total waste of money and a useless project.

Councilman Cuthbertson asked how the renovations at the brick building on the Public Works Department property are coming along.

The City Manager stated that the renovations are going well and may wrap up by the end of the month.

A.A.00000426 (24)

Councilman Cuthbertson asked for an update on the dirt road grading and paving and the street resurfacing project. Public Works Director Chris Hollifield stated that work should begin in the next week or two on the dirt road grading and construction, to be followed by paving and resurfacing in July.

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

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, 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, July 21, 2009 at 7:00 P.M. in the City Council Chamber located at 194 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 out of town.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Harriett Thomas, CPA, Finance Director; Heather Cotton, AICP, Planning and Development Director; Scott Spratt, Police Patrol Commander; Chris Hollifield, Public Works Director; Chessie Collins, Intern; Mike Conley, News Reporter, McDowell News; Wendy McAnally, News Reporter, The News Bulletin.

GUESTS PRESENT:

CONSENT AGENDA: Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, those members of Council present voted to approve the consent agenda as follows:

A. Approval of Minutes – June 2, 2009 Regular City Council Meeting Minutes

B. Adopt Resolution in Support of Increased Freight Rail Hauling Capacity:

RESOLUTION IN SUPPORT OF INCREASED FREIGHT RAIL HAULING CAPACITY

WHEREAS, state and federal transportation officials and others project that United States freight volumes will increase by more than 90 percent over twenty five years;

WHEREAS, the nation's highways are already stretched to capacity;

WHEREAS, the efficient movement of goods is directly related to the strength of the nation's economy and its citizens' quality of life;

WHEREAS, public policies promoting increased investment in freight rail infrastructure would result in increased freight rail hauling capacity;

AA.000000427 (24)

WHEREAS, expansion of freight rail hauling capacity would yield impressive public benefits by relieving worsening congestion, reducing highway costs, providing a critical intermodal link to international trade, and improving air quality and fuel efficiency;

WHEREAS, relatively modest public investments in freight rail infrastructure would yield an impressive return on investment in the form of savings to motorists, businesses, and taxpayers;

WHEREAS, bi-partisan legislation (H.R. 272) was recently introduced in Congress that would create tax incentives to increase investment in freight rail infrastructure;

WHEREAS, this legislation is the type of proposal that the American Association of State Highway and Transportation Officials says is needed to accommodate increasing freight volumes and realize the public benefits that come from shipping more freight by rail; and

WHEREAS, Congress is considering changes in the law that would undermine the balanced regulation established under the Staggers Act and potentially constrict freight transportation in this country.

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF MARION RESOLVES:

Section 1. The City Council supports building a stronger economy, reducing highway congestion, improving air quality, using tax dollars more efficiently, and improving quality of life by advocating for increased use of freight rail transportation.

Section 2. The City Council endorses federal investment tax incentives to increase freight rail hauling capacity and opposes efforts to undermine balanced regulation of railroads.

Section 3. This resolution shall be effective upon its adoption.

Adopted this the 21st day of July, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-09-07-21-1

C. Receive Report of Items of City Personal Property Sold

Council received a report of the following items of City owned personal property sold during the 2008-09 Fiscal Year:

AA.000000428 (24)

	Asset Description	Date Sold	Total Received	Fee Commission	Net Received
1	Computer Lot	09/23/08	$ 131.00	$ 9.83	$ 121.17
2	Lot of Tables and a Podium	09/23/08	46.00	5.00	41.00
3	Coats Tire Changer	10/20/08	440.00	33.00	407.00
4	Konica Digital Camera	10/28/08	88.50	6.64	81.86
5	Hewlett Packard Laserjet 5000N	12/01/08	177.00	13.28	163.72
6	Lanier 2000 Fax Machine/Copier	12/01/08	10.00	5.00	5.00
7	Hewlett Packard Laserjet 6MP	12/01/08	22.00	5.00	17.00
8	Hewlett Packard Deskjet 812C	12/01/08	12.00	5.00	7.00
9	Minolta 1031 Printer/Copier	12/01/08	125.00	9.38	115.62
10	1990 Cushman 341	01/29/09	1,180.00	88.50	1,091.50
11	1997 Cushman 515	01/29/09	1,100.00	82.50	1,017.50
12	Minolta Di450 Copier	01/29/09	510.00	38.25	471.75
13	Twin Peak Tent	02/02/09	3,500.00	262.50	3,237.50
14	1968 Aerial Fire Truck	03/11/09	5,000.00	375.00	4,625.00
15	2000 Ford Crown Vic	05/28/09	2,400.00	180.00	2,220.00
16	Lanier 2000 Fax Machine/Copier	06/10/09	6.00	5.00	1.00
17	1996 Chevy Lumina	06/16/09	$ 855.00	64.13	790.88
	Total		$15,602.50	$ 1,188.01	$14,414.50

D. Adopt Resolution Directing Clerk to Investigate a Petition for Non-Contiguous Annexation – Gurley Property - US 221 North

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-58.1 – GURLEY PROPERTY – US 221 NORTH - 2009

WHEREAS, a petition requesting annexation of an area described in said petition was received on July 7, 2009 by the City of Marion; and

WHEREAS, 160A-58.2 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 of his investigation.

Adopted this the 21st day of July, 2009.

AA.000000429 (24)

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-09-07-21-2

E. Adopt Resolution Directing Clerk to Investigate a Petition for Annexation – Buff/Pierson Property – Kathy Street

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-31 – KATHY STREET – BUFF/PIERSON PROPERTY - 2009

WHEREAS, a petition requesting annexation of an area described in said petition was received on July 15, 2009 by the City of Marion; and

WHEREAS, 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 of his investigation.

Adopted this the 21st day of July, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Clerk

RESOLUTION NUMBER: R-09-07-21-3

F. Approve Ordinance Modifying City Billing Procedure

CITY OF MARION, NORTH CAROLINA
ORDINANCE AMENDING CHAPTER 20, WATER AND SEWERAGE
SEC. 20-36(c) WATER BILLING PROCEDURES

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

Section 1. That Chapter 20, Water and Sewerage, Sec. 20-36 (c), Water Billing Procedures, of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Section 2. Chapter 20 is amended by deleting Sec. 20-36(c), Water Billing Procedures in its entirety and replacing it with the following:

AA.00000430 (24)

CHAPTER 20, SEC. 20-36(c)
WATER BILLING PROCEDURES

(c) Customers who fail to pay the amount charged for either water or sewerage services by 5:00 p.m. local time, the fifteenth day of the month in which the statement is received shall be charged a late penalty in the amount stated in the current Ordinance Establishing Water/Sewer Rates, Connection Fees, Cost Recovery Charges and Other Miscellaneous Charges. Customers who fail to pay the amount charged for either water or sewerage services by 5:00 p.m. local time the twenty-fifth day of the month in which the statement is received shall be charged an additional late penalty in the amount stated in the current Ordinance Establishing Water/Sewer Rates, Connection Fees, Cost Recovery Charges and Other Miscellaneous Charges and water service to the premises shall be turned off.

Section 3. This Ordinance shall become effective upon its adoption.

Adopted this the 21st day of July 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-09-07-21-2

G. Approve 2008-09 Fiscal Year Tax Adjustments

Attached is a breakdown of each year and a computer printout of the tax adjustments from July 1, 2008 through June 30, 2009.

State laws requires approval of Council to remove from the tax books.

YEAR	REAL PROP	PERS. PROP	LATE LIST	INTEREST	TOTAL
1984 - 1998	$ 6,119.29	$ 206.01	$ 74.50	$ 10,334.01	$ 16,733.81
1999	$ 148.54	$ -	$ -	$ 129.16	$ 277.70
2000	$ 76.07	$ -	$ -	$ 62.09	$ 138.16
2001	$ 148.35	$ -	$ -	$ 92.95	$ 241.30
2002	$ 126.83	$ -	$ -	$ 68.50	$ 195.33
2003	$ 213.59	$ -	$ -	$ 105.01	$ 318.60
2004	$ 213.59	$ -	$ -	$ 110.19	$ 323.78
2005	$ 384.14	$ -	$ -	$ 117.70	$ 501.84
2006	$ 384.14	$ -	$ -	$ 83.14	$ 467.28
2007	$ 503.92	$ 0.62	$ -	$ 65.28	$ 569.82
2008	$ 4,620.62	$ 47.88	$ 4.69	$ 12.68	$ 4,685.87
TOTAL	**$ 12,939.08**	**$ 254.51**	**$ 79.19**	**$ 11,180.71**	**$ 24,453.49**

PUBLIC HEARING ADOPTION OF ANNEXATION ORDINANCE – FREEMAN PROPERTY FORSYTHE STREET: Mayor Clark opened the Public Hearing.

AA.00000431 (24)

The City Manager advised that a public hearing is required on the annexation of the Freeman property on Forsythe Street. After the public hearing, Council may adopt the proposed ordinance to annex this property, effective July 31, 2009.

There were no citizens present to discuss this proposed annexation.

Mayor Clark closed the Public Hearing.

Upon a motion by Councilman Owenby, seconded by Councilman Cuthbertson, those members of Council present voted to adopt the following Ordinance annexing the Freeman property on Forsythe Street, effective July 31, 2009:

AN ORDINANCE TO EXTEND
THE CORPORATE LIMITS OF THE
CITY OF MARION, NORTH CAROLINA –
FORSYTHE STREET – FREEMAN PROPERTY - 2009

WHEREAS, the City Council has been petitioned under G.S. 160A-58.1 to annex the area described below; and

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

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at City Hall at 7:00 P.M. on Tuesday, July 21, 2009, after due notice by publication on Wednesday, July 8, 2009; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-58.1(b);

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

Section 1. By virtue of the authority granted by G.S. 160A-58.2, the following described territory is hereby annexed and made part of the City of Marion as of July 31, 2009:

BEGINNING at a point at the southeastern corner of Lot 4671 Block 02 on the McDowell County Tax Map 1712.13; thence following the southern boundary of said Lot 4671 118 feet in a westerly direction tc a point, said point being the southwestern corner of said Lot 4671; thence following the western boundary of said Lot 4671 44.8 feet in a northerly direction to a point, said point being the northwestern corner of said Lot 4671; thence following the northern boundary of said Lot 4671 120 feet in an easterly direction to a point, said point being the northeastern corner of said Lot 4671; thence following the eastern boundary of said Lot 4671 60 feet in a southerly direction to the point of BEGINNING.

Section 2. Upon and after July 31, 2009, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City of Marion. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Marion shall cause to be recorded in the office of the Register of Deeds of McDowell County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the McDowell County Board of Elections, as required by G.S. 163-288.1.

Adopted this the 21st day of July, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Approved As To Form:

City Attorney

AA.00000432 (24)

Ordinance Number: O-09-07-21-1

PUBLIC HEARING – ZONING TEXT AMENDMENT – MOBILE FOOD VENDORS: Mayor Clark opened the Public Hearing.

Planning and Development Director Heather Cotton advised that this request was a staff sponsored text amendment to the Zoning Ordinance, drafted after a presentation the Planning Board was made by the owner of a commercial food vending operation. The purpose of this amendment is to permit the temporary establishment of mobile food vendors within the City on a controlled, time-limited basis with specific regulations to allow mobile food vending activities while eliminating any problems, threats or dangers to public health, safety or welfare. Ms. Cotton stated that, at this time, the Zoning Ordinance allows for mobile food vending in the M-1 Industrial Zoning District. This ordinance would allow for mobile food vendors to locate on private property within the C-2 General Business Zoning District, and within the right-of-way in designated areas of the C-1 Central Business Zoning District.

Ms. Cotton stated that, through the adoption of this ordinance, the City of Marion can regulate the presence, location and size of mobile food vendors and generate revenue through annual temporary use permits and itinerant merchant licenses. In addition, this ordinance has the potential to generate both direct and indirect revenue for surrounding businesses and have a positive impact on the overall economy.

Ms. Cotton reported that the Planning Board voted unanimously at its July 2, 2009 meeting to recommend approval of this ordinance and to recommend permit fees for mobile food vendors. Ms. Cotton stated that the proposed permit fees would be include in a subsequent amendment to the Planning and Inspections Fee Schedule if this ordinance is approved by Council. The ordinance would not apply to vendors during City sponsored or approved festivals.

Ms. Cotton stated that City Intern Chessie Collins had done an excellent job drafting this ordinance.

Mayor Clark stated he had several concerns regarding mobile food vendors. He asked if the Health Department would be issuing approvals as needed for certain types of vendors and who would be responsible for trash clean up and electricity. Mayor Clark added that the City does not need extension cords draped over sidewalks in the downtown area nor does its need loud generators downtown.

Ms. Cotton stated that all these were good concerns and could be added to the proposed Ordinance. She added that this type of permit would be revoked if requirements were not met.

There were no citizens present to discuss this Ordinance.

Mayor Clark closed the Public Hearing.

After discussion, Council directed that the following provisions be added to the ordinance:

1. A requirement for Health Department approval of mobile food vendors.
2. A requirement that mobile food vendors must remove all trash and debris daily.
3. A statement that mobile food vendors are not to use public trash cans to deposit their trash.
4. A statement that mobile food vendors shall not drape extension cords across public sidewalks.
5. A statement that generators shall not be used by mobile food vendors in the C-1 district.
6. A statement that the City shall not provide electricity to mobile food vendors.

Mayor Clark and Council members all expressed their approval with the concept of the ordinance.

Upon a motion by Councilman Owenby, seconded by Councilman Martin, those members of Council present voted to table the proposed ordinance and direct staff to include the additions listed above in the ordinance and to bring it back to Council for review and possible approval at the next meeting.

AA.000000433 (24)

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

CONSIDER APPROVAL OF APPLICATION FOR POOL ROOM/GAME ROOM PERMIT – CUE-N-CUSHION – EAST COURT STREET: The City Manager advised that Mr. Patrick Mooney has submitted a Pool Room/Game Room permit application to take over operation of the Cue-N-Cushion on East Court Street.

Mr. Mooney's background check came back clean.

The City Manager presented Council a copy of the City's Pool Room/Game Room Ordinance for information. The City Manager reported that Mr. Mooney appeared to meet all requirements of the City Code and that his criminal history check showed no criminal record.

Upon a motion by Councilman Martin, seconded by Councilman Owenby, those members of Council present voted to approve the request for a pool room/game room permit to Mr. Patrick Mooney to take over the operation of the Cue-N-Cushion o East Court Street as requested.

APPROVE 2008 TAX SETTLEMENT: The City Manager advised that, under State Law, at the end of each Fiscal Year, Council must review and approve the year end Property Tax Settlement. This document must be approved before the current year tax bills can be mailed.

Finance Director Harriett Thomas presented the 2008 Tax Settlement and advised that the settlement was in balance. Ms. Thomas reported that the City achieved a collection percentage of 94.9 percent, due to the City's second largest taxpayer being in bankruptcy in 2008-09 and not paying any of their property taxes by June 30. However, this taxpayer and another large taxpayer paid their taxes in full in early July, bringing the City's current tax collection percentage for 2008 taxes to well over 97 percent.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, those members of Council present voted to approve the 2008 Tax Settlement as follows:

2008 TAX SETTLEMENT
July 1, 2008 - June 30, 2009

CHARGES		**CREDITS**	
Real Property	$ 1,435,474.18	Tax Revenue	$ 1,637,886.61
Less Exemption	(34,860.15)	Less 1% Discount	(5,396.60)
Personal Prop.	245,861.54	Late Listing	6,204.49
Utilities	58,632.46	Interest & Penalties	5,559.81
Discoveries	25,352.53	**Total Revenue**	**$1,644,254.31**
Total Tax	**$1,730,460.56**		
Late Listing	6,551.48		
Interest & Penalties	5,572.49		
TOTAL	**$1,742,584.53**		

ADJUSTMENTS

1% Discount	5,396.60
Tax Releases - Principal	4,668.50
Tax Releases – Late List	4.69
Tax Releases - Interest	12.68
Uncollected Late List	342.30

AA.00000434 (24)

Uncollected - Real	62;777.52
Uncollected - Personal	25,127.93
TOTAL	**$1,742,584.53**

APPROVE ORDER OF COLLECTION FOR 2009 PROPERTY TAXES: The City Manager advised that, under State Law, after the prior year property tax adjustments and tax settlement have been approved, Council action to order the collection of current year taxes is required before tax bills can be mailed.

Finance Director Harriett Thomas advised that City property tax bills would be mailed in mid-August, as usual.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, those members of Council present voted to approve the following Order of Collection for 2009 Property Taxes:

ORDER OF COLLECTION OF TAXES
STATE OF NORTH CAROLINA
CITY OF MARION

To the Tax Collector of the City of Marion:

You are hereby authorized, empowered and commanded to collect the taxes set forth in the tax records for the year 2009 filed in the office of the Tax Collector and in the tax receipts herewith delivered to you, in the amounts and from the taxpayers likewise therein set forth. Such taxes are hereby declared to be a first lien upon all real property of the respective taxpayers in the City of Marion, and this order shall be a full and sufficient authority to direct, require, and enable you to levy on and sell any real or personal property of such taxpayers, for and on account thereof, in accordance with law.

Witness my hand, and official seal, this 21st day of July, 2009.

Seal
A. Everette Clark
Mayor, City of Marion

ATTEST:
J. Robert Boyette
City Manager/Clerk
Of the City of Marion

APPROVE NEBO WATER SYSTEM INTERLOCAL AGREEMENT WITH MCDOWELL COUNTY: The City Manger advised that, as previously discussed, the Nebo Water System Interlocal Agreement is presented for approval. This agreement has been reviewed with the County and would provide for the County to take over operation of the Nebo water system, effective August 17, which is at the end of a billing period. The City Manager stated that he added Item 7 under "NOW, THEREFORE" to require the County to impose the same water restrictions as the City.

The City Manager stated that the County Commissioners adopted this agreement at their July 13 meeting.

The City Manager reported that the County is requesting to be allowed to keep the radio transponders in place on the Nebo water system, since the County plans to use the same automated meter reading system as the City. He stated that he revised the proposed agreement to state that the City will give the County water meters and radio transponders already in place in the Nebo system. The City paid $40 each for the transponders. The transponders have an expected life of 10 years and have been in the ground in Nebo for an average time period of 1.5 years.

AA.000000435 (24)

Mayor Clark and Council members agreed that the radio transponders in the ground should be transferred to the County.

Mayor Clark suggested that a letter be sent to customers who will be transferred to the County advising them of the change. The City Manager suggested that a joint letter be sent by the City and County to such customers.

Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, those members of Council present voted to approve the following Interlocal Agreement transferring operations of the Nebo Water System to McDowell County:

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL

AGREEMENT FOR PURCHASING WATER FOR THE NEBO WATER STYSTEM
THIS CONTACT, is made and entered into this ____ day of _____ 2009 by and between the County of McDowell, a North Carolina Municipal Corporation, hereinafter referred to as "the County", and the City of Marion, a North Carolina Municipal Corporation, hereinafter referred to as "the City".

WITNESSETH

WHEREAS, McDowell County and the City of Marion are political subdivisions of the State of North Carolina, both having the power and authority to enter into this agreement and the signatories hereto have been authorized to execute this document on behalf of the McDowell County Commission and Marion City Council; and

WHEREAS, certain areas of the County including the Nebo area East of Marion, have demonstrated needs for water services due to inadequate water supplies and/or well contamination; and

WHEREAS, the County constructed water lines in the Nebo community generally, East of the location of a Master Meter located at the Intersection of Highway 70 East and NC 126, (hereafter referred to as the County System); and

WHEREAS, the "Agreement for Operating Nebo Water Improvements" was entered into on the 6th day of April, 2005; and

WHEREAS, the City presently has water supply and treatment capacity available to provide water to the Nebo area; and

WHEREAS, the County and the City have agreed to amend the April 6th, 2005 Agreement to provide for the County operation of the system and the City to sell water to the County to operate the system.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and terms contained herein, the parties hereto, intending to be legally bound hereby, agree as follows:

1. The County and the City mutually agree that this Contract shall become effective on August 17, 2009 and it shall continue in effect for ten years or until terminated by the consent of both parties. The term of the contract may also be extended with the consent of both parties.

2. McDowell County agrees to assume all operational responsibility for the Nebo System operating under the County Water System Identification Number NC 1056032 and to assume all responsibility for complying with state laws and regulations that apply to the ownership of the water system including all fines resulting from any failure to comply with said laws and regulations, except for violations that are the result of the City's negligence or violations that occur within the City's water system.

3. The County may construct any and all water extensions to the County System as it deems appropriate within the context of current State law and regulations. The County may resell water to other private or public water providers within the water usage limits established in this Agreement. The County assumes all responsibility for developing plans and specifications, contracting with an engineer, securing the necessary permits, easements, inspection services, contract and grant administration for the County System.

4. The County assumes all responsibility for the setting of rates and charges for the County System.

5. The City agrees to give the County all existing water meters and radio transponders in the ground as of the effective date of this agreement.

AA.000000436 (24)

6. The City agrees to transfer to the County water deposits held by the City for customers that will be transferred to the County, upon each account being finalized and paid in full.

7. In the event the City of Marion must impose water restrictions on customers due to drought, system failure, or any other reason, McDowell County will impose the same restrictions on its customers.

The County shall compensate the City for water as follows:

1. The City will sell water to the County for the Nebo Water System at the City's inside rate ($2.01 per 1,000 gallons plus a small service charge per month at the time of adoption). The rate and service fee charged will be adjusted as the City raises or lowers its inside water rate.

2. The City will bill the County for all water passing through the master meter located at the intersection of Highway 70 and NC Highway 126. The only exception to this charge would be for a documented use of water for firefighting purposes. This use will not include fire training purposes, washing of fire vehicles or filling swimming pools out of fire trucks. Documentation would need to be provided of such fires and the City will coordinate efforts with the County to estimate the amount of water that was used to extinguish a particular fire.

3. The City agrees to transfer to the County current City water customers located to the east of the master meter such as the Nebo Elementary School and the Nebo Post Office.

4. The City will bill the County monthly as it would any other water customer and the County will be subject to the same rules and policies as any other City water customer.

5. The City and the County agree that the amount of water available to the County under this contract will not exceed 200,000 gallons per day plus the excess water capacity provided to the County for the Industrial Park as part of the Agreement between the City and County dated March 8, 1995 and amended April 16, 2005.

6. If the average daily usage by County customers subject to this agreement exceeds 200,000 gallons plus the excess capacity from the Industrial Park Agreement, for any month period, no further connections shall be allowed, without the approval of the City, taking into account the City's water demand and available supply and treatment capacity for its entire system.

7. The City shall maintain water pressures and water quality, at the point(s) of delivery of water into the McDowell County water system, that are consistent with acceptable engineering standards and consistent with the regulations of the State of North Carolina.

8. The City and County agree that the area to be covered by this agreement does not include any properties served, by or with access to City water service, as of the effective date of this agreement cover any areas currently within the corporate limits of the City of Marion, or within the area of any Resolution of Consideration for annexation as approved by the Marion City Council, except as noted in Item 3 above.

9. The County and the City both represent that no litigation is pending or threatened against either party which would impair their ability to perform their respective duties and obligations under the terms, covenants and provisions of this agreement.

10. The Parties agree that should any disputes arise under this agreement, including but not limited to disputes pertaining to design, construction or monetary compensation said disputes shall be resolved, if at all possible, through good faith negotiations between the parties. It is the intent of both parties that pursuit of legal action shall be a remedy of last report and that a negotiated resolution, including the use of outside experts of arbitrators, shall be a preferred means of resolving disputes hereunder. It is further agreed that in the event such disputes cannot be resolved within sixty (60) days from the date they first arise, either party may seek such other remedies as may be available to them

11. Default and Termination. This agreement may be terminated for cause prior to its stated expiration date by either party in accordance with the terms and conditions set forth herein. The rights of the parties to terminate this agreement shall be strictly construed in accordance with the provisions contained herein. Upon the happening of any of the following events of default by either party, the aggrieved party shall have the right to terminate this agreement.
    a. The failure of either party to perform or observe any of its material covenants, agreements, obligations and/or duties created by this agreement.
    b. The determination that any presentation, warranty or covenant made by either party is false and/or misleading in any material respect.
    c. The commencement of any bankruptcy, insolvency, liquidation and/or similar proceeding against either party, which materially and adversely affects its ability to perform its duties or obligations under this agreement.

d. The failure of the County to make any payment required to be made by it pursuant to the terms of this agreement.
e. Any action by the City to divest itself of its water and/or sewer systems.
f. Any action by the County to construct a water treatment plant and to serve the area under this agreement with water from the County water treatment plant.

12. Upon the happening of any event described in the preceding section, the aggrieved party shall provide written notice to the party committing the alleged violation setting forth in detail the alleged failure and/or deficiency. Thereafter, within ten (10) days of receipt of notice of the alleged default, the parties to this agreement shall meet to discuss the circumstances and attempt to reach a resolution. If either party fails to fully perform or comply with all of the conditions, provisions and covenants of this agreement, and if the nonperformance or failure shall continue for more than thirty (30) days after written notice thereof by other party, or if the nonperformance or failure cannot be reasonably remedied within the same (30) day period and the party which is in violation of the agreement has not proceeded with or commenced the remedy in good faith, within fifteen (15) days of the receipt of such, notification, that party will be considered to be in default of this agreement. If the alleged default continues or the parties disagree as to whether the matter has been resolved, the aggrieved party may send written notice to the party committing the alleged default declaring an impasse and proceed to enforce all rights and remedies available to it either in equity or at law.

13. Each of the parties to this agreement shall be entitled to pursue a claim against the other for any non-monetary remedies available and any additional actual damages suffered as a result of any default by the other party, in addition to attorney's fees. Notwithstanding anything in the agreement to the contrary, neither party shall be responsible to the other for any indirect, third-arty or consequential damages arising from a breach of this agreement.

14. To the extent allowed by law, each party shall indemnify, defend and hold harmless the other party, its elected and appointed officers, and its duly authorized agents, servants, and employees from any and all costs, expenses or liabilities (including costs, expenses or liabilities to third parties and attorney's fees) which are caused by or arise from its breach of this agreement or the negligent or willful acts of omission of the party in breach of the agreement or its agents, servants, employees or subcontractors provided such cost, expenses or liabilities do not arise as a result of the negligent or willful acts or omissions of the other party.

15. NOTICES: For the purposes of this agreement, all notices required shall be deemed to have been properly served and shall be only served when posted by Certified United States Mail, Postage Prepaid, Return Receipt Requested, addressed to the Party to whom directed at the address herein set forth or at such other address as may from time to time be designated in writing by either party:

To McDowell County	To City of Marion
County of McDowell	City of Marion
60 E. Court Street	Post Office Drawer 700
Marion, NC 28752	Marion, NC 28752
Fax Number: 828-659-3484	Fax Number: 828-652-1983
Attention: County Manager	Attention: City Manager

16. This agreement embodies the entire agreement between the parties in connection with this transaction, and there are no oral or parole agreements, representations or inducements existing between the parties relating to this transaction, which are not expressly set forth herein. This agreement may not be modified except by a written agreement by all parties to this agreement. Neither party shall be entitled to sell, convey or otherwise alienate the rights and obligations created herein without the prior written permission of the other party to this agreement.

17. Nothing contained herein shall be construed to place the parties in the relationship of partners or joint venturers, and neither party shall have the power to obligate or bind the other party n any manner whatsoever.

18. No written waiver by any party to this agreement at any time of any breach of any other provision of this agreement shall be deemed a waiver of a breach of any provision herein or consent to any subsequent breach of the same or any other provision.

19. The captions and article numbers appearing in this agreement are inserted only as a matter of convenience and do not define, limit, construe or describe the scope of such paragraphs or articles of this agreement or in any way affect this agreement.

20. This agreement shall be governed by and interpreted in accordance with the laws of the State of North Carolina.

AA.000000438 (24)

21. Time shall be of the essence in this agreement and each and every term and condition thereof.

22. Words of any gender used in this agreement shall be held to include any other gender, and words in the singular number shall be held to include the plural, when the sense requires.

23. If any provision under this agreement or its application to any person or circumstance is held invalid by any court of competent jurisdiction such invalidity does no affect any other provision of this agreement or its application that can be given effect without the invalid provision or application.

24. In the event of ligation between the County and the City as to the terms, performance or any other aspect of this agreement, this agreement shall remain in force and effect during such litigation.

25. This agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and it shall not be necessary in making proof of this agreement to produce or account for more than on such fully executed counterpart.

26. Except as provided herein, the rights and remedies provided for in this agreement are cumulative and are not exclusive of any rights or remedies that any party may otherwise have at law or in equity.

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first above written.

COUNTY OF MCDOWELL, NORTH CAROLINA

BY:_____
County Commission Chairman

(SEAL)

Attest:

BY:_____
Clerk to the Board

CITY OF MARION, NORTH CAROLINA

BY:_____
Mayor

(SEAL)

Attest:

BY:_____
City Manager/Clerk

CONSIDER REQUEST FOR REIMBURSEMENT: The City Manager advised that Mr. Jack Greene of the Mystic Tie Lodge submitted a bill from Roto Rooter for $1,460 related to cleaning the service line for Bagwell Insurance in the Masonic Lodge building at South Main and State Streets. Mr. Bagwell experienced a sewer backup and called Roto Rooter in Bakersville. Roto Rooter responded and cleaned the service line from a manhole in State Street, located near the rear of the building, into the building. The City Manager stated that roots were discovered in the line. The roots apparently came from a large maple tree located on private property behind the building. Like many older buildings, there is no sewer cleanout on the Masonic Lodge Building and the service line for the building runs straight into the manhole on State Street. The City Manager stated that this situation blurs the lines of responsibility for maintenance. Typically, the City has assumed that the service line is the private property owner's responsibility, even out

AA.000000439 (24)

to the manhole, but this point could be argued on the street right of way. The roots were located close to the edge of the right of way, which again blurs the line of responsibility.

The City Manager stated that City staff could have dealt with this problem, but the City was not called. The City Manager reported that Mr. Bagwell had described a similar problem to him in late June. Mr. Bagwell advised that he had clear water coming into the building, so the City Manager told him this did not sound like a sewer backup. The City Manger stated that it is possible that Mr. Bagwell took his comments to mean that this was not a City problem.

The City Manager reported that, when most local plumbers arrive at a call and determine that a sewer problem may be on the City's side, they immediately stop and call the City. Roto Rooter has not typically followed this protocol and has, on more than one occasion, undertaken work on the City's side.

The City Manager advised that the Mystic Tie Lodge has been very gracious in dealing with this situation and understands that they at least share in the responsibility. In the future, they now know to call the City first. The Lodge is requesting reimbursement of one-half of the $1,460 bill.

Councilman Edwards stated that he is a member of the Mystic Tie Lodge and would request that he be excused from deliberating and voting on this matter.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, those members of Council present voted to excuse Councilman Edwards from deliberating and voting on this matter.

Mayor Clark asked if Roto Rooter had a privilege license to do business in the City. The City Manager stated that Roto Rooter did not have a privilege license, but would be directed to obtain one. Mayor Clark noted that it was a criminal offense to tamper with a City sewer line, without permission, in the manner that Roto Rooter did.
Council discussed this matter and directed the City Manager to send a letter to Roto Rooter, advising them that they are not to enter City sewer lines or manholes without permission from the City and also directing them to obtain a City privilege license.

Upon a motion by Councilman Owenby, seconded by Councilman Martin, those members of Council present, excluding Councilman Edwards, voted to reimburse the Mystic Tie Lodge for one-half, or $730.00, of the Roto Rooter bill for cleaning the sewer line serving the Lodge building at State and South Main Street.

DISCUSS PURCHASE OF FIRE TRUCKS: The City Manager advised that the County Commissioners approved a two cent increase in the Marion Area Fire District, effective for the 2009-10 Fiscal Year. Council previously discussed equipment needs at the Fire Department, including a new brush truck and a new or used tower truck. The City Manager asked Fire Chief Jim Neal to provide some ideas, specifications and general recommendations regarding both trucks. This City Manager presented Council with memos from Chief Neal providing specifications for both trucks and recommending the purchase of a new tower and a new brush truck.

The City Manager stated that staff had previously looked at the possibility of purchasing a used, refurbished 1994 tower truck from Enka-Candler; however, staff has been hearing that this truck may have problems. The opportunity for USDA grant and/or long-term loan money through the Federal Stimulus Funding has also become available, which leads staff to recommend a new tower truck with a more certain useful life than a used truck.

The City Manager also presented financing and funding strategies for the brush and tower trucks and stated that it appears that the City can afford the purchase of both trucks. The brush truck could be purchased with available capital reserve funds in the 2009-10 budget and proceeds from the additional two cent MA Fire District tax. The City Manager advised that the tower truck could hopefully be funded through USDA grants or loans, with the additional MA District revenues used to pay debt service, or through a bank loan,

AA.000000440 (24)

with the additional MA District revenues and listed anticipated future budget savings used to pay debt service.

Councilman Edwards stepped away from the meeting to take a phone call.

A discussion followed.

Mayor Clark and Council members agreed that steps should begin to purchase a new brush truck and that the City should pursue purchase of a new, rather than a used, tower truck. However, Council members stated that they would like to receive information about the availability of USDA loan and grant funds before voting to proceed with the tower truck purchase.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, those members of Council present, excluding Councilman Edwards, voted to direct staff to seek bids for the purchase of a new fire brush truck and to bring back to Council information about possible loans and grants for a new tower truck.

The City Manager added that a decision in the next month or two regarding the tower truck might be advisable as emissions standards for diesel trucks were set to strengthen in 2010, increasing the cost of fire trucks such as the tower truck.

Councilman Martin stated that he liked the thought of this Council leaving the City in better shape, through the purchase of needed fire equipment, than when they came into office.

Councilman Edwards returned to the meeting.

SCHEDULE PLANNING SESSION: By consensus, the Mayor and Council members agreed to schedule the next City Council Planning Session for Tuesday, August 25, 2009 at 6:00 PM at City Hall.

CITY MANAGER REPORTS: The City Manager gave a brief report on current projects.

The City Manager presented some very rough ideas of wording and general design of the Roy Williams historic marker and signs. He asked for input from Council on the design and wording, so that the City can obtain quotes and begin a private fundraising campaign.

Councilman Edwards made some suggestions regarding the marker wording. The City Manager asked if he could work with Councilman Cuthbertson on the wording. Council agreed with this idea.

Mayor Clark proposed asking the marker company for assistance with the design. The City Manager stated that he would do so, after the wording was finalized. A quote for the marker can then be obtained and the fundraising effort can begin.

The City Manager stated that DOT had begun work on the McDowell Avenue street extension in June. City staff are pushing DOT to complete the project before school starts in late August.

The City Manager stated that Mona Cochran, owner of property adjacent to the McDowell Avenue street extension, has expressed interest in purchasing property not needed for the street extension. The City Manager presented Council with a copy of a map that shows the excess property the City may have on the eastern side (Ms. Cochran's side) of the street. Public Works Director Chris Hollifield has proposed the right of way line extending to about five feet back of the sidewalk. This would leave a strip of property about 280 feet long with an average width of 30 feet. The City Manager stated that the Cochrans would like to have their property extend to East Court Street. If Council wants, this property could be declared surplus, with the exact property to be disposed of defined more precisely at the end of construction. Council could then entertain an offer to purchase the property from the Cochrans or anyone else through the negotiated offer and upset bid process.

AA.000000441 (24)

It was the consensus of Council to retain a right of way extending 10 feet behind the sidewalk on both sides of the street, to allow for more room for future plantings. Mayor Clark and Council members agreed to take Ms. Cochran's request under advisement, but saw no need to rush any sale of property.

The City Manager advised that to prevent situations like we had last month where a five percent bid deposit did not cover the costs the City incurred in selling City property, he wanted to recommend that Council establish a minimum bid deposit. State law requires local government to receive a five percent bid deposit from a prospective buyer of real property, upon acceptance of the offer by the City Council. The City Manager stated that he checked with the School of Government to see if there is any problem with a city requiring a higher bid deposit. David Lawrence with the School of Government advised that courts have held that the required five percent bid deposit means five percent, so cities are not permitted to require a higher amount.

As an alternative, the City Manager stated that the City Attorney and he suggest that the City charge the required five percent bid deposit but also make people prepay for the required legal advertising. Mayor Clark and Council members expressed agreement with this suggestion.

The City Manager advised that he had received written confirmation that WLOS and UNC-TV will pay the City's expenses to obtain State approval to subdivide a tower parcel from our grant funded Mt. Ida tract. He added that McGill Associates is working on the revised site plan, to be followed by a new survey and appraisal, as required by the State. The City Manager stated that Finance Director Harriett Thomas and he had studied some comparison lease amounts from State government and would recommend a charge of $400 to $500 per month per tower.

The City Manager also asked for direction regarding the request of Sinclair Broadcasting for new television stations locating on the Mt. Ida property to have to reimburse WLOS and UNC-TV for a pro rated share of expenses (estimated to be $32,000 split between the two stations) required to obtain State approval of the subdivision of the tower tract from the grant funded parcel and to pay back the State for a pro rated share of this grant parcel.

Mayor Clark stated that he would like for the City to help UNC TV and suggested the City make a donation of part of the lease payment back to UNC TV.

A discussion followed.

Council discussed setting a $300 per month lease charge for each tower, in return for no provisions for payback to WLOS and UNC-TV for their costs incurred in convincing the State to allow the towers to remain on Mt. Ida. This lower lease amount would also be in lieu of any donations to UNC-TV.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Martin, those members of Council present voted to direct the City Manager to present a draft lease to WLOS and UNC-TV, said lease to charge $300.00 per month per tower and be for a period of ten years. The City Manager advised that he would present this proposal to both stations and bring back a lease agreement for Council approval at a later date.

The City Manager advised that Councilman Edwards had mentioned at the last meeting a complaint received from Ms. Causby on School Street about a dangerous tree. Staff checked into this location and advised Ms. Causby that the tree is on private property and she will unfortunately have to address the matter with her neighbor.

The City Manager advised that invitations to the Advisory Board/Volunteer Dinner, which is scheduled for Thursday, August 13 at 6:30 p.m., are in Council's agenda packet. All advisory board members, volunteer firefighters and other people who volunteer for the City at our Open House and in other capacities will be invited.

The City Manager advised that staff have recently installed a gate at the future entrance to the Catawba River Greenway off of Highway 70 West, to control access until the greenway opens. McGill is finishing up

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the final greenway design and floodway and floodplain permitting process. Staff hopes to go out to bid with the project in the next few months, hopefully by which time the McDowell Trails Association will have raised much, if not all, of the $60,000 local match for the PARTF grant for the project.

The City Manager advised that he had been in contact with the Sugar Hill Road commercial developer, advising him that the City must submit a performance agreement to the N.C. Rural Center by October 29, in order to receive the $977,100 grant to fund one-half of the costs of the Sugar Hill Road Water and Sewer Extension. The developer continues to say that he will make his announcement and written commitment in the near future and that the project has been delayed by about 60 days. The City Manager stated that he would continue to press the developer for a commitment as much as possible, to ensure that the grant deadline is met.

The City Manager advised that Ronny Turner Construction is moving along with the construction of the force main sewer line that will pump wastewater flow from the Catawba River Wastewater Plant to the Corpening Creek Wastewater Plant. Ronny Turner Construction will also be constructing the pump stations required and deconstructing the Catawba River Plant. Construction is scheduled to continue through October.

The City Manager added that Laughlin Sutton Construction began work on the Corpening Creek Plant improvements in late June. This construction will last well into 2010.

The City Manager advised that the dirt road grading, construction and paving and street resurfacing is complete, except for the paving of Florence Avenue, Finley Avenue and East Railroad Street and the resurfacing of Montevista Avenue from North Main Street past the entrance to Marion City Square.

The City Manager advised that the annual National Night Out will be held on Tuesday, August 4, beginning at 6:00 p.m. on Main Street. The event will be similar to past years, except that there will not have a race car due to decreased fundraising.

The City Manager advised that for several years, the City has received complaints about sight visibility at the exit of East McDowell Junior High School on South McDowell Avenue. People exiting the Foxfire Community complain about not being able to see people exiting East Junior High, which has caused many near misses. After repeated complaints over the years, the City Manager stated that Councilman Cuthbertson had recently suggested implementation of a small project suggested by the Street Committee a couple of years ago that involves cutting down a bank on the South McDowell Avenue street right of way adjacent to the East Junior High exit and also cutting underbrush off of the right of way. This work will be done with the blessing of the East Principal, Greg Hughes, and the School Central Office and should improve sight distance considerably. This work will be done before school starts back in August and will hopefully eliminate the complaints from the Foxfire Community.

The City Manager advised that the Farmer's Market is off to a great start this summer season, with the vendor capacity reached on July 14, the third week of the market. He stated that Marion Business Association Executive Director Freddie Killough has worked with the vendors on the idea of starting a Saturday morning market. The interest in a Saturday morning marker has been tremendous and the first such market will be held on Saturday, July 25 and hopefully continue through October.

The City Manager advised that the City has explored energy efficiency projects, such as the one reported in the McDowell News the previous week regarding McDowell County working with a company to install solar panels on the Senior Center and Jail to heat water. The City Manager stated that the City did not have any buildings that used enough hot water to make such a project feasible.

Finance Director Harriett Thomas reported that the City was seeking proposals for banking services.

COUNCILMAN COMMENTS:

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Councilman Edwards asked that he be excused from the Closed Session. He had an appointment to make at 9:00 PM.

Mayor Clark stated that the City had not been approved for a Community Development Block Grant (CDBG) for the installation of sidewalks in the Eastfield Community, but that he wanted to commend the work of the City's interns, including Chessie Collins, in preparing the application.

Mayor Clark stated that he had been reappointed to the North Carolina Community Development Council that oversees CDBG funding.

CLOSED SESSION – DISCUSS A MATTER INVOLVING THE LOCATION OF BUSINESS OR INDUSTRY UNDER N.C.G.S. 143-318.11(a)(4): Upon a motion by Councilman Martin, seconded by Councilman Cuthbertson, those members of Council present voted to go into Closed Session under N.C.G.S. 143-318.11(a)(4) to discuss a matter involving the location of business or industry.

REGULAR SESSION: Upon a motion by Councilman Owenby, seconded by Councilman Cuthbertson, those members of Council present voted to go back into Regular Session.

Mayor Clark announced that no action was taken by Council in the Closed Session.

ADJOURNMENT: Upon a motion by Councilman Martin, seconded by Councilman Owenby, those members of Council present voted to adjourn.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.000000444 (24)

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 4, 2009 at 7:00 P.M. in the City Council Chamber located at 194 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: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, Planning and Development Director; Mika Elliott, Police Chief; Chris Hollifield, Public Works Director; Chess Collins, City Intern; Mike Conley, News Reporter, McDowell News; Wendy McAnally, News Reporter, the News Bulletin.

GUESTS PRESENT: Donald Anderson, 146 S. Main Street, Marion, NC; Robert Hawkins, 527 East Oak Street, Marion, NC; Terry & Betty Childers, 185 Fern Avenue, Marion, NC; Ellen Brown, 108 Carriage Station, Marion, NC; Hilda Dean, 247-A South Garden Street; Marion, NC; Lisa Miller and Will Crawford, 50 Pineneedle Lane, Marion, NC; Wesley Laney, 231 Epley Drive, Marion, NC; Tom and Chris Bennett, 378 Ledford Lane, Marion, NC; Pat Faulkner, 751 Lake Club Drive, Nebo, NC; Sylvia Davis, Marion, NC; Betty Wall, Marion, NC and Nancy Clark, 330 Fleming Avenue, Marion, NC.

CITIZEN OF THE MONTH –SELECTED BY MAYOR A. EVERETTE CLARK: Mayor Clark selected the Citizen of the Month for August.

Mayor Clark announced that his citizen of the month is Reverend Terry Childers. Reverend Childers is the Associate Pastor for Music of First Baptist Church in Marion.

Reverend Childers was born in Middletown Kentucky has been married to Betty for forty-three years. They have three children and three grandchildren.

Reverend Childers has a Bachelors Degree in music and was ordained into the ministry in 1971. He directs the Caroline Bells that play for the public, oversees youth camps and is the director of the community choir. He has also established a program for Wednesday nights at his church. Reverend Childers also oversees senior trips and works with the young people of the church. He is also involved with a program called Operation Inasmuch that involves completing various projects across the Community.

Reverend Childers visits hospitals, shut-ins, conducts funerals at the church and works with Red Cross during their blood drives. He also likes to hike and square dance.

Reverend Childers has touched many lives on a daily basis and sets an example to all who know him.

Council Members and friends all shared kind words about Reverend Childers.

CONSENT AGENDA: Upon a motion by Councilman Cuthbertson, seconded by Mayor Pro Tem Little, Council voted unanimously to approve the consent agenda as follows:

AA.00000445 (24)

A. Approval of Minutes - July 21, 2009 Regular City Council Meeting Minutes and Closed Session Minutes.

B. Received Certificate of Sufficiency – Highway 221 North/Gurley Property Annexation

CERTIFICATE OF SUFFICIENCY – GURLEY PROPERTY/ US 221 NORTH 2009

To the City Council of the City of Marion:

I, J. Robert Boyette, City Clerk, do hereby certify that I have 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-58-1.

In witness whereof, I have hereunto set my hand and affixed the seal of the City of Marion this the 4th day of August, 2009.

(SEAL)

J. Robert Boyette, City Clerk, Manager

C. Adopt Resolution Fixing the Date of Public Hearing on the Question of Annexation – Highway 221 North/Gurley Property Annexation:

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-58.1 – GURLEY/US 221 NORTH - 2009

WHEREAS, a petition requesting annexation of the non-contiguous 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 non-contiguous area described herein will be held at City Hall at 7:00 P.M. on Tuesday, August 18, 2009.

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

Tract One

Beginning on an 5/8 inch rebar set in the west margin of the right-of-way for U.S. 221 North, said rebar having NCGS coordinates of North = 729,333.491 feet and East = 1,097,860.795 feet, said iron rebar being located South 62 degrees, 17 minutes, 35 seconds West 86.44 feet from a nail and disc GPS point located on the east side of U.S. 221 North, said GPS point having coordinates of North = 729,373.681 feet and East = 1,097,937.323 feet (NAD 83/2007) and runs thence from said Beginning Point and with the west margin of the right-of-way for U.S. 221, South 30 degrees, 44 minutes, 32 seconds East 134.39 feet to an existing concrete right-of-way marker; thence South 51 degrees, 49 minutes, 25 seconds West 21.20 degrees to an existing concrete monument; thence continuing South 51 degrees, 49 minutes, 25 seconds West with the line of Great Meadows, Inc. 187.30 feet to a 5/8" rebar with cap set; thence North 48 degrees, 05 minutes, 35 seconds West 121.26 feet to an existing iron pipe; thence North 41 degrees, 05 minutes, 35 seconds West 13.83 feet to a 5/8 inch rebar set; thence leaving the line of Great Meadows, Inc., a new line, North 51 degrees, 49 minutes, 25 seconds East 247.47 feet to the Beginning, containing 0.70 acres by coordinate computation.

And being a portion of that property described in a deed to Gurley Properties, LLC, Deed Book 552, Page 719, Tract 25 of the McDowell County, N.C. Deed Registry.

Tract Two

Beginning on an 5/8 inch rebar set in the west margin of the right-of-way for U.S. 221 North, said rebar having NCGS coordinates of North 729,333.491 feet and East = 1,097,860.795 feet; said iron rebar being located South 62 degrees, 17 minutes 35 seconds West

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86.44 feet from a nail and disc GPS point located on the east side of U.S. 221 North, said GPS point having coordinates of North = 729,373.681 feet and East = 1,097,937,323 feet (NAD 83/2007) and runs thence from said Beginning Point and with the west margin of the right-of-way for U.S. 221, North 30 degrees, 44 minutes, 32 seconds West 76.70 feet to a PK nail found; thence continuing with said margin of said right-of-way North 30 degrees, 44 minutes, 32 seconds West 116.63 feet to a PK nail found; thence North 65 degrees, 10 minutes, 38 seconds West 34.86 feet to a 5/8 inch rebar; thence South 45 degrees, 07 minutes, 00 seconds West 69.54 feet to a 5/8 inch rebar; thence North 45 degrees, 47 minutes, 03 seconds West 10.98 feet to an iron pipe; thence South 44 degrees, 58 minutes, 55 seconds, West 178.53 feet to an iron pipe; thence South 33 degrees, 46 minute, 24 seconds East 151.91 feet to an existing solid iron rod; thence South 41 degrees, 05 minutes, 35 seconds East 53.58 feet to a 5/8 inch rebar set; thence a new line, North 51 degrees, 49 minutes 25 seconds East 247.47 feet to the Beginning, containing 1.28 acres by coordinate computation.

And being a portion of that property described in a deed to Gurley Properties, LLC, Deed Book 532, Page 719, Tract 25 of the McDowell County, N.C. Deed Registry.

Tract Three

Two parcels of land in Dogwood Acres Subdivision, Parcel "B" adjoining and on the North side of the 0.44 acre parcel of land now owned by Gary D. Ledford and wife which parcel is being conveyed to grantee herein contemporaneously with this deed., said 0.44 acre parcel having been conveyed by Frank J. Hall and wife and W. C. Hall and wife to Harry A. Justice, see Deed Book 289 at Page 624, and Parcel "C" adjoining and on the East side of said Ledford lot.

Parcel "B": BEGINNING on an iron set in the Northeast corner of the Ledford lot, and runs with the line of the lot conveyed to Oswaldo M. Tinco by deed recorded in McDowell Deed Book 747 on Page 884, N. 26° 47'26" 129.14 feet to an iron pin set in the Southern margin of the 30 feet wide right of way of Dogwood Acres Loop; then with the Southern margin of said right of way, S. 65°14'24" W. 28.00 feet to a point, S. 84°22'36" W. 35.55 feet to a point; N. 81°19'22" W. 51.04 feet to a point, and N. 70°12'35" W. 33.15 feet to an iron pin set in said margin; then a new line S. 35°37'33" W. 71.95 feet to the westernmost corner of the Ledford lot, just South of the new Northern Margin of the Right-of-Way of Highway 221 North; then with the Northern Line of the Ledford Lot, S. 75°59'36" E. 250.00 feet to the BEGINNING, containing 0.34 acres.

Parcel "C": BEGINNING on the iron pin set in the Northeast corner of the Ledford Lot, the beginning corner of Parcel "B" and runs with the Eastern Line of the Ledford Lot, S. 39° 10'00" W. 138.92 to a railroad spike in the Northern Margin of Creson Drive, the Southeast corner of the Ledford Lot; then N. 83°02'22" E. 28.83 feet to an iron pin set near the western margin of a private gravel drive which forms the Western margin of a lot conveyed to Jose Emiliano Denza De La Loma by deed recorded in McDowell County Deed Book 735 on Page 939; then a line running West of the Western Margin of the Right of Way of said private gravel drive, N.34°28'56" E. 94.68 feet to a point and then N. 36°20'02" E. 24.23 feet to an existing iron pin, the 12the corner of the Tinco Deed, Deed Book 747, Page 884; then with the line of the Tinco Deed N. 53°04'27" W. 11.004, feet to the BEGINNING, containing 0.05 acres.

Tract Four

BEGINNING on a railroad spike in concrete, said spike being the 11th corner of the tract of land described in McDowell County Deed Book 747 at Page 884.amd the 3rd corner of the Gary D. Ledford property as described in McDowell County Deed Book 549 at Page 280, and runs thence South 39 degrees 10 minutes 00 seconds West 138.92 feet to a railroad spike set in the edge of Creson Drive; thence North 60 degrees 00 minutes 30 seconds West 95.97 feet to an existing iron pin found buried within the right-of-way of Highway 221 North; thence running North 30 degrees 48 minutes 43 seconds West 140 feet to an iron pin set at a disturbed existing iron pin found; thence with the line of Frank J. Hall, et. al., South 75 degrees 59 minutes 36 seconds East 250 feet to the BEGINNING, containing 0.44 acres, and being designated as Parcel A on that certain plat of survey prepared by Pendergrass Surveying, Registered Land Surveyor, Morganton, North Carolina, dated January 17, 2005, File No. 10505, from which plat of survey all calls used in this description were taken.

AND BEING the same property conveyed by that certain deed from Walker Properties to Gary D. Ledford and wife, Kimberly E. Ledford, and which is recorded in McDowell County Deed Book 549 at Page 280. Reference may also be made to that certain deed from Kimberly E. Ledford to Gary D. Ledford, which is recorded in the Office of the Register of Deeds for McDowell County in Deed Book 678 at Page 275.

Section 3. Notice of the public hearing shall be published once 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 the 4th day of August, 2009.

A. Everette Clark,
Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-09-08-04-1

D. Receive Certificate of Sufficiency – Kathy Street-Buff/Pierson Property Annexation

CERTIFICATE OF SUFFICIENCY – KATHY STREET - BUFF/PIERSON PROPERTY

AA.000000447 (24)

ANNEXATION - 2009

To the City Council of the City of Marion:

I, J. Robert Boyette, City Clerk, do hereby certify that I have 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-58-1.

In witness whereof, I have hereunto set my hand and affixed the seal of the City of Marion this the 4th day of August, 2009.

(SEAL)

J. Robert Boyette, City Clerk, Manager

E. Annexation- Kathy Street – Buff/Pierson Property Annexation

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31 – KATHY STREET-BUFF/PIERSON PROPERTY - 2009

WHEREAS, a petition requesting annexation of the contiguous 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 contiguous area described herein will be held at City Hall at 7:00 P.M. on Tuesday, August 18, 2009.

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

BEGINNING on a point located on the Eastern margin of Kathy Street (commonly known as State Road #1728), and runs thence North 01 degree 14 minutes 30 seconds West 51.48 feet to a point; thence North 00 degrees 37 minutes 24 seconds East 86.50 feet to a point; thence North 03 degrees 54 minutes 24 seconds East 66.33 feet to a point; thence North 07 degrees 22 minutes 28 seconds East 166.87 feet to a point; thence North 19 degrees 45 minutes 36 seconds East 63.28 feet to a point; thence North 33 degrees 30 minutes 36 seconds East 55.76 feet to a point; thence South 12 degrees 43 minutes 30 seconds East 500.06 feet to a point; thence North 86 degrees 19 minutes 00 seconds West 10.11 feet to an existing iron pin; thence North 86 degrees 19 minutes 00 seconds West 10.11 feet to an existing iron pin; thence North 86 degrees 19 minutes 00 seconds West (the same course) 169.32 feet to an existing iron pin; thence North 86 degrees 19 minutes 00 seconds West (the same course) 9.04 feet to the point of BEGINNING, containing 1.29 acres, more or less, according to a plat prepared from a new survey, dated June 13, 1980, by R. L. Greene, Surveying and Mapping, Marion, North Carolina.

EXCEPTING AND RESERVING, HOWEVER, from the operation of this conveyance, all the land described in and conveyed by that certain deed dated August 2, 1984, by W.C. Hall and wife, Helen Lee Hall, to Mabel Lewis, recorded in the Office of the Register of Deeds for McDowell County, North Carolina, in Deed Book 333 at Page 433, to which reference is hereby made.

AND BEING the same property as described in and conveyed by that certain deed dated May 5, 1987, from Joseph A. Miller and wife, Barbara Miller, to Ruth B. Pierson, and which is recorded in the Office of the Register of Deeds for McDowell County in Deed Book 368 at Page 566.

Section 3. Notice of the public hearing shall be published once 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 the 4th day of August, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Clerk

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Resolution Number: R-09-08-04-2

F. Approve Tax Refund

It has been discovered that properties in the name of Lela Vanessa Burleson Bolick have been billed incorrectly. Records show that she owns property at 7 School Street, PIN 171217026461 and 17 School Street, PIN 171217027425. The City of Marion has been billing taxes on both pieces since the property was annexed. When information was received on properties that were being annexed June 30, 2009, the properties that Ms. Bolick own were on the list. According to records she had purchased land adjoining these two properties on the backside, which was outside city limits. McDowell County Tax Department had combined the property she had purchased with the PIN numbers of the property that she owned.

Heather Cotton, Planning Director, verified the above information and gave the percentages of the land that was outside. Based on this information below is a breakdown of the amount of taxes that were billed in error for 2004, 2005, 2006, 2007 and 2008 on each piece of property.

Year	Parcel	Value	Tax
2004	171217026461	3,780	19.28
2004	171217027425	4,680	23.87
2005	171217026461	3,780	19.28
2005	171217027425	4,680	23.87
2006	171217026461	3,780	19.28
2006	171217027425	4,680	23.87
2007	171217026461	3,780	19.28
2007	171217027425	4,680	23.87
2008	171217026461	3,780	19.28
2008	171217027425	4,680	23.87
TOTAL BILLED IN ERROR			**$215.75**

Council approved the tax refund to Ms. Bolick in the amount of $215.75.

INTRODUCTION OF NEW EMPLOYEE: Mayor Clark recognized Police Chief Mika Elliott. Chief Elliott introduced the City's newest Police Officer, Cory Loftis. Cory previously served as a Reserve Police Telecommunicator for the City.

Mayor Clark and Council Members welcomed Officer Loftis.

CONSIDER APPROVAL OF ZONING TEXT AMENDEMENT – MOBILE FOOD VENDORS: Planning and Development Director Heather Cotton presented a staff sponsored text amendment to the Zoning Ordinance, to allow for mobile food cart vendors to operate in the C-1 Central Business Zoning District and the C-2 General Business District. The purpose of this amendment is to permit the temporary establishment of mobile food vendors within the city on a controlled, time-limited basis with specific regulations to allow mobile food vending activities while eliminating any problems, threats or dangers to public health, safety or welfare.

Ms. Cotton reported that this item was continued from the July 21, 2009 City Council meeting. Staff has revised the ordinance to include additional regulations recommended by the City Council. The following recommendations were included:

a. The vending unit shall receive all applicable state health and food safety permits or exemption in writing from the state health inspector prior to city approval.
b. All vendors shall be required to maintain active liability insurance and provide documentation of lender's receipt of signed and notarized release and agreement form.
c. The vendor, or his or her designee, shall be responsible for removing all trash at the close of each business day and shall not place trash associated with the vending operation in public trash receptacles.
d. Generators, noise generating devices, or any other attention getting device that may, by virtue of its design, create a distraction to motorists, pedestrians, or adjacent properties shall be prohibited.
e. All mobile food cart units shall be self-contained and not require the use of ancillary power from any secondary source in order to operate.

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Ms. Cotton stated that staff conducted further research and included two additional requirements, including the following:

1. The Mobile Food Permit shall not be valid during preapproved street closings, events, or festivals, and it shall be the responsibility of the vendor to acquire permission from the event organizer to conduct business during such time and/or activity.
2. All signage associated with the mobile food operation shall be securely attached flush to the vending unit and shall not be attached to the ground.

Ms. Lisa Miller stated that she owned a mobile vending unit and wanted to set up in the downtown area. She stated that she supported the ordinance.

A discussion followed. Mayor Pro Tem Little suggested that language in the draft ordinance be revised to state in a clearer way that the City will not provide power to vending units.

Upon a motion by Councilman Cuthbertson, seconded by Council Owenby, Council voted unanimously to adopt the following Ordinance, to include the revisions proposed by Mayor Pro Tem Little:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Section 2. Chapter 21. *Zoning*, Article IV, *Definition of terms used in the ordinance*, Section 21-21, *Definitions*, is amended by adding the following:

Mobile Food Vendor – A temporary commercial activity for the purpose of offering food and/or beverage products for retail sale from a mobile food vendor unit, pushcart, or other movable structure.

Mobile Food Vendor Unit – A vehicle, pushcart, or other movable structure that is temporary in nature and is commercially designed specifically for the purpose of keeping or storing food and beverages for retail sale by a commercial vendor.

Section 3. Chapter 21 *Zoning*, Article VII. *General Provisions*, Division VII, *Temporary Uses*, is amended by adding the following:

DIVISION VII. TEMPORARY USES AND STRUCTURES

Sec. 21-171. Purpose and Intent.

(1) Purpose and Intent. It is the purpose of this section to permit temporary uses and structures within the city on a controlled, time-limited basis to minimize adverse impacts on the community. The intent of this section is to establish specific regulations to allow temporary uses while eliminating to the greatest possible extent, any problems, threats, or dangers to the public health, safety or welfare as may exist with any and all such uses.

(2) Permitted temporary uses. Temporary uses shall be limited to a use or use of land, building, or structure not intended to be of a permanent duration. Such uses shall be limited to the following:

(A) Circuses and/or carnivals.
(B) Evangelistic and religious events.
(C) Outdoor bazaars, cookouts and/or similar activities by churches or other nonprofit institutions or organizations.
(D) Open lot sale area for farm produce made or grown by the farm producer or immediate family.
(E) Open lot sales area for Christmas trees.
(F) Contractors' office and/or construction shed including mobile offices during construction on the development site.
(G) Temporary special sales, yard sale or "flea" markets in commercial or industrial zoned districts.
(H) Yard sales conducted outdoors by a resident in their respective yard area.
(I) Other temporary recreational or entertainment related events or activities such as fairs or concerts.

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(J) Temporary relocation of manufactured housing for displaced persons as a result of natural or manmade disaster.
(K) Mobile food vendor, push cart, or similar temporary retail food sales.

Itinerant merchants, as defined by the North Carolina General Statutes, shall not be considered a temporary use pursuant to this section. Itinerant merchants shall be subject to the regulations of Chapter 10, article VII of the Marion City Code, rather than the regulations of this section.

(3) Duration, frequency and permitted zoning districts. The following table defines the requirements for duration, frequency, and permitted zoning districts for which a temporary use may occupy a site.

Temporary Use	Maximum Duration per separate use per site	Maximum Frequency of event per person or group per site	Permitted Zoning Districts
Circuses and/or carnivals.	Seven (7) days	One (1) per calendar year	All non-residential zoning districts
Evangelistic and related religious congregations.	Fourteen (14) days	Four (4) per calendar year	All non-residential zoning districts.
Outdoor bazaars, cookouts and/or similar activities by churches or other nonprofit institutions or organizations	Three (3) days	One (1) every three (3) months	All zoning districts
Open lot sales for farm produce	Two (2) days	Twenty-four (24) per calendar year	All commercial zoning districts
Open lot sales for Christmas trees.	Forty-five (45) days	One (1) per year	All commercial zoning districts
Contractors' office and/or construction shed including mobile offices during construction on the development site.	Between issuance of a building permit and a final certificate of occupancy, annual renewal is required.	None	All zoning districts
Temporary special sales, yard sale or "flea" markets in commercial or industrial zoned districts.	Two (2) days	Four (4) times per year	All non-residential zoning districts
Yard sales conducted outdoors by a resident in their respective yard area.	Two (2) days	Twelve (12) times per year	All residential zoning districts
On-Site Estate Auctions	Two (2) days	One (1) per year	All zoning districts
Other temporary recreational or entertainment related events or activities such as fairs or concerts.	One (1) day except fourteen (14) days for an annual event.	One (1) per month for one (1) day events; one (1) per year for fourteen (14) day events.	All non-residential zoning districts.
Temporary relocation of manufactured housing for displaced persons as a result of natural or manmade disaster	Eighteen (18) months unless authorized by City Council	None	Within a designated disaster relief area.
Mobile food vendor	365 days	Annually	C-1, C-2, & M-1

(4) Criteria. A temporary use permit may be issued to the owner, tenant or lessee of any property located within the city. A temporary use permit may be issued provided the proposed use meets the following criteria:

(A) The temporary use must be compatible with the surrounding uses.

(B) The temporary use shall not generate noise, vibration, glare, fumes, odors, or electrical interference beyond what normally occurs in the applicable zoning district.
(C) If the temporary use is anticipated to draw less than 100 people at any given time, then it shall be approved by the zoning administrator.
(D) If the temporary use is anticipated to draw more than 100 people at any given time, then it shall be approved by the city manager. If the event is anticipated to draw over 1,000 people, it must be approved by the city council and an application must be submitted no less than 30 calendar days prior to the event.
(E) No more than two temporary use permits may be issued at any given time to the same applicant, unless approved by the city manager.
(F) The City shall refuse to issue a permit when the activity or purpose stated in the application would violate any ordinance of the city or statue of the state, or when the activity or purpose would constitute a clear and present danger to public health or safety.

(5) Permit required. Any person desiring to conduct a permitted temporary use, as defined in subsection (2) and (3) above with the exception of residential yard sales, must first obtain a permit from the city. Such permit will establish the requirements for the particular use set out in subsection (C) and (D) below.
(A) Purpose. The purpose of this permit is to insure that a temporary use meets the requirements set out herein and to coordinate traffic, parking, and other inspections as necessary to the safe and healthful operation of the event.
(B) Application. Application for a temporary use permit shall be made to the city of Marion at least five (5) business days prior to the start of such use with the exception of temporary uses requiring city council approval in which the application must be submitted no less than 30 calendar days prior to the event.
(C) Requirements. A temporary use permit shall not be issued until evidence is shown that the following requirements have been or will be complied with:
1. The temporary use is permitted under subsection (2) and (3) above.
2. Ample parking is provided for the temporary use, in addition to required parking for any permanent use or uses located on the same property as the proposed temporary use.
3. Written authorization is given from the property owner or his/her agent for the temporary use to take place.
4. Any temporary use held outside of a building and within five (5) hundred feet of any residence shall cease operation by 10:00 p.m.
5. Noise shall be controlled so that no adjoining property owner or occupant is unduly disturbed by the temporary use.
6. Restroom facilities are provided at a rate of not more than 100 persons per toilet seat unless otherwise approved by the county health officer. All facilities shall be located and screened in a manner not to be visible from the public right-of-way or adjacent to a residential use.
7. All solid waste, human waste and animal waste shall be removed off-site and transported to an approved sanitary facility pursuant to Chapter 9 Health and Sanitation of the Marion City Code.

(D) Additional Requirements. The following additional requirements shall apply:
1. Where a tent or similar structure is to be used, the following requirements or documentation shall be met:
   a. A limitation on the number of occupants in a structure shall be observed as per the fire inspector.
   b. If a tent is to be used for human occupancy, a certificate of insurance must be submitted which will cover liability on the part of the applicant or sponsor in the event of an accident.
   c. A certificate of flame resistance shall be submitted which will provide assurance that the structure has been properly treated with flame retardant and has been maintained as such.
2. Contractors' office and/or construction shed including mobile offices shall be removed prior to receiving a certificate of occupancy.
3. Any temporary use deemed by the Chief of Police to have a potential risk to health, safety or public order may require the applicant to provide private protective services.
4. Where a mobile food vending unit is to be established the following requirements shall be met:
   a. It shall be unlawful for any mobile food vendor to go in or establish upon private property without consent by the property owner or his or her designee.
   b. Mobile food vendors are prohibited from locating on a public right-of-way unless otherwise approved by City Council.

AA.00000452 (24)

c. The vending unit may not obstruct at any time any trash container, fire hydrant, fire lane, ingress or egress to the property, or building entrance.
d. Extension cords, drop cords, wires, and/or other materials shall not obstruct pedestrian or vehicular movement.
e. The vendor, or his or her designee, shall be in attendance at the mobile food vendor unit at all times, except in case of an emergency.
f. All vendor equipment and merchandise shall be removed from the premises or stored from public view during non-operating hours.
g. The vendor, or his or her designee, shall be removing all trash generated from mobile food operation at the end of each business day.
h. The vending unit shall be located on property of an existing business having an active privilege license.
i. The vending unit shall operate only at times concurrent with the operating hours of the existing business on which the vending unit is located.
j. Mobile food unit or pushcart shall not take up more than one designated (1) parking space, or 10 foot by 10 foot area.
k. The vending unit operator shall comply with all federal, state and local laws when operating the unit.
l. The vending unit shall receive all applicable state health and food safety permits or exemption in writing from the state health inspector prior to city approval.
m. No more than one (1) mobile food vendor shall be located on a site at any one time.
n. A mobile food vendor shall not be required to obtain a permit when vending activities are secondary or accessory to an approved temporary event.
o. All signage associated with the mobile food operation shall be securely attached flush to the vending unit and shall not be attached to the ground.
p. No more than two (2) temporary use permits shall be issued to a single mobile food vendor without Special Exception approval by the Board of Adjustment.
q. A violation of this section or any other applicable City Code shall be cause for immediate revocation of any permit issued pursuant to this section.

5. Additional requirements for mobile food vendors in C-1 Central Business District.
   a. Mobile food vendors are permitted in designated areas of the C-1 Central Business District upon approval by the City Council.
   b. All vendors shall be required to sign and execute a hold harmless release and agreement for sidewalk and right-of-way obstruction.
   c. All vendors shall be required to maintain active liability insurance and provide documentation of lender's receipt of signed and notarized release and agreement form.
   d. A vendor shall be limited to one or more of the following designated areas.
      (1) On the sidewalk at the corner of Main St. and Court. St.
      (2) On the sidewalk in front of the Gazebo and municipal parking lot located on Main St.
      (3) In the West Henderson Parking Lot outside of the Tailgate Market Pavilion.
      (4) On the sidewalk on Depot Street in front of the Marion Train Depot.
      (5) On the sidewalk on Logan Street in front of the Marion Community Building Park.
   e. Vendors shall operate from a mobile pushcart capable of being moved manually by no more than one (1) person.
   f. Mobile food vendors shall be prohibited from blocking pedestrian access along any sidewalk and shall allow a minimum clearance of four (4) feet between the pushcart and the edge of road.
   g. Vendors are permitted to operate between the hours of 7:00 a.m. and 10:00 p.m.
   h. Vendors shall be responsible for removing equipment and merchandise when not in operation.
   i. The vendor, or his or her designee, shall be responsible for removing all trash at the close of each business day and shall not place trash associated with the vending operation in public trash receptacles.
   j. Generators, noise generating devices, or any other attention getting device that may, by virtue of its design, create a distraction to motorists, pedestrians, or adjacent properties shall be prohibited.
   k. All mobile food cart units shall be self-contained and not require the use of ancillary power from any secondary source in order to operate.

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1. The City of Marion shall not provide power to a mobile food unit as part of the approved mobile food vendor permit application.

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 4th day of August 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/ Clerk

Ordinance Number: O-09-08-4-3

ADOPTION OF ORDINANCE – REVISED PLANNING AND INSPECTIONS FEE SCHEDULE: Planning and Development Director Heather Cotton advised that, the approval of the Zoning Ordinance Text Amendment to allow mobile food vendors in the C-1 Central Business Zoning District and the C-2 General Business Zoning District necessitated the establishment of a permit fee to support administrative costs with the permitting and inspection process. Ms. Cotton stated that the Planning Board has recommended that permit fees of $100 per year for the first mobile vending unit and $50 per year for additional vending units be set.

A discussion followed.

Upon a motion by Councilman Owenby, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Ordinance establishing permit fees for mobile food vendors:

AN ORDINANCE ESTABLISHING FEES FOR THE PLANNING AND DEVELOPMENT DEPARTMENT TO INCLUDE MOBILE FOOD VENDING PERMIT FEES

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

SECTION 1. That the City of Marion Planning & Development Department Fee Schedule be amended to include the following:

Mobile Food Vendor Permit. The City of Marion shall charge an annual $100.00 administrative permit fee for the operation of one (1) mobile food vendor unit in the City of Marion, each additional mobile food vending unit and/or location shall be $50.00.

SECTION 2. This ordinance shall become effective upon its adoption.

Adopted this the 4th day of August 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/ Clerk

Ordinance Number: O-09-08-04-2

AA.000000454 (24)

ADOPT RESOLUTION OF INTENT – STREET CLOSING: Planning and Development Director Heather Cotton advised that a request had been submitted by Mr. Don Anderson to close an unopened portion of Maryland Avenue off of Vale Street that splits property owned by Bernice Eckerd.

Ms. Cotton stated that the process would begin with City Council adoption of a Resolution of Intent to close the street. A public hearing on the matter will be scheduled for September 8, 2009, notice of the hearing shall be published in the McDowell News for four successive weeks, and the notice shall be posted in two (2) places along the unopened portion of the street pursuant to North Carolina Statutes 160-299.

Ms. Cotton reported that the unopened portion of Maryland Avenue is 0.33 acres according to a survey completed by Larry Greene Surveying dated June, 3, 2009. Property located on either said of Maryland Avenue is owned by Bernice Eckerd. Ms. Cotton stated that the City of Marion does not maintain any portion of Maryland Ave, and there is no indication that closing the street would be detrimental to public interest or limit access to other property.

Mr. Don Anderson was present for this meeting and said that he would answer any questions Council may have.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, Council voted unanimously to adopt the following Resolution of Intent to close an unopened portion of Maryland Avenue:

RESOLUTION OF MARION CITY COUNCIL
INTENT TO CLOSE A PORTION OF MARYLAND AVENUE

BE IT RESOLVED THAT, Pursuant to the provisions of North Carolina General Statutes 160A-299, the Marion City Council, hereby declares its intent to permanently close that unopened portion of Maryland Avenue as shown on a survey of properties belonging to Vernon T. Eckerd and wife, Bernice P. Eckerd, and as shown in Map Book 2, Page 8 on the W.H. Hawkins Subdivision of the Buffalo & Hewitt property in the South Marion Addition dated June, 17, 1947.

A public hearing is called to be held in the City Council Chamber at the City Hall, Marion, North Carolina at 7:00 o'clock on September 15, 2009, at which hearing any person may be heard on the question of determining whether or not the closing of said portion of said street would be detrimental of the public interest or the property rights of any individual.

BE IT FURTHER RESOLVED that a copy of this resolution shall be published once a week for four (4) successive weeks in the McDowell News, Marion, North Carolina, prior to the date of said public hearing, and that a copy of the same shall be sent by registered or certified mail to Bernice Eckerd, 5206 Nantucket Road, Greensboro, NC 27455, who is the owner of property adjoining said portion of said street as shown on the McDowell County tax records.

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

ADOPTED this the 4th day of August 2009.

A. Everette Clark, Mayor

AA.00000455 (24)

ATTEST:

J. Robert Boyette, City Manager/Clerk

Resolution Number: R-09-08-04-3

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present for this meeting wishing to speak to Council.

CITY MANAGER'S REPORT:

The City Manager advised that, as directed by Council at the July 21 Council meeting, he sent a letter to the Roto-Rooter office in Bakersville, with a copy to the Roto-Rooter corporate headquarters in Cincinnati, advising that the company is not to enter City manholes or sewer lines without permission and directing that they obtain a City privilege license. He stated that Roto Rooter had responded to the letter and stated their intent to obtain a privilege license and to abide by all City regulations.

The City Manager advised that the Department of Transportation continues to make good progress on the McDowell Avenue Street Extension. He stated that City staff are pushing DOT to complete this project before school starts in late August.

The City Manager advised that the Advisory Board/Volunteer Dinner is scheduled for Thursday, August 13 at 6:30 p.m. at the Community Building. All advisory board members, volunteer firefighters and other people who volunteer for the City at the annual Open House and in other capacities will be invited.

The City Manager advised that City crews have completed the Circle Drive water extension. The entire line is in service and City staff have connected all customers who have requested service.

The City Manager advised that City crews are working on a short sidewalk extension in front of First United Methodist Church on Robert Street, to complete this project before school starts, and also hope to soon begin work to create a three lane section of roadway on Fleming Avenue near Marion Elementary School before school starts, as had been previously authorized by Council.

The City Manager advised that Ronny Turner Construction is moving along with the construction of the force main sewer line that will pump wastewater flow from the Catawba River Wastewater Plant to the Corpening Creek Wastewater Plant. Ronny Turner will also be constructing the pump stations required and deconstructing the Catawba River Plant. Construction is scheduled to continue through October.

The City Manager reported that Laughlin Sutton Construction began work on the Corpening Creek Plant improvements in late June. This construction will last well into 2010.

The City Manager advised that construction and paving on Florence Avenue, Finley Avenue and East Railroad Street are completed. Pavers have also completed the resurfacing on Montevista Avenue next to the Bi Lo Shopping Center, on James Drive and Railroad Street and in the City Hall parking lot.

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The City Manager advised that McGill is working on the site plan, to be followed by surveying and appraisal work, to submit to the State as part of the City's request for State approval to allow the towers to remain on Mt. Ida. He stated that WLOS and UNC-TV have been advised of the lease terms agreed to by Council for tower sites ($300 per month leases for ten years with no payback required for new towers to WLOS and UNC-TV).

The City Manager advised that City crews had completed the sight distance improvements at the exact to East McDowell Junior High School, along South McDowell Avenue, including cutting down the bank adjacent to the exit and cutting back undergrowth along the street right of way. This work should greatly improve sight visibility in both directions and alleviate complaints received for many years from the residents of the Foxfire Community.

The City Manager advised that the City's Community Development Block Grant (CDBG) request to construct sidewalks in the Eastfield Community did not receive funding and that Isothermal staff had suggested resubmitting an application for the fall CDBG grant cycle, focusing on Perry Street, in order to maximize points.

Councilman Owenby stated that he feels the grant should be resubmitted in whatever fashion is necessary to maximize the City's chances of funding. The Mayor and Council Members expressed no opposition to the grant being resubmitted.

COUNCILMAN COMMENTS:

Mayor Pro Tem Little stated that he appreciate the efforts made by staff to ask the North Carolina Department of Transportation to modify the right turn on red restriction at Main and Court Streets; however, since DOT apparently was not going to provide the City an answer regarding this request, the City needed to action.

Mayor Pro Tem Little made a motion that the City install signage at the intersection of Main and Court Streets and adopt an ordinance modifying the right turn on red restriction to "No Right Turn on Red When Pedestrians are Peresent."

Mayor Clark asked if such an action by the City would create liability problems for the City. The City Manager advised that Main and Court Streets were both U.S. highways and were controlled by DOT and that the City did not have the authority to put up such signs.

A discussion followed. The City Manager noted that several verbal discussions had been held with DOT staff regarding this request and also asking for approval of "Yield to Pedestrian" signs at the same intersection, but that no letters had yet been sent.

Mayor Pro Tem Little withdrew his motion.

Mayor Pro Tem Little suggested that a letter be sent to DOT, formally asking for a modification of the right turn on red restriction and requesting approval of "Yield to Pedestrian" signs, with copies sent to the appropriate people.

Mayor Clark suggested that the letter be sent to DOT Secretary Conti.

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After a brief discussion, Council decided by consensus to direct the City Manager to send a letter to DOT Secretary Conti, with copies to the Division 13 DOT Board Member and appropriate Division 13 DOT staff, asking for a modification of the right turn on red restriction and requesting approval of "Yield to Pedestrian" signs.

Councilman Cuthbertson advised that he had received requests from people in the medical field, asking that the traffic signal at Railroad Street and West Henderson Street go on flash late at night, to prevent unnecessary delays in responding to the Hospital. Council agreed by consensus to direct the City Manager to send a letter to DOT staff, making such a request.

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

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, 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 18, 2009 at 7:00 P.M. in the City Council Chamber located at 194 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: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Harriett Thomas, CPA, Finance Director; Heather Cotton, AICP, Planning and Development Director; Mika Elliott, Police Chief; Chris Hollifield, Public Works Director; Mike Conley, Reporter, McDowell News; Wendy McAnnally, Reporter, News Bulletin.

GUESTS PRESENT: Mike & Jill Lucas 6151 Lake James Road, Nebo, NC; Alice Stecker 120 Lookout Point, Nebo, NC; Ann McNutt 394 Honeycutt Mountain Road, Marion, NC; Cathy Green 797 Lake Club Drive, Nebo, NC; Nora Worthen, Nebo, NC; David Wooten, Marion, NC; Cliff McLarty, North Madison Street, Marion, NC.

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Little, seconded by Councilman Owenby, Council voted unanimously to approve the consent agenda as follows, excluding item D, as requested by Councilman Cuthbertson:

A. Approval of Minutes – August 4, 2009 Regular City Council Meeting Minutes

B. Approve Personnel Policy Amendment

City of Marion
Personnel Policy Amendment

The Personnel Policy of the City of Marion, as adopted on February 21, 2006, is hereby amended as follows:

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Section 1. That Article VII, Leaves of Absence, Section 5. Sick Leave is amended by deleting the first paragraph in its entirety and replacing it with the following:

(a) Sick Leave – Manner of Accrual
Each full-time regular and probationary employee shall accrue sick leave annually at a rate of the average number of hours scheduled per week multiplied by one (1) for employees with less than five (5) years of service with the City and multiplied by two (2) for employees with five (5) or more years of service, provided the employee is active and eligible to contribute to the Local Government retirement System. Employees who are out of work on leave status shall not be eligible for accumulation of sick leave. For the purposes of sick leave accrual, in no case shall the average number of hours for a position be less than the maximum number of hours an employee in that classification may work under the requirements of the FLSA. The amount of sick leave accrued shall be determined by dividing the annual leave total by the number of pay periods each year and this amount shall be credited to each active employee each pay period.

Section 2. This amendment shall become effective on September 1, 2009.

Adopted this the 18th day of August 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Policy Number: P-09-08-18-1

C. Adopt Resolution Directing the Clerk to Investigate a Petition for Annexation – Highway 226 South-Justice/McCoyle Property

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-31 – HIGHWAY 226 SOUTH – JUSTICE/McCOYLE PROPERTY - 2009

WHEREAS, a petition requesting annexation of an area described in said petition was received on June 24, 2009 by the City of Marion; and

WHEREAS, 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 of his investigation.

Adopted this the 18th day of August, 2009.

A. Everette Clark, Mayor

ATTEST:

AA.0000000459 (24)

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-09-08-18-1

APPROVE WAIVER OF CIVIL CITATION REMOVED FROM CONSENT AGENDA FOR FURTHER DISCUSSION: The City Manager advised that it has been tradition that Council waive parking citations for persons serving as jurors.

The City Manager reported that Ms. Rebecca Davis had received a parking citation on August 10 for overtime parking in the Gazebo Parking Lot on North Main Street. Ms. Davis provided information certifying that she was serving on the grand jury. Therefore, based on past precedent, the City Manager placed this item under the consent agenda.

Councilman Cuthbertson stated that this issue keeps arising from time to time. He noted that the City has spent a lot of money to construct a parking lot for jurors on North Garden Street and feels that this type of citation should not be waived. Councilman Cuthbertson added that if the Garden Street parking lot is full, then perhaps County vehicles in the parking lot need to be removed.

Councilman Edwards stated that information regarding parking is sent out in advance to each person serving as a juror and that the Clerk of Court stresses parking in verbal instructions given to jurors. He suggested that information about parking be shown in bold, advising jurors that they need to park in specified parking lots, or risk receiving a citation.

Mayor Pro Tem Little made a motion to waive the penalty for the civil citation issued to Ms. Davis for overtime parking for good cause. Councilman Martin seconded the motion.

Councilman Owenby stated that he agrees with Councilman Cuthbertson that if the City is going to enforce rules for one, it should enforce such rules for all.

Mayor Pro Tem Little stated that there have been hundreds of people serve on juries over the years and very few citations have been issued and appealed. He stated that this was only an occasional problem.

The vote to waive the citation carried 3-2. The vote was as follows:

Mayor Pro Tem Little	Yes
Councilman Edwards	Yes
Councilman Martin	Yes
Councilman Cuthbertson	No
Councilman Owenby	No

PUBLIC APPEARANCE - MIKE ORNBERG/BRUCE BROWN – DISCUSS MOBILE FOOD VENDOR ORDINANCE: Mr. Ornberg could not be present due to a death in his family and asked that this item be held until a later date.

Councilman Edwards stepped away from the meeting to take a phone call.

PUBLIC APPEARANCE – MACA – DISCUSS McDOWELL COUNTY QUILT TRAIL: Ms. Heather Cotton appeared before Council representing the McDowell Arts Council Association (MACA) to discuss a proposed McDowell County Quilt Trail.

Ms. Cotton presented Council with a power point presentation advising that the proposed Quilt Trail in McDowell County and across the Western North Carolina Region is part of an economic development initiative designed to enhance the quality of life in rural communities by providing sustainable economic development opportunities for local businesses, artists, and farmers by encouraging the sale of locally

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produced goods, value-added farm products, handcrafted merchandise and other local items to residents and visitors traveling to our region.

Celebrating & Preserving Local History
•Each quilt block is connected, by its pattern and name, to the history of the land, the building or the family.

•The Quilt Trail will provide a non-invasive attraction in rural parts of the community, and can assist with the preservation of historic locations and increase the economic impact of environmentally friendly tourism (eco-tourism) locally and in the region.

Additional Benefits
- The trail can be used to market the area for travel and tourism, real estate, and business recruitment.
- The program document local history.
- Quilt blocks bring life back to buildings and structures once forgotten.
- Media Coverage
- Travel and Tourism
- Marketing opportunities

Community Involvement
Community members of all ages, backgrounds, and interests can participate in the program in a variety of ways giving the whole community ownership and pride in the quilt trail, and all the work and support of the program builds long-lasting relationships and connections among many different people.

Creating A Quilt Block
•It all starts with a design, based on a story about the host.
•Once design is chosen, the block is cut, framed, and painted by a group of volunteers and supervised by program coordinators.
• The process for designing and building a block typically takes about three months from design selection to completed construction.

Hanging a Quilt Block
Requires the use of a bucket truck and professional contractor or other building professional.

Buying Local
•MDO Board & other building materials are purchased through a local building supply company.
•Benjamin Moore Exterior Paint and painting supplies used to apply designs to quilt blocks.
•Labor and equipment, such as the use of a bucket truck to hang quilt blocks.
•Professional printing company to generate marketing materials and other print products.

Our Next Steps
•Generate support for the project countywide:
•Develop application materials and website to advertise and market the program.
•Establish a group of volunteers to create quilt blocks.
•Fundraise to help pay for equipment and software.

Hosting a Quilt Block
·Sizes Available:
·2' x 2' = $150
·32" x 32" = $200
·4' x 4' = $250
·6' x 6' = $375
·8' x 8' = $500

Donation to the City of Marion

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Mike and Jill Lucas and Alice Stecker have generously offered to each donate a six foot square quilt block for each end of the City of Marion Tailgate Market Shade Shelter from a selection of designs including the "Grape Basket" block; "Main Street Meets the Mountains" block, and/or the "Garden Maze" block.

Mayor Pro Tem Little stated that his is one of the most clever, attractive projects he had seen in a long time.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, those members of Council present voted to enthusiastically accept the gracious offer of the Lucas and Stecker families to donate two quilt blocks for the City of Marion's Tailgate Market Shade Shelter and to further discuss the desired design at the august 25 Council Planning Session.

Councilman Martin stated that this was a beautiful presentation by Ms. Cotton.

Councilman Owenby stated that eight to ten years was a good amount of time for the quilt blocks to last.

PUBLIC HEARING – ADOPTION OF ANNEXATION ORDINANCE – KATHY STREET-BUFF/PIERSON PROPERTY ANNEXATION: Mayor Clark opened the Public Hearing.

The City Manager advised that a public hearing is required on the annexation of the 1.29 acre Buff/Pierson property on Kathy Street. This property is contiguous to the existing City Limits and contains one mobile home. If approved by Council, the ordinance to annex this property would become effective August 31, 2009.

There were no citizens present to discuss this annexation request.

Mayor Clark closed the Public Hearing.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, those members of Council present voted to adopt the following Ordinance to annex the Kathy Street-Buff/Pierson property effective August 31, 2009.

AN ORDINANCE TO EXTEND
THE CORPORATE LIMITS OF THE
CITY OF MARION, NORTH CAROLINA –
KATHY STREET-BUFF/PIERSON PROPERTY-2009

WHEREAS, the City Council has been petitioned under G.S. 160A-31 to annex the area described below; and

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

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at City Hall at 7:00 P.M. on Tuesday, August 18, 2009, after due notice by publication on Thursday, August 6, 2009; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-31;

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

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the City of Marion as of August 31, 2009:

BEGINNING on a point located on the Eastern margin of Kathy Street (commonly known as State Road #1728), and runs thence North 01 degree 14 minutes 30 seconds West 51.48 feet to a point; thence North 00 degrees 37 minutes 24 seconds East 86.50 feet to a point; thence North 03 degrees 54 minutes 24 seconds East 66.33 feet to a point; thence North 07 degrees 22 minutes 28 seconds East 166.87 feet to a point; thence North 19 degrees 45 minutes 36 seconds East 63.28 feet to a point; thence North 33 degrees 30 minutes 36 seconds East 55.76 feet to a point; thence South 12 degrees 43 minutes 30 seconds East 500.06 feet to a point; thence North 86 degrees 19 minutes 00 seconds West 10.11 feet to an existing iron pin; thence North 86 degrees 19 minutes 00 seconds West 10.11 feet to an existing iron pin; thence North 86 degrees 19 minutes 00 seconds West (the same course) 169.32 feet to an existing iron pin; thence North 86 degrees 19 minutes 00 seconds West (the same course)

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9.04 feet to the point of BEGINNING, containing 1.29 acres, more or less, according to a plat prepared from a new survey, dated June 13, 1980, by R. L. Greene, Surveying and Mapping, Marion, North Carolina.

EXCEPTING AND RESERVING, HOWEVER, from the operation of this conveyance, all the land described in and conveyed by that certain deed dated August 2, 1984, by W.C. Hall and wife, Helen Lee Hall, to Mabel Lewis, recorded in the Office of the Register of Deeds for McDowell County, North Carolina, in Deed Book 333 at Page 433, to which reference is hereby made.

AND BEING the same property as described in and conveyed by that certain deed dated May 5, 1987, from Joseph A. Miller and wife, Barbara Miller, to Ruth B. Pierson, and which is recorded in the Office of the Register of Deeds for McDowell County in Deed Book 368 at Page 566.

Section 2. Upon and after August 31, 2009, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City of Marion. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Marion shall cause to be recorded in the office of the Register of Deeds of McDowell County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the McDowell County Board of Elections, as required by G.S. 163-288.1.

ADOPTED this the 18th day of August, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Approved As To Form:

City Attorney

Ordinance Number: O-09-08-18-1

PUBLIC HEARING – ADOPTION OF ANNEXATION ORDINANCE – US 221 NORTH/GURLEY PROPERTY: Mayor Clark opened the Public Hearing.

The City Manager advised that a public hearing is required on the annexation of the Gurley/Bypass Properties area, containing 2.76 acres, on US 221 North. This area includes the Southern Traditions Credit Union, the new ABC store site, the Catawba Properties building and an adjacent vacant lot. This property is not contiguous to the existing City Limits. If approved by Council, the ordinance to annex this property would become effective August 31, 2009.

There were no citizens present to discuss this annexation request.

Mayor Clark closed the Public Hearing

Upon a motion by Councilman Cuthbertson, seconded by Councilman Mayor Pro Tem Little, those members of Council present voted to adopt the following Ordinance annexing the US 221 North/Gurley/Bypass Properties area effective August 31, 2009.

AN ORDINANCE TO EXTEND
THE CORPORATE LIMITS OF THE
CITY OF MARION, NORTH CAROLINA –
US 221 NORTH/GURLEY - 2009

WHEREAS, the City Council has been petitioned under G.S. 160A-58.1 to annex the area described below; and

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

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WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at City Hall at 7:00 P.M. on Tuesday, August 18, 2009, after due notice by publication on Thursday, August 6, 2009; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-58.1(b);

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

Section 1. By virtue of the authority granted by G.S. 160A-58.2, the following described territory is hereby annexed and made part of the City of Marion as of August 31, 2009:

Tract One

Beginning on an 5/8 inch rebar set in the west margin of the right-of-way for U.S. 221 North, said rebar having NCGS coordinates of North = 729,333.491 feet and East = 1,097,850.795 feet; said iron rebar being located South 62 degrees, 17 minutes, 35 seconds West 86.44 feet from a nail and disc GPS point located on the east side of U.S. 221 North, said GPS point having coordinates of North = 729,373.681 feet and East = 1,097,937.323 feet (NAD 83/2007) and runs thence from said Beginning Point and with the west margin of the right-of-way for U.S. 221, South 30 degrees, 44 minutes, 32 seconds East 134.39 feet to an existing concrete right-of-way marker; thence South 51 degrees, 49 minutes, 25 seconds West 21.20 degrees to an existing concrete monument; thence continuing South 51 degrees, 49 minutes, 25 seconds West with the line of Great Meadows, Inc. 187.30 feet to a 5/8" rebar with cap set; thence North 48 degrees, 05 minutes, 35 seconds West 121.26 feet to an existing iron pipe; thence North 41 degrees, 05 minutes, 35 seconds West 13.83 feet to a 5/8 inch rebar set; thence leaving the line of Great Meadows, Inc., a new line, North 51 degrees, 49 minutes, 25 seconds East 247.47 feet to the Beginning, containing 0.70 acres by coordinate computation.

And being a portion of that property described in a deed to Gurley Properties, LLC, Deed Book 552, Page 719, Tract 25 of the McDowell County, N.C. Deed Registry.

Tract Two

Beginning on an 5/8 inch rebar set in the west margin of the right-of-way for U.S. 221 North, said rebar having NCGS coordinates of North 729,333.491 feet and East = 1,097,860.795 feet; said iron rebar being located South 62 degrees, 17 minutes 35 seconds West 86.44 feet from a nail and disc GPS point located on the east side of U.S. 221 North, said GPS point having coordinates of North = 729,373.681 feet and East = 1,097,937,323 feet (NAD 83/2007) and runs thence from said Beginning Point and with the west margin of the right-of-way for U.S. 221, North 30 degrees, 44 minutes, 32 seconds West 76.70 feet to a PK nail found; thence continuing with said margin of said right-of-way North 30 degrees, 44 minutes, 32 seconds West 116.63 feet to a PK nail found; thence North 65 degrees, 10 minutes, 38 seconds West 34.86 feet to a 5/8 inch rebar; thence South 45 degrees, 07 minutes, 00 seconds West 69.54 feet to a 5/8 inch rebar; thence North 45 degrees, 47 minutes, 03 seconds West 10.98 feet to an iron pipe; thence South 44 degrees, 58 minutes, 55 seconds, West 178.53 feet to an iron pipe; thence South 33 degrees, 46 minute, 24 seconds East 151.91 feet to an existing solid iron rod; thence South 41 degrees, 05 minutes, 35 seconds East 53.58 feet to a 5/8 inch rebar set; thence a new line, North 51 degrees, 49 minutes 25 seconds East 247.47 feet to the Beginning, containing 1.28 acres by coordinate computation.

And being a portion of that property described in a deed to Gurley Properties, LLC, Deed Book 532, Page 719, Tract 25 of the McDowell County, N.C. Deed Registry.

Tract Three

Two parcels of land in Dogwood Acres Subdivision, Parcel "B" adjoining and on the North side of the 0.44 acre parcel of land now owned by Gary D. Ledford and wife which parcel is being conveyed to grantee herein contemporaneously with this deed., said 0.44 acre parcel having been conveyed by Frank J. Hall and wife and W. C. Hall and wife to Harry A. Justice, see Deed Book 289 at Page 624, and Parcel "C" adjoining and on the East side of said Ledford lot.

Parcel "B": BEGINNING on an iron set in the Northeast corner of the Ledford lot, and runs with the line of the lot conveyed to Oswaldo M. Tinco by deed recorded in McDowell Deed Book 747 on Page 884, N. 26° 47'26" 129.14 feet to an iron pin set in the Southern margin of the 30 feet wide right of way of Dogwood Acres Loop; then with the Southern margin of said right of way, S. 65°14'24" W. 28.00 feet to a point, S. 84°22'36" W. 35.55 feet to a point; N. 81°19'22" W. 51.04 feet to a point, and N. 70°12'35" W. 33.15 feet to an iron pin set in said margin; then a new line S. 35°37'33" W. 71.95 feet to the westernmost corner of the Ledford lot, just South of the new Northern Margin of the Right-of-Way of Highway 221 North; then with the Northern Line of the Ledford Lot, S. 75°59'36" E. 250.00 feet to the BEGINNING, containing 0.34 acres.

Parcel "C": BEGINNING on the iron pin set in the Northeast corner of the Ledford Lot, the beginning corner of Parcel "B" and runs with the Eastern Line of the Ledford Lot, S. 39° 10'00" W. 138.92 to a railroad spike in the Northern Margin of Creson Drive, the Southeast corner of the Ledford Lot; then N. 83°02'22" E. 28.83 feet to an iron pin set near the western

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margin of a private gravel drive which forms the Western margin of a lot conveyed to Jose Emiliano Denza De La Loma by deed recorded in McDowell County Deed Book 735 on Page 939; then a line running West of the Western Margin of the Right of Way of said private gravel drive, N.34°28'56" E. 94.68 feet to a point and then N. 36°20'02" E. 24.23 feet to an existing iron pin, the 12the corner of the Tinco Deed, Deed Book 747, Page 884; then with the line of the Tinco Deed N. 53°04'27" W. 11.004, feet to the BEGINNING, containing 0.05 acres.

Tract Four

BEGINNING on a railroad spike in concrete, said spike being the 11th corner of the tract of land described in McDowell County Deed Book 747 at Page 884.amd the 3rd corner of the Gary D. Ledford property as described in McDowell County Deed Book 549 at Page 280, and runs thence South 39 degrees 10 minutes 00 seconds West 138.92 feet to a railroad spike set in the edge of Creson Drive; thence North 60 degrees 00 minutes 30 seconds West 95.97 feet to an existing iron pin found buried within the right-of-way of Highway 221 North; thence running North 30 degrees 48 minutes 43 seconds West 140 feet. to an iron pin set at a disturbed existing iron pin found; thence with the line of Frank J. Hall, et. al., South 75 degrees 59 minutes 36 seconds East 250 feet to the BEGINNING, containing 0.44 acres, and being designated as Parcel A on that certain plat of survey prepared by Pendergrass Surveying, Registered Land Surveyor, Morganton, North Carolina, dated January 17, 2005, File No. 10505, from which plat of survey all calls used in this description were taken.

AND BEING the same property conveyed by that certain deed from Walker Properties to Gary D. Ledford and wife, Kimberly E. Ledford, and which is recorded in McDowell County Deed Book 549 at Page 280. Reference may also be made to that certain deed from Kimberly E. Ledford to Gary D. Ledford, which is recorded in the Office of the Register of Deeds for McDowell County in Deed Book 678 at Page 275.

Section 2. Upon and after August 31, 2009, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City of Marion. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Marion shall cause to be recorded in the office of the Register of Deeds of McDowell County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the McDowell County Board of Elections, as required by G.S. 163-288.1.

ADOPTED this the 18th day of August, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Approved As To Form:

City Attorney

Ordinance Number: O-09-08-18-2

CONSIDER AWARD OF CITY BANKING SERVICES: Finance Director Harriett Thomas advised that the City was recently notified by Bank of America that, after 24 years of service fee free banking, the City would begin being charged service fees in the very near future. If accounts were left as they are now, the service charge per month would be anywhere from $2,200 to $2,500 per month. Ms. Thomas stated that Bank of America initially offered to reduce the monthly service charges to $870 by moving $1.5 million to non interest bearing accounts or to $542 by moving $2.5 million to non interest bearing accounts. Ms. Thomas advised that, even though the service charges would be reduced, the City would be losing the small amount of interest currently being earned. Ms. Thomas stated that she subsequently sought bids for City banking services.

Ms. Thomas reported that a request for Proposal (RFP) was sent to all seven banks in the City that are on the State's approved list for local government investments. Proposals were received from five banks: Mountain First Bank, Fifth Third Bank, Carolina First Bank, Bank of America and Asheville Savings Bank. Five were heard back from. Wachovia and First Citizens Bank did not respond. Responses to all items requested in the RFP were received from Fifth Third Bank, Carolina First Bank, Bank of America and Mountain First Bank.

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Asheville Savings Bank responded but did not send all of the items that had been requested in the RFP such as their annual reports, disaster recovery plan, etc.

Ms. Thomas advised that the bids were all read and analyzed and, based on her analysis, she recommends that the City contract with Mountain First Bank to provide banking services. Besides providing the services the City needs at no cost, she feels a local community bank will best serve the needs of the City.

Mayor Pro Tem Little stated that this goes to show that the Bank of America is no longer in business for small towns, whereas Mountain First has indicated that they want to be a member of the community. He added that he appreciates Mr. David Wooton and Mr. Mike Morgan from Mountain First and that everyone associated with the bank is a fine group of people.

Mayor Clark stated that the City banked with First Union many years ago and then switched to Bank of America. He added that it will be nice to have local people to talk to and whom are empowered to make decisions. Mayor Clark added that, if not for Mountain First Bank, the City would likely be paying service charges.

Mayor Clark asked how quickly the transition could take place. Ms. Thomas stated that she would work to move all City accounts to Mountain First no later than October 1, to avoid service charges at the Bank of America to the greatest extent possible.

The City Manager expressed his appreciation to Mr. Wooten and Mr. Morgan for working hard to put together a very competitive proposal that shows Mountain First Bank's appreciation for the City's business.

A discussion followed.

Councilman Edwards returned to the meeting during the discussion of this item at 7:35 P.M.

Upon a motion by Councilman Martin, seconded by Mayor Pro Tem Little, Council voted unanimously to award the contract for City banking services to Mountain First Bank, to become effective as soon as possible.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council. However, Mayor Clark took this opportunity to read a letter emailed to him from Ms. Vernice Francis of Francis Drive regarding City Manager Bob Boyette.

Ms. Francis's letter read as follows:

Mayor Clark,
At approximately 4:55 p.m. on an afternoon in July, I was down the street speaking with two men from the Department of Transportation. I requested that the City Manager Bob Boyette come to my home and meet with myself and the Department of Transportation. Bob immediately replied that he would come out and meet with us.

I appreciate Bob responding to a last minute request to come to my home, and I appreciate him trying to assist me with an on-going problem with the DOT fence in front of my home, and the trash and weeds.

Bob expressed a strong concern about my request, and he tried to come up with suggestions for the DOT.

I don't think anything was accomplished from the meeting with the DOT, but our City Manager Bob Boyette did agree with me that the fence west of my home is an eyesore to the community.
Mayor Clark, I recognize the value of our City Manager, and I value this attempt to address my concerns.

Sincerely,

Vernice Francis
24 Francis Drive
PO Box 62
Marion, NC 28752

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Mayor Clark commended the City Manager for all he does on a day to day basis for the City of Marion.

CONSIDER ADOPTION OF ORDINANCE PROHIBITING BEGGING IN PUBLIC PLACES IN THE CITY: The City Manager advised that State law authorizes cities to adopt ordinances to regulate or prohibit begging. The City Code currently states that begging is permitted, as long as a permit is obtained from the Police Chief, and that such permit shall not be unreasonably withheld. The City Manager stated that he had drafted the following ordinance to prohibit begging, panhandling, the soliciting of alms or performances conducted for donations on any public street, alley, right-of-way or sidewalk in the City or on any property owned or leased by the City. However, he did not propose prohibiting such activity on private property or on public property (other than streets, alleys, rights-of-way and sidewalks) owned by other public entities.

The City Manager stated that he had seen ordinances from cities such as Statesville, Chapel Hill and Asheville that prohibit begging in streets, at certain hours or "aggressive" panhandling. The ordinance he drafted is obviously much simpler and is similar to one from Hickory. This ordinance can be modified in any manner deemed appropriate by Council.

For information, the City Manager also presented a copy of the City's current begging ordinance and a copy of N.C.G.S. 160A-179, which authorizes cities to adopt ordinances regulating or prohibiting begging.

Current Begging Ordinance

Sec. 11-6. Begging in public places.

No person shall beg or solicit alms in the streets or other public places, nor in the entrances or corridors to or of any public building without securing a permit from the chief of police. The permit shall not be unreasonably withheld and there shall be no fee for such permit.
(Code 1982, § 8-1013)

State Law References: Authority of city to regulate begging, G.S. § 160A-179.

State Law Reference – Begging

§ 160A-179. Regulation of begging.

A city may by ordinance prohibit or regulate begging or otherwise canvassing the public for contributions for the private benefit of the solicitor or any other person. (1971, c. 698, s. 1.)

The City Manager stated that he had reviewed the draft ordinance with the City Attorney, who saw no problems with the proposed wording.

The City Manager advised that he has spoken to the Marion Business Association Board about this proposed ordinance. The MBA board did not take a position, but stated that individuals could of course state their opinions to Council. All Board members seemed to agree that begging should not be permitted. However, some Board members felt that performances for donations should be allowed, as is the case in other larger cities. Another suggestion was that, if performances for donations are allowed at City sponsored or approved events, the performer be required to obtain the permission of the event organizer. Such a provision could be added to the ordinance, if Council wishes.

Mayor Clark stated that this ordinance should be adopted and is an example of something missed by the City through the years during past City Code updates.

Police Chief Mika Elliott stated that he agrees with the City Manager's proposal.

Mayor Pro Tem Little stated that busking, or performing for donations, in a large city may not be offensive. However, he stated that such activity might not fit in well in Downtown Marion at the current time. Mayor Pro Tem Little stated that, for example if he went out with a trumpet and played in front of businesses for

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money, he does not feel that it would be appropriate. For Marion, the negatives out weigh the positives for busking activity at the present time and he is therefore in favor of the ordinance as proposed.

Mayor Clark stated that he has seen such busking and begging activity in New Orleans and other cities, but it has never been allowed in Marion.

Councilman Edwards stated that he was in Asheville, in the Wall Street area, and a little boy ten or eleven years of age was standing on street playing a violin and that it was not intrusive. The young boy was playing classical pieces and people were putting money in his open case. Councilman Edwards stated that he agreed that Marion is not yet ready for this type of activity, but hoped that Council would keep an open mind to such activity in the future.

Councilman Martin and Mayor Pro Tem Little stated that they agreed with the comments of Councilman Edwards.

A discussion was held. Council agreed to add to the ordinance the provision suggested by the MBA Board that persons performing for donations must obtain the approval of the event organizer.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, Council voted unanimously to adopt the following Ordinance as amended and presented:

ORDINANCE
AMENDING CHAPTER 11
OFFENSES
MARION CITY CODE

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

Section 1. That Chapter 11, Offenses, of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Section 2. Chapter 11 is amended by deleting Section 11-6, Begging in public places, in its entirety and replacing it with the following:

> **Sec. 11-6. Begging in public places prohibited.**
>
> No person shall beg, panhandle, solicit alms or conduct any type of performance for donations in any public street, alley, right-of-way or sidewalk in the City or on any property owned or leased by the City. This section shall not apply to performances conducted in conjunction with City sponsored or approved events on public streets or sidewalks or on property owned or leased by the City. The permission of the event organizer is required for performances conducted in conjunction with City sponsored or approved events on public streets or sidewalks or on property owned or leased by the City.

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 18th day of August, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-09-08-18-3

CONSIDER ADOPTION OF ORDINANCE MODIFYING THE NUMBER OF MEMBERS ON THE CITY TREE BOARD: The City Manager advised that it was recommended at the last Tree Board meeting on August 5 that Council expand the voting membership of the Tree Board from five to six members and

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appoint John Reese as a voting member of the Tree Board. The City Manager stated that he had contacted Mr. Reese and determined that he would be willing to be appointed as a voting member of the Tree Board.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Ordinance.

ORDINANCE
AMENDING CHAPTER 19
TREES
MARION CITY CODE

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

Section 1. That Chapter 19, Trees, of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Section 2. Chapter 19 is amended by deleting Section 19-26, Creation and establishment, and Section 19-27, Terms of members, in their entirety and replacing it with the following:

Sec. 19-26. Creation and establishment.

There is hereby created and established a tree board for the city which shall consist of six (6) members who shall be citizens, and residents of this city. Such members shall be appointed by the mayor with the approval of the city council. Ex officio members may be appointed as necessary.

Sec. 19-27. Terms of members.

The term of the six (6) persons to be appointed by the mayor shall be three (3) years except that the terms of two (2) of the members appointed to the first board shall be for only one (1) year and the term of two (2) members of the first board shall be for two (2) years. If a vacancy shall occur during the term of any members, his successor shall be appointed for the unexpired portion for the term.

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 18th day of August, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-09-08-18-4

CONSIDER APPOINTMENTS TO TREE BOARD: The City Manager advised that, in conjunction with the Ordinance just adopted by Council expanding the voting membership of the Tree Board, the Tree Board had recommended that Council appoint John Reese as a voting member of the Tree Board and Scott Ellis, the new North Carolina Forest Service Ranger for McDowell County, as an ex officio, non-voting member of the Tree Board.

The City Manager stated that both Mr. Reese and Mr. Ellis had indicated that they would be pleased to serve on the Tree Board.

Upon a motion by Councilman Cuthbertson, seconded by Mayor Pro Tem Little Council voted unanimously to appoint John Reese as a voting member of the Tree Board, with a term to expire on June 30, 2012, and Scott Ellis as an ex officio member of the Tree Board.

The membership of the Tree Board is as follows:

Voting Members

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Pat Brown
Term Expires June 30, 2010

Phil Tate
Term Expires June 30, 2010

Joan Hensley
Term Expires June 30, 2011

Steve Brown
Term Expires June 30, 2011

Nancy Clark
Term Expires June 30, 2012

John Reese
Term Expires June 30, 2012

Ex Officio Members

Councilman Lloyd Cuthbertson
Mayor Pro Tem Steve Little
Scott Ellis, North Carolina Forest Service
Phil Ray, Duke Energy

Staff

Debi Sherlin, Administrative Assistant

DISCUSS STREET REQUESTS: The City Manager advised that Councilman Owenby had informed him of requests he had received for a sidewalk on Oak Street and for some major tree trimming on Highland Drive. The City Manager recommended that these requests be referred to the Street Committee for review.

Mayor Pro Tem Little stated that he would also like the Street Committee to look at the northern side of the railroad track on Garden Street. It is rapidly deteriorating and has developed holes. The wood in the railroad crossing itself is also becoming deteriorated and causing a bumpy ride for motorists driving across this crossing.

It was the consensus of Council to refer these items to the Street Committee and to receive a report back at a later date.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that he had sent a letter to DOT District Traffic Engineer Mark Teague, requesting that DOT place the traffic signal at West Henderson and Railroad Streets on flash between 11:00 p.m. and 7:00 a.m., as had been directed by Council at the August 4 meeting. As previously reported, the City Manager had met with Mr. Teague on August 7. Mr. Teague indicated that it was likely that this request could be approved, unless DOT had vehicle detection in place at the intersection. Assistant District Traffic Engineer Anna Henderson contacted the City Manager on August 11 and stated that there were vehicle detection loops in place at the intersection, but that they were not currently working. Ms. Henderson said that she would release funds immediately to repair these loops. The loops will work 24 hours a day and should have nearly the same effect as a flashing signal, while providing for greater safety. Ms. Henderson advised that DOT typically will not place traffic signals with vehicle detection on flash, but that if the City continues to receive complaints, they can consider putting the signal on flash late at night. This work should be completed by the end of August.

The City Manager reported that DOT District Engineer Doug McNeal stated that he would recommend DOT funding for the sidewalk on West Henderson Street between Reid Street and Wilhemenia Street. As with the

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project further north on West Henderson Street between Railroad Street and Ingle's, DOT will likely only provide partial funding. The final decision will be made at the division level in Asheville, but this sidewalk should stand a very good chance of being funded.

The City Manager stated that he had asked Mr. McNeal for an update about when DOT intends to undertake the Sugar Hill Road plantings that were agreed to several years ago. The Tree Board has asked that this matter be expedited. Mr. McNeal noted that DOT would prefer to wait to undertake the plantings until the City completes the Sugar Hill Road water and sewer extension, since about one third of the plantings would be impacted if the plantings were done prior to the water and sewer extension. In this case, the City Manager stated that he agrees with DOT that it would be prudent to wait.

The City Manager stated that Mayor Clark sent a letter to DOT Secretary Gene Conti, asking for his help in getting an answer for us regarding our request to modify the right turn on red restriction at Main and Court Streets. The letter also asked for an answer regarding what type of "Yield to Pedestrian" signs can be placed at this intersection. The City Manager stated that he discussed these requests with Mark Teague on August 7. The City Manager reported that Mr. Teague stated that he should be able to approve time restrictions on the no right turn on red an, provide examples of possible "Yield to Pedestrian" signage and provide details on how the crosswalk can be made more visible. Mr. Teague forwarded an example on August 10, showing a proposed "Turning Traffic MUST Yield to Pedestrians" regulatory sign for all four directions at Main and Court and showing a proposed time restriction on the "No Right Turn on Red" signs at Main and Court. The City Manager reported that Mr. Teague stated that he had already approved limiting the no right turn on red prohibition to 8:00 a.m. to 5:00 p.m. Monday through Friday. Mayor Clark and Council members agreed by consensus on the proposed Yield to Pedestrians and No Right Turn on Red signs proposed by Mr. Teague.

The City Manager presented Council with a copy of a notice of a Tree Management Seminar to be held by the Tree Board, in conjunction with Duke Energy and Cooperative Extension. The seminar will be held at 6:00 p.m. on Thursday, August 27 at Countryside Barbeque and will include presentations on proper tree pruning, tree and site selection and tree care and pest management. This seminar is being held as part of our 20 Year Tree City USA Celebration and is being primarily funded by Cooperative Extension, Duke Energy and Lawrence Moore. The City is putting $100 into the seminar expenses.

The City Manager advised that the Tree Board discussed at their meeting on August 5 possible modifications to the shape of the hollies on Main Street or alternative trees in place of the hollies. The City Manager stated that he had also discussed the trees with the MBA Board at their August 11 meeting and heard suggestions to extend the planting of crepe myrtles currently in place on North and South Main Streets to the blocks between State and Fort Streets. The City Manager stated that he would recommend that Council discuss these trees at the August 25 Council Planning Session. Mayor Clark suggested that the Tree Board be consulted regarding possible replacements for the hollies.

The City Manager advised that Ms. Kathy Rabb had submitted a letter, proposing that an ordinance be adopted to require garbage receptacles placed by the street to be removed by the end of the day of collection. Kathy had complained to the Sanitation Department about some residences in the Eastfield area that keeps their garbage cans out all the time. The only other complaint the City Manager has received about this matter in the past has been from Mr. Walton Clapp on Currier Avenue. The City Manager stated that the City Code contains no requirements specifying how early garbage may be placed at the curb or requiring garbage receptacles to be removed within a certain period of time.

Councilman Edwards stated that he agreed with Mr. Clapp and Ms. Rabb concerning this issue. Mayor Clark asked how many people were leaving garbage cans by the street, since the City provides back door garbage pickup. After brief discussion, Mayor Clark and Council Members suggested that City staff obtain information regarding how many people place their garbage at the street for collection and how many people leave garbage cans at the street the day after collection.

The City Manager advised that DOT continues to make good progress on the McDowell Avenue Street Extension. He stated that City staff are pushing DOT to complete this project as soon as possible.

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The City Manager advised that City crews were close to completing a short sidewalk extension in front of First United Methodist Church on Robert Street and are awaiting a utility relocation to complete the work to create a three lane section of roadway on Fleming Avenue near Marion Elementary School as soon as possible, as had been previously authorized by Council.

Public Works Director Chris Hollifield advised that Ronny Turner Construction is moving along with the construction of the force main sewer line that will pump wastewater flow from the Catawba River Wastewater Plant to the Corpening Creek Wastewater Plant. Ronny Turner will also be constructing the pump stations required and deconstructing the Catawba River Plant. Construction is scheduled to continue through October. Mr. Hollifield added that Laughlin Sutton Construction began work on the Corpening Creek Plant improvements in late June. This construction will last well into 2010.
Mayor Clark stressed the need for McGill Associates to conduct regular inspections of this important project. Mr. Hollifield advised that McGill was inspecting the various parts of the projects at least daily. Mayor Clark stated that he hopes McGill is keeping inspectors on the job when sub contractors are being used for the project.

Mayor Pro Tem Little stated that he would like to compliment Ronnie Turner on how the force main installation on North Main Street was handled, with very little disruption to businesses and motorists.

The City Manager advised that all the street paving and resurfacing authorized by Council had been completed.

The City Manager stated that the next Council Planning Session is scheduled for Tuesday, August 25 at 6:00 p.m. at City Hall.

The City Manager advised that City property tax bills were mailed on August 14, which is about the normal time for bills to be mailed.

The City Manager advised that the State had released the 2008 crime statistics on August 12. Crime in North Carolina was down slightly from 2007 to 2008. In McDowell County, the total crime index was up 7.34 percent, with violent crime increasing by 28.99 percent. In the City, total crime was up 6.10 percent, compared to an increase of 6.25 percent in Old Fort and 7.39 percent for the unincorporated areas served by the Sheriff's Department. In the City, violent crime was down by 15.79 percent, compared to an increase of 200 percent in Old Fort and an increase of 80.00 percent for the unincorporated areas served by the Sheriff's Department.

With the City population increasing, the City Manager stated that he likes to compare the City per capita crime rate from year to year to account for increases in population. The City per capita total crime rate increased by 2.87 percent from 2007 to 2008, while the City per capita violent crime rate decreased by 18.52 percent from 2007 to 2008.

The City Manager added that the City's crime rate is so low that the City is unable to qualify for certain grants, including COPS grant funding. Mayor Clark stated that the City clearly has financial needs, but yet gets penalized for doing a good job and keeping the crime rate low.

The City Manager stated that the downtown wireless networking has been experiencing problems with one of the four "Hot Spot" zones. Planning and Development Director Heather Cotton stated that there are four antennas in place for the downtown wireless network, one at City Hall, two on the Griffith Building and one on the Police Department. Ms. Cotton stated that Antenna 2 on the Griffith Building has not been working consistently and that she is working with the consultant to diagnose and correct the problem.

The City Manager stated that Ms. Cotton has worked on this matter. He added that the City is trying to save money by using City staff, instead of consultants, as much as possible. However, the City will make sure that the downtown wireless network is working properly and that the contractor has provided the product for

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which the City has paid. He added that the City would be developing and publicizing information regarding simple troubleshooting tips with phone numbers for people to call if they have questions.

Finance Director Harriett Thomas reported that field work for the City's annual audit had been completed and that it appears that the City will have not audit finding of management letter comment for about the fourth year in a row.

COUNCILMAN COMMENTS:

Mayor Clark stated that he had seen a report from DOT listing planned projects for the next five years. He noted how poorly the City of Marion and McDowell County fared compared to surrounding counties and suggested that Council discuss this disparity at the August 25 Planning Session.

Mayor Clark stated that he will be going to Montgomery, Alabama from August 19-23 to attend the Southern Municipal Conference.

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

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in a Special Called Session on Tuesday, August 25, 2009 at 6:00 P.M. in the Conference Room located at 194 North Main Street for the purpose of conducting a Planning Session.

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

Councilman Mike Edwards was unable to attend this meeting due to a work conflict.

OTHERS PRESENT: Bob Boyette, City Manager

GUESTS PRESENT: None

OPENING DISCUSSION: Mayor Clark opened the meeting and welcomed those who were present.

PLANNING SESSION: City Council held a Planning Session and discussed the following topics:

I. Community Development Block Grant – The City Manager provided an update on a proposed CDBG application for sidewalks and housing rehabilitation on Perry Street in Eastfield. He advised that Isothermal Planning and Development Commission had informed him of a possible $7,125 cost to

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complete housing inspections and write-ups as part of the grant application. The City Manager stated that he was seeking to have the Building Inspector complete this work to save money. Mayor Clark suggested that the City look at private firms to complete CDBG applications in the future.

II. Program to Check on Senior Citizens Living Alone – Councilman Owenby proposed a program to have City staff make daily phone calls to elderly citizens living alone, to check on their welfare. He suggested that the program could be voluntary. Council members discussed the possible burden on City staff time and directed the City Manager to determine if there were such programs in other cities, if there were agencies in the County already doing such programs and to discuss logistics with City staff about a possible program.

III. Economic Development/Tax Base Expansion – The City Manager outlined current City economic development projects and initiatives. He suggested the possibility of the City waiving or reducing utility connection fees as necessary as an incentive for development or annexation. Council agreed to consider such a waiver on a case by case basis if absolutely necessary, but not as a matter of policy.

The City Manager noted that retail sales in the City increased by over nine percent in 2008-09 over 2007-08, in contrast to declining State and County retail sales.

IV. Growth Priorities – Council discussed options for City growth. Council suggested that City staff focus on areas currently served or which would soon be served with City water and sewer and planned development corridors. The City Manager will come back to Council in future months with recommendations.

V. Extension of Service Contract with Glenwood Volunteer Fire Department for Service to Marion Correctional Institution – Council directed the City Manager to bring back for Council approval a five year contract with the Glenwood Fire Department for service to Marion Correctional Institution.

VI. Funding Plan for Retention of Two Police Officer Positions – The City Manager presented Council with a funding plan to retain two police officer positions scheduled to be eliminated on October 1, using cost savings and extra revenues in the 2009-10 budget. Mayor Clark and Council members gave general agreement to the funding plan. The City Manager will study the plan further and come back to Council with firm recommendations and Budget Ordinance Amendments.

VII. Planning and Zoning Issues – Council discussed the idea of setting a minimum square footage for residential dwelling units. Council identified 800 square feet as a reasonable minimum size for residential dwellings. The City Manager was directed to seek the quickest possible way to bring a recommended ordinance before Council for consideration.

VIII. Downtown Web Cams – The City Manager presented options for downtown web camera. Council gave tentative endorsement to a south facing camera on City Hall and a north facing camera on the Griffith Building. Both camera locations would take advantage of existing antennas as part of the City's downtown wireless network.

IX. Options for Pruning or Replacement of Holly Trees on Main Street – The City Manager related increasing complains regarding holly trees on Main Street and presented options for tree pruning and/or replacement. Council gave tentative approval to replacing all hollies on Main and Henderson Streets with crepe myrtles, subject to review by the Tree Board and Marion Business Association Board.

Mayor Pro Tem Little suggested bold colors for the crepe myrtles. Council directed that the trees be tall enough to accommodate parking underneath them immediately. Staff will study options and bring back recommendations to Council, the Tree Board and the MBA Board for review.

X. Downtown Streetscape Plan – Council discussed options for traffic flow in the downtown area, as part of the Downtown Streetscape Plan, and directed the City Manager to bring back a rendering of a three lane section on Main Street with parallel parking on both sides, and with angled parking (with a gentle angle of less than 45 degrees) on West Court Street. The City Manager advised that such a plan likely stood a much better chance of DOT approval. He stated that he would work with City staff and the contracted consultant and have a rendering for this option to present to Council as soon as possible.

XI. Farmer's Market – Council agreed that the black barrels currently used as trash cans at the Farmer's Market are acceptable and that there is no need to spend money on decorative trash cans at this time. Council also asked that the chains blocking vehicles from entering the lower end of the Farmer's Market

AA.00000474 (24)

be taken down and agreed to have yellow striping placed on the curb poured in front of the shelter to warn people of a possible tripping hazard.

XII. Quilt Block for Farmer's Market – Council agreed on a diamond shaped "Where Main Street Meets the Mountains" quilt block for the west side of the Farmer's Market Shelter and a diamond shaped "Grape Basket" quilt block for the east end of the Shelter.

XIII. Peavine Rail Line Right of Way – The City Manager reported that the County Manager had raised the possibility of the County providing funding for the City's acquisition of the old Peavine Rail Line right of way from Norfolk Southern Railway. Council agreed by consensus for the City Manager to make such a request of the County.

XIV. DOT Issues – Mayor Clark suggested that Council ask DOT to extend Highland Drive a little over 800 feet to connect with Yancey Road at or near Dogwood Lane, to alleviate traffic congestion around Marion Elementary School. Council agreed to refer this matter to the Street Committee for review.

Mayor Clark noted the disparity in funding on DOT's five year work plan in the City of Marion and McDowell County, as compared to other surrounding counties.

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

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager

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STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, September 1, 2009 at 7:00 P.M. in the City Council Chamber located at 194 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 was not present for this meeting due to a work commitment.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, AICP, Planning and Development Director; Gaye Noblitt, Police Staff Sergeant; Chris Hollifield, Public Works Director; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Lisa Miller, 50 Pineneedle Lane, Nebo, NC; Mike & Ellen Ornberg 1565 Peppers Creek, Marion, NC; Cliff McLarty, North Madison Street, Marion, NC; Wesley Lowery 321 Epley Drive, Marion, NC; Eli Ornberg 11 North Main Street, Marion, NC; Robert Seibert, 15 North Main Street, Marion, NC; James & Jenny Tarpley, PO Box 1229, Marion, NC.

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Little, seconded by Councilman Owenby, those members of Council present voted to approve the consent agenda as follows:

A . Approval of Minutes – August 18, 2009 Regular City Council Meeting Minutes and August 25, 2009 City Council Planning Session Minutes.

B . Approve Resolution Authorizing Acceptance of N.C. Rural Center of N.C. Rural Center Economic Infrastructure Program Grant – Sugar Hill Road Water and Sewer Extension:

AUTHORIZING RESOLUTION BY MARION CITY COUNCIL
NC Economic Infrastructure Program

WHEREAS, The North Carolina General Assembly passed House Bill 1352 authorizing the making of grants to aid eligible units of government in financing the cost of construction of wastewater treatment works, wastewater collection systems, and water supply systems, that will result in job creation, and;

WHEREAS, The City of Marion has need for and intends to construct or rehabilitate a publicly-owned treatment works or an alternate wastewater system, for wastewater collection systems or for water supply and distribution systems, project described as the extension of water and sewer to the Sugar Hill Road corridor and;

WHEREAS, The City of Marion intends to request grant assistance from the Economic Infrastructure Grants Program for the project;

NOW THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF MARION:
That the City of Marion will arrange financing for all remaining costs of the project, if approved for a grant.

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

That J. Robert Boyette, City Manager and successors so titled, is hereby authorized to execute and file an application on behalf of the City of Marion with the NCREDC (Rural Center) for a grant to assist in the construction of the project described above.

That J. Robert Boyette, City Manager, and successors so titled, is hereby authorized and directed to furnish such information as the Rural Center may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

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

Adopted this the 1st day of September, 2009 at Marion, North Carolina.

_____

(Signature of Chief Executive Officer)

_____

(Title)

ATTEST:

Clerk (Seal)

Resolution Number: R-09-09-01-1

C. Adopt Resolution Affirming the City of Marion's Support of and Partnership with the 2010 Census:

CITY OF MARION
2010 CENSUS PARTNER RESOLUTION
A RESOLUTION AFFIRMING
THE CITY OF MARION'S
SUPPORT OF AND PARTNERSHIP WITH THE 2010 CENSUS

WHEREAS, the U.S. Census Bureau is required by the Constitution of the United States of America to conduct a count of the population and provides a historic opportunity for the City of Marion to help shape the foundation of our society and play an active role in American democracy; and

WHEREAS, the City of Marion is committed to ensuring every resident is counted; and

WHEREAS, more than $300 billion per year in federal and state funding is allocated to communities, and decisions are made on matters of national and local importance based on census data, including healthcare, community development, housing, education, transportation, social services, employment, and much more; and

WHEREAS, census data determine how many seats each state will have in the U.S. House of Representatives as well as the redistricting of state legislatures, county and city councils, and voting districts; and

WHEREAS, the 2010 Census creates hundreds of thousands of jobs across the nation; and

WHEREAS, every Census Bureau worker takes a lifetime oath to protect confidentiality and ensure that data identifying respondents or their household not be released or shared for 72 years; and

WHEREAS, a united voice from businesses, government, community-based and faith-based organizations, educators, media and others will allow the 2010 Census message to reach a broader audience, providing trusted advocates who can spark positive conversations about the 2010 Census.

NOW, THEREFORE, BE IT RESOLVED that the City of Marion

1. Supports the goals and ideals for the 2010 Census and will disseminate 2010 Census information to encourage participation.
2. Asks its affiliates and membership to partner together to achieve an accurate and complete count.
3. Encourages people in Marion to participate in events and initiatives that will raise overall awareness of the 2010 Census and increase participation among all populations.

Adopted this the 1st day of September, 2009.

A. Everette Clark, Mayor

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J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-09-09-01-2

D. Approve Extension of Contract with Glenwood Fire Department:

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL

CONTRACT FOR FIRE
SUPPRESSION SERVICES

THIS CONTRACT is made this _____ day of _____, 2009, by and between the City of Marion, a municipal corporation (hereinafter referred to as "City") and the Glenwood Volunteer Fire Department, a North Carolina non-profit corporation and a duly organized rural fire department (hereinafter referred to as "Department").

W I T N E S S E T H :

WHEREAS, by an ordinance adopted June 17, 2003, the City annexed the area described in Exhibit "A" attached hereto (herein "Service Area"), which ordinance became effective on June 30, 2003; and

WHEREAS, the City wishes to minimize the impact of the annexation upon the Department and still provide satisfactory service to the areas as prescribed by State law; and

WHEREAS, pursuant to North Carolina General Statute § 160A-37.1, the City and Department have the statutory authority to enter into a fire contract where the Department will provide fire protection services for the Service Area;

NOW, THEREFORE, in consideration of the premises and the mutual promises set forth herein, and for other good and valuable considerations, the receipt and sufficiency of which is hereby acknowledged, the City and the Department hereby agree to this contract for provision of fire protection services to the Service Area, according to the following terms and conditions:

1. SERVICE RESPONSIBILITY – FIRE SUPPRESSION SERVICE

The Department shall regularly serve as the first responding provider of fire suppression service to the Service Area with the minimum of the following: two firefighters with a fire truck capable of pumping at a rate of at least one thousand (1000) gallons per minute and carrying at least one thousand (1000) gallons of water. The Department's units and personnel, together with those of the City's Fire Department, shall both be routinely dispatched by the McDowell County Emergency Communications Center to all fire emergencies. The Department's services shall be in accordance with the minimum standards set forth by the North Carolina Department of Insurance/ Office of the State Fire Marshal.

It shall be the responsibility of the Department to equip and train its firefighters in a manner consistent with applicable regulations of the Occupational Safety and Health Administration of the U. S. Department of Labor. The Fire Department shall maintain Workmen's Compensation Insurance applicable to all fire department personnel regardless of status, at least to the extent required by law.

It shall be the duty of the Department to maintain adequate communications equipment to allow efficient and professional dispatching of emergency calls.

Notwithstanding the obligation of the Department to initiate fire and emergency services when its units arrive first at the scene as provided hereinabove, the primary fire and emergency service responsibility within the service area shall always remain with the City's Fire Department.

The City and the Department hereby acknowledge that each party may relocate its own vehicles and equipment based on emergency requirements, but that long term or permanent changes of a nature that substantially change the ability to deliver service as intended by the City and the Department are maters on which the City and the Department representatives must confer and reach mutual agreement.

2. SERVICE RESPONSIBILITY – MUTUAL AID AND ASSISTANCE

In addition to other services provided for herein, the Department and the City's Fire Department will provide mutual aid and assistance, including backup equipment and personnel, in those cases where

assistance from another department is necessary to adequately respond to large fires or other exceptional emergencies or disasters in the Service Area.

3. COMPENSATION FOR SERVICES

The Department will be compensated for fire, rescue and emergency medical response by retaining any funds paid by the State of North Carolina for fire protection to the Service Area. The Department acknowledges that State funding is subject to cuts or elimination, and that the City will not be held liable for any revenue losses resulting from cuts in or elimination of State funding. The Department further acknowledges that under no circumstances will any payment for services be made by the City. Further, the funds shall not be used for subcontracting of primary and additional services provided for herein.

4. MAINTENANCE

The Department shall be responsible for continuing its customary equipment maintenance activities and shall immediately advise the City if the condition of the equipment or lack of equipment will interfere with the Department's ability to respond to the service area. The Department is to keep at least the minimum equipment as listed by The North Carolina Department of Insurance/Office of State Fire Marshal at no additional cost to the City and shall strive to keep above minimum equipment standards.

5. RESPONSE

In providing support to the City's Fire Department, the Department's response shall continue to be immediate and in the most professional manner possible. Response times shall be consistent with present response times of the Department in the annexed area.

6. TERM

The term of this Contract shall be for one year and commence on July 1, 2009 and end on June 30, 2014 at midnight.

7. WAIVER OF LIABILITY

The Department agrees to assume full responsibility of its provision of fire suppression services and emergency response services to the annexed area as required hereunder. Each party to this Contract shall assume any and all liability and responsibility for the death or injury to any personnel of their own command providing services hereunder. Neither party hereto shall assume responsibility or liability for property damaged or destroyed at the actual scene of any incident arising out of or related to firefighting and rescue operations, fire control tactics and strategy, emergency response actions or other operations as may be required due to the nature of the incident. Each party to this Contract shall assume all liability and responsibility for damage to its own apparatus and equipment. The execution of this Contract shall not be construed to be an assumption of any liability by either party hereto not otherwise imposed by law, and each party agrees to hold the other harmless and fully indemnify the other in the event in respect of any and all claims, losses and expenses, including reasonable fees and disbursements of counsel (before and at trial, in bankruptcy proceedings and in appellate proceedings), which may be incurred by a party (the "Indemnified Party") arising out of death or injury to personnel or property of the other party ("Indemnifying Party").

Whenever any claim shall arise for indemnification under this Section 7, the Indemnified Party shall notify the party or parties (as the case may be) against whom indemnification is sought (whether one party or more, the "Indemnifying Party") in writing by certified mail of the facts constituting the basis for such claim. Such notice shall specify all facts known to the Indemnified Party giving rise to such indemnification right and the amount or an estimate of the amount of the liability arising therefrom. The right to indemnification hereunder and the amount or the estimated amount thereof, as set forth in such notice, shall be deemed agreed to by the Indemnifying Party unless, within 15 days after the receipt of such notice, the Indemnified Party is notified in writing that the Indemnifying Party disputes the right to indemnification as set forth or estimated in such notice.

If the facts giving rise to any such indemnification right shall involve any actual or threatened claim or demand by any third party against the Indemnified Party or any possible claim by the Indemnified Party against any third party, such claim by or against a third party shall be referred to as a "Third-Party Claim." If the Indemnifying Party gives the Indemnified Party an agreement in writing, in form and substance reasonably satisfactory to counsel to the Indemnified Party, agreeing to indemnify and save the Indemnified Party

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harmless from all costs and liability arising from any Third-Party Claim, the Indemnifying Party may at its own expense undertake full responsibility for the defense or prosecution of such Third-Party Claim and may contest or settle it on such terms as it may choose. If the Indemnifying Party fails to deliver such an agreement of indemnity to the Indemnified Party, (1) the Indemnifying Party at its own expense may nevertheless participate with the Indemnified Party in the defense or prosecution of the Third-Party Claim and in any and all settlement negotiations relating thereto, and (2) the Indemnified Party may contest or settle the Third-Party Claim on such terms at it may choose, although the Indemnified Party shall not reach a settlement until it has consulted in good faith with the Indemnifying Party. Any such participation shall not relieve the Indemnifying Party of its obligations to indemnify the Indemnified Party under this Section 6. If by reason of any Third-Party Claim a lien, attachment, garnishment or execution is placed upon any of the property or assets of the Indemnified Party, the Indemnifying Party, if it desires to exercise its right to defend or prosecute such suit, shall furnish a satisfactory indemnity bond to obtain the prompt release of such lien, attachment, garnishment or execution.

The Department agrees to maintain adequate liability insurance coverage at all times in an amount not less than $500,000.00 for apparatus and general liability. The Fire Department currently maintains liability insurance coverage in an amount of $1,000,000 dollars and apparatus coverage in an amount of guaranteed replacement cost.

8. NONDISCRIMINATION GUARANTEES

In consideration of the signing of this Contract, the parties hereto for themselves, their agents, officials, employees and servants agree not to discriminate in any manner on the basis of race, color, creed or national origin with reference to the subject matter of this Contract, no matter how remote.

9. TERMINATION

This Contract may be terminated unilaterally by either party at the expiration of any contract year, provided that written notice is given to the non-terminating party not less than 180 days in advance of the termination date. For purposes of giving said notice, the Department shall notify the City Manager of the City of Marion; the City shall notify the Chief of the Glenwood Fire Department, or its registered process agent.

10. AMENDMENT

This Contract may be amended by the agreement of both parties, reduced to writing and annexed hereto.

11. AGENT

The Department shall at all times comply with the laws of North Carolina regarding corporations, and shall at all times keep the City advised of the name and address of its registered agent for the service of process.

IN WITNESS WHEREOF, each party has caused this Contract to be executed by its duly authorized official as of the day and year first above written.

ATTEST:

CITY OF MARION

City Manager/Clerk
(official seal)

By: _____
Mayor

ATTEST:

GLENWOOD VOLUNTEER FIRE DEPARTMENT

_____
Secretary
(corporate seal)

By: _____
Fire Chief

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL

I, a Notary Public of the County and State aforesaid certify that J. Robert Boyette personally came before me this day and acknowledged that he is the City Manager/Clerk of the City of Marion, 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 and attested by himself as its City Manager/City Clerk.

Witness my hand and notarial seal this ___ day of _____, 2009.

_____
Notary Public
My Commission Expires: _____

****

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL

I, a Notary Public of the County and State aforesaid certify that _____ personally came before me this day and acknowledged that __he is the Secretary of Glenwood Volunteer Fire Department and that by authority duly given and as the act of the corporation the foregoing instrument was signed in its name by its President and attested by ____self as its Secretary.

Witness my hand and notarial seal this ___ day of _____, 2009.

_____
Notary Public
My Commission Expires: _____

Exhibit A - Description of Marion Correctional Institution Property

BEGINNING on a planted stone in the old western line, the same being the second corner of tract recorded in Deed Book 420 at page 405, of the McDowell County Deed Registry and runs thence, with said Western line and the line of C. W. Greene (Book 354 at page 142) the following six courses and distances: North 00 degrees 31 minutes 27 seconds E 415.36 feet to an existing iron pin, the third corner of tract recorded in Deed Book 420 at page 405; North 05 degrees 00 minutes 39 seconds East955.65 feet to an existing iron pin; North 05 degrees 00 minutes 39 seconds East 88.99 feet to an existing iron pin set in the Southeast margin of State Road #1794, in the Seaboard Railroad right of way; North 28 degrees 20 minutes 18 seconds East 52.11 feet with said Seaboard Railroad right of way to an iron pin set in said railroad right of way; North 23 degrees 29 minutes 08 seconds East 159.07 feet with said state road and railroad rights of way to an iron pin set; North 18 degrees 17 minutes 22 seconds East 32.67 feet said railroad right of way to an iron pin set; thence with the T. R. Hall line Deed Book 93 at page262), South 83 degrees 35 minutes 12 seconds East 1,585.36 feet to an existing iron pin, the beginning corner of tract recorded in Deed Book 1 at page 293 of said Registry, said corner located, North 10 degrees 43 minutes 40 seconds East 41.30 feet from a double dogwood; thence, crossing the Duke Power Company right of way (Deed Book 180 at page 425), West to East, South 83 degrees 35 minutes 12 seconds East 297.59 feet to an iron pin set in the Northern line of right of way; thence with the Nathan Mason line, North 07 degrees 39 minutes 22 seconds East 726.88 feet passing a nail set in rhodendron at 703.48 feet to a point in the centerline of Youngs Branch; thence with the centerline of said branch the following four courses and distances: South 65 degrees 59 minutes 19 seconds East 128.07 feet to a point; thence South 55 degrees 18 minutes 30 seconds East 124.72 feet to a point; thence South 60 degrees 33 minutes 19 seconds East 122.43 feet to a point; thence South 57 degrees 44 minutes 24 seconds East 71.88 feet to a point; thence leaving said centerline, South 48 degrees 18 minutes 54 seconds West 127.55 feet passing a triple sycamore at 32.55 feet to a point in the centerline of a small branch; thence with small branch centerline and the line of Floyd E. Smith (Deed Book 117 at page 462) the following five courses and distances: South 15 degrees 03 minutes 08 seconds East 63.54 feet to a point; South 37 degrees 47 minutes 44 seconds East 33.57 feet to a point; South 12 degrees 19 minutes 46 seconds East 35.68 feet to a point; South 22 degrees 56 minutes 13 seconds East 91.88 feet to a point; South 17 degrees 29 minutes 50 seconds East 56.59 feet to a point at a pump house; thence, continuing with said Smith tract (Book 117 at page 462 and leaving said creek the following two courses and distances: South 08 degrees 34 minutes 24 seconds East 176.03 feet to a railroad iron; South 87 degrees 52 minutes 04 seconds East 193.80 feet to an iron pin set in the Floyd E. Smith line (Book 167 at page 705) South 07 25 54 West 935.34 feet to a planted stone in a stump hole; thence with said Smith line, South 54 degrees 24 minutes 11 seconds East 261.37 feet to a planted stone reset, the 12th corner of tract recorded in Deed Book 420,

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at page 405; thence with a new line so as to exclude a 1.41 acre deed lappage with Floyd Smith Deed Book 167 at page 705), South 44 degrees 34 minutes 00 seconds West 934.28 feet to an iron pin set at the base of a 28" pine stump, the 14th corner of tract recorded in Deed Book 420, at page 405; thence with the Patrick Lewis Haney line (Book 348 at page 931), South 62 degrees 24 minutes 29 seconds West 827.82 feet passing a planted stone on line at 530.82 feet to a iron pin set; thence South 07 degrees 24 minutes 29 seconds West 187.38 feet passing an iron pin set on line at 154.35 feet to a point in the centerline of North Muddy Creek; thence with said centerline of said North Muddy Creek the following thirty courses and distances: South 66 degrees 13 minutes 20 seconds West 17.39 feet; South 25 degrees 51 minutes 32 seconds West 34.14 feet; South 26 degrees 13 minutes 58 seconds East 65.17 feet; South 06 degrees 52 minutes 51 seconds East 45.07 feet; South 83 degrees 22 minutes 19 seconds West 45,36 feet; North 52 degrees 51 minutes 25 seconds West 76.94 feet; North 38 degrees 21 minutes 58 seconds West 91.86 feet; North 02 degrees 08 minutes 36 seconds East 44.41 feet; North 17 degrees 50 minutes 20 seconds West 30.21 feet; North 47 degrees 05 minutes 05 seconds West 61.32 feet; North 50 degrees 32 minutes 37 seconds West 108.84 feet; North 40 degrees 42 minutes 35 seconds West 154.90 feet; North 32 degrees 25 minutes 25 seconds West113.85 feet; North 54 degrees 04 minutes 42 seconds West 227.02 feet; North 25 degrees 27 minutes 15 seconds West 68.57 feet; North 21 degrees 07 minutes 58 seconds West 84.37 feet; North 44 degrees 15 minutes 41 seconds West 40.03 feet; North 61 degrees 05 minutes23 seconds West 75.25 feet; North 79 degrees 42 minutes 59 seconds West 37.03 feet; South 58 degrees 22 minutes 58 seconds West 35.83 feet; South 56 degrees 12 minutes 37 seconds West 59.64 feet; South 86 degrees 09 minutes 22 seconds West 41.32 feet; North 69 degrees 43 minutes 48 seconds West 44.68 feet; North 81 degrees 04 minutes 28 seconds West 63.18 feet; North 86 degrees 24 minutes 49 seconds West 117.14 feet; South 84 degrees 14 minutes 25 seconds West 89.51 feet; South 69 degrees 56 minutes 45 seconds West 52.86 feet; North 80 degrees 44 minutes 54 seconds West 33.97 feet; North 49 degrees 10 minutes 42 seconds West 50.88 feet; North 34 degrees 53 minutes 01 seconds West 128.52 feet; thence leaving said centerline of said North Muddy Creek, North 21 degrees 50 seconds 47 seconds East 78.09 feet passing an existing iron pin set on line at 22.15 feet unto the point of the BEGINNING, containing 124.92 acres, more or less, description based on survey revised by R. L. Greene Surveying & Mapping, dated December 5, 1990, License #L-1517.

PUBLIC APPEARANCE – BILL GREENLEE – CARSON HOUSE: The City Manager advised that Mr. Greenlee had called earlier in the day and would not be able to attend this meeting.

PUBLIC APPEARANCE – MIKE ORNBERG – DISCUSS MOBILE FOOD VENDOR ORDINANCE : Mr. Mike Ornberg, owner of the Crooked Door Coffee House on North Main Street, appeared before Council advising that he had several issues to discuss regarding the recent approval by City Council of allowances for mobile food cart vendors.

Mr. Ornberg stated that he feels the timing of this approval is wrong for Downtown Marion. He said that he works on a very small profit margin and that the recent economic downturn had made things even harder for his business and other businesses in the downtown area. Mr. Ornberg stated that there are not enough people in the downtown area to be served by all businesses at the current time and that he does not feel that the food carts will bring people into the downtown. He added that several businesses that are successful have had to dig their feet in the ground and it has taken many years to build their clientele. Mr. Ornberg advised that he feels that this type of competition is not fair to such existing businesses. He pays $600.00 per month to rent his establishment and that the mobile food vendors will only pay $100.00 per year. Mr. Ornberg stated that he is anticipating the mobile food vendors taking five to ten percent of his business, which would force him to go back to working in the coffee shop all day instead of being able to afford to hire help.

Mr. Ornberg added that the cart vendors have no restrooms, while his business makes restrooms available to the public. He noted that the Crooked Door Coffee House is open all year long, instead of just at selected times, as would likely be the case for the mobile food vendors. Mr. Ornberg stated that he personally feels that a person starting a food cart business would not be able to survive in the business but just a few months, which would add to the negative perception many people have about the ability of businesses to be successful in Downtown Marion.

Mr. Ornberg also stated that he has issues with the placement of the carts. He stated that the Gazebo parking lot on North Main Street is a highly used parking lot and he feels that this type of food cart would not benefit that area, especially with it not having restrooms. Mr. Ornberg advised that

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permits and inspections from the Health Department could also be an issue and that City employees would have to spend a lot of time keeping up with permits.

Mr. Ornberg stated that another issue he has is the streetscape in the downtown area. The landscape in front of City hall and the Community building is beautiful, while the main commercial blocks of Main Street have trees shaped like green cones. He added that he does not like the foster holly trees.

Mr. Ornberg stated that when more restaurants come downtown, then mobile food vendors could be considered. He added that development of restaurants and upper floor housing development in the downtown area should be top priorities.

Mr. Ornberg stated that food carts are an excellent idea; however, he just does not feel that now is the time for them. They could hurt other businesses that are already here and successful.

Mr. Ornberg added that he would encourage Council to either change their decision to allow for mobile food vendors in the downtown area or to temporarily hold permits until more businesses in the downtown can be involved with this decision.

Mr. Ornberg stated that his second issue is how this decision came about. He advised that when he saw the article in the McDowell News about mobile food vendors, the decision had already been made by Council.

Mr. Ornberg stated that he understood that the Planning Board was approached about the idea of mobile food vendors and worked up the vendor guidelines as approved by Council. As he talked with individual Council Members, it did not appear to him that anyone in the business sector was consulted, even though it would affect them. Mr. Ornberg stated that he even learned that Freddie Killough and the Marion Business Association were not involved in this decision making process either. Mr. Ornberg stated that he feels that before decisions were made, the business owners should have been notified. He added that, somewhere, there is a gap and a breakdown of communications between the City and the business sector.

Mr. Ornberg stated that there should be other ways besides the newspaper to inform the public of impending issues and decision. He suggested that e-mails could have been sent out to businesses instead of having to come to a meeting like he is now, after the fact. If he missed a notice in the paper, he would still be notified by email. Mr. Ornberg stated that the Planning Board should be asked to solicit opinions before making recommendations.

Mr. Ornberg stated that he would ask that Council consider his thoughts and suggestions.

Mayor Pro Tem Little thanked Mr. Ornberg for coming and stated that there is always the opportunity of doing things better, especially through communication. He added that communication is often the root of most problems faced in the world. Mayor Pro Tem Little stated that the need for communication has to be tempered with the need of Council to enable and encourage opportunities for everyone, whether it be a mobile food vendor or Mr. Ornberg with the Crooked Door Coffee House.

Mayor Pro Tem Little stated that it would be wonderful to have other food establishments in the downtown area. He cautioned that the City could not allow the old perception from years past to be rekindled that new businesses cannot come into the community because old businesses will not allow it. Mayor Pro Tem Little stated that there will always be competition. If a law firm decides to move in next door to him, he would have to deal with it.

Mr. Ornberg responded that he doubted that a law firm would pay only $100 per year.

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Mayor Pro Tem Little advised that it is not the City's duty to say whether a cart vendor cannot survive in business. Small scale businesses may or may not make it in the downtown area. He added that the idea of making a new service of food to people in the downtown area does seem like something that would not hurt local businesses.

Mr. Ornberg stated that he does not feel that Mayor Pro Tem Little is comparing apples to apples and feels that the playing field is not fair.

Mayor Pro Tem Little stated that he disagrees and feels that the mobile food vendor ordinance does level the field in that he, Mr. Ornberg, could have a cart as well as anyone else who so chooses.

Mayor Clark stated that he feels that the allowance of mobile food vendors is simply an example of free enterprise. He added that, with his 25 years of experience in the retail clothing business downtown, he understands both sides of the argument. Mayor Clark stated that he felt the City should allow for everyone to have an opportunity to do business. Competition and the chance to make a profit is where free enterprise comes into play.

Mr. Ornberg stated that the mobile food vendor allowance seems to him to be unfair enterprise.

Mr. James Tarpley, owner of a building at Main and Court Streets advised that he and his wife are photographers. He suggested that other photographers in the downtown area would probably not want him to set up outside their store trying to sell prints, while they would be paying rent for a studio to do the same thing.

Mayor Clark stated that he would love to see all the empty business spaces filled downtown. However, if a person visits a vendor on the street, they may end up noticing another business and end up being a customer for other businesses while in the area. Mayor Clark noted that fast food restaurants are typically clustered together and welcome the increased traffic that competition brings.

Mr. Tarpley asked if Council would require carts to be open year round.

Mayor Clark stated that the City does not require any business to be open year round or set any restrictions on business hours.

Mayor Pro Tem Little stated that Council has to weigh all options when making a decision. He added that the end result is not always a perfect decision.

Councilman Cuthbertson advised that, regarding the communication issue, there were at least four stories in the McDowell News about the proposed ordinance, three of them before the final approval was made. He questioned how these articles could have been missed. Mayor Clark added that he also believed that anyone interested had the opportunity to learn about what was proposed and to come to a City Council meeting.

Mayor Clark stated that the Planning Board has meetings and then brings their recommendation to City Council. Mayor Clark stated that he and Council members had many questions about mobile food vendors when the issue was first brought up in July. He advised that Council not take action at that time and directed that several changes and additions be made to the ordinance and brought back to Council for further review. Mayor Clark stated that City Council meetings are public meetings and always open to the public. He stated that he always encouraged citizens and business owners come to any and all meetings.

The City Manager stated that, regarding notifications to the business community, he attends the Marion Business Association Board meetings on a monthly basis. The City Manager stated that Council rightfully expected that he should mention such issues to the MBA Board and that, in

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retrospect, he should have done so with this issue. He said that the failure to notify the business community therefore fell on him.

Mayor Pro Tem Little stated that he understood Mr. Ornberg's concerns and that it may be a good idea to develop a way to e-mail people who are interested in receiving news and updates about City business.

Ms. Tarpley asked if Council could go back and change this or other decisions.

Mayor Clark stated that Council certainly could change a decision once it was made. The City Manager added that the mobile food vendor ordinance was a zoning text amendment and that changes to the ordinance would require following the process established by State law, including routing the proposal to the Planning Board for a recommendation and public notice.

Mayor Pro Tem Little stated that, if changes are warranted to the ordinance, such changes could certainly be considered by Council at a future date.

Councilman Owenby stated that, regarding Mr. Ornberg's comments about the holly trees, the process of developing a Downtown Streetscape Plan has been slow, due to delays by both DOT and the City. He said he agreed with Mr. Ornberg that the foster hollies have outgrown the downtown area and that he had heard complaints about cars being scratched; however, the trees are absolutely beautiful at Christmas.

Councilman Cuthbertson stated that he serves on the City of Marion's Tree Board, and that the City has tried pruning the holly trees in a different shape and they did not look good. He said that the Tree Board was discussing possible replacements for the holly trees.

The City Manager reported that City Council had talked about the replacement of the holly trees at their August Planning Session and that Council wanted to have recommendations ready in the near future for review by the Tree Board, MBA Board, downtown merchants and public. The City Manager added that Council had also directed that progress be made on finalizing a design for the Downtown Streetscape Plan, for review by the MBA, downtown merchants, public and DOT in the near future.

Mr. Ornberg stated that past experience made him doubtful that quick progress would be made.

Councilman Martin stated that he thought this ordinance simply involved allowing mobile food vendors such as the hot dog stand proposed for approval later in the agenda.

Mayor Clark stated that Council has discussed many times over the years problems and complaints with trees downtown, such problems ranging from leaves to trees blocking business signs.

Mayor Clark thanked everyone for coming to the meeting and sharing their thoughts.

CONSIDER APPROVAL OF MOBILE FOOD VENDOR APPLICATION: Planning and Development Director Heather Cotton advised that Ms. Lisa Miller (DBA Dixie Dogs) has submitted an application to operate a mobile food cart selling hot dogs in front of the Gazebo parking lot on North Main Street. Ms. Cotton reported that Ms. Miller has submitted all of the required documentation or has provided documents indicating her ability to meet the requirements of the City of Marion's Mobile Food Cart regulations if approved.

Ms. Cotton stated that Ms. Miller had provided the following items:

1. Complete application;
2. Valid North Carolina driver's license;

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3. Inspection report from the NC Dept. of Environment and Natural Resources, Div. of Environmental Health. as of May, 7, 2009;
4. Quote from Tate's Insurance & Financial Services Inc. for general liability insurance; and
5. Invoice and receipt of payment for State Health Inspection permit.

Ms. Cotton stated that staff recommends approval of the application with the condition that the applicant secures the necessary insurance as indicated by the quote submitted and adds the City of Marion as an additional insured party, signs the City's Release and Hold Harmless Agreement Form and pays the required application fee.

Ms. Cotton stated that he would be happy to answer any questions Council may have.

Council members reiterated that vendors have to have insurance and that the City of Marion would be held harmless.

Ms. Miller was present for this meeting and asked if Council had any questions of her. She stated that she would like to address some of the issues Mr. Ornberg brought up concerning her business.

Ms. Miller stated that she is not seasonal; however, she does not work in the snow or in heavy rain. Ms Miller stated that she would be meeting all parking issues and regulations. She said that it was not practical for her to have a restroom.

Councilman Martin stated that Mr. Ornberg was right in that the City probably did not go through all the thought it should have in considering the Mobile Food Vendor Ordinance. He added that he believes that the ordinance is not a bad thing. Councilman Martin stated that he will vote against issuing the permit to Ms. Miller, however, for a personal reason.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Owenby, those members of Council present voted 3 to 1 to approve the application of Ms. Lisa Miller (DBA Dixie Dogs) to operate a mobile food cart in front of the Gazebo parking lot on North Main Street, subject to the condition that Ms. Miller secures the necessary insurance as required by City ordinances and adds the City of Marion as an additional insured party, signs the City's Release and Hold Harmless Agreement Form and pays the required application fee.

The vote carried 3 to 1 in favor of the motion as follows:

Mayor Pro Tem Little	Yes
Councilman Cuthbertson	Yes
Councilman Owenby	Yes
Councilman Martin	No

Councilman Cuthbertson stated that he believed that the mobile food carts would fill a niche market in the downtown area.

Ms. Jenny Tarpley noted that Ms. Miller seemed to be well organized and to be capable of running a good business. She asked if everyone wishing to operate a mobile food cart would have to meet the same criteria as Ms. Miller.

The City Manager stated that City Council had established about 15 criteria that would have to be met by all mobile food vendors in the downtown area and that all applicants would have to abide by these criteria.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

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PUBLIC HEARING - COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION:
Mayor Clark opened the Public Hearing.

The City Manager advised that a public hearing had been advertised for this meeting regarding a possible Community Development Block Grant application. This public hearing is to give basic information about the Community Revitalization Grant program available through the NC Department of Commerce's Community Development Block Grant. This program is a competitive grant. The City of Marion is considering applying for funding this year. A deadline for the application is the end of September.

The City Manager stated that the Community Revitalization grant program is designed to address the complete basic needs of a defined target area, which is usually a single street or a portion of a street. Basic needs are housing, water, sewer, streets, drainage and sidewalks. A target area is must contain at least 6 houses.

The target area must have multiple needs with housing being one of those. All identified needs must be treated. The more defined needs the better the score. The project must serve an area that is predominantly low and moderate income. Lower income areas score better than moderate income areas.

Housing rehabilitation funds can be used on rental or owner-occupied units in the defined target area whose residents are low and moderate income. Rental owners must agree to contribute a portion of the costs of the rehabilitation and keep the rent at specified levels for up to 8 years.

The City Manager stated that funding for this program is competitive, but broken down by geographical areas. The City of Marion is in the Western Region and will compete with other local governments in the Western Region. This region is allocated approximately 18 percent of the funding available in the state.

The maximum grant award for a project with basic needs is $850,000. A community can propose a project that has an innovative activity, which would make them eligible for $1 million in funding. The City of Marion is not currently considering an innovative activity.

This year, the State has approximately $13,000,000 for this category. Grants must be completed in a 30 month period.

The City Manager stated that two public hearings are required to be held, this one and another one scheduled for the September 15 City Council meeting. This hearing is for the purpose of introducing the idea of applying for a Community Development Block Grant.

No one was present wishing to speak during the public hearing.

Mayor Clark closed the Public Hearing.

No action was necessary on this item.

AWARD CONTRACT – HOSPITAL WASTEWATER PUMP STATION REPLACEMENT:
The City Manager presented a copy of the recommendation of award from McGill to Council regarding bids that were received for the replacement of the Hospital Pump Station. The low bid was received from Iron Mountain Construction Company from Mountain City, Tennessee in the amount of $289,440.20. The City Manager reported that replacement of this pump station is needed to allow for any further growth in the Hospital/Medical Park/Sugar Hill Road Area, as the existing Hospital Pump Station is very close to capacity. The City received a grant in the amount of $225,420 from the N.C. Rural Center for this project. The remaining amount can be funded from the Water and Sewer Fund budget.

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The City Manager stated that he would recommend Council award of the contract for the Hospital Pump Station replacement to Iron Mountain Construction Company in the amount of $289,440.20.

The City Manager reported that the bid amount is slightly higher than McGill had budged for. However, with the continuous problems the City has had with the force main running from this pump station, the City Manager suggested that it is vital that the project move forward.

Upon a motion by Councilman Cuthbertson, seconded by Mayor Pro Tem Little, those members of Council present voted to award the contract for the Hospital Pump Station replacement to Iron Mountain Construction Company in the amount of $289,440.20 as recommended by McGill Associates and the City Manager.

CONSIDER APPROVAL OF CLOSURE OF MAIN STREET FOR CAR SHOW – MARION FIREFIGHTER'S ASSOCIATION: The City Manager advised that Fire Chief Jim Neal had submitted a request on behalf of the Marion Firefighter's Association to hold a car show on Main Street for Sunday, September 13, from 2:00 p.m. to 5:00 p.m. The Firefighter's Association requests permission to close Main Street from Fort Street to Henderson Street for this car show.

The City Manager advised that on a Sunday afternoon, the street closure should create no problems for businesses downtown; therefore, he would recommend approval of this request.

Mayor Pro Tem Little asked Mr. Ornberg if he felt this car show would be a conflict for his business. Mr. Ornberg stated that it would not, because his business and all other downtown businesses are closed on Sunday.

Upon a motion by Councilman Martin, seconded by Mayor Pro Tem Little, those members of Council present voted to approve the request by the Marion Firefighter's Association to close Main Street between Fort and Henderson Streets in order to hold a car show on Sunday, September 13, from 2:00 p.m. to 5:00 p.m., contingent on approval being given by the North Carolina Department of Transportation.

STREET COMMITTEE RECOMMENDATIONS: The City Manager advised that Street Committee met on August 26 and looked at several locations. The Street Committee made the following recommendations:

A. The Street Committee recommended that staff complete trimming of trees and bushes overhanging Highland Drive. Staff will complete this work, without objection.

B. The Street Committee recommended that staff contact Duke Energy to trim trees blocking the sight distance at the intersection of Turner Street and Park Avenue. Staff will contact Duke Energy to complete this work, without objection.

C. The Street Committee asked staff to continue to push Norfolk Southern (NS) to replace deteriorated wood at the Garden Street railroad crossing. City staff subsequently obtained permission from NS to remove the wood and to pur asphalt in its place. The City will also patch potholes at the crossing.

D. The Street Committee did not recommend adding the installation of sidewalks on Oak Street to the Street and Sidewalk Priority List, until such time as some existing projects are completed.

E. The Street Committee met with Mr. Willis Truesdale on Glenview Street and looked at the cane growing across the creek toward his property. Mr. Truesdale was very appreciative that the City looked at the location and did not want the City to do anything. He said that he would approach his neighbor and say that the City had looked at the location and might get the Prison to do some major clearing if the neighbor did not do some minor cutting himself.

F. The Street Committee did not feel that the street extension on Highland Drive to Yancey Road should be recommended at the current time, due to the narrow width of the existing street, narrow right of way (30 feet) on Highland and the likely negative reception from residents of Highland.

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The City Manager noted that no Council action is required on any of these items, unless Council wishes to pursue items not recommended by the Street Committee.

Public Works Director Chris Hollifield advised that the asphalt work at the Garden Street railroad crossing would be completed by the end of the week. Mayor Clark suggested that staff contact Norfolk Southern to see if the unused second set of tracks could be removed at the Garden Street railroad crossing. After brief discussion, it was agreed that City staff would ask NS for permission to remove the second set of tracks; however, if permission is not immediately given, the City will proceed with the asphalt patching recommended by the Street Committee.

Mayor Clark commented that he feels that Council should be looking at opportunities to open up streets around the City. He asked that this be considered as a future Planning Session topic. Mayor Clark stated that there are some locations around the City where streets could be extended and opened and provide for better traffic flow.

ADD ON – APPROVAL OF AGREEMENT WITH MARION TIRE – CONSTRUCTION OF BUILDING OVER CITY SEWER LINE: Councilman Cuthbertson asked to be excused from discussion and vote on this matter, because he is related to the Holland family, the owners of Marion Tire. Upon a motion by Mayor Pro Tem Little, seconded by Councilman Owenby, those members of Council present voted to excuse Councilman Cuthbertson from discussion and vote on this item, due to his stated conflict of interest.

The City Manager advised that as mentioned at the August 25 Council Planning Session, he had worked with the City Attorney to draft an agreement with Marion Tire to allow the business to construct an addition over an existing sewer line. The City Manager stated that he had reviewed the agreement presented to Council with Mr. Eugene Holland of Marion Tire and would request that it be approved so that Marion Tire can proceed with their expansion.

Mayor Clark stated that the Public Works Director and the City Manager had talked with Mr. Eugene Holland and that all parties appeared satisfied.

Councilman Owenby stated that he feels allowing the expansion of the building over the sewer line, with the protections provided to the City by the agreement, is a reasonable thing to do.

Upon a motion by Councilman Owenby, seconded by Councilman Martin, those members of Council present voted to approve the following agreement with Marion Tire to authorize the expansion of the Marion Tire building over an existing City sewer line:

STATE OF NORTH CAROLINA

AGREEMENT

COUNTY OF MCDOWELL

THIS AGREEMENT is entered into this ____ day of _____, 2009, by and between **MAX EUGENE HOLLAND, unmarried, individually and d/b/a MARION TIRE**, and **GENE MAX HOLLAND and wife CHARLIE MAE C. HOLLAND** (collectively hereinafter "Property Owner") and the **CITY OF MARION**, a North Carolina municipality, (hereinafter "City");

WITNESSETH:

WHEREAS, the Property Owner is the owner of that real property having an address of 105 West Railroad Street, Marion, North Carolina, 28752, said property being more particularly described in that deed to Max Eugene Holland recorded in Book 772 at Page 938, McDowell County Registry, wherein a life estate was reserved to Gene Max Holland and wife Charlie Mae C. Holland, said property also being identified as McDowell County and City of Marion Parcel Identification Number 1701.11-66-3358 (hereinafter "Subject Property");

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WHEREAS, the City of Marion owns and maintains a 6-inch ductile iron sewer line within an easement located on the Subject Property which provides sewer service to the Subject Property and other adjoining properties ("existing sewer line");

WHEREAS, the Property Owner wishes to construct certain improvements on the Subject Property in order to expand its commercial building to allow growth in their business but such improvements must be constructed within the easement area and directly above the City's existing sewer line (hereinafter "Improvements");

WHEREAS, the City of Marion is concerned that the Improvements may cause damage to or failure in the existing sewer line including settling around and breaking of the sewer line which may in turn damage the Improvements and the existing structures on the Subject Property and result in a disruption of sewer service to all users of this existing sewer line;

WHEREAS, the City of Marion also recognizes that the Improvements made by the Property Owner will foster economic development on the Subject Property and in the City;

WHEREAS, the Property Owner recognizes that the City of Marion has a public duty to provide sewer service to properties within its municipal boundaries;

WHEREAS, the Property Owner, in order to induce the City to allow the construction of the Improvements on the Subject Property, wishes to enter into this Agreement;

NOW, THEREFORE, in consideration of the mutual promises contained herein and the economic development that will be fostered, the receipt and sufficiency of which are hereby acknowledged, the Property Owner and City agree as follows:

1. The Property Owner acknowledges that the City has a utility easement on the Subject Property for the existing sewer line and that the Improvements will impair the City's use of its easement and the City's ability to maintain the existing sewer line and that, if constructed, the Improvements would constitute an encroachment thereon.

2. The City hereby allows the encroachment in order for the Property Owner to construct the Improvements; provided however, such Improvements are to be made at Property Owner's sole risk and Property Owner, their heirs, successors and assigns, hereby agree to indemnify and hold the City harmless for any and all damage caused by construction and use of such Improvements on the Subject Property over the sewer line and, furthermore, hereby release the City from any and all liability as a result thereof. Should any claim be made against the City, Property Owner, their heirs, successors and assigns, agree to assume the cost of defending such claim and to reimburse the City for any expenses, including attorneys fees, incurred by it in the defense of such claim.

3. Property Owner agrees to allow the construction of a new sewer line on the Subject Property if the relocation of the sewer line is made necessary by the failure of the existing sewer line or compromised sewer service through the existing sewer line caused by the construction or use of the Improvements. Property Owner hereby grants a conditional easement on all of the remaining unimproved portions of the Subject Property for that purpose. In such event any and all cost associated with the installation of the new sewer line, the recording of new utility easements for the new sewer line, and the abandonment of the existing sewer line shall be the sole responsibility of the Property Owner, their heirs, successors and assigns, and the Property Owner, their heirs, successors and assigns shall hold the City of Marion harmless from any and all expense thereof. Also, in such event, the Property Owner agrees to assume the liability and ownership of the abandoned sewer line as the City will not be able to remove the existing sewer line from its present location after the Improvements are constructed.

4. This Agreement and the benefits and burdens contained herein (including but not limited to the hold harmless provisions, indemnity and easement in favor of the City of Marion) shall inure to each party and their heirs, successors or assigns.

THIS the _____ day of September, 2009.

CITY OF MARION

By: _____ [SEAL]
A. EVERETTE CLARK, Mayor

_____ [SEAL]

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MAX EUGENE HOLLAND

_____ [SEAL] _____ [SEAL]
GENE MAX HOLLAND **CHARLIE MAE C. HOLLAND**

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL

I, _____ a notary public for the County and State aforesaid, certify that **MAX EUGENE HOLLAND** and **GENE MAX HOLLAND** and **CHARLIE MAE C. HOLLAND**, who are personally known to me or who presented sufficient evidence of identification in the form of _____, personally appeared before me this day, and each acknowledged to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

WITNESS my hand and seal this _____ day of September, 2009.

_____
Notary Public

My Commission Expires: _____ [NOTARIAL SEAL]

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL

I, _____, Notary Public for the County and State aforesaid, certify that **A. EVERETTE CLARK**, Mayor of the **CITY OF MARION**, and being personally known to me, personally came before me this day and acknowledged that he is the Mayor of the **CITY OF MARION**, and that he, as Mayor, being authorized to do so, executed the foregoing on behalf of the corporation.

WITNESS my hand and seal this _____ day of September, 2009.

_____
Notary Public

My Commission Expires: _____ [NOTARIAL SEAL]

ADD ON - PROPOSED REQUEST TO CHANGE WATER & SEWER ORDINANCE PENALTIES: The City Manager advised that he and Mayor Clark met late last week with a lady upset about the City's graduated late penalties that can result in a water and sewer customer being assessed a second late penalty of up to $50.00 after 10 or occurrences of not paying the water and sewer bill by the 25th of the month. The City Manager reported that Mayor Clark felt that the City should cap the second late penalty at an amount lower than $50.00.

The City Manager stated that he and Finance Director Harriett Thomas had discussed a revised proposal to cap the second late penalty at $25.00 (the first late penalty would remain at $5.00) and to assess a disconnect/reconnect fee of $25.00 if the water service for a customer is actually disconnected. This change would still allow the City to have reasonable penalties for customers paying their bills late, while also further penalizing those customers that require City personnel to terminate their water service (and therefore requiring a trip to cut off the water and a return trip to turn on the water service).

Mayor Clark encouraged Council members to consider this change as it seems to him to be more reasonable.

Mayor Pro Tem Little stated that this is a good example of doing something to solve a problem and having to go back again and make adjustments at a later time.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, those members of Council present voted to adopt the following Ordinance revising water and sewer rates, connection fees and other charges:

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ORDINANCE
ESTABLISHING WATER/SEWER RATES, CONNECTION FEES, COST RECOVERY CHARGES AND OTHER MISCELLANEOUS CHARGES

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

Section 1. That new water/sewer rates, connection (tap fees) fees, cost recovery charges and other miscellaneous charges are hereby established as follows:

	INSIDE CITY	OUTSIDE CITY
Water Rates:	**$2.01 per 1,000 Gallons, plus $11.38 Service Charge per month**	**$5.04 per 1,000 Gallons, plus $28.43 Service Charge per month**
Minimum Rate for 2,000 gallons or less	**$12.66**	**$31.65**
Master Meter Rate	**$2.01 per 1,000 Gallons, plus $9.08 Service Charge per month**	**$5.04 per 1,000 Gallons, plus $22.70 Service Charge per month**
Master Meter Minimum Rate for 2,000 gallons Or less (per unit served)	**$10.34**	**$25.84**

	INSIDE CITY	OUTSIDE CITY
Sewer Rates:	**$2.01 per 1,000 Gallons, plus $11.38 Service Charge per month**	**$5.04 per 1,000 Gallons, plus $28.43 Service Charge per month**
Minimum Rate for 2,000 gallons or less	**$12.66**	**$31.65**
Master Meter Rate	**$2.01 per 1,000 Gallons, plus $9.08 Service Charge per month**	**$5.04 per 1,000 Gallons, plus $22.70 Service Charge per month**
Master Meter Minimum Rate for 2,000 gallons Or less (per unit served)	**$10.34**	**$25.84**

	INSIDE CITY	OUTSIDE CITY
Metered Sewer Rates for Private Wells	**$2.91 per 1,000 Gallons, plus $11.38 Service Charge per month**	**$7.27 per 1,000 Gallons, plus $28.43 Service Charge per month**

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Important Notices:

All sewer charges are based on water meter readings, unless a sewer metering device approved by the City has been installed.

When more than one unit is served by a Master Meter, such as a mobile home park, shopping center or apartment complex, the monthly service charge is $10.34 for water and $10.34 for sewer in the City, and $25.84 for water and $25.84 for sewer outside the City, whether said units are occupied or not.

A residence using a private well, with no water meter, shall pay a flat rate of $31.65 per month per residential unit for sewer service, if located outside the City Limits. If the residence using a private well, with no water meter, is located inside the City Limits, a flat rate of $12.67 per month per residential unit shall be charged for sewer service.

WATER SERVICE CONNECTION FEES (TAP FEES) AND COST RECOVERY CHARGES (CRC):

WATER METER SIZE	INSIDE CITY TAP FEE	INSIDE CITY CRC CHARGE	OUTSIDE CITY TAP FEE	OUTSIDE CITY CRC CHARGE
¾"	$ 540	$ 540	$ 1,350	$ 1,350
1"	630	1,620	1,575	4,050
1 ½"	1,260	3,240	3,150	8,100
2"	1,440	6,480	3,600	16,200
3"	3,060	12,960	7,650	32,400
4"	3,690	22,500	9,225	56,250
6"	5,940	54,000	14,850	135,000
8"	8,100	67,500	20,250	168,750
10"	10,800	90,000	27,000	225,000
12"	14,400	112,500	36,000	281,250

Tap Fees (Domestic Water Service):
The Charge listed for a ¾" domestic water service includes the cost of a back-flow preventor required by the City.

The charge to add a ¾" back-flow preventor to an existing domestic service is as follows:

INSIDE CITY	OUTSIDE CITY
$ 10.00	$ 20.00

CHARGES FOR CONNECTIONS FOR FIRE PROTECTION/SPRINKLER LINES IN RESIDENTIAL AND/OR COMMERCIAL DEVELOPMENTS

SIZE SERVICE	INSIDE CITY	OUTSIDE CITY
2" SERVICE	$ 1,100	$ 2,750
3" SERVICE	2,800	7,000
4" SERVICE	3,200	8,000
6" SERVICE	4,400	11,000
8" SERVICE	6,000	15,000
10" SERVICE	8,200	20,500
12" SERVICE	11,600	29,000

CHARGES FOR CONNECTIONS FOR FIRE PROTECTION/SPRINKLER LINES IN RESIDENTIAL AND/OR COMMERCIAL DEVELOPMENTS-continued:

All connections to the city water system shall be equipped with a proper check-valve and/or back-flow preventor approved by the city public works director or city engineer prior to installation. It shall be the responsibility of the owner to have the approved check-valve or back-flow preventor installed. In addition, the owner of all properties connected to the city water system and using water for other than domestic services, shall submit a letter to the city

water department on or before the first day of July each year certifying that the check-valve and/or back-flow preventor has been checked and is operating properly.

SEWER SERVICE CONNECTION FEES (TAP FEES) AND COST RECOVERY CHARGES (CRC):

WATER METER SIZE	INSIDE CITY TAP FEE	INSIDE CITY CRC CHARGE	OUTSIDE CITY TAP FEE	OUTSIDE CITY CRC CHARGE
¾"	$ 1,080	$ 360	$ 2,700	$ 900
1"	1,170	1,080	2,925	2,700
1 ½"	1,260	2,160	3,150	5,400
2"	1,350	3,600	3,375	9,000
3"	1,440	7,200	3,600	18,000
4"	1,530	10,800	3,825	27,000
6"	1,620	22,500	4,050	56,250
8"	1,710	36,090	4,275	90,225
10"	1,800	51,840	4,500	129,600
12"	1,890	69,840	4,725	174,600

	INSIDE CITY	OUTSIDE CITY
RELOCATE WATER/ SEWER CONNECTION, (OWNERS REQUEST)	AT COST	COST PLUS 10%
INCREASE METER SIZE	DIFFERENCE IN TAP FEE AND COST RECOVERY CHARGES FOR WATER/SEWER	DIFFERENCE IN TAP FEE AND COST RECOVERY CHARGES FOR WATER/SEWER

DEPOSIT AND/OR PREPAYMENT FOR NEW ACCOUNTS:

RESIDENTIAL ACCOUNTS

	INSIDE CITY	OUTSIDE CITY
WATER DEPOSIT	$ 30.00	$ 60.00
SEWER DEPOSIT	$ 30.00	$ 60.00

In cases where an existing residential water and/or sewer customer has been a water and/or sewer customer of the city of Marion for a period of no less than five consecutive years, and has made no late payments in the previous twelve months, and moves to another location on the city's water and/or sewer system, the following procedure shall apply:

Any increase in the deposit required to be paid to bring the customer's deposit up to the current level listed above may be paid in three equal installments, to be added to the customer's first three water and/or sewer bills in the new location. If the customer fails to make any of the required payments, their service may be cut off pursuant to city policy.

COMMERCIAL, INDUSTRIAL AND MASTER METER ACCOUNTS

The water and/or sewer deposit for commercial, industrial, and master meter accounts shall be an amount equal to the average monthly charge for water and/or sewer service, but not less than the residential deposits. The initial deposits for commercial, industrial and master meter accounts shall be as follows:

INSIDE CITY

WATER	SEWER	WATER AND SEWER

AA.00000494 (24)

FAST FOOD/PIZZA RESTAURANTS	**$100.00**	**$100.00**	**$ 200.00**
OTHER RESTAURANTS (WITH SEATING)	**$150.00**	**$150.00**	**$ 300.00**
GROCERY STORES	**$150.00**	**$150.00**	**$ 300.00**
APARTMENT COMPLEXES (MASTER METER)	**$150.00**	**$150.00**	**$ 300.00**
CAR WASHES	**$150.00**	**$150.00**	**$ 300.00**
LAUNDRIES	**$200.00**	**$200.00**	**$ 400.00**

COMMERCIAL, INDUSTRIAL AND MASTER METER ACCOUNTS-continued:

INSIDE CITY

	WATER	**SEWER**	**WATER AND SEWER**
NURSING/FAMILY CARE HOMES	**$200.00**	**$200.00**	**$ 400.00**
INDUSTRY (50 OR MORE EMPLOYEES)	**$500.00**	**$500.00**	**$1,000.00**
INDUSTRY (LESS THAN 50 EMPLOYEES)	**$200.00**	**$200.00**	**$ 400.00**
OTHER MASTER METER ACCOUNTS	**$100.00**	**$100.00**	**$ 200.00**
GENERAL BUSINESS	**$ 50.00**	**$ 50.00**	**$ 100.00**

OUTSIDE CITY

	WATER	**SEWER**	**WATER AND SEWER**
FAST FOOD/PIZZA RESTAURANTS	**$ 200.00**	**$ 200.00**	**$ 400.00**
OTHER RESTAURANTS (WITH SEATING)	**$ 300.00**	**$ 300.00**	**$ 600.00**
GROCERY STORES	**$ 300.00**	**$ 300.00**	**$ 600.00**
APARTMENT COMPLEXES (MASTER METER)	**$ 300.00**	**$ 300.00**	**$ 600.00**
CAR WASHES	**$ 300.00**	**$ 300.00**	**$ 600.00**
LAUNDRIES	**$ 400.00**	**$ 400.00**	**$ 800.00**
NURSING/FAMILY CARE HOMES	**$ 400.00**	**$ 400.00**	**$ 800.00**
INDUSTRY (50 OR MORE EMPLOYEES)	**$1,000.00**	**$1,000.00**	**$2,000.00**
INDUSTRY (LESS THAN 50 EMPLOYEES)	**$ 400.00**	**$ 400.00**	**$ 800.00**
OTHER MASTER METER ACCOUNTS	**$ 200.00**	**$ 200.00**	**$ 400.00**
GENERAL BUSINESS	**$ 100.00**	**$ 100.00**	**$ 200.00**

COMMERCIAL, INDUSTRIAL AND MASTER METER ACCOUNTS-continued:

The city manager shall determine the appropriate deposit for any commercial, industrial or master meter customer not listed in the preceding schedule. At the end of six months of service, the city will determine the average use by averaging the three highest months. The customer will be billed for any additional amount for the proper deposit. If the amount is not received in thirty days, the utility bill will be increased each month for twelve consecutive months until the proper deposit has been received. If the average monthly deposit is lower than the amount the city has received from the initial deposit, the city will credit the water account of the customer for the amount of the difference in the initial deposit and the average monthly bill.

OTHER MISCELLANEOUS CHARGES

	INSIDE CITY	**OUTSIDE CITY**

AA.000000495 (24)

FIRST LATE PENALTY	**$ 5.00**	**$ 5.00**
SECOND LATE PENALTY:		
1 - 3 OCCURANCES	**$ 15.00**	**$ 15.00**
OR MORE OCCURANCES	**$ 25.00**	**$ 25.00**
RECONNECT SERVICE AFTER DISCONNECTION	**$ 25.00**	**$ 25.00**
RECONNECT SERVICE SUMMER/SEASONAL RESIDENT	**$ 15.00**	**$ 37.50**
TEMPORARY SERVICE (SEVEN OR LESS DAYS)	**$ 15.00 PLUS ACTUAL WATER USAGE**	**$ 37.50 PLUS ACTUAL WATER USAGE**
TRANSFER EXISTING ACCOUNT TO NEW ADDRESS	**UPGRADE TO PROPER DEPOSIT (IF DEPOSIT IS ADEQUATE) CHARGE $ 15.00 TRANSFER FEE**	
METER TAMPERING:		
1ST OFFENSE	**$ 100.00**	**$ 100.00**
2ND OFFENSE	**$ 200.00**	**$ 200.00**
3RD OFFENSE	**$ 500.00**	**$ 500.00**

OTHER MISCELLANEOUS CHARGES-continued:

	INSIDE CITY	**OUTSIDE CITY**
RETURNED CHECK SERVICE CHARGE	**$ 25.00 OR 10% OF CHECK, WHICHEVER IS GREATER**	**$ 25.00 OR 10% OF CHECK, WHICHEVER IS GREATER**
BANK DRAFT CUSTOMER – CHARGE FOR CLOSED ACCOUNT	**$ 25.00**	**$ 25.00**
CUSTOMERS REQUEST TO CHECK WATER METER FOR ACCURACY		
¾" AND 1" METERS	**$ 25.00**	**$ 25.00**
LARGER METERS	**AT COST**	**AT COST**
DETERMINATION OF FLOW AND SERVICE CAPABILITIES	**AT COST**	**AT COST**

Section 2. The Ordinance adopted on June 16, 2009 is rescinded upon the effective date of this Ordinance.

Section 3. All other ordinances, in conflict with this ordinance, are rescinded upon the effective date of this ordinance.

Section 4. This Ordinance shall become effective September 15, 2009.

ADOPTED this the 1st day of September, 2009.

A. Everette Clark

A. Everette Clark

AA.000000496 (24)

Mayor

ATTEST:

J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-09-09-01-2

ADD ON - PARKING ISSUE REQUEST PULLIAM STREET: The City Manager advised that Ms. Ruth Byrd of Pulliam Street called him on Monday and advised that her neighbor at the corner of Pulliam and Blue Ridge Street had been parking a vehicle near the Byrd's driveway for days at a time in a manner that makes it difficult for people to get in and out of the Byrd's driveway. The City Manager stated that he and the Police Chief looked at the location and determined that the vehicle in question is parked legally and belongs to the people at Pulliam and Blue Ridge Streets. The vehicle is parked up to the edge of, but not inside, the no parking zone on the west side of Pulliam Street. The vehicle is not parked directly across from the Byrd's driveway, but it is close enough to make it more difficult to maneuver in and out of the driveway.

The City Manager that, under the City's Abandoned Vehicle Ordinance, a vehicle must be left unattended on a public street for seven days before the City can address the situation. The City has no ordinance that speaks to parking in a manner that interferes with getting in and out of a driveway, as someone does not block the driveway. The City Manager suggested that, even if the City had such an ordinance, it would be difficult to say that the Byrd's are deprived of the use of their driveway; however, allowing parking in this location does make access more difficult due to the grade of the Byrd's driveway and a rock wall in place in front of their house.

The City Manager stated that the only thing he and the Police Chief could think that could address this situation is to extend the no parking zone on the west side of Pulliam Street another car length (about 20 feet), which would provide people picking up the Byrd sisters with more room to navigate. The City Manager presented Council with a proposed ordinance extending the no parking zone on the west side of Pulliam Street for another 20 feet from Blue Ridge Street. A copy of the existing Traffic Schedule for Pulliam Street was also presented to Council for reference.

Mayor Pro Tem Little stated that he is very familiar with this situation and that Ms. Byrd and her sister are delightful ladies. Knowing the history of this area, he forms the conclusion that this ordinance needs to be adopted.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, those members of Council present voted to adopt the following Ordinance to extend the no parking zone on Pullium Street:

ORDINANCE
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 18-239 is amended by deleting the following:

STREET NAME	REGULATION	REG. APPLICATION

AA.000000497 (24)

PULLIAM STREET	PARKING PROHIBITED	WEST SIDE, FROM BLUE RIDGE STREET, NORTH 112 FEET

Section 3. Section 18-239 is amended by adding the following:

STREET NAME	**REGULATION**	**REG. APPLICATION**
PULLIAM STREET	PARKING PROHIBITED	WEST SIDE, FROM BLUE RIDGE STREET, NORTH 132 FEET

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 1st day of September, 2009.

A. Everette Clark
Mayor

ATTEST:
J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-09-09-01-1

CITY MANAGER REPORTS: The City Manager gave a brief report on current projects.

The City Manager advised that decisions recently made by the State to eliminate inmate work crews at State Prisons will affect the City of Marion. However, it appears that local agencies will be able to use work crews upon payment of $150 per day. Public Works has learned that the loss of the inmate work program will require the Department of Correction to reassign inmates to other duties that do not require direct supervision by State personnel. As a result, the City may receive two additional full time inmate workers for Public Works, bringing the City's total to five full time inmate workers.

The City Manager stated that, as shown in the information presented to Council, the YMCA and Hospital will hold a Community Wide Walk on Friday, September 25, from 3:00 p.m. to 4:15 p.m. Part of the walk will be in and around the road (Spaulding Road and Rankin Drive). The City Manager stated that staff have advised the YMCA that they will need to work with DOT on preparing and submitting maps to allow for DOT review of the proposed road and/or lane closure. Preparing custom maps to DOT specifications is warranted for City events, but not for other events, and takes a great deal of time; therefore, the City Manager stated that he and Planning and Development Director Heather Cotton have agreed to refer outside agencies/individuals to DOT, without objection from Council. Neither Mayor Clark nor Council members expressed any objection to this proposal.

The City Manager presented Council with a spreadsheet showing retail sales for the entire 2008-09 Fiscal Year. While taxable retail sales decreased by 8.27 percent in North Carolina and by 2.82 percent in McDowell County between 2007-08 and 2008-09, taxable retail sales in the City increased by 9.26 percent during the past year and the percentage of sales in McDowell County taking place in the City increased from 66.71 percent to 75.59 percent. Mayor Clark noted that, while nearly 76 percent of retail sales in McDowell County took place in the City of Marion, the

AA.000000498 (24)

City received only slightly more than nine percent of sales tax revenues distributed in McDowell County.

The City Manager suggested that the positive retail sales numbers in the City for 2008-09 indicated that the local economy remained strong, at least relative to the overall State economy, and that Shop at Home efforts are being heeded by the community.

Mayor Pro Tem Steve Little stated that the economy is affecting cities of all sizes, not just Marion. He related a recent trip he took to New York City, where he witnessed numerous empty storefronts in Times Square.

The City Manager stated that Ms. Cotton had worked with Trificient, the City's downtown wireless network installer, to make repairs and to relocate antennas as needed to allow for all of the four "Hot Spot" zones to work. The City Manager stated that no complaints had been received about service since this work was performed. He thanked Ms. Cotton for her work on this matter.

The City Manager stated he has been in contact with the Sugar Hill Road commercial developer, Jim Price of WRS Realty, advising him that the City must submit a performance agreement to the N.C. Rural Center by October 29, in order to receive the $977,100 grant to fund one-half of the costs of the Sugar Hill Road Water and Sewer Extension. The City Manager reported that Mr. Price stated that he plans to close on the property in mid January, but will go ahead and sign the Performance Agreement for the Rural Center in advance of the October deadline. The City Manager stated that Mr. Price indicates that everything remains on track with the project.

The City Manager stated that city staff has met with the Hospital, Health Department, County and others to discuss planning for a possible H1N1 (swine flu) outbreak in the community.

The City Manager stated that he had talked with Don Ramsey, Clerk of Superior Court, regarding juror parking. The City Manager advised that Mr. Ramsey reported that he continues to give oral and written instruction to jurors about parking, including asking them when they report for service where they are parked and if they need to move their vehicles. The City Manager stated that he thanked Mr. Ramsey for his continued efforts.

The City Manager stated that the final item he had involved CGI Communications, the company retained by the City, upon endorsement by the North Carolina League of Municipalities (NCLM), to produce streaming videos for the City's website. The City Manager noted that CGI is no longer endorsed by the NCLM and that the City of Marion is now having issues with the way that CGI is handling sales calls for ad sales for the website videos.

The City Manager reported that a local man has offered to redo the website videos, to allow the City to part ways with CGI. The City Manager stated that he would be meeting with this man to obtain a proposal for this project.

Mayor Clark asked if the contract with CGI could be canceled.

The City Manager stated that he would look into it.

The City Manager stated that he just wanted to see if there is another option out there for the City. Mayor Clark and Council members agreed by consensus to allow the City Manager to obtain a proposal for production of new website videos, for Council review at a future meeting.

COUNCILMAN COMMENTS:

AA.000000499 (24)

Mayor Pro Tem Little stated that, when the Crooked Door Coffee House opened several years ago, he bought and gave out coupons for free coffee to his clients. He stated that he has continued this practice because he wants to see this business thrive.

Councilman Cuthbertson asked if there had been any results with the McDowell Arts Council quilt block program. Ms. Cotton reported that the program was off to a good start and that there were many people who had expressed interested in purchasing quilt blocks.

Councilman Cuthbertson asked if the recent installation of signs by the North Carolina Department of Transportation at the intersection of Main and Court Streets revising the right turn on red restriction would require changes to the City Traffic Schedule. The City Manager stated that changes to the Traffic Schedule would be required and that he would prepare the necessary ordinance amendments for Council review and approval at the September 15 Council meeting.

ADJOURNMENT: Upon a motion by Councilman Martin, seconded by Mayor Pro Tem Little, those members of Council present voted to adjourn.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

AA.000000500 (24)

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 15, 2009 at 7:00 P.M. in the City Council Chamber located at 194 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: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, AICP, Planning and Development Director; Mika Elliott, Police Chief; Chris Hollifield, Public Works Director; Harriett Thomas, CPA, Finance Director; Wendy McAnally, News Reporter, The News Bulletin; Marc Cook, President, Marion Business Association; Freddie Killough, Executive Director, Marion Business Association; Bobbie Young, Events Coordinator, Marion Business Association.

GUESTS PRESENT: Ken Lael 136 Virginia Avenue, Marion, NC; Teresa Spires, Isothermal Planning and Development Commission; Ricky Briggs, Fairview, NC; Bruce Brown 43 Westwood Terrace Drive, Marion, NC; Spencer MacLaren, Josh Finley, Brandon Gill and Derek Ishikura, Boy Scout Troop 806 – Glenwood; Darryl Ishikura, Cauthen's Hollow Road, Marion, NC; Hartis Gill, 5360 Vein Mountain Road, Nebo, NC;

RECOGNITION OF SCOUT TROUP 806: Mayor Clark recognized and welcomed Boy Scout Troup 806 from Glenwood. These young men are working on several Eagle Scout projects.

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the consent agenda as follows:

A . Approval of Minutes – September 1, 2009 Regular City Council Meeting Minutes.

B . Receive Certificate of Sufficiency – Highway 226 South – Justice/McCoyle Property Annexation

CERTIFICATE OF SUFFICIENCY – HIGHWAY 226 SOUTH – JUSTICE/MCCOYLE PROPERTY ANNEXATION - 2009

To the City Council of the City of Marion:

I, J. Robert Boyette, City Clerk, do hereby certify that I have 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 15th day of September, 2009.

(Seal)

J. Robert Boyette, City Clerk

C. Adopt Resolution Fixing the Date of Public Hearing on the Question of Annexation – Highway 226 South – Justice/McCoyle Property Annexation:

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31 – HIGHWAY 226 SOUTH – JUSTICE/MCCOYLE - 2009

AA.000000501 (24)

WHEREAS, a petition requesting annexation of the contiguous 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 contiguous area described herein will be held at City Hall at 7:00 P.M. on Tuesday, October 20, 2009.

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

TRACT I:

BEGINNING on an iron stake in the northeast margin of Highway No. 190 and in the F.O. Stott old line at a point where said line crosses the northeast margin of said highway, and runs thence with said F.O. Stott's old line North 43 ½ East 28 poles to an iron stake, Holland's corner; thence with Holland's line North 28 West 2 poles to an iron stake; then North 8 West 8 ½ poles to an iron stake; then South 55 West 37 4/5 poles to an iron stake on the bank of Highway 190; then with the northeast margin of said highway South 58 East 16 3/5 poles to the BEGINNING.

EXCEPTING and RESERVING, HOWEVER, from this indenture, that certain ¾ acre tract conveyed in McDowell County Deed Book 87 at Page 209.

DEED REFERENCE: Tract I being all of that property conveyed to Adolph Justice and wife, Victoria Justice by that deed recorded in Book 519 at page 22, McDowell County Registry. [Parcel Identification Number: 1710.02-98-0660]

TRACT II:

BEING a 0.88 acre tract and parcel of land shown on that survey for Adolph (Butch) Justice prepared by R.L. Greene Surveying and Mapping, PLS, dated April 6, 2009 and further identified as Map File 9-040, from which the following metes and bounds description is taken:

BEGINNING on an existing iron pipe located at the common corner of those properties either now or formerly owned by Mary Joyce McCoyle as described in Book 783 at Page 407 and Deed Book 84 at Page 272, said existing iron pipe marking the easternmost corner of that property either now or formerly owned by Adolph Justice et ux as described in Book 519 at Page 22, and marking the 5th corner of that property either now or formerly owned by Joyce Annette Martin as described in Book 529 at Page 584, said existing iron pipe being located South 47 degrees 00 minutes 33 seconds East 194.75 feet from an existing solid iron pin marking the 6th corner of the Martin property, and running thence from said BEGINNING a new line across the McCoyle property South 35 degrees 13 minutes 26 seconds East a total off 190.29 feet (passing a 5/8-inch iron rebar set at 177.67 feet) to an unmarked point in the centerline of Fairview Road (SR 1741); thence with the McCoyle line and along and with the centerline of said Fairview Road South 72 degrees 30 minutes 11 seconds West 325.65 feet to an unmarked point at or near the intersection of Fairview Road (SR 1741) and NC Highway 226, said unmarked point marking the 2nd corner of the McCoyle property as described in Deed Book 84 at Page 405; thence leaving the centerline of Fairview Road and running along and with the centerline of NC Highway 226 and continuing with the McCoyle line North 48 degrees 45 minutes 57 seconds West 55.00 feet to an unmarked point marking the beginning corner of the McCoyle property as described in Deed Book 84 at Page 405; thence leaving the centerline of NC Highway 226 and continuing with the common boundary of the McCoyle property as described in Deed Book 84 at Page 405 and Deed Book 84 at Page 272 and the Justice property as described in Book 519 at Page 22 (Tract I herein) North 48 degrees 07 minutes 36 seconds East a total of 325.26 feet (passing a 5/8-inch iron rebar set at 22.50 feet) to the point and place of BEGINNING.

DEED REFERENCE: Tract II being those properties conveyed to Mary Joyce McCoyle by those deeds recorded in Deed Book 84 at Page 405 and Deed Book 84 at Page 272. [portions of Parcel Identification Number: 1710.02-98-3671]

Section 3. Notice of the public hearing shall be published once 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 the 15th day of September, 2009.

AA.000000502 (24)

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-09-09-15-1

D. Select Voting Delegate and Alternate for N.C. League of Municipalities Conference: Mayor Clark was selected as the City's voting delegate for the North Carolina League of Municipalities Conference to be held in Greenville, North Carolina October 25-27. City Manager Bob Boyette will also be attending and will serve as the City's alternate voting delegate.

RECOGNITION OF EMPLOYEE CERTIFICATION: The City Manager advised that the City likes to recognize employees when they receive awards and certifications and go above and beyond the call of duty. The City Manager advised that the N.C. State Institute for Transportation Research and Education had provided documentation that Public Works Superintendent Roger Estes has completed the basic requirements to become a North Carolina Roads Scholar.

The City Manager stated that Mr. Estes is the first City employee that has completed this type of training. This is one of the highest certifications offered in the area of street maintenance. Mr. Estes is now working on his advanced certification.

Mayor Clark and Council members congratulated Mr. Estes on this certification.

PUBLIC APPEARANCE – LEE TAYLOR – DISCUSS PROPOSED DUKE ENERGY RATE INCREASE: Ms. Lee Taylor appeared before Council advising that she had talked with the City Manager about the recent action by Duke Energy to file Docket No, E-7, Sub 909 with the N.C. Utilities Commission for a general rate increase.

Ms. Taylor stated that, if Duke's request is approved, the average North Carolina residential bill for 1,000 kilowatt-hours of electricity would increase approximately 13.5 percent, or $11 a month; general service rates (non-residential and non-industrial customers) would increase by approximately 11.2 percent. Industrial customers' bills would go up approximately 15.6 percent; and outdoor lighting rates would increase by approximately 16.7 percent.

Ms. Taylor stated that the City of Marion has worked hard to balance its budget, to avoid employee layoffs and has cut utility costs. However, the proposed Duke increase would wipe out all the progress that had been made.

Another reason Ms. Taylor stated that she opposes this increase is that Duke's reason for this increase is to be paid back for money spent on the new Cliffside plant. Ms. Taylor stated that she feels it is never to late to top a bad idea, and that this is a bad idea.

Ms. Taylor stated that she feels Duke Officials are disingenuous and that the proposed resolution presented to Council is appropriate and can make a difference if adopted.

Ms. Taylor stated that she is so passionate about this issue that she is working on this effort at no cost, in addition to her day job as a local attorney.

The City Manager stated that Finance Director Harriett Thomas had calculated that the rate increase would cost the City nearly $44,000 per year, including more than $14,000 per year for street lighting

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alone. He added that this amount equated to about a penny and a half on the City's tax rate. In light of the recent erosions of the City's revenue base, the City can ill afford any added expenses at this time.

Mayor Pro Tem Little thanked Ms. Taylor for letting Council know this information. Mayor Pro Tem Little stated that he did not know some of the facts and that he also feels passionate about the issue. He added that Duke is a greedy monopoly whose only main goal is to extract as much money out of its customers as possible.

Mayor Clark stated that the timing of the proposed increase comes at a terrible time both for the City and public. He added that a number of examples of bad investments made by Duke over the years come to mind. Mayor Clark said he could not help but wonder if such bad investments play a role in Duke's current financial problems and the need for the proposed rate increase.

Mayor Clark stated that the resolution is certainly in order and thanked Ms. Taylor for updating Council with this information.

Councilman Cuthbertson stated that the proposed increase would cost McDowell County Schools over $100,000 per year. He presented information showing that Progress Energy is actually seeking to decrease rates, while Duke is proposing large increases.

The City Manager presented a resolution opposing the proposed rate increases that could be presented at a public hearing of the North Carolina Utilities Commission to be held at the Courthouse at 7:00 p.m. on Thursday, September 17.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Resolution opposing the proposed electricity rate increase by Duke Energy:

RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MARION
OPPOSING VARIOUS ELECTRICITY RATE INCREASES
FOR NORTH CAROLINA

WHEREAS, the City of Marion recognizes the importance of an adequate and reliable supply of electricity at lowest reasonable cost; and

WHEREAS, on June 2, 2009, Duke Energy Carolinas, LLC filed Docket No, E-7, Sub 909 with the N.C. Utilities Commission for a general rate increase; and

WHEREAS, as stated in the filing, the average North Carolina residential bill -- for 1,000 kilowatt-hours of electricity -- would increase approximately 13.5 percent, or $11 a month; general service rates (non-residential and non-industrial customers) would increase by approximately 11.2 percent; industrial customers' bills would go up approximately 15.6 percent; and outdoor lighting rates would increase by approximately 16.7 percent; and

WHEREAS, the proposed rate increase would be in addition to the 4.5 percent fuel increase granted to Duke Energy in July of 2009. Whereby the total increase to the residential citizens of the City would be 18 percent, likely beginning in January when energy costs can be the highest. The increase to the City for outdoor lighting would be a total of 21.2 percent beginning in the middle of the City's Fiscal Year; and

WHEREAS, Duke Energy acknowledges that seeking a rate increase during extraordinarily difficult economic times could pose hardship to its customers; and

WHEREAS, the City of Marion has taken steps and continues to take steps to reduce its energy needs through conservation, energy efficiency and renewable energy sources. These steps are taken, in part, to help balance a budget shortfall. The proposed increase will more than obliterate all savings gained through reduced energy costs that the City has worked toward over the last year; and

AA.000000504 (24)

WHEREAS, the rate hike is to be used primarily to provide capital for increased power generation which this Council questions the necessity of since Duke Energy Carolinas has excess capacity evidenced by their attempt to sell wholesale 600 megawatts to the City of Orangeburg, South Carolina and has applied with the Utilities Commission in docket number E-7, Sub 923 to sell 1,000 megawatts to Central Electric Power Cooperative in South Carolina, all said energy being produced in North Carolina through capital outlay paid for by North Carolina ratepayers.

WHEREAS, public outdoor lighting provided by local governments is important to public safety and benefits all citizens of the State; and

WHEREAS, substantial rate increases for public lighting will reduce the ability of local governments to pay for this service; and

WHEREAS, the rate increases proposed by Duke Energy to recover costs for increased capacity should not be assigned to the public lighting tariff since such lighting cost increases would disproportionately impact municipal residents.

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

Section 1. The North Carolina Utilities Commission is urged to reduce Duke Energy's rate increase request to the lowest amount reasonable under applicable law and to deny such increase if the Commission finds that it is not warranted, and rate increases should be spread out over time to minimize customer impact.

Section 2. The creation of a new and substantially more expensive Governmental Lighting tariff in lieu of the existing Public Lighting tariff should be disapproved for the benefit of public safety. Should any rate increase for Public Lighting or Governmental Lighting be approved, the tariff should require Duke Energy to perform regular inspection and maintenance of such lighting as a part of the service without requiring outage reporting by the customer or additional charges for such service.

Section 3. Given the difficult local and State budget circumstances, any rate increases should be made effective in the future at the beginning of governmental fiscal years to assist in budget planning.

Section 4. The City Manager is authorized to convey this resolution to the North Carolina Utilities Commission, and to submit written comments as appropriate in support of this resolution.

Section 5. This resolution shall be effective upon its adoption.

Adopted this the 15th day of September, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-09-09-15-2

PUBLIC HEARING – SUBDIVISION ORDINANCE VARIANCE FOREST PARK ROAD:

Mayor Clark opened the Public Hearing.

Ms. Heather Cotton advised a request for a variance to Chapter 16 *Subdivisions* of the Marion City Code was submitted to the City of Marion on August 13, 2009 by Mr. Ricky Briggs.

Ms. Cotton stated the Mr. Briggs is requesting a Variance to Chapter 16 *Subdivisions* for a reduction to the minimum lot size as required by Section 16-55 *Lots*, which states the following:

All lots shall front upon a public street. Double frontage shall be avoided. Lots shall comply with the following requirements:

1. Area. All lots shall have a minimum area as required by the Zoning Ordinance of the City of Marion. (Article 9.5 of the Zoning Ordinance requires a minimum lot size of 7,000 square feet)

AA.000000505 (24)

2. Orientation of lot lines. Side lot lines shall be substantially at right angles or radial to street lines.

3. Width and depth. All lots shall have a minimum width at the building line as required by the Zoning Ordinance of the City of Marion and a minimum width at the street line of thirty-five (35) feet. Corner lots shall have an extra width of fifteen (15) feet to permit adequate setback from side streets.

Ms. Cotton stated that, according to the applicant, the parcel is approximately 12,540 square feet and is requesting a variance to allow for the subdivision of the parcel into two lots. The first lot, being approximately 6,240 square feet, would front on Forest Park Road. The second lot, being approximately 6,180 square feet, would front on Yancey Street.

The property is a double frontage lot located between Yancey St and Forest Park Rd with the Parcel Identification Number (PIN) 1711.06-29-8256, and within the R-2 General Residential Zoning District. The property has one (1) existing single-family home that fronts on Forest Park Road.

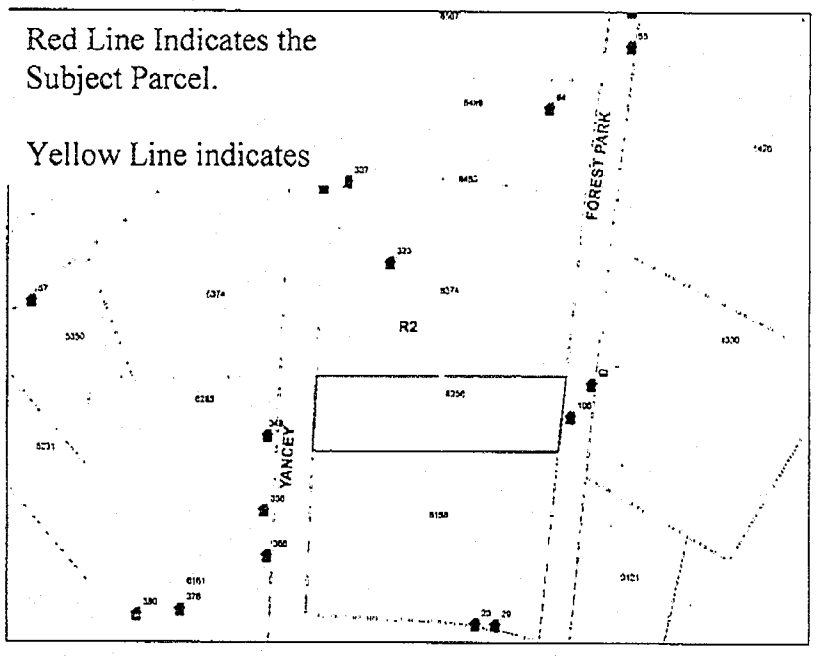


Figure Two: Zoning District

Ms. Cotton stated that the subdivision of the one parcel would create two parcels that are approximately 6,200 square feet in size, which is roughly a 10% reduction to the minimum lot size requirement. A ten percent (10%) reduction in lot size would not have an adverse impact on any other minimum dimensional requirements including but not limited width, depth, public road frontage, and/or setback requirements of the Marion City Code.

Ms. Cotton reported that the Planning Board, at their meeting on September 3, unanimously recommended approval of this request.

Mr. Briggs was present for this meeting to answer any questions Council may have.

Mayor Clark Closed the Public Hearing.

Upon a motion by Councilman Cuthbertson, seconded by Mayor Pro Tem Little, Council voted unanimously to adopt the following resolution granting a variance from the Subdivision Ordinance as requested by Mr. Ricky Briggs:

A RESOLUTION
GRANTING APPROVAL OF A VARIANCE
TO REDUCE THE MINIMUM LOT SIZE
FOR THE SUBDIVISION OF BRIGGS PROPERTY

AA.000000506 (24)

WHEREAS, Chapter 16 Subdivisions provides for the approval of Variances because of topographical or other conditions peculiar to the site such that strict adherence to the provisions of the regulations would cause unnecessary hardship, the City Council may authorize a variance if such action can be made without destroying the intent of the subdivision regulations ; and

WHEREAS, Ricky Briggs, filed an application in the Planning & Development Services Department on August 13, 2009 requesting a Variance to Chapter 16 Subdivisions and Chapter 21 Zoning for a reduction to the minimum lot size requirement for a parcel of land located at 106 Forest Park Road and having the Parcel Identification Number 1711.06-29-8256.

WHEREAS, Public notice was sent to all adjacent property owners of the subject property; and

WHEREAS, Public notice was published in the *McDowell News,* on August 28, 2009 and September 4, 2009; and

WHEREAS, The request for Variance was heard during a public meeting on September 3, 2009 of the Marion Planning Board and Board of Adjustment; and

WHEREAS, The Marion Board of Adjustment approved the Variance to Chapter 21 Zoning, Article 9.5 Dimensional Requirements contingent upon approval by the Marion City Council for a Variance to Chapter 16 Subdivisions.

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

Section 1. That the City Council makes the following findings of fact pursuant to Chapter 16 Subdivisions:

1. The reduction of the minimum lot size standards requires a variance;

2. A ten (10) percent reduction to the minimum lot size will not destroy the intent of Chapter 16 Subdivision or Chapter 21 Zoning;

4. The variance will not permit a land use in a district where the use is prohibited;

5. The applicant is not seeking the variance to relieve any requirements to the orientation of lot lines, minimum width and depth of lots, or minimum setback requirements; and
6. The variance will mitigate the current double frontage lot configuration.

Section 2. That the City Council finds the proposed activity meets the requirements of the Marion City Code so long as it is conducted in accordance with the conditions of this resolution and as described below:

The approved activity shall be conducted such that the subdivision of the parent tract of land shall be divided into no more than two (2) lots, and no lot shall be less than ten (10) percent the required minimum lot size of 7,000 square feet.

Section 3. The Marion City Council authorizes the issuance of a Variance for the reduction of minimum lot size for the subdivision of land into two (2) lots, subject to compliance with the above conditions.

Section 4. This resolution shall become effective upon its adoption.

Adopted this the 15th day of September 2009.

A. Everette Clark
Mayor

ATTEST:

J. Robert Boyette
City Manager/ Clerk

Resolution Number: R-09-09-15-3

STATE OF NORTH CAROLINA

AA.00000507 (24)

COUNTY OF MCDOWELL

I, Debra W. Sherlin, a Notary Public, certify that J. Robert Boyette personally came before me this day and acknowledged that he is the City Clerk of the City of Marion, 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 its City Clerk. Witness my hand and notarial seal, this the 15th day of September, 2009.

_____
NOTARY PUBLIC

My Commission Expires:

PUBLIC HEARING – ZONING TEXT AMENDMENT – MINIMUM SQUARE FOOTAGE FOR RESIDENTIAL UNITS: Mayor Clark opened the Public Hearing.

Planning and Development Director Heather Cotton advised that the City of Marion has identified the need to amend the Zoning Ordinance to add minimum dimensional standards for residential occupancy. A number of inquiries have been made regarding minimum dwelling unit sizes for both single-family and multi-family residential dwelling units. The City has concerns with recent speculation over the development of 300 square foot single-family homes in lower-income neighborhoods. In response to these concerns, Planning Staff had the option to draft a moratorium on such development or draft a text amendment that would place a minimum limit on residential dwelling units.

Ms. Cotton reported that, to resolve the immediate concern, Staff drafted an ordinance that places minimum dimensional requirements for single-family dwelling units, multi-family dwelling units, and mobile homes. Staff included minimum dwelling unit size for mobile homes consistent with Freddie Mac minimum dimensional standards for eligibility of a government subsidized mortgage.

Ms. Cotton advised that the Planning Board were equally concerned with minimum dwelling unit standards, and, at their meeting on September 3, unanimously approved the proposed ordinance with one change to raise the minimum size of a multi-family dwelling unit from four hundred square feet to five hundred square feet.

The Planning Board has requested Staff to continue to research dimensional requirements and bring more information to a future Planning Board meeting for review and a discussion on a more comprehensive amendment to the City's dimensional requirements.

Ms. Cotton reported that the Planning Board's recommendations for minimum sizes for residential units would therefore be 800 square feet for a single family house, 600 square feet, with a 12 foot minimum width, for mobile homes and 500 square feet for multi-family units.

There were no citizens present to discuss this proposed amendment.

Mayor Clark closed the Public Hearing.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Ordinance amending Chapter 21 of the Marion City Code to establish minimum sizes for residential units:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE

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

AA.00000508 (24)

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Section 2. Chapter 21 *Zoning*, Article IV. *Definitions of Terms Used In Ordinance*, Section 21.21 Definition, is amended by adding the following:

Dwelling unit. A building, or portion thereof, providing complete and independent living facilities for one family, including permanent facilities for living, sleeping, eating, cooking and sanitation per unit.

Dwelling, single family. A building arranged or designed to be occupied by one (1) family. The minimum floor area for a single-family dwelling unit is 800 square feet of gross living area.

Dwelling, multi-family. A building arranged or designed to be occupied by two (2) or more families living independently of each other. The minimum floor area for a multi-family dwelling unit is 500 square feet of gross living area.

Mobile home. A factory assembled portable housing unit, or a portion thereof, built on a chassis and intended for use as a dwelling unit, and is not constructed in accordance with the standards of the North Carolina Uniform Residential Building Code for one and two family dwellings. A mobile home is designed to be transported on its own chassis. A mobile home shall be construed to remain a mobile home whether or not wheels, axles, hitch, or other appurtenance to mobility are removed, and regardless of the nature of the foundation provided. All vehicles which are designated mobile homes by the Uniform Standards Code for Mobile Homes shall be construed as mobile homes. A mobile home shall not be construed to be a travel trailer or other form of recreations vehicle or occupied for non-residential purposes. All references to mobile homes in this ordinance shall include manufactured homes. The floor area for a mobile home shall be a minimum of twelve (12) feet in width with no less than 600 square feet of gross living area.

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 15th day of September 2009.

A. Everette Clark
Mayor

ATTEST:
J. Robert Boyette
City Manager/ Clerk

Ordinance Number: O-09-09-15-1

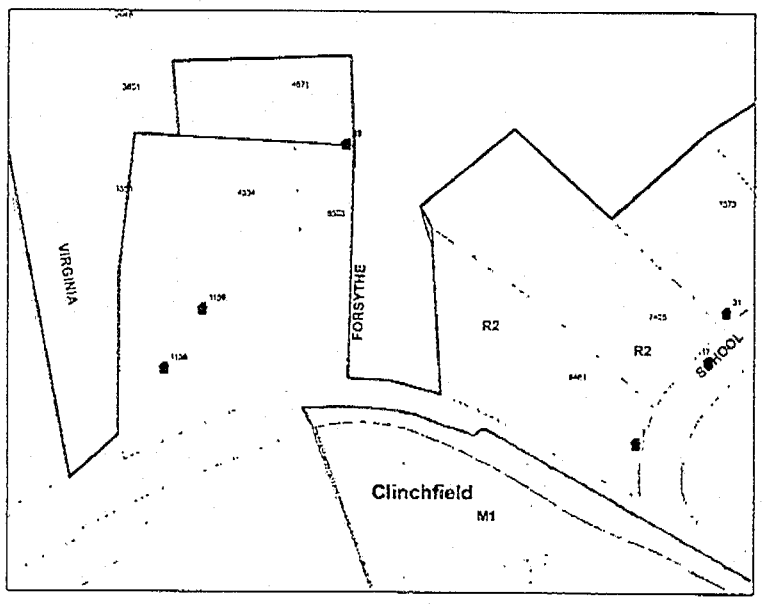
*Mayor Pro Tem Little stepped away from the meeting during the following Public Hearing.

PUBLIC HEARING – ZONING MAP AMENDMENT – ASSIGN ZONING TO FORSYTHE STREET/FREEMAN PROPERTY ANNEXATION AREA: Mayor Clark opened the Public Hearing.

Planning and Development Director Heather Cotton advised that on July 21, 2009, City Council adopted an ordinance extending the corporate limits of Marion to include the Freeman/Forsythe Street Annexation Area. The annexation became effective on July 31, 2009.

Ms. Cotton stated that the purpose of this ordinance is to assign appropriate zoning designation to the annexation area that is most compatible with the existing uses within the area and to provide a mechanism to regulate such uses. Based on the Marion City Code, the Freeman/Forsyth Annexation Area is most compatible with Section 21-202, *R-2 General Residential* zoning district. The Freeman/Forsythe St. area is one parcel of land, which is used for single-family residential purposes.

AA.000000509 (24)



Ms. Cotton advised that the Planning Board recommended approval of assigning R-2 zoning to this area in a 4-0 vote on September 3, 2009.

There were no citizens present to discuss this Ordinance.

Mayor Clark closed the Public Hearing.

Upon a motion by Councilman Owenby, seconded by Councilman Martin, those members of Council present voted to adopt the following ordinance amending the Official Zoning District Map to assign the R-2 General Residential Zoning District to the Freeman/Forsythe Street Annexation Area.

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
FREEMAN/FORSYTH

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to include Freeman/Forsyth Annexation Territory, as adopted by City Council on July 21, 2009 Ordinance Number O-09-07-21-1, zoning the area as R-2 General Residential Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing on September 3, 2009.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective upon adoption.

Adopted this the 15th day of September 2009.

AA.00000510 (24)

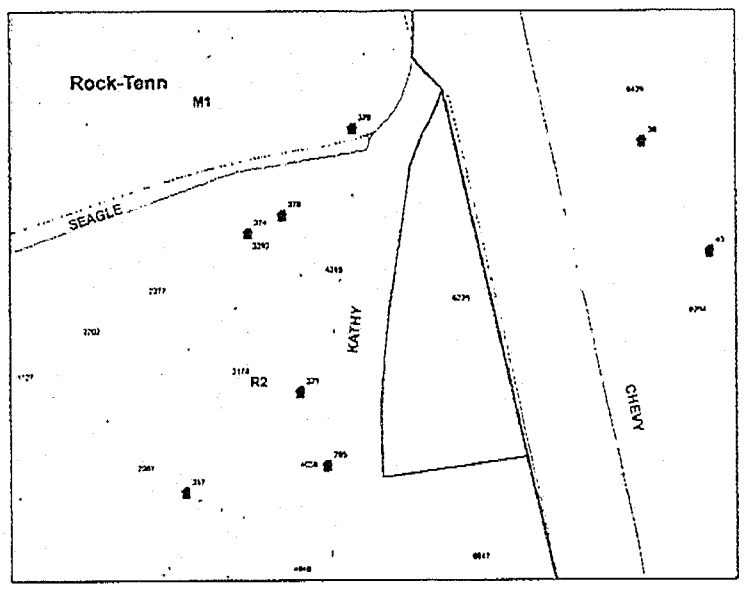
A. Everette Clark
Mayor

ATTEST:
J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-09-09-15-2

PUBLIC HEARING – ZONING MAP AMENDMENT – ASSIGN ZONING TO KATHY STREET/BUFF/PIERSON PROPERTY ANNEXATION AREA: Mayor Clark opened the Public Hearing.

Ms. Heather Cotton advised that on August 18, 2009, City Council adopted an ordinance extending the corporate limits of Marion to include the Kathy Street/Buff/Pierson Annexation Area. The annexation became effective on August 31, 2009.
Ms. Cotton stated that the purpose of this ordinance is to assign appropriate zoning designation to the annexation area that is most compatible with the existing uses within the area and to provide a mechanism to regulate such uses. Based on the Marion City Code, the Kathy Street/Buff/Pierson Area is most compatible with Section 21-202, *R-2 General Residential* zoning district. This area is one parcel of land, which is used for single-family residential purposes.



Ms. Cotton stated that the Planning Board Recommended approval of assigning R-2 zoning to this area in a 4-0 vote on September 3.

There were no citizens present to discuss this Ordinance.

Mayor Clark Closed the Public Hearing.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, those members of Council present voted to adopt the following ordinance amending the *Official Zoning District Map* to assign the R-2 General Residential Zoning District to the Kathy Street/Buff/Pierson Annexation Area.

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
BUFF/PIERSON

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

AA.00000511 (24)

Section 2: The City of Marion is amending the Official Zoning District Map to include Buff/Pierson Annexation Territory, as adopted by City Council on August 18, 2009 Ordinance Number O-09-08-18-1, zoning the area as R-2 General Residential Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing on September 3, 2009.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective upon adoption.

Adopted this the 15th day of September 2009.

A. Everette Clark
Mayor

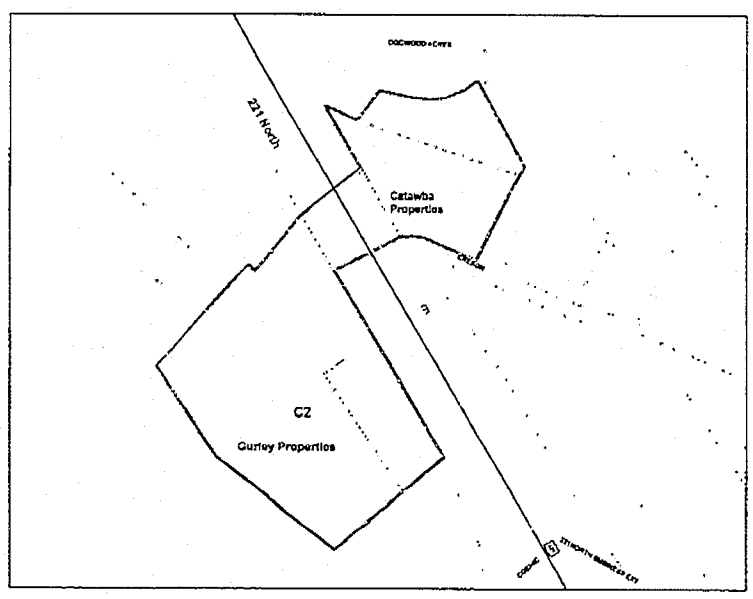
ATTEST:
J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-09-09-15-3

***Note:** Mayor Pro Tem Little returned to the meeting at the beginning of the discussion of the next item.

PUBLIC HEARING – ZONING MAP AMENDMENT – ASSIGN ZONING TO US 221 NORTH/GURLEY/BYPASS PROPERTIES PROPERTY ANNEXATION AREA: Mayor Clark opened the Public Hearing.
Planning and Development Director Heather Cotton advised that on August 18, 2009, City Council adopted an ordinance extending the corporate limits of Marion to include the Highway 221 North/Gurley/Bypass Properties Area. This annexation become effective on August 31, 2009.

Ms. Cotton stated that the purpose of this ordinance is to assign a zoning designation to the annexation area that is most compatible with the existing uses within the area and to provide a mechanism to regulate such uses. Based on Marion City Code, the annexation area is most compatible with Section 21-205 *C-2 General Business Zoning District*. Ms. Cotton reported that the area includes a mixture of commercial uses and proposed development of commercial uses. The properties, though not contiguous to the existing C-2 General Business Zoning District, are in close proximity to other commercial uses located outside the city limits.



AA.00000512 (24)

Ms. Cotton reported that the Planning Board recommended assigning C-2 zoning to this area in a 4-0 vote on September 3.

There were no citizens present to discuss this Ordinance.

Mayor Clark closed the Public Hearing.

Upon a motion by Councilman Cuthbertson, seconded by Martin, Council voted unanimously to adopt the following Ordinance amending the *Official Zoning District Map* to assign the C-2 General Business Zoning District designation to the Highway 221 North/Gurley/Bypass Properties Annexation Area.

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
221 NORTH/ GURLEY

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to include the 221 N Gurley Territory as adopted by City Council on August 18, 2009 Ordinance Number O-09-08-18-2, zoning the area as C-2 General Business Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing on September 3, 2009.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective upon its adoption.

Adopted this the 15th day of September 2009.

A. Everette Clark
Mayor

ATTEST:
J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-09-09-15-4

AA.00000513 (24)

PUBLIC HEARING – ADOPTION OF ORDINANCE TO CLOSE MARYLAND AVENUE OFF OF VALE STREET: Mayor Clark opened the Public Hearing.

Planning and Development Director Heather Cotton advised that this ordinance is proposed to permanently close the unopened Maryland Avenue, located off of Vale Street, that subdivides property owned by Mr. Donald Harrison. A resolution of intent on the matter was adopted by City Council on August 4, 2009, notice of the hearing was published in the McDowell News for four successive weeks and the notice was posted in two (2) places along the unopened portion of the street pursuant to North Carolina Statutes 160-299.

Ms. Cotton stated that the unopened potion of Maryland Avenue is 0.33 acres according to a survey completed by R.L. Greene Surveying dated June, 3, 2009. Property located on either said of Maryland Avenue is owned by Mr. Donald Harrison. The City of Marion does not maintain any portion of Maryland Avenue and there is no indication that closing the street would be detrimental to public interest or limit access to any other property.

Mr. Ken Lael was present for this Public Hearing and stated that he had concerns about the closing of Maryland Avenue and how it would affect his property off of Virginia Avenue. Ms. Cotton showed Mr. Lael a survey showing the location of the proposed street closing. After reviewing the survey, Mr. Lael stated that the street closing proposed would not affect his property and that he had no objection to the request.

Mayor Clark thanked Mr. Lael for coming.

Mayor Pro Tem Little suggested that the second page of the ordinance closing the street be revised by stating that the stating that the street will be permanently closed as a public street and that the City of Marion shall have no duties or obligations regarding the former Maryland Avenue.

There were no other persons present to discuss this Ordinance.

Mayor Clark closed the Public Hearing.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, Council voted unanimously to adopt the following Ordinance closing Maryland Avenue, as amended:

AN ORDINANCE
PERMANENTLY CLOSING
MARYLAND AVENUE

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

Section 1. THAT, WHEREAS the City Council of Marion, North Carolina, at its regular meeting on August 4, 2009 adopted a resolution declaring its intent to permanently close Maryland Avenue, hereinafter described, and calling for a public hearing on the question; and

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

WHEREAS, A public hearing was duly held in the Council Chamber on August 3, 2009, at which no owner of property adjoining Maryland Avenue intended to be closed appeared to express opposition to the closing; and

AA.00000514 (24)

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

Section II. IT IS, THEREFORE, ORDAINED AND ORDERED that Maryland Avenue as shown, for identification and location purposes only, on a survey of property having belonged to Bernice Eckerd which lies East of Vail Street and is now owned by Donald Lee Harrison as recorded in Deed Book 1001, pages 42-45 in the Office of the McDowell County Register of Deeds, be, and it is hereby, permanently closed as a public street. The City of Marion shall have no duties, obligations or property interests regarding the former Maryland Avenue.

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

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

Adopted this the 15th day of September 2009.

A. Everette Clark
Mayor

ATTEST:
J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-09-09-15-5

STATE OF NORTH CAROLINA

COUNTY OF MCDOWELL

I, Debra Sherlin, a Notary Public, certify that J. Robert Boyette personally came before me this day and acknowledged that he is the City Clerk of the City of Marion, 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 its City Clerk. Witness my hand and notarial seal, this the 15th day of September, 2009.

NOTARY PUBLIC

My Commission Expires:

PUBLIC HEARING – COMMUNITY DEVELOPMENT BLOCK GRANT: Mayor Clark opened the Public Hearing.

Ms. Teresa Spires of Isothermal Planning and Development Commission appeared before Council to provide information on the City's proposed Community Development Block Grant (CDBG) application. Ms. Spires stated the proposed CDBG grant would fund sidewalks, housing rehabilitation and demolition on Perry Street.

AA.00000515 (24)

Ms. Spires stated that the applications for this CDBG grant are due in two weeks. The project will concentrate on the twenty houses on Perry Street.
Three of houses need to be cleared due to being dilapidated. There will be ten to twelve houses that will be rehabilitated. A sidewalk extension is planned from the City's existing sidewalk on Baldwin Avenue along Perry Street to the new Eastfield Community Park and the back of Eastfield Elementary School.

Ms. Spires stated that Isothermal hopes to get money from Duke Energy to assist with heating issues. There are other items that will be addressed such as storm drainage issues and water standing in the yard.

There were no citizens present to discuss this item.

Mayor Clark closed the Public Hearing.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the following Resolution authorizing the submission of a CDBG application for housing rehabilitation, demolition and sidewalks in the Perry Street area:

RESOLUTION

BE IT RESOLVED that the City of Marion has authorized the submission of a Community Development Block Grant, Community Revitalization category grant application to the Department of Commerce to address multiple needs on Perry Street. Activities involved include housing rehabilitation, clearance, sidewalks and storm drainage.

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

BE IT FURTHER RESOLVED that the City will contract with the Isothermal Planning and Development Commission for grant preparation and administration.

BE IT FURTHER RESOLVED that the grant will be monitored quarterly to assure compliance with this proposal and the Department of Commerce regulations.

Adopted by the City Council of the City of Marion this the 15th day of September, 2009.

A. Everette Clark, Mayor

Attest:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-09-09-15-4

PUBLIC HEARING – ZONING TEXT AMENDMENT – LANDSCAPING ORDINANCE:
Mayor Clark opened the Public Hearing.

Planning and Development Director Heather Cotton advised that the City of Marion had identified the need to amend the City Code to modify the Landscape Standards of Chapter 21 Zoning to be consistent with the recommendations of the Tree Management Plan completed by Davey Resource Group, as part of the City's Urban Forestry Grant project, as well as to clarify language and amend certain "loop holes" in the existing ordinance in an effort to administer a more effective and

AA.00000516 (24)

sustainable ordinance. Ms. Cotton provided a brief summary of items added or amended to the code:

1. Inclusion of two new definitions of terms added to the ordinance.
2. Simplification of definitions for different tree classifications.
3. Minimum planting sizes at installation to increase survival rates and ensure long-term compliance.
4. Tree placement requirements to ensure the longevity and successful life expectancy of trees, as well as reduce potential for improper pruning practices in the future.
5. Minimum standards to protect trees during construction and increase long term survival rates.
6. Penalties for destruction of public trees and violations to provisions of the landscape division.

Ms. Cotton reported that the Planning Board reviewed the proposed ordinance at their meeting on September 3 and voted unanimously to recommend approval of the ordinance.

There were no citizens present to discuss Public Hearing.

Mayor Clark closed the Public Hearing.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to adopt the amendment to the Landscape Standards of Chapter 21, *Zoning*, of the Marion City Code as follows:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Section 2. Chapter 21 *Zoning*, Article VII. *General Provisions*, Division V, *Landscape Standards*, is amended in its entirety by adding the following:

Sec. 21-156. General Provisions.

(1) Purpose and Intent. The purpose of this section is to encourage landscaping throughout the City of Marion hence protecting and enhancing public and private investments, economic and tourism opportunities while providing multiple environmental benefits. The landscaping and buffering standards for new development, as defined in part C, set forth below require landscaping along public right-of-ways, in parking lots, between residential districts and commercial or industrial districts and require screening of certain trash containers, in order to:

(A) Improve the visual quality of the city and minimize potential negative impacts of developments such as noise, dust, glare of lights, parking lots, traffic, heat, overcrowding, and odor.

(B) Provide environmental benefits such as climate modification, decreased energy consumption, reduced impervious surface area and storm water runoff, decreased erosion, improved water and air quality and protection of wildlife habitat.

(C) Safeguard public and private property values and to protect public and private investment.

(2) Definitions. The following words or terms have the meaning as herein defined:

Critical root zone. A circular area surrounding a tree, of which the center is the center of the tree trunk and the radius is the distance from the outside of the trunk to any point twelve (12) times the diameter at breast height (DBH), which points constitute the circumference of the critical root zone.

Diameter at breast height (DBH). The total cross-sectional diameter of the trunk(s) of a tree measured four and one-half (4.5) feet from the ground at the center of the tree.

Evergreen. A tree, shrub, or plant having foliage that persists and remains green throughout the year.

Ground Cover. A prostrate plant growing less than two feet (2') in height at maturity that is grown for ornamental purposes. Ground covers are used as an alternative to grasses. On slopes, ground covers control erosion while eliminating the maintenance of mowing on hillsides. Many ground covers survive in poor soils, shade and other adverse conditions.

Planting area. The area prepared for the purpose of accommodating the planting of trees, shrubs, and groundcovers.

AA.00000517 (24)

Residential Buffer Yard. A row of trees or shrubs reaching a height of at least eight (8) feet in height so that property is screened visually from neighboring residential uses. Buffer strips shall be an evergreen species, or combination of evergreen species dense enough to provide visual screening from the ground level to the mature height of at least eight feet.

Shrub. A woody plant, usually multi-stemmed or well branched from the base, the branches being retained to the ground. When used for buffer plantings, shrubs must also reach a mature height between four and fifteen feet.

Street Buffer. A planting area or strip of land, extending inward from the curb, edge of street, or property line that runs parallel to a public street, and is designed to provide continuity of vegetation along the right-of-way and to soften the impact of development by providing a pleasing view from the road and a more comfortable pedestrian environment, while decreasing noise, dust, litter, glare of lights, and stormwater runoff from impervious surfaces.

Tree, Small. A small to medium ornamental tree, growing fifteen (15) feet to forty (40) feet in height at maturity, that is planted for aesthetic purposes such as colorful flowers, interesting bark, or fall foliage.

Tree, Large. A large tree growing to over forty (40) feet in height at maturity, usually deciduous that is planted to provide a canopy cover for shade.

(3) Landscape Plan Required - A landscape plan is required for:

(A) Any new development in the B-1, C-1, C-2, M-1, or OI districts

(B) Any new development in the R-1 or R-2 district with the exception of single-family, or multi-family developments with less than eight (8) units.

(C) Renovations in the B-1, C-1, C-2, M-1 or OI districts with a total cost exceeding fifty percent (50%) of the assessed value of the building, according to McDowell County tax records, within a twenty-four month time-period.

(D) Expansions exceeding fifty percent (50%) of the pre-expansion floor area or paved surface in the B-1, C-1, C-2, M-1, or OI districts within a twenty-four (24) month time-period.

(E) Existing unpaved parking lots which are paved over or existing paved lots which are demolished and repaved.

(4) Contents of Landscape Plan and Approval Process

(A) Applicants are advised to meet with the Zoning Administrator prior to submitting a plan in order to discuss applicable landscape requirements, other ordinance requirements, and coordination with utility plans.

(B) Whenever an application for a zoning permit and/or a building permit is submitted to the Planning and Development Services Department, a landscape plan shall be submitted if required by section 21-156(3) of this ordinance. Such plan shall be in sufficient detail to enable the Zoning Administrator to determine whether or not such plan, when fully implemented, will comply with these landscaping requirements. The Zoning Administrator shall review the plan and assure compliance with these requirements, and approve or deny the zoning permit accordingly.

(C) A landscape plan shall be drawn to scale and shall contain the location of the streets, street right-of-ways, all existing and proposed structures, utilities, dumpster (trash container), street yards, planting areas, screening, vehicular parking areas with individual parking spaces identified, as well as location of existing and proposed plants and associated characteristics. Plants shall be identified on plan by species (common or scientific name,) size and age. Proposed date of planting shall also be noted on plan. The dimensions of the required street yard and planting areas shall be identified. The landscape plan may be incorporated into the site plan as outlined in section 21-273.2 of this ordinance. A design professional seal is required pursuant to section 302.4 of the North Carolina State Building Code.

(D) Certificate of Occupancy- The landscape shall be completely installed as indicated on the approved plan prior to the issuance of a certificate of compliance/ occupancy. A conditional certificate of occupancy may be issued by the building inspector for the temporary use and occupancy of a building, structure or land for a maximum period of 180 days from the date of the issuance of such certificate whenever the landscaping requirements of this ordinance are not complied with on time. If the landscaping indicated on approved plans in not completely installed within one hundred and eighty (180) days, the conditional certificate of occupancy shall expire and further use of the property shall constitute an illegal use and occupancy of said property.

Sec. 21-156.1. General Requirements and Conditions.

(1) Alternate Methods of Compliance. The landscape requirements herein are intended to be minimum standards for quality development and environmental protection and are not intended to be arbitrary or inhibit creative solutions. An alternative compliance proposal may be used if it is equal or better than normal compliance in its ability to fulfill the intent of this article, and exhibits superior design quality. The Planning Board shall determine whether alternate method of compliance is equal or better than normal compliance and that the intent of this ordinance has been fulfilled.

(2) Safety Considerations. Landscaping shall not obstruct the view of motorists using any street, private drive, parking aisle or other approaches to street intersections so as to constitute a condition endangering the public safety upon any such street, driveway, parking aisle or street intersection.

AA.00000518 (24)

(3) Trees may be planted on the public right-of-way of any public street provided they have been approved by the North Carolina Department of Transportation and the City of Marion, and they do not hinder the repair or construction of public utilities.

(3) All required tree planting and landscaped areas shall be maintained at all times in good, stable and healthy condition.

(4) Large trees shall not be planted within fifteen (15) feet overhead electrical power lines or other overhead utilities.

(6) Planting material greater than two and one-half (2 1/2) feet in height shall not be planted within the clear visibility triangle without approval from the zoning administrator pursuant to Section 21-88 of the city code.

(7) Adequate wheel stops or curbs shall be installed for the protection of required trees and plantings that are adjacent to vehicular parking, display area, or driveway. Wheel stops or curbs shall be a minimum of six (6) inches in height and shall be anchored to the ground, and may be concrete, rot-resistant heavy timber or other effective materials.

(8) In most cases, the applicant shall avoid removing existing vegetation and shall incorporate such vegetation as much as possible in proposed plan.

Sec. 21-156.2. Specific landscaping requirements.

(1) Street Buffer Yard. All land uses to which these landscaping requirements apply with the exception of properties in the C-1, Central Business District, shall provide a street buffer yard along the property.

(A) The minimum size requirement for a buffer yard is based on the following table.

Table: 21-156.1 Street Buffer Yard Requirement.

Street Type	Right-of-Way Width (Feet)	Buffer Yard Width (Feet)
Two-Lane	20 to 50	10
Two-Lane/Four-Lane	51 or greater	20

(B) Reduced buffer yard on corner lot. Land uses located on a corner lot contiguous to two (2) public streets may reduce one required buffer yard width by fifty (50) percent provided that the following conditions are met:

1. All vegetation required prior to the reduction shall be installed within the buffer yard.
2. The reduced buffer yard shall be located on the property deemed to be the side yard or portion of the property adjoining the lesser of the right-of-way widths.

(C) Impervious surfaces, such as driveways, within a street buffer yard shall not exceed twenty-five (25) percent of the required street buffer yard, except that not more than two 25-foot driveways may be permitted for any lot having a street frontage of less than 200 feet in length.

(D) The amount of plant material required in a bufferyard area is measured per every one hundred (100) linear feet and is based on the following table. Calculations shall be rounded to the nearest whole number.

Table: 21-156.2 Required Plant Material

Bufferyard Type	Large Tree	Small Tree[1]	Shrub
10-foot wide	1	2	10
20-foot wide	2	3	14
[1] Two (2) small trees may be substituted for one (1)large tree.			

(D) Minimum planting sizes required at installation are as follows:

Ground cover: Two-inch (2") pot.
Shrubs: Eighteen-inch (18") in height, or three (3) gallon pot.
Small Trees: Five feet (5') in height, one-inch caliper, or seven (7) gallon pot.
Large Trees: Eight feet (8') in height, two-inch (2") caliper, or ten-gallon pot.

(E) Minimum tree placement requirements are as follows:

1. Large Trees – All trees reaching a mature height of thirty five (35) feet or more should be planted a minimum of:
   a. Four (4) feet from the back of the curb, edge of street pavement, driveway, or sidewalk.
   b. Ten (10) feet from all buildings.
   c. Fifteen (15) feet from street lights, utility poles, and above-ground utility wires.
   d. Ten (10) feet from all underground utilities.

2. Small Trees – All trees reaching a mature height of less than thirty five (35) feet should be placed a minimum of:
   a. Three (3) feet from the back of the curb, edge of street pavement, driveway, or sidewalk.

AA.00000519 (24)

b. Five (5) feet from all buildings.
c. Ten (10) feet from street lights, utility poles, and above-ground utility wires.
d. Five (5) feet from all underground utilities, utility vaults, ground level utility structures

(E) Parking, merchandise display, off-street loading, and dumpsters are prohibited in the buffer yard.

(F) Signs are permitted in accordance with section 21-131 of this ordinance.

(G) Provided the required buffer yard width and landscaping is maintained, a buffer yard may contain pedestrian and bicycle paths, or other similar design elements.

(2) Vehicular Parking Areas and Display Areas

(A) All new parking lots with fifteen (15) or more spaces or parking lots expanded to add fifteen (15) or more spaces shall be required to obtain a zoning permit and to comply with this section of the landscape ordinance.

(B) If an existing parking lot is expanded or improved to add fifteen (15) or more parking spaces, it shall comply with the parking lot requirements of the landscape ordinance within the expanded or improved portion.

(C) In new or expanded parking lots with fifteen (15) or more parking spaces; trees shall be planted at a rate of one large tree or two small trees for every fifteen (15) parking spaces.

(D). Required trees shall be located within or adjacent to parking lots as tree islands, medians, at the end of parking bays, traffic delineators, or between rows or parking spaces in a manner such that no parking space is located more than sixty (60) feet from the trunk of a large tree. A minimum planting area of one hundred and fifty (150) square feet of soil surface area shall be required per large tree with a minimum planting area width of nine (9) feet.

(3) Buffers and screening

(A) Any use required to submit a landscape plan as outlined in this article abutting a residentially zoned district or residential use within a residentially zoned district must provide a-buffer yard of ten (10) feet in width between the proposed development and the existing residential district or use. Such buffer yard area shall consist of a dense and solid row of evergreen trees or shrubs at least eight (8) feet in height at maturity.

(4) Trash container (i.e. Dumpsters) screens and/or buffers.

(A) It is the intent of this section to provide for a visual screen and/ or buffers between trash container and dumpster location and all street right-of-ways and adjoining properties.

(B) Trash containers and dumpsters shall not be located in the front yard of any property and shall be screened from view on all side, except for one opening not greater than ten feet in width to allow for service access. If access is difficult, the public works director and the zoning administrator shall determine the acceptable location of the dumpster. Screening may consist of evergreen vegetation growing to over ten feet at maturity or a solid wood fence. Existing vegetation may be used as an alternative method of compliance as set forth in section 21-156.1.

Sec. 21-157. Tree protection.

(1) Protective fencing.

(A) Vegetation that is to be protected on land being developed, as indicated on the approved landscape plan, shall be protected by temporary fencing or other equally effective measures during construction activity. All land disturbing activity, storage of equipment, building material, or other debris shall be kept within the area of development activity and outside of the protective fencing.

(2) Treatment of Trees. No nails, ropes, cables, signs, fencing, streamers, banners or other material shall be attached to any part of any tree.

(3) Public Land.

(A) It shall be unlawful to.

1. Plant, prune, remove, or apply chemicals that are harmful to or disturb any tree or the soil within the critical root zone of any tree; or

2. Clear vegetation, begin any excavation, remove soil or place fill on any public land or easement owned maintained by the City of Marion.

(4) Prohibited Trees. It shall be unlawful to plant any invasive exotic plant material or tree within the City of Marion.

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(5) Abuse and mutilation of trees. It shall be a violation of this division to damage, destroy, or mutilate any tree or shrub in a public right-of-way or any public place.

(6) Public Hazards. It shall be the duty of the property owner where a public hazard exists, to abate the hazard by removing or trimming the growth. If the owner of property, after being notified of the existence of a public hazard on their property, fails to abate the hazard within thirty (30) days the City of Marion shall have the hazard abated and assess the exact cost to the owner as provided by law in the case of special assessments or liens.

(7) Removal of Trees.

(A) Trees and shrubs shall not be removed from public property or public right-of-way or easement without approval from the City of Marion Tree Board.

(B) The City retains the right to remove any tree on any public street right-of-way or easement owned or maintained by the City which is necessary to permit the proper maintenance or improvement of the public street or abate a public hazard.

Section 21-158 Penalties.

(1) Any person(s) constituting a violation of this article resulting in the loss or destruction of a tree located on public property shall be subject to a civil penalty equivalent to 1.5 times the monetary value of the tree(s) removed or destroyed plus the cost to replace the destroyed trees with new tree(s) with a total diameter at breast height (DBH) equal to that of the destroyed tree(s).

(2) Unless otherwise specified, the City of Marion shall enforce the provisions of this division in accordance with procedures, penalties, and remedies described in Section 1-10 Code Enforcement of the Marion City Code.

Secs. 21-159--21-160. Reserved.

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 15th day of September 2009.

A. Everette Clark
Mayor

ATTEST:
J. Robert Boyette
City Manager/ Clerk

Ordinance Number: O-09-09-15-6

CONSIDER ADOPTION OF REVISED CITY TREE ORDINANCE:

Planning and Development Director Heather Cotton advised that the City of Marion has identified the need to amend the City Code to modify Chapter 19 Trees to be consistent with the recommendations of the Tree Management Plan completed by Davey Resource Group, as part of the City's Urban Forestry Grant project, as well as to clarify language in the existing ordinance in an effort to administer a more effective ordinance. Ms. Cotton provided the following brief summary of items added or amended to the code:

1. Inclusion of five new definitions of terms added to the ordinance and one amended item.
2. Minor text amendments to provide consistency in terms used throughout the ordinance.
3. Inclusion of a new Article for a city arborist, who by definition may be a citizen, consultant, staff person in the City of Marion who has experience with forestry management.
4. Removal of language allowing for tree topping in certain situations offer no other solutions. (Recommendation in such case is to remove the hazard tree)
5. A reference to existing enforcement procedures for violations to the Marion City Code.

Mayor Clark asked how the ordinance would affect utility companies, especially Duke Energy, that cut trees on public property. The City Manager stated that the City could work with Mr. Phil Ray, Duke Energy Representative for the City of Marion Tree Board, to make sure that Duke personnel and contractors are aware of proper pruning techniques and the City's expectations.

Mayor Pro Tem Little mentioned the kudzu growing near the City Hall Parking Lot and what needs to be done to control it.

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

AA.000000521 (24)

AN ORDINANCE
AMENDING CHAPTER 19 TREES
MARION CITY CODE

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

Section 1. That Chapter 19, Trees, of the Code of Ordinances, City of Marion, North Carolina, is amended in its entirety as follows:

ARTICLE I.

IN GENERAL

Sec. 19-1. Purpose.

(a) The purpose of this chapter is to regulate the planting, maintenance and removal of trees on municipally owned public property and rights-of-way within the city and on municipally owned property wherever located. In order to protect and conserve trees on public property and rights-of-way, this chapter provides for the pruning, treatment and removal of trees and shrubs as is deemed necessary by the city council. This chapter is also intended to provide for the trimming or removal of trees on public land when they obscure street lights, interfere with utility lines, or constitute a hazard to pedestrian or vehicular traffic, or otherwise endanger the public health, safety or welfare.

(b) Another purpose of this chapter is to encourage the protection of trees and express the city's intent to use trees to create a more natural and amenable human environment. This chapter is not intended to be punitive nor to cause hardship to any person who uses the utmost care and diligence to protect trees within the city or on city property.

(c) This chapter shall further provide for the establishment of an advisory committee known as the tree board which shall be responsible for promoting trees and tree care throughout the city and for developing a city tree plan.

Sec. 19-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City Arborist a citizen, consultant, or staff person skilled and trained in forestry that assists the City with maintaining a healthy urban forest.

Large Tree means a large tree growing to over forty (40) feet in height at maturity, usually deciduous that is planted to provide a canopy cover for shade.

Master Tree Plan means a written document that guides the work of the urban forestry program.

Medium Tree means a tree growing thirty (30) feet to forty (40) feet in height at maturity.

Public tree means trees, shrubs, and bushes now or hereafter growing on any public street right-of-way or public land within Marion corporate limits.

Small Tree means a small to medium tree, growing fifteen (15) feet to thirty (30) feet in height at maturity that is planted for aesthetic purposes such as colorful flowers, interesting bark, or fall foliage.

Street tree means any tree, shrub, and bush on land lying within rights-of-way on either side of all streets, avenues, or ways within the city.

Urban Forest means the collection of shrubs, trees, vegetation, and associated natural features that make up the city tree canopy and the area required for its sustainable growth.

Urban Forestry means the planning, establishment, protection, and management of trees, vegetation, and associated natural features, individually, in small groups, or under forest conditions within the city.

Sec. 19-3. Permit.

AA.0000000522 (24)

It shall be unlawful for any person to prune, treat, or remove any street tree or park tree within the city without first filing an application and procuring a permit from the city manager. The city maintains the right to review the application and the tree in question in determining whether or not to issue a permit.

Sec. 19-4. License and bond.

It shall be unlawful for any person to engage in the business or occupation of pruning, treating, or removing street or park trees within the city without first applying for and procuring a license. The license shall be required of any public service company or city employee doing such work in the pursuit of his public service endeavors. No license shall be issued to any person until such person shall have filed with the city manager an insurance policy in the minimum amounts of $100,000.00/$300,000.00 for bodily injury and $50,000.00 property damage indemnifying the city or any person injured or damaged resulting from the pursuit of such endeavors as described in this chapter.

Sec. 19-5. Penalty.

Any person violating any provision of this chapter shall be, upon conviction or plea of guilty, punished in accordance with the provisions of section 1-10.

Secs. 19-6--19-25. Reserved.

ARTICLE II.

TREE BOARD

Sec. 19-26. Creation and establishment.

There is hereby created and established a tree board for the city which shall consist of six (6) members who shall be citizens, and residents of this city. Such members shall be appointed by the mayor with the approval of the city council. Ex officio members may be appointed as necessary.

Sec. 19-27. Terms of members.

The term of the six (6) persons to be appointed by the City Council shall be three (3) years except that the terms of two (2) of the members appointed to the first board shall be for only one (1) year and the term of two (2) members of the first board shall be for two (2) years. If a vacancy shall occur during the term of any members, his successor shall be appointed for the unexpired portion for the term.

Sec. 19-28. Compensation.

Members of the tree board shall serve without compensation.

Sec. 19-29. Duties and responsibilities.

(a) It shall be the responsibility of the tree board to study, investigate, counsel, develop, update annually, and administer a written master tree plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the city council and upon its acceptance and approval shall constitute the official comprehensive city tree plan for the city.

(b) The tree board, when requested by the city council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work.

(c) The tree board shall, in addition, serve as an advisory board to the city council with the following duties and responsibilities:

(1) Facilitate the planting, growth and protection of trees within the city;

(2) Foster the communication among the citizens of the city that would provide the needed protection of trees and to coordinate active measures to support their health and growth within the city;

(3) Conduct a tree inventory of existing trees along streets and on public property within the city;

(4) Investigate available grants, loans or contributions from other governmental agencies, public or private

AA.00000523 (24)

corporations, or individuals, and recommend the expenditures of any proceeds toward the accomplishment of the board's purpose; and

(5) Conduct continuing research, planning, and feasibility studies required to support the purpose stated herein.

(d) The tree board shall also be responsible for developing an official street tree species list comprised of three (3) groups of trees: small trees, medium trees, and large trees. No other trees other than those included in the list may be planted as street trees without permission of the tree board.

(e) The tree board will be responsible for establishing guidelines for the spacing of city trees in accordance with the tree species size classes in the official street tree species list. These guidelines will cover spacing between street trees, the distance street trees may be planted to overhead and underground waterlines, sewer lines, transmission lines, or other utilities, and any other areas involving the spacing of street trees, park trees, or city-owned trees.

(f) The tree board shall submit an annual report of its activities and recommendations to the city council and shall submit copies of its minutes and the proceedings of its regular and special meetings.

Sec. 19-30. Operation.

The tree board shall adopt rules for the transaction of its business and shall keep a record of its members' attendance and of its resolutions, discussions, findings, and recommendations, which record shall be a public record. The tree board shall set a regular schedule for meetings, and the chairman may call a special meeting upon request of a majority of members of the tree board. A majority of the members shall be a quorum for the transaction of business.

Sec. 19-31. Interference.

It shall be unlawful for any person to prevent, delay or interfere with the tree board while engaging in and about the planting, cultivation, mulching, pruning, spraying, or removal of any street trees, park trees, or trees on public grounds as authorized in this chapter.

Sec. 19-32. Review of acts and decisions by city council.

The city council shall have the right to review the conduct, acts and decisions of the tree board. Any person may appeal from any ruling or order of the tree board to the city council who may hear the matter and make a final decision.

Secs. 19-33--19-39. Reserved.

ARTICLE III.

CITY ARBORIST

Sec. 19-40. Qualifications of a city arborist.

A City Arborist is a person who, where possible, has over three years experience in forestry management, is a certified arborist by the International Society of Arboriculture, municipal specialist, and/or utility specialist.

Sec. 19-41 Duties of the city arborist.

The City Arborist shall have the following duties:

1. Shall serve as a member or Ex officio to provide technical assistance to the tree board.
2. Assist the city staff and/or paid contractors with proper pruning practices.
3. Assist the City with maintaining an inventory of public trees.
4. Assist with tree selection and planting to add new trees and/or replace dead or diseased trees.
5. Provide advice on public trees as part of capital improvement projects for the City.

Secs. 19-42--19-49. Reserved.

ARTICLE IV.

MANAGEMENT

Sec. 19-51. Public trees.

(a) The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the public right-of-way of all streets, alleys, avenues, lanes, squares and public grounds as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

AA.000000524 (24)

(b) The City may remove or cause or order to be removed, any publicly owned tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electrical power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners providing that the selection and location of such trees is in accordance with the guidelines for planting and spacing developed by the tree board. The tree board may reserve the right to approve any plantings that take place in right-of-way areas.

Sec. 19-52. Tree topping.

It shall be unlawful as normal practice except as provided in this section for any person to top any street tree, park tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

Sec. 19-53. Removal of stumps.

All stumps of street trees and park trees shall be removed below the surface of the ground so that the top of the stump will not project above the surface of the ground.

Sec 19-54. Enforcement.

Unless otherwise specified, any person, firm, corporation in violation of compliance with any provisions of this Ordinance shall be subject to the procedures, penalties, and remedies described in Section 1-10 Code Enforcement of the Marion City Code.

Section 2. This ordinance amending the Marion City Code shall become effective upon its adoption.

ADOPTED this the 15th day of September, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette
City Manager/Clerk

ORDINANCE NUMBER: O-09-09-15-7

CONSIDER AMENDMENT TO PLANNING AND INSPECTIONS FEE SCHEDULE:

Planning and Development Director Heather Cotton advised that the Planning Board discussed at their September 3 meeting changing the previous Planning Board recommendation to the City Council regarding the fee schedule for mobile food cart vendors locating in the C-1 Central Business District. Ms. Cotton stated that two points were raised in defense of raising the fee schedule.

1. The price of real estate to operate a mobile food cart is too low and, by increasing the cost, it will "level the planning field" for all downtown merchants.
2. Raising the cost of permit fees will insure that professional operations will locate in the downtown.

Ms. Cotton advised that the Planning Board was in general agreement that the permit fee should be increased, and a recommendation was made that the current fee of $100.00 be increased to $1,200.00 ($100.00 per month) to operate in each of the five locations in the C-1 Central Business District. The Planning Board presented an ordinance including the proposed fee increase for Council's consideration.

Mayor Pro Tem Little stated that it needed to be understood that such an increase would not apply for the first year to Ms. Lisa Miller (Dixie Dogs) who had already been approved for a permit at the $100 level.

Councilman Cuthbertson asked what would happen if a vendor vacates a location. At that point, could anyone take that location?

AA.000000525 (24)

Mayor Clark stated that the City would definitely need something in writing before declaring a space to be vacated.

Councilman Owenby stated that he is against raising the price for the vendors. He said he believed the $100 permit fee per year was appropriate.

Councilman Martin stated that he does not understand why this is such a hard issue to address. He said that $1,200 per year sounded too high but that he could accept a smaller amount of around $600 per year.

Mr. Bruce Brown, owner of Brice's Fabulous Foods on South Main Street, was present for this meeting and stated that he is not afraid of fair competition. However, he does not think that unfair competition in the form of a $100 permit fee for a vendor on the sidewalk is right. Mr. Brown said that he has to have hand washing stations and restrooms, while mobile food vendors do not. He stated that he has to pay for frequent inspections from the Health Department.

Mr. Brown added that, when one vendor sells hot dogs and then another perhaps starts selling hamburgers, his business will be affected. He stated that he strongly believed that the City should have a fair playing field in the downtown area and that $100.00 is not fair.

Councilman Edwards stated that he feels Mr. Brown is right. The restaurants downtown already struggle and Council has a duty to help the downtown area. Councilman Edwards said that he missed the meeting when the $100 permit. He stated that he wished he had been at the meeting and that he believes that a higher permit fee is needed.

Councilman Owenby asked who bills Mr. Brown for his inspections as he had not heard of restaurants paying for their inspections. Mr. Brown stated that his wife pays the bills so he could not state how the amount is billed or how much he pays.

Mayor Pro Tem Little stated that even mobile vendors are inspected.

Mr. Brown stated that every bit of business that a mobile vendor takes from downtown food service establishments will hurt their business.

Mayor Pro Tem Little stated that a lot of this discussion is academic as there is only one vendor that has applied for a permit and that vendor has yet to begin selling food on the sidewalk two weeks after being approved.

Mayor Clark stated that Council can change the permit fee if it deems appropriate.

Councilman Owenby stated again that he would like to see the permit fee for mobile food vendors left at $100.00 per year. Councilman Owenby made a motion for Council to leave the permit fee for mobile food vendors at $100.00 per year.

The motion died from a lack of a second.

Councilman Cuthbertson stated that $1,200 per year will preclude persons from locating mobile food vendor carts downtown.

Councilman Edwards stated that $25.00 a week for rent space on a downtown sidewalk is inexpensive.

Mayor Clark stated that Council should consider these fees annually instead of monthly, since it was not practical to put the City and vendors through having to issue monthly permits.

AA.0000000526 (24)

Mr. Brown suggested that the fees could be invoiced twice a year or perhaps quarterly.

The City Manager stated that the fees need to be tied to a permit time period that should ideally be as long as possible.

Mayor Pro Tem Little stated that no one can say what is being proposed by the Planning Board is right or wrong. Council's purpose here is to encourage the downtown area to grow.

Mayor Pro Tem Little made a motion amending the Planning and Inspections Fee Schedule to provide for mobile food vendor permits to be issued in six month intervals January through June and July through December, at a cost of $600 per six months. This motion was seconded by Councilman Cuthbertson.

Mr. Brown stated that if the City really wanted to market downtown to mobile food vendors, it could allow for quarterly permits.

A discussion followed.

Ms. Cotton stated that she had some administrative questions about the proposal.

Mayor Clark suggested a procedure for prorating applications submitted after the beginning of a six month time period.

Councilman Edwards stated that the City Manager could address administrative details and bring back any recommendations necessary for further Council review in the future. Councilman Edwards called for the question on this item.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted to adopt the following ordinance amending the Planning and Inspections Fee Schedule:

AN ORDINANCE ESTABLISHING FEES FOR THE PLANNING AND DEVELOPMENT DEPARTMENT TO INCLUDE MOBILE FOOD VENDING PERMIT FEES

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

SECTION 1. That the City of Marion Planning & Development Department Fee Schedule be amended to include the following:

Mobile Food Vendor Permit. The City of Marion shall charge a $600.00 administrative permit fee for the operation of one (1) mobile food vendor unit in the City of Marion in the C-1 Central Business District, said permit to be issued for either a time period of January 1 – June 30 or July 1 – December 31; and a $100.00 administrative permit fee for the operation of one (1) mobile food vendor unit in all other approved zoning districts, each additional mobile food vending unit and/or location shall be $50.00.

SECTION 2. This ordinance shall become effective upon its adoption.

Adopted this the 15th day of September 2009.

A. Everette Clark
Mayor

ATTEST:

J. Robert Boyette
City Manager/ Clerk

Ordinance Number: O-09-09-15-9

AA.00000527 (24)

The vote carried 4 to 1 as follows:

Mayor Pro Tem Little	Yes
Councilman Cuthbertson	Yes
Councilman Edwards	Yes
Councilman Martin	Yes
Councilman Owenby	No

PUBLIC APPEARANCE – MARION BUSINESS ASSOCIATION – PRESENT YEAR-END REVIEW: Mr. Marc Cook, President of the Marion Business Association (MBA), appeared before Council and presented a review of the 2008-09 accomplishments and activities of the Marion Business Association.

July- Successful July 4th celebration, good band and fireworks display. Historic Marion Tailgate Market continues in West Henderson Street parking lot with great community support. Began first year as Marion Business Association, serving all businesses in the City of Marion.

August - Held successful membership meeting in conjunction with August First Friday Concert. Great music by Brother Dave Band. Depot Bluegrass Jam celebrated three years of continuous Thursday night music. It continues to be popular music venue.

September - Planning and organization for Mountain glory festival. Terry McKinney and Friends performed at the depot on Labor Day evening. Scott Davis Band did a great First Friday Concert. Gas crisis and economic downturn affects local businesses.

October - Held successful 25th Annual Mountain Glory Festival. Very good attendance even with gas crisis. City expanded the event into a 3rd block. Added petting zoo that was popular.

November - Held successful Christmas Parade. NC STEP presented goals for STEP grant.

December - Promotions Committee had a successful "Melodies on Main".

January - 11th Annual Inmate Luncheon for DOC Community Work Crews. Unveiled "Made in McDowell" Logo. The Board reviewed new Christmas Parade guidelines.

February - The MBA and MACA sponsored Winter First Friday Concerts at MACA.

March - The MBA and MACA sponsored Winter First Friday Concerts at MACA. Partnered with McDowell News to sponsor "On Track" , a monthly page about activities and business assistance in Marion to be paid for by ads on the page.

April - The MBA and MACA sponsored Winter first Friday Concerts at MACA. Partnered with YMCA for Easter Egg Hunt.

May - Annual Sidewalk Yard Sale had good response. Shade Shelter under construction, trusses fell on Memorial Day. City and STEP Leadership Committee offered $4,000.00 grants to small businesses located in the City of Marion.

AA.000000528 (24)

June - Very successful Third Annual Livermush Festival and First Friday concert. WIFI up and running in downtown Marion. Dedication of the Historic Marion Tailgate Market Shade Shelter.

Mr. Cook added that there have been 5 new businesses come into the City and 8 close during the past year.

MBA Executive Director Freddie Killough stated that Mr. Cook is doing a great job as President of the MBA this year. She appreciates all the sacrifices he has made for the association.

The City Manager stated that the MBA Board is fortunate. They have lost long term members; however they have some great new members.

MBA Events Coordinator Bobbie Young advised that long time MBA Board Member Kathy Rabb has been selected by the MBA as the City's Main Street Champion for 2009. Ms. Young also announced that this year's Grand Marshal of the Christmas Parade would be Mayor Clark.

Mayor Clark stated that he appreciates this honor.

Ms. Young also advised Council of some changes to the Christmas Parade, including requirements for entries to register for the Parade. Ms. Young stated that the MBA plans to make this year's Parade the safest and best ever held.

The City Manager added that, based on problems experienced last year, the MBA had also proposed enforcing the rule that all entries are to be decorated, to allow only one vehicle per business, with some exceptions, and to require that all entries stay in motion and not create large gaps in the Parade.

Mayor Pro Tem Little asked if the High Steppers from Asheville would be back in the Parade this year. Ms. Killough stated that the High Steppers had undergone some transitions and may not be ready this year.

Ms. Killough also advised that the Community Innovators Committee of the N.C. STEP Program has proposed to have a series of economic development forums at the Depot on a monthly basis between November and March. The Committee intends to invite State leaders and experts in economic developments, along with the Mayor and Council and other local elected officials and leaders.

Mayor Pro Tem Little stated that this is an extraordinary effort being undertaken by the Committee and made a motion to waive the rental fee for the Depot for the economic development meetings to be held on a monthly basis at the Depot by the Community Innovators Committee between November and March. The motion was seconded by Councilman Cuthbertson. All members present voted in favor and the motion passed.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

DISCUSS GARBAGE ORDINANCE: The City Manager stated that, as requested by Council, staff collected information on the approximate number of residences in the City placing garbage by the street for collection and the approximate number of residences leaving garbage cans by the street the day after collection.

On our Tuesday route, which is the Eastfield community, 105, or 32.01 percent, of the estimated 328 residences placed their garbage by the street for collection. On the day after collection, 21, or 6.40 percent, of the estimated 328 residences still had garbage cans out at the street.

AA.000000529 (24)

On our Wednesday route, 117 residences placed their garbage by the street for collection. On the day after collection, 40 residences still had garbage cans at the street.

On the Thursday route, 155 residences placed their garbage by the street for collection. On the day after collection, 54 residences still had garbage cans at the street.

On the Friday route, 177 residences placed their garbage by the street for collection. On the next business day after collection, 54 residences still had garbage cans at the street.

The City Manager reported that, out of an estimated total of 2,608 residences in the City, a total of 554, or 21.24 percent of total residences, placed their garbage by the street for collection. On the day after collection, a total of 169 residences, or 6.48 percent of total residences, still had garbage cans at the street.

The City Manager stated that, as previously reported, the City does not have ordinances that require residents to remove garbage cans from the street after the day of collection.

The City Manager presented Council with sample language from other cities for their consideration. He said that it appears that many cities set a limit on how early garbage cans can be placed at the street and require garbage cans to be removed within a few hours or one day of collection. There were some cities that did not have such requirements, including Forest City and Shelby. If Council wishes to consider such an ordinance, the City Manager stated that he could draft an ordinance for Council review at a later date.

Some of the ordinance examples from other cities were as follows:

Asheville

Sec. 15-46. Post collection procedures.
Refuse receptacles returned to curbside after collection shall be removed to the approved storage location by 11:00 p.m. of the day of collection. The property owner or occupant shall be responsible for such removal.
(Ord. No. 3625, § 1, 5-27-08)

Brevard

(c) *Placement.* Refuse containers shall be placed for collection at ground level and directly accessible from the street or alley from which collection is made. Residential refuse containers shall be placed at curbside prior to collection and shall be removed within reasonable time thereafter. A suitable permanent location, satisfactory to the director, may be established for containers of commercial customers.
(Code 1980, §§ 17-83--17-85)

Conover

(g) Containers shall be stored on the owner/occupants property for collection in a suitable location. Containers must be removed from the public right-of-way following collection.

Davidson

(b) Rollout carts may be placed at the curb on the night before the scheduled pickup. Rollout containers and other receptacles must be removed from the curb and placed out of sight by 8:00 a.m. on the day after they are collected. It is the responsibility of the householder to pick up loose debris around the collection area.

Hendersonville

(2) *Time requirements.* The mobile containers shall be placed in the required location for collection no earlier than 7:00 p.m. on the day preceding a designated pickup day and shall be removed from the curbside location no later than 7:00 p.m. on the designated pickup day. Except during these hours, the containers shall be kept in a location no closer to the street than the front line of the residence. Containers must be curbside no later than 7:00 a.m. on collection day.

AA.00000530 (24)

Hickory

(b) Rollout containers shall be placed for service as follows:

(1) For those residences serviced from the street and receiving curbside service, refuse containers are to be placed at the curb not prior to 8:00 p.m. the night prior to the day of the collection and no later than 7:00 a.m. on the day of collection.
(2) Rollout containers must be removed from the collection point not later than 9:00 p.m. the day of collection.

Lenoir

Sec. 17-22. Storage.

Every person producing or having refuse on his property shall provide enough refuse containers to store all the refuse from one collection day to the next. The refuse containers shall not be permanently placed on the street right-of-way. (Code 1977, § 4-2012)

Mooresville

(b) Roll-out containers may be placed at the curb on the night before the scheduled pickup. Roll-out containers and other receptacles must be removed from the curb by 6:00 a.m. on the day after they are emptied. It is the responsibility of the householder to pick up loose debris around the collection area.

Newton

(a) *Collection schedule; placement for collection.* Collection of garbage and recyclables will be once weekly on the same day. All garbage containers, trash, and recycling bins shall be placed on the street no earlier than dusk on the evening prior to scheduled collection and no later than 7:00 a.m. on collection days. Containers shall be removed as far as practical and out of sight, where possible, from the street by the owner or occupant of the premises by midnight on the day of collection. No containers of any type are to be placed, kept or left on the street for any purpose from midnight Friday until dusk Sunday unless approved by the director. Failure to abide by this provision will result in the following penalty: Residents who place or leave their garbage containers and recycling bins on the street will be in violation of this section and shall receive a warning for the first offense. Second or future violations will result in a $25.00 citation. Appeals can be made to the public works director or his designee.

Statesville

Rollout containers may be placed at the curb on the night before the scheduled pickup. Rollout containers and other receptacles must be removed from the curb by 8:00 a.m. on the day after they are collected. It is the responsibility of the householder to pick up loose debris around the collection area. No person shall be entitled to use more than two (2) rollout containers per pickup.

Waynesville

(d) It shall be the duty of the landlord, tenant, or storekeeper not to allow a receptacle to remain on the street right-of-way for a period of longer than 12 hours after the receptacle is emptied by the street/sanitation department.

Mayor Clark suggested that staff draft a letter or flyer stating that the City offers backyard service just as a reminder.

The City Manager stated that a letter would work for some and not others. There are citizens that do not allow City vehicles or staff in the back of their property and choose to bring their garbage to the street. He added that citizens are actually doing the City a favor when they bring their trash bins out to street. This saves staff time and on fuel costs.

A discussion followed.

It was the consensus of Council to have staff place a flyer or door hanger at residences placing their garbage at the street, asking them to remove garbage cans from the street by the end of the day of collection. It was agreed that if this approach does not work, Council could consider an ordinance in the future.

AA.00000531 (24)

DISCUSS POSSIBLE PURCHASE AND FINANCING OF FIRE TOWER TRUCK: Finance Director Harriett Thomas advised that she had recently sent out requests for proposals for financing $860,000 for the purchase of a new tower truck for the Fire Department to all area banks and banks with which the City has had financing relationships in the past, such as BB&T and RBC. Ms. Thomas stated that she received responses from four banks. After receiving the responses, she learned that the Local Government Federal Credit Union (LGFCU) was now doing government financing, so she also requested information from them. In addition, City staff we had a meeting with a representative of the United States Department of Agriculture (USDA), Marvin Hutchinson, to discuss the possibility of USDA financing of the truck.

The following is a summary of the results received from the banks:

Bank	Rate	Term	Annual Payment
RBC Bank	5.23%	10 yrs	$110,988.88
Asheville Savings	3.99%	10 yrs	$104,717.52
Mountain 1st	5.63%	10 yrs	$113,056.92
BB & T	4.19%	10 yrs	$105,714.68

Ms. Thomas stated that ten years is the maximum length of time a commercial bank will finance a vehicle. The LGFCU also responded, but would only finance 80 percent of the purchase price for ten years on a vehicle.

Ms. Thomas reported that the conversation with the USDA resulted in Mr. Hutchinson sending an application that staff is working to submit. The USDA appears willing to finance the truck for 20 years at 4.375% for an annual payment of $64,961.74. This loan would not have a prepayment penalty, so should cash flow permit, the City could possibly make additional payments to reduce the amount of interest paid.

The City Manager suggested that Council give tentative approval to a 20 year financing term with USDA for the fire tower truck. Formal approval will be needed by Council once the loan offer is received from USDA.

Mayor Clark stated that Council may want to look at a 15 year financing term, as the City would pay a great deal of interest for a 20 year financing term.

Mayor Pro Tem Little stated that he would rather go with a 20 year financing term and make additional payments.

Mayor Clark said that he had no problem with the 20 year financing term if the City will make efforts to make additional payments, to lessen the actual payment period.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, Council voted unanimously to give tentative approval for the financing of a fire tower truck in the amount of about $860,000 for a 20 year term with the United State Department of Agriculture, as recommended by staff.

Note: Councilman Martin left the meeting after this motion.

CONSIDER APPROVAL OF ORDINANCE TO AMEND CITY TRAFFIC SCHEDULE: The City Manager stated that he had drafted an ordinance to amend the Traffic Schedule to make three changes, as follows:

AA.000000532 (24)

A. The first change involves revising the stop signs at McDowell Avenue and Oak Street. DOT has nearly completed the McDowell Avenue extension project. Staff would recommend that traffic on Oak Street stop in both direction and traffic on McDowell Avenue have the right of way proceeding through the intersection. The enclosed ordinance deletes the stop sign on North McDowell Avenue at Oak Street and adds a stop sign on westbound Oak Street at McDowell Avenue. There is already a regulation for a stop sign on eastbound Oak Street at McDowell Avenue.

B. The second changes modifies the no right turn on red regulation at Main and Court Streets. Instead of right turn on red movements being prohibited at all times at Main and Court Streets, right turn on red movements will be prohibited at this intersection Monday through Friday 8:00 a.m. to 5:00 p.m. This change matches the signs recently installed by DOT at the intersection.

C. The third change adds a stop sign at the intersection of Woodvine Drive and Hillcrest Drive. Woodvine Drive was previously a private street that was taken over by the City after an annexation that took effect last year. A stop sign is needed for safety reasons.

The City Manager stated that he would recommend approval of the proposed Traffic Schedule Ordinance that would make the three changes noted above.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, those members of Council present voted to adopt the following Ordinance amending the Traffic Schedule as recommended by the City Manager:

ORDINANCE
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 18-239 is amended by deleting the following:

STREET NAME	REGULATION	REG. APPLICATION
MCDOWELL AVENUE (NORTH)	STOP SIGN	AT OAK ST.
MAIN STREET (NORTH)	NO RIGHT TURN ON RED	AT COURT STREET SOUTHERLY
MAIN STREET (SOUTH)	NO RIGHT TURN ON RED	AT COURT STREET NORTHERLY
COURT STREET (EAST)	NO RIGHT TURN ON RED	AT MAIN STREET WESTERLY
COURT STREET (WEST)	NO RIGHT TURN ON RED	AT MAIN STREET EASTERLY

Section 3. Section 18-239 is amended by adding the following:

STREET NAME	REGULATION	REG. APPLICATION
OAK STREET (EAST)	STOP SIGN	WEST BOUND AT MCDOWELL AVENUE
MAIN STREET (NORTH)	NO RIGHT TURN ON RED MONDAY	AT COURT STREET SOUTHERLY

AA.000000533 (24)

	THROUGH FRIDAY 8:00 A.M. TO 5:00 P.M.	
MAIN STREET (SOUTH)	NO RIGHT TURN ON RED MONDAY THROUGH FRIDAY 8:00 A.M. TO 5:00 P.M.	AT COURT STREET NORTHERLY
COURT STREET (EAST)	NO RIGHT TURN ON RED MONDAY THROUGH FRIDAY 8:00 A.M. TO 5:00 P.M.	AT MAIN STREET WESTERLY
COURT STREET (WEST)	NO RIGHT TURN ON RED MONDAY THROUGH FRIDAY 8:00 A.M. TO 5:00 P.M.	AT MAIN STREET EASTERLY
WOODVINE DRIVE	STOP SIGN	AT HILLCREST DRIVE

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 15th day of September, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-09-09-15-8

Councilman Owenby stated that he still thinks that the City will eventually need a traffic signal Oak Street/McDowell Avenue intersection.

ADD ON – PAINTING OF DOWNTOWN POLICE PARKING SPACES: Mayor Pro Tem Steve Little suggested that the police parking spaces located downtown be painted with a blue outline and include text stating that the spaces are for police parking only.

It was the consensus of Council that this would be a good idea and to request staff to complete this work.

CITY MANAGER REPORT: The City Manager gave a brief report on current projects.

The City Manager stated that the quilt blocks previously approved by Council have been installed on either end of the Depot. He complimented the McDowell Arts Council President Heather Cotton and people involved with the new McDowell County Quilt Trail for this work.

The Farmer's Market is winding down for the season. On September 22, one of the last days of the Tuesday market, the YMCA will take food sold at the market and give a healthy cooking demonstration. The growers, MBA Executive Director Freddie Killough and Cooperative Extension Director Dan Smith all thought this would be a nice conclusion to the season. Dan and Freddie are working to schedule other markets during the fall and winter, such as a pumpkin market and a green market.

AA.000000534 (24)

The City Manager advised that Wal Mart had donated $2,000 to the Farmer's Market project, bringing the total amount pledged and raised for the project to $54,000. He stated that this donation should ensure that the entire project, including wiring work, will be completed without the use of any City funds.

The City Manager stated that he had spoken to Police Chief Mika Elliott about the idea of Councilman Owenby for the Police Department to complete regular checks on elderly persons living alone in the City. Chief Elliott thought this was a great idea. His only concern was ensuring follow through with telephone calls on a daily basis if we have large numbers of people signing up for such a program. The City Manager stated that staff subsequently learned that the Sheriff's Department will soon revive an old program to make regular calls to elderly citizens, using an automated dialing system. Chief Elliott talked to Sheriff Greene and determined that the program will be designed to work very closely to the way suggested by Councilman Owenby, except that an automated phone dialer will be used instead of humans to make the calls. After a period of time, law enforcement could be dispatched to check on people not responding to the phone calls. Sheriff Greene is willing to have this program be a joint effort between his department and the Marion and Old Fort Police Departments.

The City Manager stated that the City would help to promote sign ups for the program, have forms available at City buildings for sign ups and would check on people who live in the City who did not respond to the phone calls. He added that this program seems to meet the goals discussed by Council at the Planning Session of checking on elderly citizens without placing an undue burden on staff for making numerous daily phone calls.

Sheriff Greene indicated that the Sheriff's Department has the necessary computer software and is waiting on a computer they have ordered. He proposed a joint press conference to announce the program. Since things may move quickly with this program, the City Manager said he wanted to make sure that Council had no problem with the City participating in this program. Mayor Clark and Council members expressed no objections to the City participating in this program.

The City Manager advised that he had asked staff to come up with recommendations and options for the replacement of hollies on Main and Henderson Streets by early October, at which time the options can be discussed with the Tree Board, the MBA Board, the public and Council.

The City Manager stated that staff is also working to produce a rendering of the revised Downtown Streetscape Plan preferred by Council, so that the plan can be presented to the MBA Board, public and Council for review within the next two months. The City can also then obtain some preliminary feedback from DOT. He added that he had spoken to DOT District Engineer Doug McNeal, who felt that the three lane section on Main Street with parallel parking stood a much better chance of approval with DOT than did a two lane section with angled parking on both sides.

The City Manager stated that Planning and Development Director Heather Cotton is working to finalize a plan for way finding signage in the downtown area and around the City, as part of the N.C. STEP Program. He said that staff hoped to have recommendations for review by the N.C. STEP Leadership Committee, MBA Board, downtown merchants, the public and Council by late October.

The City Manager advised that the City is in the process of switching banking services from Bank of America to Mountain First Bank. This process will be completed no later than October 1.

The City Manager advised that the City had not received further reports of problems with the downtown wireless network since one of the antennas on the Griffith building was moved. He added that City staff will be resetting the system weekly as a precaution and that he has asked MBA

AA.000000535 (24)

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Executive Director Freddie Killough to do some weekly checks to make sure the system is working in various spots.

The City Manager advised that the Wastewater Improvements Project is going well. Ronny Turner Construction is nearing completion of the pump stations and has completed work on the force main sewer line that will pump wastewater flow from the Catawba River Wastewater Plant to the Corpening Creek Wastewater Plant. Construction is scheduled to continue through October. Laughlin Sutton Construction began work on the Corpening Creek Plant improvements in late June. This construction will last well into 2010.

The City Manager advised that city crews began work on September 8 on a water line replacement on Montevista Avenue. In the meantime, the City is flushing the Montevista water line every Friday.

The City Manager stated that City crews had to spend considerable time the past two weeks making repairs to the large water line running from the Water Plant to the water tanks. This line was leaking in a couple of places. The City worked to avoid a line blowout like was experienced along Old Greenlee Road in late June. On September 9, City crews had to shut off water to the Pleasant Gardens area to make the necessary repairs to the water line. He added that City crews worked extremely hard that day inn adverse working conditions to make the needed repair and to minimize the time of the service disruption.

The City Manager stated that the City will in the near future go out to bid on the water and sewer extension on US 221 North to the new ABC store site, with an alternate bid to extend service farther north to the Quality Plus gas station. The City will also soon go out to bid on the short sewer extension needed to serve properties at the intersection of Highway 226 South and Fairview Road.

COUNCILMAN COMMENTS:

Councilman Cuthbertson suggested that staff look closely at the identified mobile food vendor location at the Depot.

Councilman Cuthbertson stated that the Urban Forestry workshop recently held at Countryside Barbecue was a great success.

Councilman Cuthbertson also stated that the City of Morganton has new logo, "Nature's Playground."

Mr. Cliff McLarty was present for this meeting and advised that soil erosion and sedimentation permits have been obtained for the proposed Super Wal Mart development on Sugar Hill Road at I-40. He added that this project remained on track for a property closing in mid January.

CLOSED SESSION – DISCUSS A MATTER INVOLVING THE LOCATION OF BUSINESS OR INDUSTRY UNDER N.C.G.S. 143-318.11(a)(4): The City Manager advised that a Closed Session is requested under N.C.G.S. 143-318.11(a)(4) to discuss a matter involving the location of business or industry.

Upon a motion by Councilman Cuthbertson, seconded by Councilman Owenby, those members of Council present voted to go into Closed Session.

REGULAR SESSION: Upon a motion by Councilman Owenby, seconded by Councilman Cuthbertson, those members of Council present voted to go back into Regular Session.

Mayor Clark announced that no action was taken during the Closed Session.

AA.00000537 (24)

ADJOURNMENT: Upon a motion by Councilman Mayor Pro Tem Little, seconded by Councilman Owenby, those members of Council present voted to adjourn.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager /Clerk

AA.000000538 (24)

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 6, 2009 at 7:00 P.M. in the City Council Chamber located at 194 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: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, AICP, Planning and Development Director; Mika Elliott, Police Chief; Chris Hollifield, Public Works Director; Harriett Thomas, CPA, Finance Director; Kellie Duncan, Police Corporal; Karen Stepp, Police Telecommunicator; Wendy McAnally, News Reporter, The News Bulletin; Mike Conley, News Reporter, The McDowell News.

GUESTS PRESENT: Mott Buff, Nebo, NC; Margaret, Claire & Ellen Anderson, 10 Fern Avenue, Marion, NC; Kasey Lister 60 Mustang Drive, Nebo, NC; Cliff McLarty, North Madison Street, Marion, NC; Johnny Mann, Marion, NC; Susan Pyatt, MACA Executive Director; Jill & Mike Lucas, Quilt Trail Representatives; Jack Shafer, Viewpoint Drive, Marion, NC.

CITIZEN OF THE MONTH – SELECTED BY COUNCILMAN EDWARDS:

COACH JOHNNY ANDERSON
November 30, 1941 – August 11, 2009

Councilman Mike Edwards stated that he was happy to honor the memory of the late Coach Johnny Anderson who had touched our community in many ways. Coach Anderson's wife, Mrs. Margaret Anderson and two of his grandchildren were present for this meeting to accept this honor.

Councilman Edwards stated that anyone playing under Coach Anderson learned a lot about sports as well as about life.

AA.000000539 (24)

Coach Anderson was born on November 30, 1941 in Marion. He graduated from Marion High School in 1960 and entered East Carolina University on a full football scholarship. Coach Anderson graduated from ECU in 1965 with a BS degree in Physical Education and History.

Coach Anderson was the first Head Football and Track Coach at McDowell High School. He also served as Assistant Head Football Coach and Head Football Coach at Freedom High School in Morganton. Coach Anderson was multi-talented and had many wins during his coaching tenure.

Win, lose or draw, Coach Anderson was a good sport in everything he did.

Some of Coach Anderson's honors through the years include:

- Player of the week at ECU
- Member of winning Eastern Bowl and Tangerine Bowl Teams
- Published article on "Developing a Winning Attitude" in a National Publication, The Coaching Clinic, in 1970
- Football Conference Coach of the year; 1970, 1982, 1986 & 1989
- Several Conference Championships while at McDowell and Freedom High Schools
- Assistant and Head Coach of the North Carolina East/West Football Game
- Conference Track Coach of the Year in 1980 & 1981
- Offensive Coordinator Shrine Bowl – 1989
- McDowell High School Annual Dedication – 1991
- Original Inductee into the McDowell High School Hall of Fame - 2009

Coach Anderson achieved over ONE HUNDRED WINS in Football during his career.

Coach Anderson passed away in August of this year when he lost a fight with cancer. Councilman Edwards stated that everyone will miss Coach Anderson; however, we will remember him as well. He set an example to others in all that he did.

Mayor Clark, Council Members, friends and family all shared kind words about Coach Johnny Anderson.

AA.000000540 (24)

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, Council voted unanimously to approve the consent agenda as follows:

A . Approval of Minutes – September 15, 2009 Regular City Council Meeting Minutes
September 15, 2009 Closed Session Council Meeting Minutes

PRESENTATION OF ADVANCED LAW ENFORCEMENT CERTIFICATE TO POLICE CORPORAL KELLIE DUNCAN:
Police Chief Mika Elliott stated that it was his privilege to present to Police Corporal Kellie Duncan her Advanced Law Enforcement Certificate.

Chief Mika Elliott does a great job for the City of Marion as an officer, coordinating the National Night Out event every year and performing other duties. He noted that the Advanced Law Enforcement Certificate involves a great commitment of time and hard work and that he is proud of Corporal Duncan for this achievement.

The certificate read as follows:

State of North Carolina
Department of Justice
Criminal Justice Education and training
Standards Commission
To all to whom these presents may come
Greeting
Be it known that in recognition of the attainment of training and educational objectives commensurate with the role of a professional criminal justice officer and of personal devotion and service to the people of North Carolina, the Attorney General and the Chairman and Members of the North Carolina Criminal Justice Education and Training Standards Commission, through the authority vested in them by the laws of the State, do hereby award to
MONNICA KELLIE DUNCAN
this
Advanced Law Enforcement Certificate
With all the rights and privileges thereunto belonging.

AA.00000541 (24)

In Testimony Whereof we fix our hand this 29th day of May 2009 in the City of Raleigh in the State of North Carolina in the United States of American.

_____
Attorney General

_____
Commission Chairman

_____
Director Criminal Justice Standards Division

Mayor Clark and Council Members all commended Corporal Duncan for a job well done.

INTRODUCTION OF NEW EMPLOYEE: Police Chief Mika Elliott stated that it was his privilege to introduce the Police Department's newest employee, Teleommunicator Karen Stepp. Chief Elliott stated that Karen comes to the City highly trained and experienced from the McDowell Sheriff's Department.

Chief Elliott, Mayor Clark and Council wished Karen well with her new position.

PUBLIC APPEARANCE – MCDOWELL ARTS COUNCIL ASSOCIATION: Ms. Heather Cotton, President of the McDowell Arts Council Association (MACA) and other representatives of MACA appeared before Council.

Ms. Cotton stated that MACA has been working to hire an architect to complete a design for the renovation of their entire building on South Main Street. The total cost of the renovation would be $38,350. MACA is $18,350 short with this effort.

Ms. Cotton stated that MACA is applying for an $18,350 Golden Leaf Foundation grant to fund the design work. In the event the grant is not funded, and to allow the project to move forward sooner rather than later, MACA has pledged to raise $8,000 of this funding gap themselves and would request a $10,000 loan from the City at no interest. The loan would be paid back within approximately one year's time. Information on this request was presented to Council for their review.

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Mayor Pro Tem Little stated that it is an exciting thing that people can now go downtown to the MACA building and purchase crafts made in the area. He stated that the craft gallery is a tremendous asset and draw for Downtown Marion.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, Council voted unanimously to loan $10,000 to the McDowell Arts and Crafts Association, for a one year term at no interest, for the purpose of funding for the design of the renovation to the MACA building.

Councilman Owenby asked if the City had the money to loan.

The City Manager stated that funds were available, especially given that the money would be paid back in one year's time.

After the vote regarding this item, Ms. Cotton presented Mayor Clark and Council Members with a McDowell Quilt Trail Certificate of Authenticity for the Where Main Street Meets the Mountains Quilt Square and a Certificate for the Grape Basket Quilt Block that were recently placed on the Historic Marion Tailgate Market Shed on West Henderson Street. She also presented each member with a "Where Main Street Meets the Mountains" Quilt Square pin.

PUBLIC COMMENT PERIOD: Mr. Jack Shafer was present for this meeting and stated that he had recently captured some beautiful photographs of a double rainbow that was above City Hall. He stated that he would like to e-mail the photos to the City Manager.

Mayor and Council thanked Mr. Shafer for coming to the meeting and for sharing these photos with the City.

SET SCHEDULE FOR NOVEMBER/DECEMBER CITY COUNCIL MEETINGS: The City Manager stated that Council has traditionally cancelled the first Council meeting in November when it falls on a City Election Day.

The City Manager stated that he would therefore recommend that Council cancel the November 3 meeting. City Council will have meetings on October 20 and November 17, so the cancellation of this meeting should not pose a problem.

AA.0000000543 (24)

The City Manager stated that, in accordance with the City Code, the only Council meeting in December is set for Tuesday, December 1.

Upon a motion by Councilman Martin, seconded by Mayor Pro Tem Little, Council voted unanimously to cancel the November 3 Council meeting.

DISCUSS COMMUNITY BUILDING RENTAL REQUEST: The City Manager stated that he had been contacted by Mike and Dora Cantey and met with them on October 1. The Canteys are interested in renting the Community Building kitchen for catering events. Such events would not necessarily take place in the Community Building. Mr. Cantey has already spoken to the Health Department and understands that he and his mother would have to meet all health regulations, including possibly becoming licensed. The City Manager stated that he advised Mr. Cantey that the City does not have a rental category for kitchen only use.

The City Manager reported that the City currently rents the entire main level of the Community Building for $200 (or $30 for civic groups renting the building on a set schedule). He stated that he had discussed this idea with Finance Director Harriett Thomas and Public Works Director Chris Hollifield. The City Manager stated that staff felt that they could justify recommending a lower amount, perhaps $100, for a kitchen only rental. However, staff is also concerned about harming the City's ability to rent the entire facility. Some groups might not mind if the kitchen was being used, but many groups might correctly believe they are entitled to use of the whole building, including the kitchen, for their $200 rental. The City Manager stated that the Community Building is rented most weekends for private functions and such events typically involve the use of the kitchen. The rental of the Community Building and especially the use of the kitchen is less frequent during the week.

The City Manager presented several options for consideration, as follows:

A. The City could advise the Canteys that the rental charge is $200, period. The Canteys could therefore rent the building when available like anyone else.

B. The City could rent the kitchen to the Canteys for $100, but only on Mondays through Thursdays, perhaps no more than two weeks in advance and on Fridays through Sundays no more than a few days in advance. In either case, the City would only rent the

AA.00000544 (24)

kitchen if the rest of the building was not used or if the renter of the rest of the building gave their consent.

C. The City could rent the kitchen to the Canteys for $100 whenever the building is not being used, with no limit on days of rentals or notice. This would increase the number of available rentals to the Canteys, but could cut the City out of $200 rentals.

D. The City could rent the kitchen to the Canteys for $100 Mondays through Thursdays and for $200 Mondays through Thursdays, with no limits on days of rental or notice. This would provide for full payment of rental fees on weekends.

The Canteys have stated that they would be flexible and understood that the Community Building might not be available when they want it.

Mayor Clark stated that he had a problem charging the Canteys $100, when others could rent the facility for $200. He said that if the Canteys want the facility in advance, they should pay $200 like anyone else would.

Councilman Owenby stated that he agreed that it would be wrong to cut the price for one person.

The City Manager stated that any arrangement approved for the Canteys would need to be adopted as policy and made available to anyone else desiring to rent only the Community Building kitchen.

Councilman Martin stated that it comes to mind something that the former City Manager Earl Daniels used to say, if you do it for one, you have to do it for all.

Mayor Pro Tem Little stated that the Community Building is for the community. He had never thought about people using the kitchen to cook in for events held elsewhere. He added that he does not want to see the City do something that would interfere with how the Community Building is used.

Councilman Owenby asked if staff could get a cost estimate of what it would cost to upgrade the basement kitchen to a commercial status. The City Manager stated that the cost would likely be substantial, in the thousands of dollars.

AA.00000545 (24)

Mayor Clark stated that if the City were going to look at upgrading a kitchen to commercial status, he would be in more favor of upgrading the Depot kitchen.

A discussion followed.

It was the consensus of Council to leave the Community Building rental rules as they are and that anyone can rent the entire Community Building Main Level, including the kitchen, for the current rental charge

Mayor Pro Tem Little stated the perhaps some local churches could help meet the needs of the Canteys.

ADD ON – WATER/SEWER BILLING ISSUE DISCUSSION: Finance Director Harriett Thomas stated that a new water and sewer billing system was approved in the 2008-09 budget. The system the City has been using is a DOS based program. The City's new computers do not support DOS based programs.

Ms. Thomas stated that the City has been in the process of changing over to the new water and sewer billing system and has been late getting the water and sewer bills out this month. Ms. Thomas stated that it could be October 7 or 8 before bills are mailed, which is one week later than the normal mailing date of the first of the month. Ms. Thomas requested that the due date for the bills be extended from the normal deadline of 5:00 p.m. on the 15th of the month to 5:00 p.m. on the 26th day of the month.

A discussion followed.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Owenby, Council voted unanimously to extend the deadline for the payment of water and sewer bills in October from 5:00 p.m. on the 15th of the month to 5:00 p.m. on the 26th day of the month.

Councilman Cuthbertson stated that the City should have a policy in place for this type of incident to allow staff to handle such situations without having to wait for a Council meeting.

Upon a motion by Councilman Cuthbertson, seconded by Mayor Pro Tem Little, Council voted unanimously to adopt the following policy allowing for extensions of water and sewer payments as needed:

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WATER AND SEWER BILLING POLICY – EXTENSION OF DEADLINE TO PAY WATER AND SEWER BILLS WITHOUT PENALTY

It shall be the policy of the City of Marion to mail water and sewer bills by the 1st day of the month. In the event water and sewer bills are not mailed by the 1st day of the month, the City Manager is authorized to extend the deadline for paying water and sewer bills without penalty by a number of days not less than the number of days past the 1st day of the month that the water and sewer bills are actually mailed.

ADOPTED this the 6th day of October, 2009.

A. Everette Clark
Mayor

ATTEST:

J. Robert Boyette
City Manager/Clerk

Policy Number: P-09-10-06-1

ADD ON – RECOGNITION OF WOODMEN OF THE WORLD – DONATION OF FLAGS TO CITY: Mayor Clark stated that he would like to take this opportunity to thank the Woodmen of the World for the donation of flags to the City through the years.

Mayor Clark stated that he recently attended the district meeting of the Woodmen of the World and received ten flags for the City. Mayor Clark asked that staff draft a letter thanking the Woodmen of the World for this generous donation.

ADD ON – COUNCILMAN CUTHBERTSON – MOBILE FOOD VENDER DISCUSSION: Councilman Cuthbertson stated that he would like to see Council go ahead and put to rest the mobile food vendor issue. He advised that the City has taken a lot of heat for the recent decision to follow the recommendation of the Planning Board and increase the permit fee for mobile

AA.000000547 (24)

food vendors from $100 per year to $1,200 per year. Councilman Cuthbertson said he would like to see Council go back to its original decision.

Mayor Pro Tem Steve Little stated that he would like to invite the public to come to a meeting and discuss this issue. He proposed advertise that such a meeting would be held at the next Council meeting and that Council would welcome any and all input from the public over the next two weeks. Mayor Pro Tem Little stated that Councilman Cuthbertson is right, Council has dealt with this issue enough and needs to put it to rest in the near future.

Mayor Pro Tem Little added that such a meeting would give interested people the opportunity to send in comments by mail, e-mail, telephone or by attending the next Council meeting. He stated that there have been many comments about this issue, which has captured the imagination of the public and taken up much more time than it deserves.

Councilman Owenby stated that previous discussions of this item had already been advertised in the McDowell News.

Mayor Clark stated that the City first needed to study other places where this type of vendor is working, so that the appropriate charge could be determined. The City Manager asked Planning and Development Director Heather Cotton if research had been conducted into what other cities charge for mobile food vendor permits. Ms. Cotton advised that the permit fees vary somewhat, but average around $100 per year.

Councilman Edwards stated that he would discuss changing the permit fees if there is enough interest. However, he questioned who had really objected to Council's last action.

Councilman Edwards stated that he had visited Ms. Miller's hot dog stand in front of the Gazebo Parking Lot on North Main Street and that Council's action had not prevented Ms. Miller from going into business. He noted that there were no other serious inquiries to his knowledge. Councilman Edwards added that if there is a need to re-visit the issue, Council should do so; otherwise, Council should leave the issue alone.

Councilman Martin stated that he would make a motion to rescind the ordinance adopted by Council at the September 15, 2009 City Council meeting establishing a $1,200 permit fee per year for mobile food vendors in the C-1

AA.0000005/48 (24)

Central Business District and thereby charge only a $100 business privilege license for the operation of mobile food vendors anywhere in the City. Councilman Cuthbertson seconded the motion.

Councilman Edwards stated that City Council should not change its mind on this issue every time the wind blows. He said that such action makes Council look like it is flip-flopping and that he believes Council is moving too quickly on this issue.

Mayor Pro Tem Little stated that he would rather put this item on the next agenda, as he had previously suggested.

A discussion followed.

The vote carried four to one in favor of the motion by Councilman Martin, as follows:

Mayor Pro Tem Little	Yes
Councilman Cuthbertson	Yes
Councilman Martin	Yes
Councilman Owenby	Yes
Councilman Edwards	No

The ordinance adopted by Council read as follows:

AN ORDINANCE ESTABLISHING FEES FOR THE PLANNING AND DEVELOPMENT DEPARTMENT TO INCLUDE MOBILE FOOD VENDING PERMIT FEES

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

SECTION 1. That the City of Marion Planning & Development Department Fee Schedule be amended to include the following:

Mobile Food Vendor Permit. There shall be no charge for a permit for the operation of mobile food vendor units in the City of Marion. The City shall charge the applicable business privilege license fee for such units.

SECTION 2. Ordinance Number O-09-09-15-9 adopted on September 15, 2009 establishing a $1,200 permit fee for mobile food vendor units in the C-1 Central Business

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District and all conflicting ordinances are hereby rescinded upon the effective date of this Ordinance.

SECTION 3. This ordinance shall become effective upon its adoption.

Adopted this the 6th day of October 2009.

A. Everette Clark
Mayor

ATTEST:

J. Robert Boyette
City Manager/ Clerk

Ordinance Number: O-09-10-06-1

CITY MANAGER REPORTS: The City Manager gave a brief report on current projects, as follows:

The City Manager advised that he and Mr. Bill Hendley from the McDowell Trails Association had been talking to Norfolk Southern (NS) about the acquisition of the Peavine Rail Line right of way. Mr. Hendley proposed to NS that the community lease the Peavine right of way for one dollar per year. The City Manger stated that he had talked to Mr. George Meade with NS to see how realistic this proposal is and if NS will insist on receiving some money. Mr. Meade said he was working on Mr. Hendley's proposal and realizes that the City has little or no money to put into buying the right of way. The City Manager stated that he had sent a letter to the Federal Surface Transportation Board, requesting another six month extension in the negotiating period with NS, this extension will last until April 1, 2010. Mr. Meade said that NS would not object to the extension request.

The City Manager advised that he, Police Chief Elliott, and Public Works Superintendent Roger Estes had met with Mark Teague with DOT on September 24 to look at options for a high visibility crosswalk at Main and Court Streets. The new crosswalk will be ten feet (versus six feet) wide and have 24 inch white crosswalk lines spaced 24 inches apart painted facing traffic. The striped crosswalks will be more visible to oncoming traffic and differentiate the crosswalk from the stop bars at the intersection. The City

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Manager presented Council with a drawing of the revised crosswalk. Both the revised crosswalks and stop bars will be painted white, by Federal regulation. The City Manager stated this is probably the City's best chance in the near future to make the crosswalks more visible. Mayor Clark and Council members agreed by consensus to authorize the City Manager to inform DOT that the proposed crosswalk design was acceptable to the City.

The City Manager stated that he had also received a request from a downtown business owner for a pedestrian crossing signal at Court and Logan Streets. He stated that the City subsequently made a request to DOT for pedestrian crossing signals at this location in the hopes that some or all of the work could be done at the same time as the traffic signal replacement.

Mayor Pro Tem Little asked what was going on with the massive auger that was being used at the intersection of Court and Logan Streets. Public Works Director Chris Hollifield advised that DOT will be placing a new pole that will hold all the traffic lights at the intersection.

Councilman Cuthbertson stated that the City needed to make sure this section of sidewalk is safe for the public, especially with the Mountain Glory Festival coming up this weekend. The City Manager stated that staff would contact DOT and make sure the public's safety is ensured.

The City Manager stated that staff will be working with Census Bureau on ways to promote the census. The Manager presented Council with a copy of a letter sent inviting various persons to a Census Complete Count Committee meeting on Tuesday, October 13 at 8:30 a.m. at the Community Building. The letter has been sent to people in media, business, the faith community and representing local non-profits/civic clubs.

The City Manager advised that he and Mr. Hollifield had identified the exact locations for the five mobile food vendor locations downtown, as had been suggested by Councilman Cuthbertson.

The City Manager advised that the County Volunteer Center is planning to use the Farmer's Market Shelter on Saturday, October 24 for Make a Difference Day. Staff checked to make sure there would be no conflict with planned sales by growers on that day. Under the City's Shelter Policy, staff is authorized to approve requests to use the Shelter by units of government, non-profit groups and civic groups.

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The City Manager advised that a pumpkin market was scheduled to be held at the Farmer's Market Shelter on Tuesday, October 27. However, Dan Smith with Cooperative Extension now feels that there are not enough pumpkin growers in the County to make for a worthwhile sale. The City Manager stated that Mr. Smith and Marion Business Executive Director Freddie Killough had set up a fall seasonal market on that day.

The City Manager advised that the Mountain Glory Festival is scheduled for Saturday, October 10. The number of craft vendors may be down by as many as 20, although Ms. Killough has been trying to do a late push to attract more vendors.

The City Manager advised that the Prison told the City that inmate work crews will not be available to the City for Mountain Glory, based on orders from Raleigh. The City will be able to use inmates assigned to the City full time. The City may have as many as five inmates by the time of Mountain Glory. The City Manager reported that City employees will start work on the set-up for Mountain Glory earlier than usual to compensate for having less help.

The City Manager advised the holly trees in the downtown area have outgrown the spaces in which they are planted. The City Manager advised that he had asked staff to come up with recommendations and options for the replacement of hollies on Main and Henderson Streets by early to mid October, along with way finding signage recommendations and the Downtown Streetscape Plan recommendations. These recommendations can be presented to the Planning Board, Tree Board, MBA Board, N.C. STEP Leadership Committee, the public and Council. The City Manager stated that staff specifically plans to present the recommendations to Council at the October 20 Council meeting.

Councilman Edwards stated that he hoped Council remembered that downtown businesses complained many years ago about large trees blocking their storefronts.

The City Manager advised that City crews would begin work after the Mountain Glory Festival on the construction of a three lane street section at the Fleming Avenue entrance to Marion Elementary School. He added that City crews will only be able to work at the location part of the day and will not work during the morning and afternoon rush hours at the school.

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The City Manager advised that, within the next week, the City would sign a Performance Agreement with the Sugar Hill Road commercial developer, Jim Price of WRS Realty, which would lock in the $977,100 Rural Center grant to fund one-half of the costs of the Sugar Hill Road Water and Sewer Extension. The City Manager stated that the Performance Agreement commits WRS with creating at least 100 net new full-time jobs. He added that Mr. Price stated that he plans to close on the property in mid January and that everything remains on track with the project.

The City Manager advised that staff has met with the Hospital, Health Department, County and others to discuss planning for a possible H1N1 (swine flu) outbreak in our community. He added that the City would have an educational session on the H1N1 flu for City employees the next days as part of the City's on-going Wellness Program that is funded by grants from the N.C. League of Municipalities.

The City Manager stated that at the Marion Business Association (MBA) meeting this morning, the MBA Board asked if the City would commit to funding $5,000 toward the purchase of July 4th fireworks in the City's 2010-11 budget, so that the MBA can lock in last year's fireworks price.

Upon a motion by Councilman Cuthbertson, seconded by Mayor Pro Tem Little, Council voted to commit $5,000 out of the City's 2010-11 budget toward the July 4th fireworks display.

COUNCILMAN COMMENTS:

Mayor Clark asked when McDowell Avenue is going to be paved. The City Manager stated that DOT District Engineer Doug McNeal stated two weeks ago that the paving would be completed in about three weeks. Mayor Clark stressed the need for the City to press DOT to complete the paving work before the weather turned cold, especially since the project appeared to have extended past the anticipated completion date.

Councilman Martin advised of a sight distance problem with landscaping at the intersection of South Logan Street and West Henderson Street. The City Manager stated that staff would look at the location and cut back landscaping as needed.

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Mayor Pro Tem Little stated that he received a call from a lady complaining about yellow curbs painted in front of her property at Oak Avenue and Wilhemenia Street. The lady stated that she would like to have another parking place in front of her house. Councilman Martin stated that the whole block is suppose to have yellow curbs but some of the yellow paint has faded. He said this issue has been dealt with before. Council gave no direction to look into this complaint.

Councilman Cuthbertson asked if the traffic signal timing at West Henderson and Railroad Streets had been fixed. Councilman Martin stated that DOT had completed this work.

Councilman Owenby stated that a concerned citizen in the West Marion area is requesting a speed hump on Ridley Street. Councilman Martin stated that curves on this street slowed traffic down. Council gave no direction to look into this request.

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

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager /Clerk

RETURN

AA.000000554 (24)

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 20, 2009 at 7:00 P.M. in the Marion Community Building located at 191 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 was not present for this meeting due to illness.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, AICP, Planning and Development Director; Mika Elliott, Police Chief; Chris Hollifield, Public Works Director; Mike Conley, News Reporter, The McDowell News; Van McKinney, News Reporter, WBRM Radio; Wendy McAnally, News Reporter, The News Bulletin.

GUESTS PRESENT: Mark Hoskins, 111 Crawford Street Apt. F25, Marion, NC; Sandra Hoskins, 95 Morgan Street Apt. #2A, Marion, NC; Lou Godfrey & Deb Cooper, 74 South Main Street, Marion, NC; Joyce Halter, 150 North Madison, Marion, NC; Cliff McLarty, North Madison Street, Marion, NC; Steven O'Kelly, 83 North Madison Street, Marion, NC; Juanita Doggett, 192 North Garden Street, Marion, NC; Ted Alexander, Mayor, City of Shelby and N.C. STEP Program Coach, 409 Beaumonde Avenue, Shelby, NC; Josh King, Transportation Planner, Isothermal Planning and Development Commission, Rutherfordton, NC; Nancy Clark, Fleming Avenue, Marion, NC; Robert Hawkins, 527 East Oak Street, Marion, NC; Bunnie Burgin, 186 Pleasant Meadow Drive, Marion, NC; Walt Bagwell, 250 Forest Road, Marion, NC; Steve Brown, 350 South Garden Street, Marion, NC; Marc Cook, 496 Rutherford Road, Marion, NC; James Tarpley, 75 Viewpoint Drive, Marion, NC; Alma Lambert, 229 Mackey Farm Drive, Old Fort, NC.

CONSENT AGENDA: Mayor Clark stated that Mr. Josh King, Transportation Planner for Isothermal Planning and Development Commission, was present for this meeting and asked that Mr. King update Council on the resolution proposed for Council adoption under the Consent Agenda.

Mr. King gave a brief overview of the proposed resolution, which asks that the North Carolina Department of Transportation (NCDOT) exclude highway funding for the Appalachian Regional Commission (ARC) area from NCDOT equity formulas for highway funding. In essence, Federal highway money that was earmarked for the ARC region, due to recognition by the Federal government that highway construction is more expensive in mountainous areas, is being used by NCDOT to supplant funds that would normally come to Western North Carolina.

Mayor Clark stated that, anyway this issue is examined, Western North Carolina is being short changed.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, those members of Council present voted to approve the consent agenda as follows:

A. Approval of Minutes – October 6, 2009 Regular City Council Meeting Minutes.

B. Adopt Resolution Requesting the North Carolina Department of Transportation to Exclude the Appalachian Development Highway System From Equity Formulas:

RESOLUTION
OF
CITY OF MARION

REQUESTING THE NORTH CAROLINA GENERAL ASSEMBLY
TO EXCLUDE THE

AA.00000555 (24)

APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM FUNDING FROM THE NC DOT EQUITY FORMULA

WHEREAS, in 1964, the President's Appalachian Regional Commission (ARC) reported to Congress that economic growth in Appalachia would not be possible until the Region's isolation had been overcome: and

WHEREAS, Congress authorized the construction of the Appalachian Development Highway System (ADHS) in the Appalachian Development Act of 1965; and

WHEREAS, the cost of building highways through Appalachia's mountainous terrain is very high, so the Region has never been served by adequate roads; and

WHEREAS, the nation's interstate highway system has largely bypassed the Appalachian Region, going through or around the Region's rugged terrain as cost-effectively as possible; and

WHEREAS, the City of Marion, in McDowell County, is in the heart of the Southern Appalachian Region and has been isolated by geographical barriers; and

WHEREAS, the ARC report and the Appalachian governors have placed top priority on a modern highway system as the key to economic development; and

WHEREAS, the ADHS was designed to generate economic development in previously isolated areas, supplement the interstate system, connect Appalachia to the interstate system, and provide access to areas within the region as well as to markets in the rest of the nation; and

WHEREAS, the ADHS program was designed to channel additional funding into the Appalachian Region, not to supplant existing funding; and

WHEREAS, in 1998, the Federal Transportation Act known as TEA21 and subsequent acts began including ADHS funding in North Carolina's minimum guarantee for transportation funding essentially supplanting existing funding; and

WHEREAS, because ADHS funding is no longer considered additional money for North Carolina, it must, by law, be included in the state's equity distribution for highway improvements; and

WHEREAS, completion of the ADHS remains a top priority for the Appalachian Regional Commission; and

WHEREAS, Western North Carolina, as a region, is more economically tied to its neighboring states versus the balance of North Carolina; and

WHERAS, under current funding policies, North Carolina Department of Transportation Division 13's allocation of ADHS money counts toward our division's allotment through the equity formula and, as a result, decreases the availability of other funds to our region.

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

1. The City of Marion, in McDowell County, concludes that counting the ADHS funding against North Carolina's minimum guarantee and counting the funding received by North Carolina against this region's equity "fair share" violate the spirit and intent of the ADHS legislation.
2. The City of Marion, in McDowell County, respectfully requests the North Carolina General Assembly to exclude the ADHS funding from the NCDOT equity formula in order to complete these remaining corridors to benefit the people of Southern Appalachian and Western North Carolina.
3. The City of Marion, in McDowell County, respectfully requests the United States Congress to exclude the ADHS funding from the minimum return of transportation funding to the State of North Carolina.
4. The City of Marion, in McDowell County, requests that all funding of ADHS projects from 1992 to present not count against "equity adjustments" and adjustments be made to current equity calculations to correct the violation of the spirit of the ADHS program.

ADOPTED this the 20th day of October, 2009.

A. Everette Clark, Mayor

AA.000000556 (24)

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-09-10-20-1

PUBLIC HEARING – APPROVAL OF ANNEXATION ORDINANCE – HIGHWAY 226 SOUTH/JUSTICE/McCOYLE PROPERTY AREA: Mayor Clark opened the Public Hearing.

The City Manager advised that this public hearing is required on the annexation request by the Justice and McCoyle families for 2.46 acres of property at the intersection of Highway 226 South and Fairview Road. This property includes property owned by Mr. Butch Justice that is the location of his U-Haul/Taxicab business and an adjacent lot he leases from Ms. McCoyle. If adopted, the annexation would become effective December 31, 2009.

There were no citizens present to discuss this ordinance.

Mayor Clark closed the Public Hearing.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Owenby, those members of Council present voted to adopt the following Ordinance extending the corporate limits of the City of Marion to include the Highway 226 South/Justice/McCoyle Area as follows:

AN ORDINANCE TO EXTEND
THE CORPORATE LIMITS OF THE
CITY OF MARION, NORTH CAROLINA –
HIGHWAY 226 SOUTH-JUSTICE/MCCOYLE PROPERTIES

WHEREAS, the City Council has been petitioned under G.S. 160A-31 to annex the area described below; and

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

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at City Hall at 7:00 P.M. on Tuesday, October 20, 2009, after due notice by publication on Wednesday, October 7, 2009; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-31;

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

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the City of Marion as of December 31, 2009:

TRACT I:

BEGINNING on an iron stake in the northeast margin of Highway No. 190 and in the F.O. Stott old line at a point where said line crosses the northeast margin of said highway, and runs thence with said F.O. Stott's old line North 43 ½ East 28 poles to an iron stake, Holland's corner; thence with Holland's line North 28 West 2 poles to an iron stake; then North 8 West 8 ½ poles to an iron stake; then South 55 West 37 4/5 poles to an iron stake on the bank of Highway 190; then with the northeast margin of said highway South 58 East 16 3/5 poles to the BEGINNING.

EXCEPTING and RESERVING, HOWEVER, from this indenture, that certain ¾ acre tract conveyed in McDowell County Deed Book 87 at Page 209.

DEED REFERENCE: Tract I being all of that property conveyed to Adolph Justice and wife, Victoria Justice by that deed recorded in Book 519 at page 22, McDowell County Registry. [Parcel Identification Number: 1710.02-98-0660]

AA.000000557 (24)

TRACT II:

BEING a 0.88 acre tract and parcel of land shown on that survey for Adolph (Butch) Justice prepared by R.L. Greene Surveying and Mapping, PLS, dated April 6, 2009 and further identified as Map File 9-040, from which the following metes and bounds description is taken:

BEGINNING on an existing iron pipe located at the common corner of those properties either now or formerly owned by Mary Joyce McCoyle as described in Book 783 at Page 407 and Deed Book 84 at Page 272, said existing iron pipe marking the easternmost corner of that property either now or formerly owned by Adolph Justice et ux as described in Book 519 at Page 22, and marking the 5th corner of that property either now or formerly owned by Joyce Annette Martin as described in Book 529 at Page 584, said existing iron pipe being located South 47 degrees 00 minutes 33 seconds East 194.75 feet from an existing solid iron pin marking the 6th corner of the Martin property, and running thence from said BEGINNING a new line across the McCoyle property South 35 degrees 13 minutes 26 seconds East a total off 190.29 feet (passing a 5/8-inch iron rebar set at 177.67 feet) to an unmarked point in the centerline of Fairview Road (SR 1741); thence with the McCoyle line and along and with the centerline of said Fairview Road South 72 degrees 30 minutes 11 seconds West 325.65 feet to an unmarked point at or near the intersection of Fairview Road (SR 1741) and NC Highway 226, said unmarked point marking the 2nd corner of the McCoyle property as described in Deed Book 84 at Page 405; thence leaving the centerline of Fairview Road and running along and with the centerline of NC Highway 226 and continuing with the McCoyle line North 48 degrees 45 minutes 57 seconds West 55.00 feet to an unmarked point marking the beginning corner of the McCoyle property as described in Deed Book 84 at Page 405; thence leaving the centerline of NC Highway 226 and continuing with the common boundary of the McCoyle property as described in Deed Book 84 at Page 405 and Deed Book 84 at Page 272 and the Justice property as described in Book 519 at Page 22 (Tract I herein) North 48 degrees 07 minutes 36 seconds East a total of 325.26 feet (passing a 5/8-inch iron rebar set at 22.50 feet) to the point and place of BEGINNING.

DEED REFERENCE: Tract II being those properties conveyed to Mary Joyce McCoyle by those deeds recorded in Deed Book 84 at Page 405 and Deed Book 84 at Page 272. [portions of Parcel Identification Number: 1710.02-98-3671]

Section 2. Upon and after December 31, 2009, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City of Marion. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Marion shall cause to be recorded in the office of the Register of Deeds of McDowell County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the McDowell County Board of Elections, as required by G.S. 163-288.1.

ADOPTED this the 20th day of October, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Approved As To Form:

City Attorney

Ordinance Number: O-09-10-20-2

PRESENTATION OF RECOMMENDED DOWNTOWN STREETSCAPE PLAN/WAY FINDING SIGNAGE PLAN AND RECOMMENDATIONS FOR REPLACEMENT OF DOWNTOWN TREES: Planning and Development Director Heather Cotton gave a presentation on the proposed Downtown Streetscape Plan, which included recommendations for new way finding signage and for replacement of downtown trees. Ms. Cotton stated that the purpose of this plan is to

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build on Marion's achievements and supplement other initiatives that make specific recommendations regarding downtown Marion's revitalization. Ms. Cotton stated that previous planning efforts include marketing, branding, and transportation that address specific focus areas for improvements. The need for those plans, as well as this plan, were identified as objectives in the 2003 Downtown Master Plan completed by Marion's Downtown Advisory Committee. Ms. Cotton stated that the completion of this Downtown Streetscape Plan means that all items from the 2003 Downtown Master Plan will have been implemented.

Ms. Cotton further stated that this plan is intended to pick up where the other planning efforts stop and move efforts forward to meet existing objectives and convert the community's vision for downtown into a reality. The intent of this plan is not to revisit previous planning efforts or make changes to existing recommendations. This plan is intended to build on previous plans by identifying existing parking conditions, design features, landscaping, wayfinding signage, and guidelines for implementation. Simply planning for a better downtown will not lead to its success- it will require a concerted effort by City leaders, local businesses and residents, as well as new investors.

Ms. Cotton reported that the recommendations included in this plan are the result of many studies, workshops, and community input opportunities where a vision for a socially vibrant, economically prosperous, and aesthetically attractive downtown emerged from many facets of the community. This document transforms the results from those early efforts into a set of recommendations that will, if implemented, lead to revitalization – a process that with a concerted effort will evolve from public improvements to private investment.

Ms. Cotton stated that the vision of this Plan is to…

Revitalize downtown Marion so that it becomes a vibrant destination, and a place with public and civic interest in protecting and enhancing the integrity of the communities historic assets, promoting private investment in vacant and underutilized buildings, and fostering a more inviting atmosphere for community activity to take place.

Ms. Cotton stated that the City invited citizens to participate in an activity to identify community strengthens and weaknesses. The City gave each participant or group of participants a disposable camera and form to identify what they thought to be strengths and weaknesses to be in Marion. The information was collected and divided into four categories, strength, weakness, opportunity, or constraint. The existing conditions were evaluated based on the following criteria for each category.

Strength: A feature or element within the downtown that serves to enhance downtown either by appearance or in attracting people to the area.
Weakness: A feature or element that detracts either aesthetically from the appearance of downtown or discourages people from coming to downtown for social or economic activity.
Opportunity: Is an activity that can be accomplished to improve upon the strengths and weaknesses identified.
Constraint: Is a financial, regulatory, physical barrier that will make it difficult to achieve outcomes, but must be taken into consideration to move forward.

The following is a list of what the focus group identified:

Strengths	Weaknesses
• Many buildings located downtown are in good structural condition. • Main Street has attractive features such as decorative lamp-posts and hanging baskets that enhance the appearance of downtown. • Utility lines have been placed	• Main Street is a NC DOT controlled highway. • Main street is absent of a dedicated left turn lane. • Many buildings downtown have empty and/or unattractive storefronts, or are poorly

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underground to enhance the appearance of downtown. • Spacious sidewalks to accommodate commerce and pedestrians. • Attractive public spaces such as the gazebo, community building, and Marion Train Depot. • Conveniently located government and public services.	maintained by property owner. • There is a lack of retail and restaurants located downtown. • Parallel parking on both sides of Main Street is difficult to maneuver in traffic. • Poor maintenance along railroad right-of-way creates a negative appearance. • Limited retail or commercial occupancy on upper floors. • Limited landscaping and street trees.
Opportunities	Constraints
• Revitalize downtown keeping with its historic context to make it a more inviting space for economic and social activity (i.e matching benches, trash receptacles, traffic light poles). • Continue to make improvements on secondary streets downtown that have been improved upon on Main Street (installation of decorative lamp posts, underground utilities, consistent traffic light poles, trash receptacles, hanging baskets, signage etc). • Install more landscaping, traffic calming and safety devices, and way-finding signage to make downtown safer and more inviting for both pedestrians and vehicles. • Redesign on-street parking to provide spaces that will accommodate more vehicles on Main Street. • Increase residential housing opportunities downtown.	• Narrow right-of-way widths along Main Street limit reconfiguration alternatives that meet NCDOT street design standards. • Railroad right-of-way configuration impedes street design designation and reconfiguration. • Limited site distance and visibility at the intersection of East Railroad Street and Main Street. • Inadequate railroad crossing on Garden Street.

Ms. Cotton stated that one of many positive outcomes from the community analysis is that many of the challenges that were identified can be overcome with effort. There were only a few areas that were identified as constraints to the overall revitalization of downtown and with some intuitive wisdom many of these issues may be mitigated. The following will outline recommendations to build upon the strengths and opportunities and outcome the weaknesses and constraints to achieve the community's vision of a revitalized downtown Marion.

Ms. Cotton stated that each year thousands of visitors travel through or past the City of Marion on their way to another destination for leisure or business. Some of these motorists are tourists visiting the historic, cultural, and natural resources that the Western North Carolina region has to offer not realizing that some of those destinations are located in and around Marion. Other motorists, traveling through the area for business are unaware that the community offers state of the art services not readily available in the region, such as free public wireless access. For these reasons, a comprehensive wayfinding program is essential for marketing and promoting Marion to travelers, attracting visitors, and a key strategy of generating greater economic prosperity.

Ms. Cotton reported that the City of Marion does not have a comprehensive wayfinding system in place that assists motorists with information or guidance to select destinations. Many of the existing signs are dated, and are need of replacement to reflect the attractive character of the community. To

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enhance historic downtown Marion and promote the community as a destination for visitors and business, it is essential to have an attractive and comprehensive signage system in place.

Ms. Cotton advised that the design of the Wayfinding Signage is based on recommendations provided by Arnett and Moldrow Consultants during the Branding and Marketing Study conducted in the fall of 2008.

Directional Signage Notes:
Directional Signage in the downtown plan have been designed to meet US Dept of Transportation, Federal Highway Administration, Manual on Uniform Traffic Control Devices, 2003 Edition, Part 2 Signs, Section 1A.01 Function and Purpose of Signs, Standard D. Special Purpose Road, defined as " a low-volume, low-speed road that serves recreational areas or resource development activities, or that provides local access.

Signage Plan:
Signs are defined by their function as follows:

1. Regulatory Signs: Giving notice of traffic laws or regulations
2. Warning Signs: Giving notice of a situation that may not be readily apparent.
3. Guide Signs: Giving notice of route destinations, directions, distances, services, points of inters, and other geographical, recreational, or cultural information.

Design Goals:

1. Designed to provide high visibility by day or night.
2. High legibility with adequately sized typography and symbols.
3. Uniformity of design, position, and application.
4. Use of quality materials for longevity.
5. Appropriate choice of design and color to enhance the community.

Ms. Cotton advised that parking lots and paved areas are an essential part of an effective urban transportation system, but can be unsightly in their basic functional design. Landscaping improves appearance, prevents soil erosion, provides shade, reduces stormwater drainage problems, as well as reduces detrimental effects of wind and noise. Selecting appropriate trees for sidewalks, parking lots, and other paved areas is challenging. Paved surfaces are engineered to quickly shed water, often in directions that either deprive trees of adequate soil moisture or leave their roots submerged in excess water. Stress on a tree is exacerbated by the heat absorption of concrete, asphalt, and other similar surfaces. Lack of soil confines roots, restricts their growth, reduces anchorage, and limits moisture and nutrients. The stress of compaction and low soil fertility, coupled with other physical, environmental, and human factors, creates an unfriendly environment for trees. Identifying all these factors is an important part of selecting "the right tree for the right location".

Ms. Cotton stated that, though not every location will have the same conditions, each of the following factors deserves equal consideration to insure that the right tree is selected for the right location on Main Street and within the downtown area.

Physical Considerations:
1. The size and scale of the proposed streetscape design including the height of buildings, width of right-of-way, and distance between tree stalls and buildings.
    - The average building height downtown is between twenty-four to thirty-six feet.
    - The existing right-of-way is approximately sixty-eight feet.
    - Tree stalls are five feet (5') wide, and by design can be extended lengthwise as necessary to accommodate growth.
2. The type and mixture of land uses located in the downtown.
    - Street-level storefronts predominantly commercial
    - Upper and lower levels storage, residential, and commercial.
    - Tree height not limited as a result of overhead power lines on Main Street, which provides a unique opportunity for a taller tree selection.
3. Plan for the mature size of a tree.
4. Select trees with spreads that will not interfere with pedestrians, vehicles, and or accessibility.

Maintenance Considerations:
Examples:

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1. large leaves are considered slippery when wet and can be become a public hazard if not collected.
2. It is costly to repair asphalt and concrete damaged by trees that have above-ground and ground-level root systems.
3. Trees that are weak or have soft wood are susceptible to natural or manmade damage. Limbs can break during wind events or when other physical stress is placed on them.
4. As the amount and frequency of pruning increases so does the cost and resources to maintain a healthy tree.

Socio-Economic Considerations:

1. A tree that is too small can lack shade for pedestrians, can be damaged or damage vehicles parking on the street due to inadequate clearance, block visibility to storefronts from the street, and not provide the right scale with its surroundings making the street appear empty, uninviting, and stark.
2. Small bushy and multi-stemmed trees can block visibility for motorists and block visibility of storefronts from the street.
3. Ornamental trees or other trees that provide visual interest enhance the overall appearance of the streetscape throughout the year or seasonally.
4. Trees that are vase, oval, or round in shape provide more shade, which keep pedestrians, patrons, and vehicles cool and comfortable, as well as lower energy costs for residents and business owners.
5. (one value we often forget) The life expectancy of a tree can create a strong sense of stability for a location by minimizing the amount of changes taking place over time, and help minimize the negative appearance of empty storefronts.

Environmental Considerations:

1. A tree species should be selected that has minimal risk of pest infestation or susceptibility to disease. Such as Hemlocks, which are dying as a result of a pest known as the Whoolly Adelgid.
2. A tree should be selected that can thrive in an urban environment under varying conditions, including but are not limited to drought tolerance, poor drainage, compacted soil, air pollution, and limited planting areas.
3. Each tree species may have a variety of cultivators that have very different growth patterns, gender specific characteristics, or may be limited in availability. Some varieties may be small while others are tall, some may drop fruit or have an unpleasant smell while others don't, or some may be a new specimens and therefore difficult to find and costly.
4. Every effort should be made to avoid a monoculture tree stock to reduce the risk of any unforeseen condition that can occur, which has the potential to kill or significantly damage the entire stock. This can be accomplished by selecting different varieties for each block or by street.
5. Under no circumstances should a tree be selected that is a known invasive species to the region.

Ms. Cotton stated that street furniture and other amenities can enhance the overall appearance of an area, and provide features that make a location a more inviting place for social activity to occur. The inclusion of such features can be costly to a streetscape enhancement project, however there are many innovative ways to include the public in this phase of the enhancement project. One example is an "adopt a bench" program, which allows for the public to make a donation in honor or in memory of a family member or friend. The donation can pay for all or a portion of the bench purchase, which would include a bronze plaque identifying the dedication. Another example is the incorporation of public art into the enhancement, which further promotes the community's unique identity.

Ms. Cotton reported that all future streetscape improvements should reflect similar elements that were identified and installed at the Historic Depot. Ornate and decorative elements such as traffic poles, scrolls, finishes, furniture, base covers, lighting should be similar in design, finish, and color where possible. As a recommendation of this plan all such elements include a black powder-coated finish.

Ms. Cotton presented slides during her presentation, as follows:

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Historic Downtown Marion

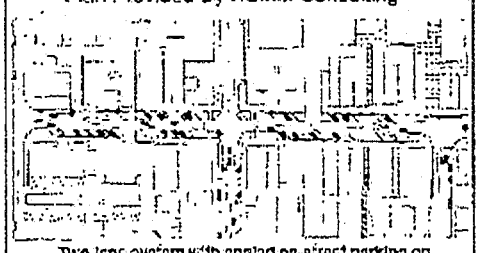
Streetscape Enhancement Plan

Existing Conditions

- 2 Travel Lanes in Each Direction
- Parallel Parking on Both Sides of Main Street
- Limited Vegetation
- Absence of a Dedicated Left Turn Lane
- Spacious Sidewalks



Plan Provided By HSMM Consulting



Two-lane system with angled on-street parking on both sides between Fort St. and Henderson St.

Revised Streetscape Plan



Three Lane with Center Turn Lane Only

Parallel parking with approximately 7 feet of maneuverability between parking space and oncoming traffic

On-Street Parking

Main Street between Fort Street & State Street

Existing

Fort Street to Court Street——————19 Marked Spaces
Court Street to Henderson Street——————29 Marked Spaces
Henderson Street to State Street——————27 Marked Spaces

Proposed*

Fort Street to Court Street — 15 Spaces (Remain Unchanged)
Court Street to Henderson Street – 20 Spaces (9 Spaces Lost)
Henderson Street to State Street – 14 Spaces (5 Spaces Lost)

*Note: To be confirmed upon field review of plans.

Advantages & Disadvantages to Revised Design

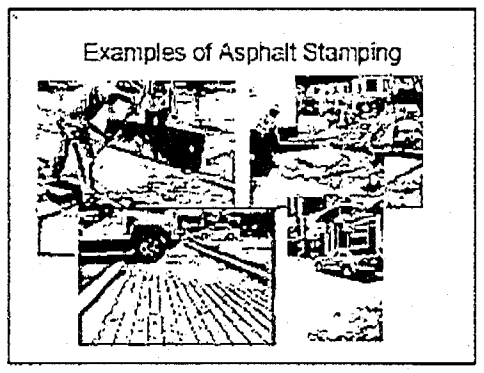
ADVANTAGES

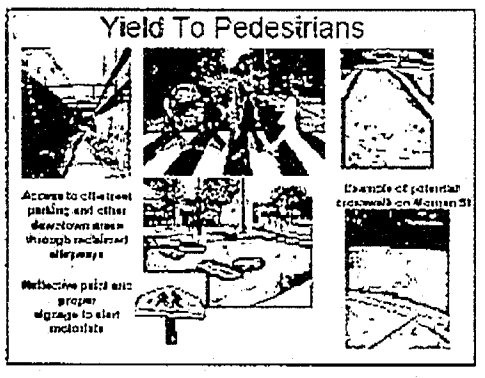
- Sidewalk width remains the same
  - Providing additional opportunities for street furniture
  - More areas for socializing, dining, and window shopping
- No curb/curb and gutter demolition/construction
- Parking on both Sides of Main Street
- More maneuverability for motorists utilizing on-street parking
- Sufficient Space for mid-sized Street Cars.

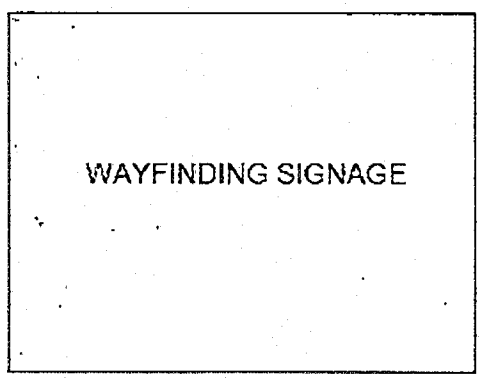
DISADVANTAGE

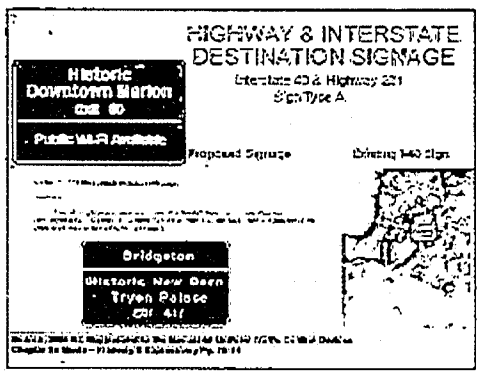
- Decreased Number of On-Street Parking when compared to Current System

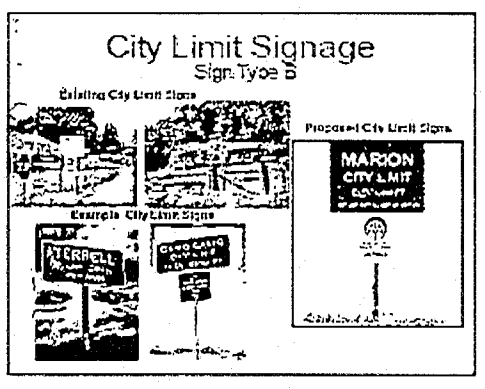
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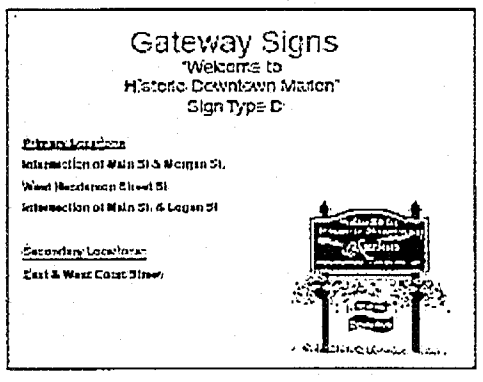


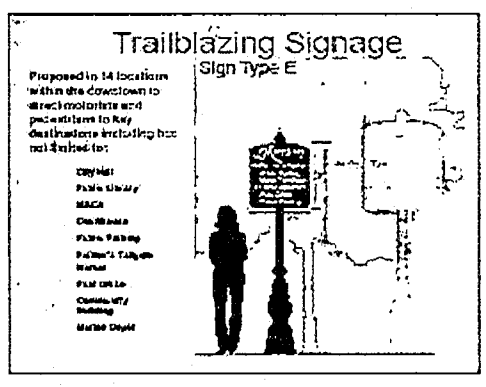


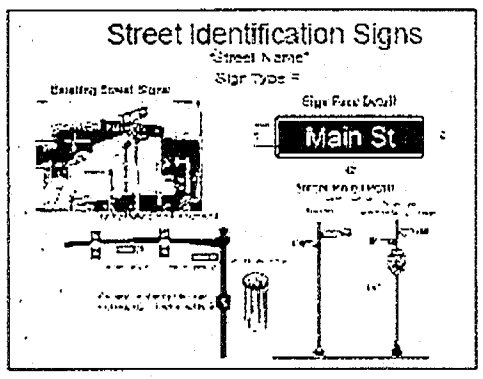


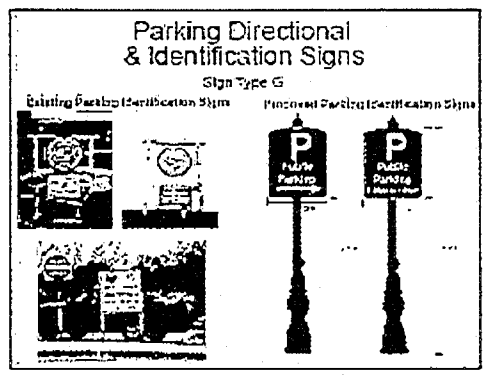


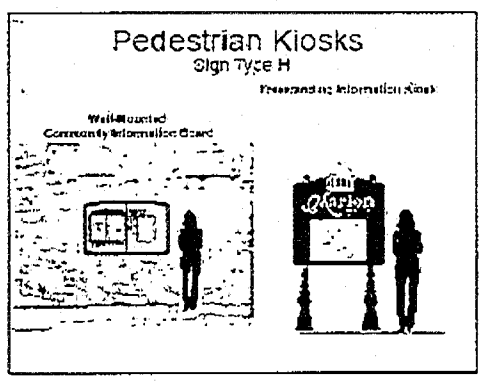
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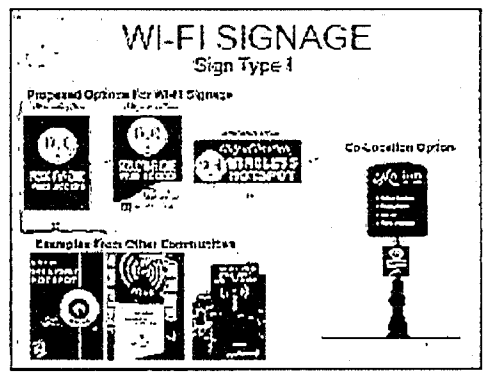


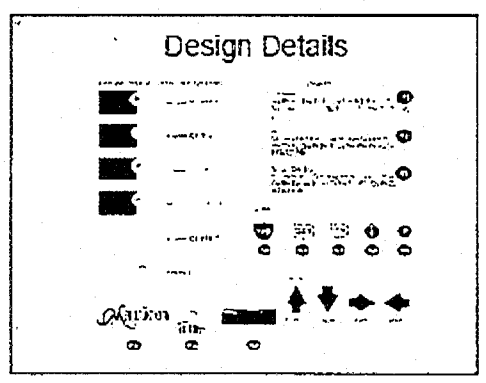




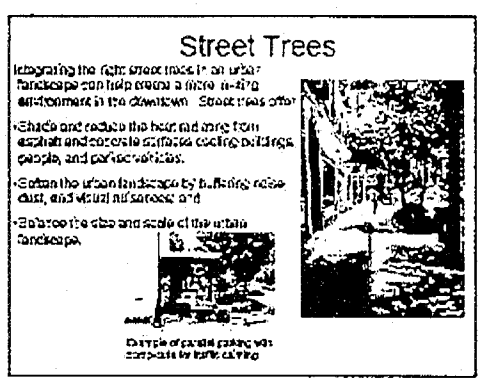


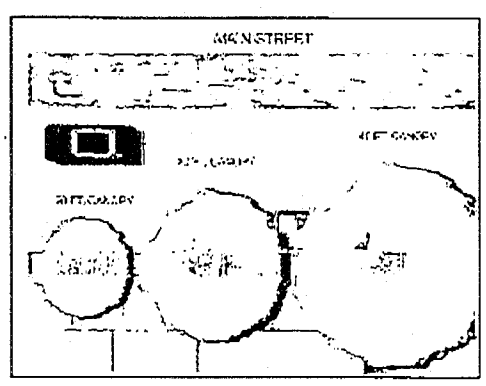


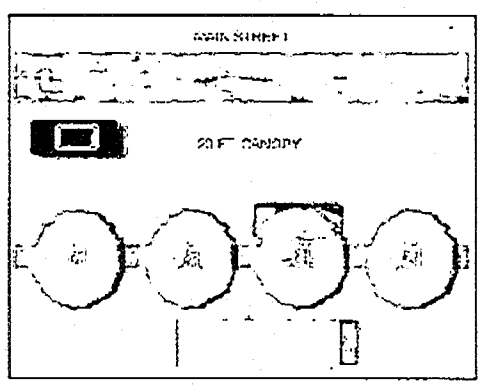


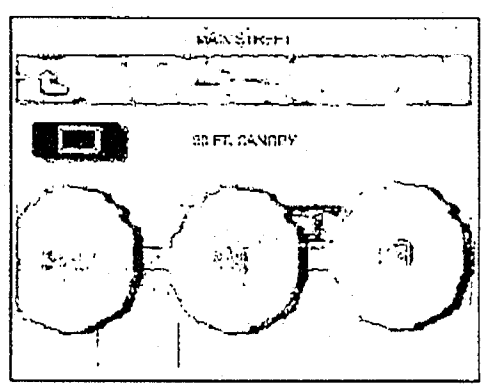


Street Trees & Landscaping

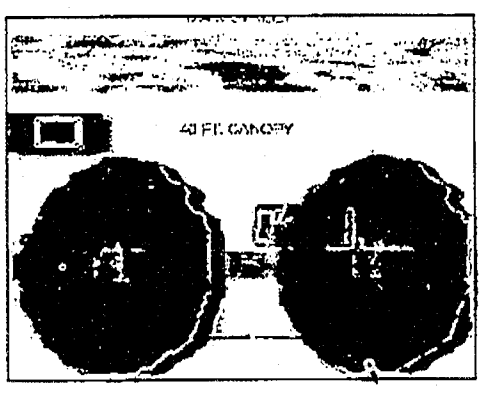


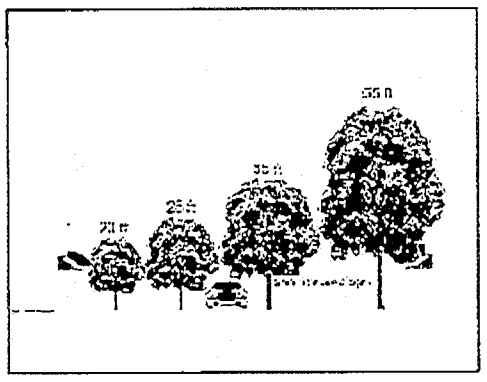


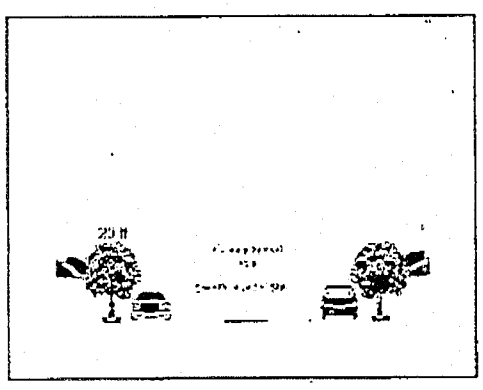


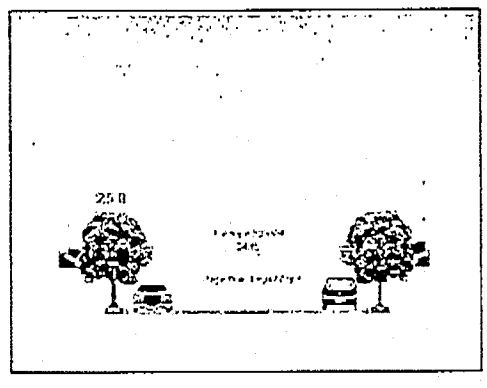


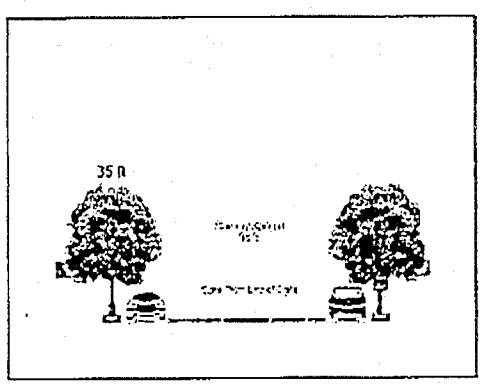
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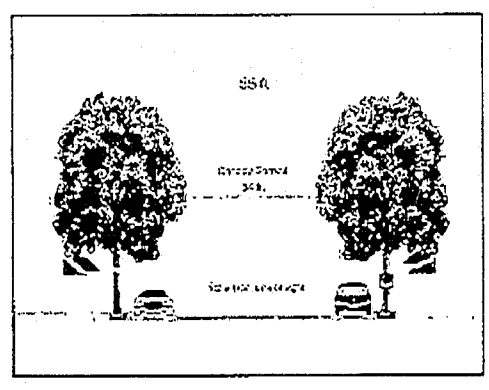




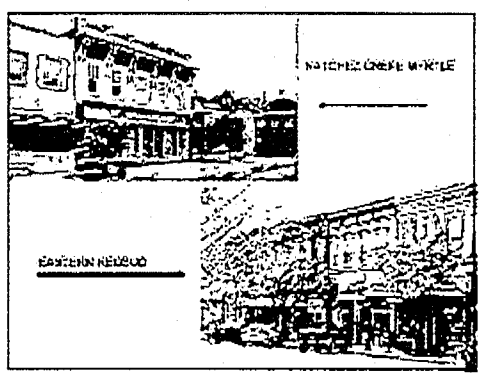


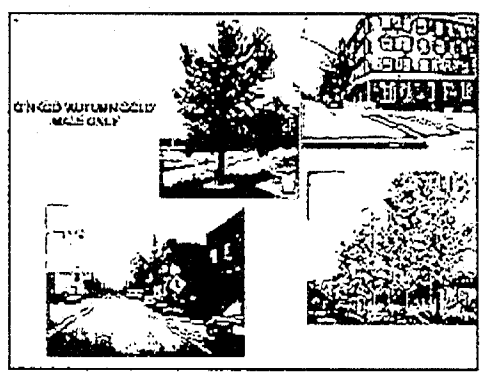




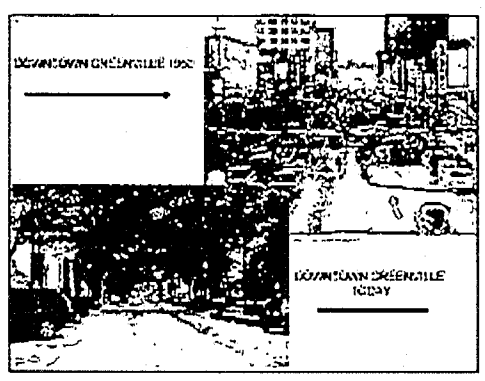


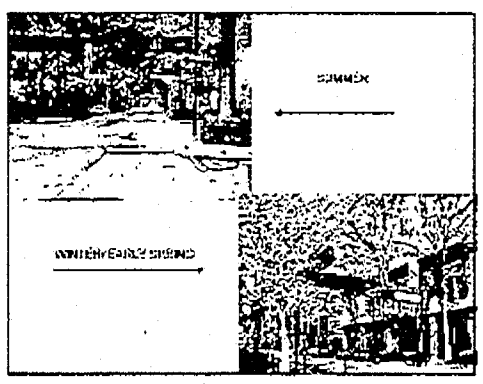
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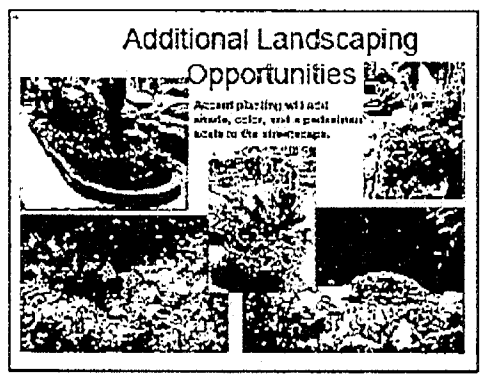












City Manager Bob Boyette thanked Ms. Cotton, stating that she had done a great job with this presentation and in updating the Downtown Streetscape Plan, along with completing all her other jobs and duties. He added that the City's original consultant, HSMM, had produced a good plan, but had since gone out of business and been bought out by another company.
Mr. Josh King, Transportation Planner for Isothermal Planning and Development Commission, spoke to Council about funding options for the Downtown Streetscape Plan.

Mr. King advised that, in the past, every two or so years, the North Carolina Department of Transportation (NCDOT) issued a call for projects as part of the Enhancement Program. The projects are submitted and funded through a grant cycle. NCDOT provided upfront funding for all costs associated with the project. Funds were allocated based on an equity formula approved by the Board of Transportation. The formula was applied at the county level and aggregated to the regional level, as follows:

½ equity
¼ population
¼ the number of municipal governments

Mr. King stated that now applications for the Enhancement Program are routed through the State Transportation Improvement Program Process (STIP) and put through the Strategic Planning Office

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of Transportation (SPOT) funding process. NCDOT is in the first phases of implementing this new model with all its associated challenges.

Mr. King offered the following points about the Enhancement Program:

- NCDOT and the Federal Highway Administration have warned there will be less "general" funds available for traditional enhancement projects.
- However, there will be more funds available for less traditional projects like sidewalks tied into job access for low income individuals, trails systems linking home, schools and work. Multi-modal (driving AND walking, biking, or transit) projects will have the greatest advantage.
- NCDOT has passed a complete streets policy which could mean more sidewalks and trails tied into new road project.
- Land use controls and access management will also be playing a larger role in transportation in the near future and could be tied to funding.

Mr. King stated that the Isothermal Rural Transportation Planning Organization (RPO) has been exploring new options for funding and passing these findings along to City staff. The Safe Routes to School Program is an example of this. Cities and counties can now submit Enhancement Program project directly to the RPO's for consideration.

Mr. King stated that the next RPO meeting will be held on November 12, 2009 and he would encourage everyone to attend and participate in the process.

Mr. King noted that the City had used Enhancement Program funding for the Depot project. Councilman Cuthbertson stated that the $1.4 million Depot project was implemented at a cost to the City of only ten cents on the dollar, due to the receipt of the Enhancement Grant funding.

Mr. Mike Ornberg asked what the timeline is for getting in line for this type of money. Mr. King stated that, with the current transition in the Enhancement Program, it could take five to ten years to obtain money for implementation of the Downtown Streetscape Plan and that there is no guarantee the project could be funded at all.

Mayor Clark added that the City had received notice of NCDOT's five year work plan, so it could be assumed that it would take more than five years to get this project funded. He noted that the City and County recently met with NCDOT Board Member Wanda Proffitt and Division Engineer Jay Swain and showed the proposed Downtown Streetscape Plan. Mayor Clark advised that Mr. Swain and Ms. Proffitt liked the Plan and thought it could be approved by NCDOT.

Mayor Pro Tem Little stated that, over the years, we have had TIP's that ran for five or more year and governors serving four year terms, often leading to nothing getting done.

Mayor Clark stated that one bright spot is that $40,000 of the needed $250,000 to implement the Plan is already available through the N.C. STEP program for the way finding signage component of the Plan. Mayor Clark stated that Council wants to do what is pleasing to the majority of the public. These plans are not in concrete and can be changed.

The City Manager stated that the City, Downtown Advisory Committee and others had worked hard to implement the 2003 Downtown Master Plan. The Downtown Streetscape Plan has been delayed due to difficulty getting NCDOT to accept the original two lane, angled parking design for Main Street. The City Manager stated that the holly trees have absolutely outgrown the spaces on the Main Street sidewalk and that doing nothing is probably not an option with the trees.

Mr. Ted Alexander, Mayor of Shelby and the City of Marion's N.C. STEP Program Coach for the past few years, stated that he has first hand knowledge of the great work being done by the City of

Marion. He said that the Plan presented tonight by Ms. Cotton is every bit as professional as a consulting firm could do. Mr. Alexander added that the overall concept is outstanding and Marion has gone all out in a good way to produce a final product that can and will serve Marion for many years.

Mike Ornberg stated that he is very pleased with what he sees here tonight. He said that he has hoped that Marion's downtown could catch up with progress made in other communities, but that the proposed Plan would actually end up being better than most other towns.

Mr. Cliff McLarty stated that his first question would be how long it would take to get started on the Plan and an anticipated response time from NCDOT officials.

Ms. Cotton stated that she felt it reasonable to anticipate a 30 to 60 day turnaround time from DOT, once plans drawn to scale were prepared and submitted. The project could then proceed, depending on funding and authorization from City Council, upon NCDOT approval.

Mr. McLarty stated that the reason he is asking about the time frame is that NCDOT needs to be held accountable to a reasonable time period to review and approve the Plan.

Mayor Clark stated that, last week when the City and County met with NCDOT officials, the City was told that NCDOT would act on reviewing and hopefully approving the Plan as quickly as possible.

The City Manager stated that the time required for NCDOT approval should be greatly reduced with the three lane proposal for Main Street, instead of proposing a two lane section.

Mike Ornberg stated that what he sees is exciting and that the proposed Plan could bring great economic gain for the City as well as the County. He said he wanted to be assured that the Mayor and Council Members are are excited about the Plan as he is.

Mayor Clark stated that he definitely likes the proposed Plan and is ready to go forward with it, although the City may have to implement the Plan in phases.

Mayor Pro Tem Little stated that he too is excited about this project. He said that, at first, he was in favor of going from a four lane section on Main Street to a two lane section with angled parking. However, he now feels that the three lane section is the safest, most practical option. Mayor Pro Tem Little added that the City has gone with different species of trees along Main Street through the years and it is now time to replace the hollies. Mayor Pro Tem Little also stated that he does not like the idea of closing East Henderson Street. He said he is on board with the whole plan and in favor of everything except the street closing. Mayor Pro Tem Little said he was almost ready to make a motion that Council adopt and implement the Plan, but that he supposed it would be better to make sure there are no further comments from the public.

Councilman Cuthbertson stated that he had spent much time discussing this project with City staff. He said he is in favor of the project. Councilman Cuthbertson noted that the City had been trying for several years to develop a Plan acceptable to NCDOT and had even proposed the City taking over Main Street from NCDOT. He added that NCDOT had discouraged the City from taking this action, due to the high cost of future needed repairs to or replacement of the bridge on Main Street over the railroad tracks. Councilman Cuthbertson stated that he serves as a Council representative on the City of Marion Tree Board and that the Tree Board had discussed options for replacing the holly trees downtown for many months.

Councilman Owenby stated that he likes the proposed trees well enough and added that everyone present for the meeting likely had a different opinion about what trees should be planted downtown. He said he personally likes the holly trees. Councilman Owenby stated that he had never seen a tree

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that brought business to town. He still feels that Main Street looks good just like it is. Councilman Owenby stated that is all for signage and most of the proposed Plan, except for the roundabouts and the closing of East Henderson Street, which he strongly opposes.

Councilman Martin stated that he applauds Ms. Cotton for the presentation and all the work that she and everyone else has done on this project. He stated that he is all for beautification of the downtown. The roundabouts may not be feasible but, otherwise, he would like to see the Plan implemented in the next year. Councilman Martin said he is board 110 percent with the Plan.

Ms. Bunnie Burgin was present for this discussion and thanked Ms. Cotton for the work she had done. She stated that the one thing in her mind is that the two lane section on Main Street with angled parking would be better. Ms. Burgin stated that she wants to see the downtown traffic calm down and that the two lane section would definitely slow down traffic. She does not understand why two lanes would not work in Marion, when it works in other towns.

Ms. Burgin stated that another thing that has bothered her is the communication we have in the City. She would have liked to have seen notice of the Plan presentation announced in the media. Ms. Burgin feels that the City has been working on this Plan for a long time and she hopes that the citizens that care can make their comments known.

Cliff McLarty asked what caliper of trees the City was considering. Ms. Cotton stated that the proposal was for 2 inch caliper trees.

Mr. McLarty stated that, in his experience, he would recommend larger caliper trees. Mr. McLarty asked where Council would be getting the money for this project.

The City Manager noted that the estimated cost of implementing the Downtown Streetscape Plan is around $250,000, not including the two roundabouts, the closing of East Henderson Street and the Railroad Walk. With the availability of $40,000 in N.C. STEP Program funds for the way finding signage and opportunities to raise money for street trees and street furniture, the City's net cost may be around $200,000. The City Manager noted that if Council wished to implement the Plan, minus the two roundabouts, the closing of East Henderson Street and the Railroad Walk, he would suggest the City borrowing from the General Capital Reserve Fund, which currently has a little over $512,000, and then paying the Fund back over time, perhaps $25,000-$50,000 per year, depending on available funding. This strategy was used to construct the South Garden Street Parking Lot.

The City Manager said this is a perfect type of project for a General Capital Reserve Fund. He added that City funding of the project is likely a necessity, since Mr. King indicated that NCDOT Enhancement Funding could take five to ten years or more, which is likely an unacceptable time frame for everyone in the room tonight.

Mr. McLarty asked how much the cost for the trees would be. The City Manager stated that the trees would only cost a few thousand dollars, depending on the variety and size chosen. Mr. McLarty suggested that the City allow people to purchase memorial or honorary trees and that he would be happy to buy the first one.

Councilman Cuthbertson stated that, at the last Tree Board meeting, Duke Energy representative Phil Ray stated that this is a good time to plant trees.

Mayor Clark stated that he remembers back in the early 1970's when the City Council was looking for money to make payroll. He added that Council has been careful through the years with the public's money but that it was certainly appropriate to invest money in projects that will benefit the community. Mayor Clark advised that years ago there was a tax district in the downtown area. The tax district is still in place, but the rate is set at $0.00. Another thought is that perhaps the City could use Powell Bill funds reserved for street projects for some of this project.

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Ms. Joyce Halter asked why the City plans to keep the sidewalks as large as they are now. Ms. Halter suggested making the sidewalks smaller to accommodate angled parking.

Mayor Clark stated that the City was fortunate to have wide sidewalks, but that all options could be considered. He added that one obstacle to this suggestion is that underground wiring is located under the brick portion of the sidewalks adjacent to the curb on Main Street.

One citizen stated that, as the project stands now, the City would need to present the Streetscape Plan to NCDOT. The citizen asked if the City could proceed with the project and then be reimbursed later if grant money is obtained.

The City Manager said that he did not know of any grants that would reimburse the City for work already completed.

Mr. Ornberg stated that one more thing he would like to say is that lack of parking in downtown Marion is a perception. One cure for this perception is when a town is developed, people start coming back to a downtown as a whole, not just to particular businesses, and they are more willing to walk from parking areas.

Mayor Clark stated that City Council has three things to consider: the tree replacements, the way finding signage and the Streetscape Plan. The Streetscape Plan will have to go to NCDOT for approval as soon as the final draft is completed. Mayor Clark added that the City will never get everyone to agree to all components of the recommendations.

Mayor Clark asked the City Manager, in response to Ms. Burgin's previous question about communication, to describe efforts the City is considering regarding communication. The City Manager stated that he had been in municipal government for over sixteen years. For many years, simply putting news releases in the newspaper was sufficient to reach almost everyone. In recent years, the City had used newspapers, radio, television, the City website and the City channel to communicate with citizens. However, there is now a segment of the population that does not get their news from the sources he had listed; therefore, the City is talking with a local communications consultant about the idea of updating the City website and City channel and using other forms of communication, including social networking sites, to communicate with more people. The City Manager stated that the City would have to change with the times to reach all people.

Mr. Steve Brown stated that he liked the Plan and hoped to have it implemented. He encouraged City Council not to take away from the current width of the downtown sidewalks.

Ms. Lou Godfrey stated that she liked the proposed Plan. She suggested that, to go along with the theme of promoting the historic downtown, she would suggest a historic museum in the downtown area.

Mr. Mark Hoskins stated that the City needs sidewalks on North Main Street. Mayor Clark stated that he agreed and that Council recognized this need. The City Manager suggested that sidewalks on North Main Street, along with roundabouts and the Railroad Walk, might be good long term projects to proposed for Enhancement Program funding to NCDOT.

Mayor Pro Tem Little suggested that staff seek to have a rendering of the proposed Downtown Streetscape Plan ready for Council to review at the November 17 Council meeting.

After further discussion, Council agreed to solicit public comments on the proposed Downtown Streetscape Plan via information posted on the City website and displayed at City Hall. Comments received by the public will be compiled and presented to Council at the November 17 Council

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meeting, at which time Council indicated that it may be ready to authorize the implementation of the Downtown Streetscape Plan, depending on the nature of the comments received.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

CONSIDER APPROVAL OF PERMIT TO OPERATE A PLACE OF AMUSEMENT – STATE STREET: The City Manager advised that John and Cheryl Tarantino had submitted an application to operate a place of amusement, to contain four or more video poker machines, at 39 State Street. This location is two doors down from the You're Special Beauty Shop located behind Austin's Furniture. The Tarantinos operate a retail business and would have the video machines located in a back room of the business. The City Manager stated that, under the City Code provisions for places of amusement, Council review of such applications is required. City Council may deny a permit to any person who has been convicted of unlawfully selling intoxicating liquors or narcotic drugs, or is not a citizen and resident of this state, or is an excessive user of intoxicating liquor or narcotic drugs, or is deemed by Council to be unfit to conduct a business for which the license is applied as a result of the criminal background check.

The City Manager presented Council with information on the legality of video poker machines in North Carolina. He said that a Superior Court judge overturned the State's ban on video poker machines in February. This decision has been appealed by the State. Another Superior Court judge issued a ruling prohibiting law enforcement from enforcing the State ban. Therefore, for now, the City apparently cannot enforce the State ban on video poker machines.

The City Manager advised that the Police Department conducted a criminal background check on Mr. and Mrs. Tarantino and determined that neither have a criminal record. The location proposed by the Tarantinos is in the C-1 Central Business District, which permits billiard and pool halls, video game parlors and other coin operated amusements or recreational machine parlors. The Tarantinos do not appear to have ever been convicted of unlawfully selling intoxicating liquors or narcotic drugs, to be an excessive user of intoxicating liquor or narcotic drugs or be unfit to conduct a business for which the license is applied as a result of the criminal background check. In addition, the Tarantinos are residents of North Carolina, as required by the Game Room Ordinance.

Mayor Pro Tem Little stated that he does not know this couple. However, video poker machines are illegal under state law and he would not vote to approve this request.

Mayor Clark asked if the City could charge someone for operating video poker machines. The City Manager stated that the only possible charge would be for an ordinance violation for not obtaining the required City license.

The City Manager stated that other businesses in the City had video poker machines and asked if Council wanted to table this request until such time as staff could inventory such businesses.

Mayor Pro Tem Little stated that the question before Council was considering approval of the license for the Tarantinos and that Council needed to deal with that question.

A discussion followed.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, those members of Council present voted to deny the request by John and Cheryl Tarantino to operate a place of amusement, to contain four or more video poker machines, at 39 State Street.

CONSIDER APPOINTMENT TO PLANNING BOARD/BOARD OF ADJUSTMENT/HISTORIC PRESERVATION COMMISSION:
The City Manager advised that, at the October 1 Planning Board Meeting, the Planning Board voted unanimously to recommend to Council that Marc Cook be appointed as an alternate member of the

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Planning Board/Board of Adjustment/Historic Preservation Commission, with a term to expire on June 30, 2012. The City Manager stated that Mr. Cook is willing to serve and would provide a great link between the Planning Board and the Marion Business Association, as well as the business community.

The City Manager advised that the ordinance establishing the Planning Board authorizes up to six alternate members.

A discussion followed.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, those members of Council present voted to appoint Mr. Marc Cook to the Planning Board/Board of Adjustment/Historic Preservation Commission, with a term to expire on June 30, 2012, as recommended by the Planning Board.

The current members of the Planning Board/Board of Adjustment/Historic Preservation Commission, including Mr. Cook, are as follows:

Regular Members	**Alternate Members**
Glenys Gilbert Term Expires June 30, 2010	Joan Keuper Term Expires June 30, 2010
Gary Walker Term Expires June 30, 2010	Connie Martin Term Expires June 30, 2010
Robert Elledge Term Expires June 30, 2011	Virginia Williams Term Expires June 30, 2011
Kit Alverson Term Expires June 30, 2011	John Morrow Term Expires June 30, 2012
Dudley Thompson Term Expires June 30, 2012	Rex Wood Term Expires June 30, 2012
	Marc Cook Term Expires June 30, 2012

Staff
Heather Cotton, AICP, Planning and Development Director

CITY MANAGER REPORTS: The City Manager gave a brief report on current projects.

The City Manager advised that the City had a tremendous Mountain Glory Festival on October 10, despite the threat of rain and being short a few vendors. Thank you notes were sent to Marion Business Association (MBA) Executive Director Freddie Killough and the MBA Board, as well as the Public Works, Police and Fire Departments, thanking them for their hard work with year's Festival. The Public Works Department had a lot of extra work setting up this year due to the recent loss of inmate labor. The City Manager stated that the City also sent a thank you note from Mayor Clark to the Festival volunteers. He added that the Festival Committee had a Festival wrap-up meeting on October 14. The Festival Committee discussed some ideas for improving the Festival and noted that almost all feedback regarding the Festival had been positive.

The City Manager advised that the City had received the signed Performance Agreement from the Sugar Hill Road commercial developer. This Performance Agreement is being sent to the Rural Center to lock in the City's $1 million grant for the water and sewer extension on Sugar Hill Road to I-40.

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The City Manager advised that Mr. Sam Dotson with Marion Correctional Institution had informed him that the City has been approved for two additional full time inmates to work at Public Works, bringing the City's total number of inmates to five. The inmates have been doing a great job for the City, with no complaints.

The City Manager asked if Council still wanted NCDOT to install the 10 foot wide, high visibility crosswalks at Main and Court Streets, as endorsed by Council at the October 6 meeting, given that it appeared the City would be implementing a Downtown Streetscape Plan with decorative crosswalks in the downtown area in the near future. Mayor Clark and Council members agreed that there would be no need for NCDOT to install the 10 foot wide crosswalks at Main and Court Streets in advance of the Downtown Streetscape Plan implementation.

The City Manager advised that the City had made a request to NCDOT for a pedestrian crossing signal at Court and Logan Streets, in the hopes that some or all of the work could be done at the same time as the traffic signal replacement at the intersection.

The City Manager reported that the NCDOT District Engineer Doug McNeal advised that he now hopes to obtain full funding from DOT for a sidewalk on West Henderson Street between Reid Street at Horton's and Wilhemenia Street. This sidewalk would include a connection to the existing City sidewalk on California Avenue. The City Manager noted that this sidewalk was one of Council's top sidewalk extension priorities.

The City Manager advised that the City had its initial Census Complete Count Committee meeting on October 13 at 8:30 a.m. at the Community Building. This Committee is being formed to assist with developing ways to promote the 2010 Census. The Committee came up with some great ideas to promote the Census. The City will follow up with a news release about the Census, inviting other people to join the Committee, and meet again in early December.

The City Manager advised that there will be a fall seasonal market at the Farmer's Market Shelter on Tuesday, October 27. Cooperative Extension Director Dan Smith and Marion Business Association Executive Director Freddie Killough are looking to schedule other seasonal markets as well.

The City Manager advised that City crews will soon begin work on constructing a three lane street section at the Fleming Avenue entrance to Marion Elementary School. He added that the City crews will only be able to work part of the day and will not work during the morning and afternoon rush hours at the school.

The City Manager advised that City crews had cleared and graded the new Eastfield Park and are now working on constructing and equipping the Park over the next couple of months. He added that work on the Clinchfield Park would then follow.

The City Manager advised that Ronny Turner Construction is nearing completion of the pump stations and has completed work on the force main sewer line that will pump wastewater flow from the Catawba River Wastewater Plant to the Corpening Creek Wastewater Plant. Construction is scheduled to continue through October or November.

The City Manager reported that Laughlin Sutton Construction began work on the Corpening Creek Plant improvements in late June. This construction will last well into 2010.

The City Manager advised that the City would soon be implementing one of the final recommendations of the North Carolina League of Municipalities Performance Measurement Project with the mapping of violent and property crimes by location. Mr. Cliff McLarty stated that this information would be very useful to the public.

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The City Manager advised that The News Bulletin has asked the City, County and Town of Old Fort to contribute $150 each toward sponsoring a Veteran's Day section in The News Bulletin on November 11.

Upon a motion by Councilman Cuthbertson, seconded by Mayor Pro Tem Little those members of Council present voted to authorize the City contributing $150 toward sponsoring a Veteran's Day section in The News Bulletin on November 11.

The City Manager reported that NCDOT Division Engineer Jay Swain advised the City and County last week that the McDowell County sections of the US 221 widening were on track for construction in 2014 or 2015. He noted that the City continued to push for this widening project, to enhance the City's north-south connections.

COUNCILMAN COMMENTS:

Mayor Clark stated that NCDOT Division Engineer Jay Swain advised the City and County last week that the NCDOT Rail Division is making progress in bringing passenger rail service to Western North Carolina. He noted that Norfolk Southern Railway has signed on to the concept of passenger rail service and that NCDOT is seeking Federal funds to upgrade the tracks to accommodate high speed passenger trains.

Mayor Pro Tem Little stated that a small square of sidewalk on South Garden Street that had recently been dug out by PSNC Energy needed to be repaired. The City Manager stated that the City would contact PSNC and direct that this repair be made immediately.

Councilman Cuthbertson advised that a section of the sidewalk beside the First Baptist Church on Fort Street is not level and may need repairs. The City Manager stated that staff would look at the location and determine what repairs were needed.

ADJOURNMENT: Upon a motion by Mayor Pro Tem Little, seconded by Councilman Martin, those members of Council present voted to adjourn.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager /Clerk

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STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, November 17, 2009 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

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

Councilman Mike Edwards was not present for this meeting.

OTHERS PRESENT: Juanita Doggett, Council Member Elect; Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, AICP, Planning and Development Director; Mika Elliott, Police Chief; Chris Hollifield, Public Works Director; Harriett Thomas, CPA, Finance Director; Dawn Penland, Accounting Assistant; Freddie Killough, Executive Director, Marion Business Association; Mike Conley, News Reporter; McDowell News; Van McKinney, News Reporter, WBRM Radio.

GUESTS PRESENT: Gaye Dagenhart, City Auditor, Martin Starnes & Associates, Hickory, NC; Brandon Houck, 40 Yancey Road, Marion; Earl Daniels, 95 Broad Street, Marion NC; Russell Neighbors, 28 South Main Street, Marion, NC; Russell Anderson, 66 Highland Drive, Marion, NC; Ronnie Burgin, P.O. Box 1507, Marion NC; Marc Cook, 496 Rutherford Road, Marion, NC; Joe Jones, 44 South Main Street, Marion, NC; Bill Griffith, 64 South Main Street, Marion, NC.

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Little, seconded by Council Member Cuthbertson, those members of Council present voted to approve the Consent Agenda as follows:

A . Approval of Minutes – October 20, 2009 Regular City Council Meeting Minutes

B . Approve Longevity Pay – Council approved longevity pay for City employees, according to the schedule shown below. In addition, Council approved the purchase of a turkey for all City employees, both full time and part time, as well as temporary and contract workers.

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DEPARTMENTAL SUMMARY - LONGEVITY 2009

DEPARTMENT		GROSS AMOUNT
ADMIN	420	$6,063.36
PURCHASING	445	973.76
INSPECTIONS	500	1,419.40
POLICE	510	13,501.88
FIRE	530	3,085.04
PUBLIC WORKS/ADMIN	545	574.56
FLEET MAINTENANCE	555	1,289.52
STREET	560	5,535.00
SANITATION	580	3,058.64
WATER UTILITIES	810	4,402.16
WATER FILTER PLANT	812	2,935.20
WASTE TREATMENT PL	816	5,730.28
	GRAND TOTAL	**$48,568.80**

C . Approve Budget Ordinance Amendments

CITY OF MARION, NORTH CAROLINA
2009-10 BUDGET ORDINANCE
(First Amendment)

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

Section 1. That the Budget Ordinance for the City of Marion, North Carolina for the fiscal year 2009-10 as adopted by the Marion City Council on the 16th day of June, 2009 is hereby amended as follows:

GENERAL FUND

a. General Fund Expenditures, Administration, Account Number 10-420-7400, Capital Outlay is increased from $-0- to $8,600.

b. General Fund Expenditures, Police, Account Number 10-510-0200, Salaries & Wages is increased from $1,032,520 to $1,060,952.

c. General Fund Expenditures, Police, Account Number 10-510-0300, FICA is increased from $79,010 to $81,185.

d. General Fund Expenditures, Police, Account Number 10-510-0500, Retirement is increased from $97,033 to $99,837.

e. General Fund Expenditures, Police, Account Number 10-510-0600, Insurance is increased from $200,667 to $207,964.

f. General Fund Expenditures, Police, Account Number 10-510-3330, National Night Out Supplies is increased from $1,500 to $3,200.

g. General Fund Expenditures, Police, Account Number 10-510-5100, Guns and Ammo is increased from $8,500 to $10,500.

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h. General Fund Expenditures, Police, Account Number 10-510-7400, Capital Outlay is increased from $63,400 to $70,155

i. General Fund Expenditures, Streets, Account Number 10-560-7400, Capital Outlay is increased from $2,650 to $5,750.

j. General Fund Expenditures, Non-departmental, Account Number 10-660-5400, Unemployment Insurance is decreased from $15,000 to $3,000.

k. General Fund Expenditures, Non-departmental, Account Number 10-660-9000, Transfer to General Fund Capital Projects is increased from $-0- to $16,000.

l. General Fund Expenditures, Non-departmental, Account Number 10-660-9500, Transfer to Capital Reserve is decreased from $32,000 to $-0-.

m. General Fund Expenditures, Non-departmental, Account Number 10-660-9600, Insurance, Bonds, Workers Comp is decreased from $156,600 to $146,600.

n. General Fund Revenues, Account Number 10-321-1000, Wine & Beer Tax Revenue is decreased from $34,000 to $11,350.

o. General Fund Revenues, Account Number 10-334-1400, OJT Revenue is increased from $-0- to $3,418.

p. General Fund Revenues, Account Number 10-334-1600, Federal Drug Asset Revenue is increased from $-0- to $5,108.

q. General Fund Revenues, Account Number 10-334-1700, State Controlled Substance Revenue is increased from $-0- to $1,200.

r. General Fund Revenues, Account Number 10-342-1300, National Night Out Revenues is increased from $-0- to $1,700.

s. General Fund Revenues, Account Number 10-342-2100, County Fire Protection Revenue is increased from $220,000 to $295,000.

t. General Fund Revenues, Account Number 10-370-0000, Powell Bill Allocation is increased from $182,666 to $192 803.

u. General Fund Revenues, Account Number 10-399-0000, Fund Balance Appropriated is decreased from $450,290 to $401,240.

WATER AND SEWER FUND

a. Water and Sewer Fund Expenses, Utility Line Maintenance, Account Number 30-810-0400, Professional Fees, is increased from $3,500 to $17,000.

b. Water and Sewer Fund Expenses, Utility Line Maintenance, Account Number 30-810-7400, Capital Outlay, is increased from $83,000 to $148,000.

c. Water and Sewer Fund Revenues, Account Number 30-299-0000, Fund Balance Appropriated is increased from $132,967 to $211,467.

WATER AND SEWER CAPITAL PROJECTS FUND

a. Water and Sewer Capital Project Fund Expenses, Account Number 31-172-0400, Corpening Creek – Capital Improvements, is increased from $2,626,700 to $3,128,064.

b. Water and Sewer Capital Project Fund Expenses, Account Number 31-178-1000, 221N Extension/Hankins Road, is increased from $380,000 to $462,465.

c. Water and Sewer Capital Project Fund Revenues, Account Number 31-370-0200, Long Term Debt Proceeds - WWTP, is increased from $2,100,000 to $2,601,364.

AA.00000579 (24)

d. Water and Sewer Capital Project Fund Revenues, Account Number 31-380-1000, 221N – EPA Grant, is increased from $380,000 to $385,700.

e. Water and Sewer Capital Project Fund Revenues, Account Number 31-385-0100, Transfer from Water & Sewer – 221N, is increased from $-0- to $76,765.

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 November, 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–09–11–17–1

D . Approve Fire Department Relief Shift Honorariums – Council approved the payment of honorarilums to volunteer firefighters who have worked relief shifts in place of paid firefighters, in accordance with the following schedule:

MARTY COWARD 66 WEST CROSS ST MARION, NC 28752	$ 780.00
BRADLEY STYLES 835 SPAULDING RD. APT. 324 D MARION, NC 28752	$ 819.00
TERRY DEPOYSTER 69 GROVE ST. MARION, NC 28752	$1,378.00
SCOTTY RADFORD 838 SPAULDING RD. MARION, NC 28752	$2,905.50
TIM MOORE 262 MAPLE AVE. MARION, NC 28752	$ 2,145.00
CHRISTOPHER BURNETTE 62 LUKIN ST. MARION, NC 28752	$ 1,267.50
WAYNE DURKEE 341 HUNTER DR. MARION, NC 28752	$ 1,625.00
JULIE MACE 249 CARSON ST. MARION, NC 28752	$ 715.00
TOTAL	$11,635.00

PUBLIC APPEARANCE – RONNIE B URGIN: Mr. Ronnie Burgin was present for this meeting and advised that he owned property at the intersection of Baldwin Avenue and Perry Street that it was his understanding that sidewalks are being planned by McGill Associates adjacent to his property. Mr. Burgin said he wanted to know why this work is being planned without his knowledge.

AA.0000000580 (24)

Mayor Clark stated that the City had applied for two grant to construct these sidewalks in order to build the sidewalks for the safety of children walking to nearby schools. He added that the City did not receive the funding; therefore, the project is not going to happen anytime soon. Mayor Clark stated that the City first needed to obtain the grant funding and then would contact adjacent property owners to acquire any necessary property.
Mr. Burgin also asked why it cost $200.00 to make a request to the Planning Board.

The City Manager stated that the $200.00 charge covered the cost of legal advertising and the mailing of notices to adjoining property owners. Mayor Clark added that the fee that is paid is designed to cover the City's costs, so that the general taxpayers do not have to subsidize such requests. Mayor Clark stated that he agrees with Mr. Burgin that the fees are high. He noted that the fees are set by Council and can be changed by Council at any time.

Mayor Clark stated that the requirements for legal advertising and mailed notices for certain types of zoning requests is a good example of one of the unfunded mandates from higher levels of government with which the City has to deal.

PRESENTATION OF AAA TRAFFIC SAFE COMMUNITY AWARD: Police Chief Mika Elliott presented the Mayor and Council a Traffic Safe Community Award from AAA Carolina. Chief Elliott stated that the City of Marion and 14 other cities in North Carolina were selected by AAA as Traffic Safe Communities. This is the second year in a row that the City of Marion has received this award.

The award read as follows:

OUTSTANDING
AAA Carolinas
Foundation for Traffic Safety's
2009 Outstanding
North Carolina
Traffic Safe
Community
Marion
Population less than 10,000

Mayor Clark stated that he did not apply for this award; instead, the award is given for efforts made to improve traffic safety in the community. He added that the award demonstrates the efforts being made to promote traffic safety in Marion.

Mayor Clark, Council Members and the City Manager commended the Police Department for receiving this award and for continued efforts to improve traffic safety in Marion.

PRESENTATION OF AWARD FOR WATER PLANT PERFORMANCE FROM NORTH CAROLINA PUBLIC WATER SUPPLY SECTION: The City Manager stated that, for several years, the City had received an Award from the North Carolina Public Water Supply Section for Turbidity Removal Optimization. The City received the award again in 2008 and was among 16 out of 189 water plants, or among eight percent of water plants, receiving this award. Since this award was first presented eight years ago, the City of Marion is one of only two water plants in North Carolina to receive the award each year.

The City Manager presented the award to Water Plant Superintendent Steve Miller. He added that Mr. Miller and his staff do a great job for the City producing high quality water for the community every day.

The certificate read as follows:

NC's Area Wide Optimization
Program
Certificate of Facility Optimization
Turbidity Removal
2008
City of Marion Treatment Facility
NCDENR

Terry L. Pierce	Division of Environmental Health	Jessica G. Miles
Director, DEH	NC Public Water Supply Section	Chief, PWSS

Mayor Clark and Council Members commended Mr. Miller on the work of the Water Plant staff and on the receipt of this award.

PRESENTATION OF GREEN CHALLENGE ADVANCED LEVEL RECOGNITION AWARD FROM NORTH CAROLINA LEAGUE OF MUNICIPALITIES: Mayor Clark advised that the City of Marion had received a Green Challenge Advanced Level Recognition Award from the North Carolina League of Municipalities (NCLM) at the NCLM annual conference in Greenville in late October. Mayor Clark presented the award to the City.
The City Manager stated that the award was given to the City of Marion for efforts pursued to promote conservation and environmental stewardship. The City was among only 22 cities statewide to receive this award. The City Manager noted that the City received enough points to qualify for the award, due to its curbside recycling program, anti-idling policy for vehicles, efforts to promote energy and fuel consideration, its tree planting and preservation program, Wastewater Plant improvements and projects to plan and construct parks and greenways.

Mayor Clark stated that Susan Burgess, Mayor Pro Tem of Charlotte, came up with the idea for the Green Challenge when she served as President of the NCLM two years ago.

The award read as follows:

NC LEAGUE
GREEN CHALLENGE
ADVANCED LEVEL

CITY OF MARION
2009

CONSIDER APPROVAL OF RECOMMENDED DOWNTOWN STREETSCAPE PLAN/WAY FINDING SIGNAGE PLAN AND RECOMMENDATION FOR REPLACEMENT OF DOWNTOWN TREES: Planning and Development Director Heather Cotton appeared before Council and advised that, at the October 20, 2009 City Council meeting, staff presented recommendations for the Downtown Streetscape Enhancement Plan. At the meeting, City Council directed that time be given for the community to review the proposed plan and provide comments for consideration prior to adoption of the plan. Ms. Cotton stated that staff installed an exhibit of the proposed streetscape plan in the lobby of City Hall and provided access to the plan, the PowerPoint presentation, and notes from the presentation on the City Website. During this time, Staff has maintained a list of all the public comments that have been received regarding the proposed plan, which were presented for City Council review. Ms. Cotton advised that 16 comments were received and summarized the comments, which included some positive comments about the plan and some suggestions for changes to the plan. Comments received were as follows:
Grace Fernandez: Believes that handicapped accessibility was disregarded in the plan, and feels that adequate number of handicapped accessible parking spaces needs to be incorporated on Main Street and not on side streets where slope is a concern.

AA.000000582 (24)

Clarence Rutherford: Thinks that there are cosmetic things about the plan that make it inviting because it changes the streetscape of our downtown. However, does not agree with several of the items in the new plan. Reducing lanes and leaving "parallel parking" creates traffic issues, most people do not like to parallel park. it reduces the parking options in downtown, it causes loading issues for local businesses. Also, thinks that closing East Henderson St. is not needed. It just makes it more difficult for traffic to bypass Main St. Does not want to see roundabouts installed, there is no advantage or need to spend the money on this element. Likes the new signage, trees and sidewalk structure. Wants City to fight DOT recommendations and use angled parking., and use the money for the roundabouts to build a new courthouse off of main street so this space can be converted into more downtown parking and business opportunities.

Carol Rogers: Would like to see the parallel parking spaces gone. When other small towns get a facelift, most have pull in parking on Main Street. Believes this is much easier for visitors to get in and out of parking spots. She would like to see painted murals on some of the buildings that go down side streets.

Stephanie Truett: Enjoyed looking at the proposed plans and agrees our town is long over due for a facelift. She will applaud when the hollies are replaced, and loves the color of the Ginko but also loves the shape of the Zelkova. Believes every town needs more signs and directions and ours is no different. She hopes never to see the roundabouts, thinks they are a nightmare! Was glad the presentation included pictures of downtown Greenville. I could only hope our streets feel that welcoming some day.

Joe Jones, McDowell Distributing Company: McDowell Distributing relies on parking and the loading zone. The loading zone is vital to his business to operate as it receives and ships freight daily. Is concerned the plan will not only bring very limited access to his business and other businesses, it will lower the value of property.

James and Jenny Tarpley, VISIO photography: Like the plan and thinks it will move Marion in the right direction for maximizing the downtown aesthetic and encouraging business growth in the downtown area. Would like to see the plan move forward quickly and doesn't get lost in the mix of other priorities.

Bunnie Burgin: Why not have three-lane section the whole length of downtown? It was explained that a three-lane configuration is proposed the entire length of Main Street from Morgan St to Logan St.

Jennifer Fox: Downtown Streetscape Plan will bring more business to downtown area and therefore destroy the area by making it less residential, and more business will mean more trash.

Russell Neighbors: Has some concern about one bumpout on the Westside of Main Street between Court and Henderson. He is concerned this will take away loading area for McDowell Distributing and other business.

Robert Siebert: Marion Video Games – Likes the streetscape plan

Mark Lawing Backyard Creations: Take $250,000 for downtown plan and put it to cleaning up the railroad right-of-way bank on East Court Street.

Eugene Holland Marion Tire: Take money for downtown plan and put it toward enhancing the police department.

Lou Godfrey – Main Street Gifts: Likes the plan but also wants leased city parking lot at Logan St and Henderson Street repaved and lighted.

AA.000000583 (24)

Joe Jones: Needs to preserve loading zone on Main Street

Dean Wall: Suggested a statue of General Francis Marion at City Hall

Sandy Rabb: Prefers the angled parking configuration for the downtown.

Ms. Cotton stated that staff provided a response to clarify reoccurring concerns regarding the lack of loading zones and handicapped accessible parking in the plan in an effort to reassure the community that their concerns and suggestions were creditable and that these elements would be given further consideration in the final plan.

Ms. Cotton reported that staff has also completed a comprehensive cost estimate for implementing elements of the streetscape plan. The cost estimate is divided into two phases. Phase One includes implementation of all signage, landscaping, and site amenities, as well as all roadway enhancements for Main Street with the exception of the center lane pavement stamping. The total estimated cost to implement the first phase of the streetscape plan on Main Street is $223,807, considering the availability of topsoil from City property and the receipt of $40,000 in N.C. STEP Program funds. Ms. Cotton stated that Phase Two of the streetscape plan includes crosswalks, bumpouts and landscaping on portions of Logan, Garden, West Court and West Henderson Streets in the downtown. The projected cost of Phase Two is $119,178. Ms. Cotton advised that Phase Three involves the milling, resurfacing, and stamping of the center turn-lane between the north end and south end of the Main Street study area, as well as on portions of Logan, Garden, West Court and West Henderson Streets in the downtown area. The cost estimate to complete Phase Three of the streetscape project is $424,018. A copy of the proposed cost estimate was presented to Council for further review.

Ms. Cotton gave the following Power Point Presentation:



Historic Downtown Marion

Streetscape Enhancement Plan

Public Comments & Cost Estimate

AA.000000584 (24)

Public Comments

City of Marion received a total of 16 separate public comments regarding the streetscape plan.

Items commented on include:

4: Concerns no loading zones or ADA parking offered on-street.

3: General favor for the plan to help attract new business, another commented liked the plan would like to see off-street parking lot Logan/Henderson resurfaced and lighted.

2: In favor of the proposed center turn-lane

2: Not in favor of parallel parking would prefer angled parking

2: Not in favor of plan instead money should be used to clean railroad ROW, another commented that money should be used to enhance police department.

2: Not in favor of the plan it will bring more business and trash, and less residential.

1: Suggestion that a statue of Gen. Francis Marion be placed at City Hall.

1: Love the Ginko tree and like the shape of the Zelkova.

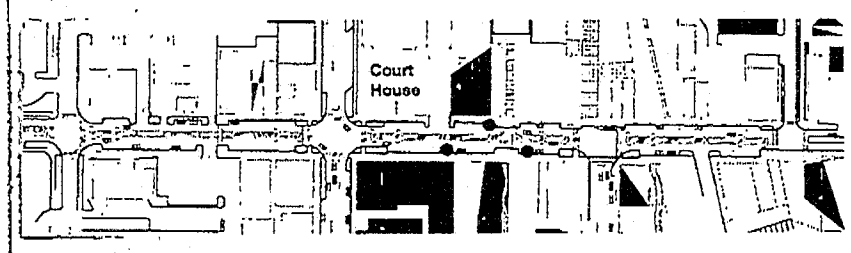
Streetscape Improvements

On Street Parking Between Fort Street and State Street
Existing On-Street Parking = 65 Spaces
Original Design for Angled Parking = 72 Spaces
Revised Design for Parallel Parking = 57 Spaces

Difference Equals a Reduction of
Eight (8) On-Street Parking Spaces

No changes are proposed to the existing location of loading zones
ADA accessible parking will be maintained at Gazebo Parking Lot and two new ADA accessible parking spaces will be established on Main St between Court St. and Henderson Street.

Elevation Sketch of Revised Streetscape Plan



Two Lane with Center Turn Lane

AA.000000585 (24)

Cost Estimate Defined

- Three Phases of Development
- Divided into five sections
  - Curb, "bump-outs", & landscaping
  - Wayfinding signage
  - Site amenities
  - Pavement enhancement
  - Painting, restriping, and pavement symbols
- Cost estimate is based on figures obtained from local vendors, previous bids, and NC DOT Div. 13 annual average construction costs.

Cost Estimate for Streetscape Improvements

Phase One = $254,798
Phase Two = $99,315
Phase Three = $353,348
Subtotal of Streetscape Improvements = $707,461
Contingency Costs (20% of total) = $133,493

Total Estimated Cost For All Improvements*
$840,954

*Does not include the cost of construction for the proposed roundabouts, railroad walk or greenway, land acquisition, opening and modifying alleys between Main Street and off-street parking.

Phase One Implementation
Main St. Improvements & Wayfinding Signage

Curb, "bump-outs", & landscaping - $118,305
Wayfinding signage - $61,100
Site amenities – $15,482
Pavement enhancement – $45,399
Painting, restriping, and pavement symbols - $14,507

Subtotal Construction Cost = $254,798
w/ Contingency Cost = $42,960
Total Estimated Construction Cost = $297,757

Phase One Implementation
Main St. Improvements & Wayfinding Signage continued

Phase One Subtotal = 297,757
NC Rural Center STEP Grant = ($40,000)
Topsoil (Public Works)= ($33,950.00)

Total Estimated Cost = $ 223,807

AA.000000586 (24)

Phase Two Implementation

Logan St & Garden St. Improvements

Crosswalks at the Intersection of:
- Garden at New St, Fort St, & Court St. (12) = $23,341
- Logan at Fort St , Court St, & Henderson St (12) = $26,775
- Crosswalk on Morgan St. (1) = $1,087
- Crosswalk Crescent Dr. & Sidewalk = $6,111

Curb, "Bump-outs", Landscaping
- E. Court between Garden & Logan = $38,709
- Logan St, W. Court, & W. Henderson = $3,292

Phase Two Subtotal = $99,315
Contingency Cost (20%) = $19,863

Total Estimated Construction Cost = $ 119,178

Phase Three Implementation

Center Turn Lane Improvements
Stamping, Restriping, and Symbols

Main Street: Logan St to Fort St. = $74,473

Main Street Fort St to Henderson St. = $54,708

Main Street Henderson St to Morgan St.= $92,982

Garden St = $55,257

Logan St = $60,034

Henderson St = $15,894

Phase Three Subtotal = $353,348
Contingency Cost (20%) = $70,670

Total Estimated Construction Cost = $ 424,018

The City Manager asked Ms. Cotton to detail the specific trees recommended to replace the downtown holly trees.

Ms. Cotton stated that the proposed streetscape plan has been presented to different boards and committees, including the Tree Board, the Planning Board, the Marion Business Association Board and the N.C. STEP Program Community Leadership Team. All boards and committees reviewing the plan came up with the same recommendations for the male only Autumn Gold Ginkgo tree. These trees will reach a height of about 35 feet. The trees proposed for bump outs are October Glory Maples. These trees will grow even taller than the Gingko tree.

Mr. Joe Jones stated that the loading zone and handicapped parking spaces are needed on South Main Street between Court and Henderson Streets.

The City Manager stated that everyone is in agreement that the loading zone will remain where it is. Ms. Cotton stated that two handicapped parking spaces are proposed in the block of Main Street between Court and Henderson Streets.

The City Manager stated that there will be a net loss of parking spaces in the Court to Henderson block of Main Street due to the proposed bump outs and mid-block crossing.

Mr. Jones also stated that he had a problem with the fact that he did not know about any of the plans. No one at anytime contacted him regarding this issue.

The City Manager stated that the presentation to Council at the October 20 meeting was intended to introduce the Downtown Streetscape Plan. Council then directed that staff seek public comment. The City Manager stated that the City used every media source it could to spread the word, which led to Mr. Jones and others learning about the plan recommendations and making comments.

Mr. Jones asked if Council had to vote on the proposed plan.

AA.00000587 (24)

Mayor Clark stated that Council would need to vote on the plan and that is why the matter is being discussed. He added that Council wants to hear what the public thinks about the plan tonight before taking any vote.

Mr. Jones said that he appreciated the City Manager calling him to discuss the plan after he posted a comment on the City website.

Mr. Russell Neighbors stated that he appreciated the effort of Council and asked that Council note that he has concerns about South Main Street losing parking spaces. He added that the block his business is located in between Court and Henderson Streets would lose nine spaces and North Main Street will not lose any.

Mr. Neighbors said that he believes that it is unfair to take parking spaces from one block and that the loss of parking spaces will be an unfair burden on business owners on South Main Street. Mr. Neighbors added that he feels that this whole plan could have been handled better. He noted that one of his buildings on South Main Street is shown on the plans as being reclaimed for an alleyway.

Mayor Clark thanked Mr. Neighbors for his comments.

Mr. Bill Griffith asked if the lanes would be the same width as they are now. He said he would like to see wider lanes, even if it meant taking up some of the side walk. Mr. Griffith stated that he does not feel that many people walk on the sidewalks anyway. He also stressed the need for better signage directing motorists to downtown parking lots.

Mayor Pro Tem Little noted that the lanes would be slightly wider and that the parking area would be wider as well, which should greatly enhance the safety of people parking on Main Street.

Mayor Clark stated that one of the things that this plan will offer is way finding signage, starting at I-40 and the Highway 221 Bypass and extending downtown. This signage will direct people to the downtown area and help them locate available public parking.

Mayor Clark stated that he had a business in the downtown at one time and that he knows how important parking is. He suggested the need to improve private parking lots behind buildings on Main Street and to provide better access between these parking lots and the street.

Mayor Clark stated that Council wants this undertaking to be done in the correct way.

Mr. Jones stated that he can see problems experienced with delivery trucks stopping at his business. He said that he often needs police assistance with such trucks but does not always feel that he receives the assistance he needs. The City Manager stated that the City is always willing to help and that Mr. Jones should call if he experiences problems.

Mr. Neighbors asked if there have been any studies conducted regarding how much traffic will back up if the traffic pattern on Main Street is modified from four lanes to three lanes.

Ms. Cotton stated that no such studies have been done but that the North Carolina Department of Transportation (NCDOT) would likely conduct some kind of review when it received the plan. She noted that NCDOT had indicated that a two lane section would bottleneck traffic, but that a three lane section was much more acceptable, as it provide accommodation and stacking for turning traffic.

Mr. Mike Ornberg stated that someone brought to his attention the fact that angled parking causes many visibility problems with large and small vehicles parking next to one another and that he is therefore against angled parking.

AA.000000588 (24)

Mr. Russell Anderson stated that he lives in the City on Highland Drive. He said that, as a taxpayer, he wanted to go on record as being opposed to the roundabouts. Mr. Anderson said that he feels that in these economic times residents are getting less service and the City needs to be conservative with spending money in the same manner as families have to do.

Mr. Brandon Houck stated that he has concerns about the financing of the streetscape proposal. He suggested that Council consider letting citizens and business owners purchase trees and benches to absorb some of the cost. Mr. Houck stated that, in his opinion, the streetscape plan will make the downtown area more attractive but will not necessarily bring in more business. He suggested that Council look for grant money before spending tax payers money.

Mr. Marc Cook stated that the suggestion to sell memorial and honorary trees and furniture had been suggested at the October 20 Council meeting and endorsed by the Mayor and Council Members.

The City Manager stated that the main funding stream for this sort of project was the NCDOT Enhancement Program. He noted that NCDOT has not accepted applications for this fund in several years. The City Manager reported that NCDOT has now changed the program to be more like the Transportation Improvement Program. Jurisdictions wanting enhancement funding must get on the State's priority list and it may take five to ten years or more to be funded. The City Manager stated that this program was discussed at the October 20 Council meeting and that the long time frame for funding was not acceptable to people in the room.

Mr. Houck stated that the City needs volunteers in the downtown area to assist with cleanup projects and to take pride in the City.

Mayor Pro Tem Little stated that the City would take Mr. Houck up on this suggestion.

Mr. Ornberg stated that he wanted to let people know that what the City is now looking at has been in the works for approximately six years. This plan will help businesses and attract visitors to downtown.

Mr. Ornberg also stated that he and Council Member Owenby had disagreed on some of the plan but agreed that the streetscape plan is just one piece of the pie to get people into the downtown area.

The City Manager stated that, as far as funding for the project goes, assuming that Council does not wish to spend over $424,000 for decorative asphalt stamping on center turn lanes in downtown, the total cost of the remaining project, including Phases One and Two, would be about $342,000. He stated that the City has $40,000 in N.C. STEP funds earmarked for the wayfinding signage, could receive some money through donations for memorial or honorary plantings and street furniture and could fund the rest by borrowing from the City's General Capital Reserve Fund. The City Manager stated that this fund was established by Council many years ago to save money for large capital projects such as this one that the City could otherwise not afford. He stated that this fund currently had over $512,000. The City Manager proposed that the City borrowing from itself was preferable to seeking a loan and paying interest.

Councilman Cuthbertson stated that, if the project is pursued, the City would be spending a lot of money, but would also be putting money back into the local economy. He added that he does feel that the decorative benches are a little too expensive. Councilman Cuthbertson noted that some of the plan, such as the installation of trees and signage, can be done before NCDOT approval is received.

Mr. Anderson stated that he would ask Council to look at this plan like they would look at their own home. He said he would like to do a lot to his home but he cannot afford it. Mr. Anderson said that a lot of people are talking about this plan. He said that he does not feel that the City can compete with the new Super Wal Mart project and keep businesses and people downtown.

AA.0000000589 (24)

Mayor Pro Tem Little stated that he agrees with much of what Mr. Anderson said regarding Super Wal Mart and, that if there was a simple solution to attracting people and business downtown, the City would have already pursued it. He noted that the City cannot force anyone to go into business or to stay in business. Mayor Pro Tem Little advised that the City does not know if the new streetscape plan will bring in more people; however, the City needs to do what it can and that he feels that the plan is a step in the right direction.

Mr. Anderson stated that he did not know how the City will get people to come downtown when people are at Super Wal Mart, the construction of which will hurt the City. The City Manager stated that the City will receive property tax, sales tax and utility revenues from the Super Wal Mart and surrounding development and that such revenues will hopefully help the City offset some of the devastating revenue losses experienced in prior years.

Mr. Jones stated that the City needs specialty shops such as are found in Black Mountain.

Mayor Clark stated that people need a reason to come downtown and that it is a question of which comes first, the streetscape improvements or business development.

Mr. Earl Daniels asked if the underground wiring under the Main Street sidewalk would stay in place during the streetscape makeover. Mayor Clark replied that it would.

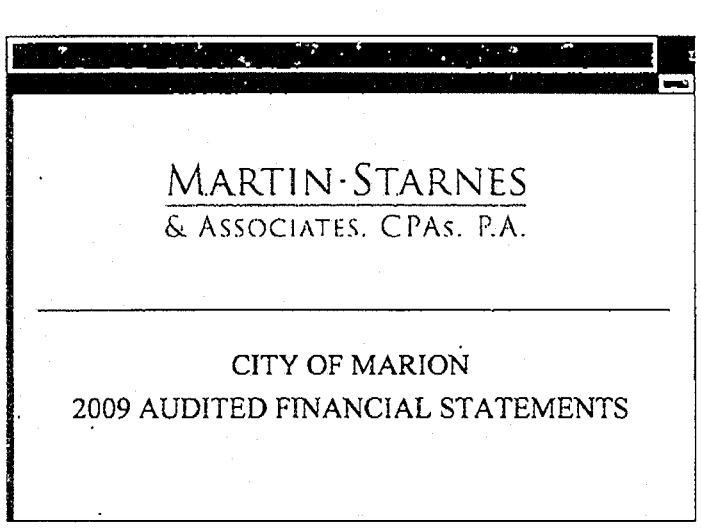
A discussion followed.

Councilman Cuthbertson made a motion to adopt and implement the proposed Downtown Streetscape Plan and to send the Plan to the North Carolina Department of Transportation for review and approval, with the deletion of the following items: the proposed roundabouts on the north and south ends of Main Street, the proposed closing of East Henderson Street, the acquisition of private property to open up alleyways connecting Main Street and parking areas behind buildings facing Main Street and asphalt stamping on the proposed center turn lanes on Main Street, Logan Street and Garden Street. Mayor Pro Tem Little seconded the motion and the motion was approved unanimously by those Council Members present.

After further discussion, Council directed that staff bring back recommendations at the next Council meeting regarding options to add back as many on-street parking spaces as possible on Main Street between Court and Henderson Streets. Ms. Cotton stated that she was confident that at least two, and perhaps more, parking spaces could be added by reducing the size of bumpouts in that block.

PRESENTATION OF 2008-09 CITY AUDIT REPORT:

Ms. Gaye Dagenhart of Martin Starnes and Associates, the City's Auditor presented the following presentation to Council concerning the City's 2008-09 audit.



AA.0000005690 (24)

Audit Highlights

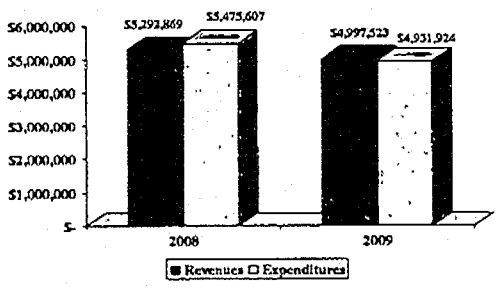
- Unqualified opinion
- No findings or questioned costs
- No material internal control weakness identified
- Cooperative staff

MARTIN·STARNES
& ASSOCIATES, CPAs, P.A.

Audit Process

- Planning and risk assessment
- Interim procedures
- Final procedures
- Year-round process

General Fund Summary



MARTIN·STARNES
& ASSOCIATES, CPAs, P.A.

Fund Balance

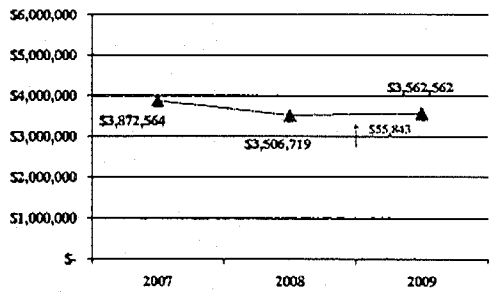
- Serves as a measure of the City's financial resources available

  Assets – Liabilities = Fund Balance

- 3 Classifications:
  - Reserved
  - Unreserved Designated (Available)
  - Unreserved Undesignated (Available)

MARTIN·STARNES
& ASSOCIATES, CPAs, P.A.

Total Fund Balance
General Fund



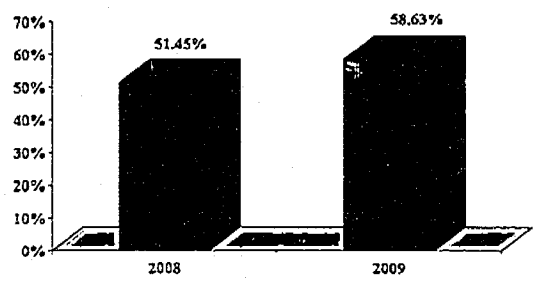
MARTIN-STARNES
& ASSOCIATES, CPAs, P.A.

Fund Balance Position
General Fund

Total Fund Balance	$ 3,562,562
Required Reservations	- 671,179
Council Designations	- 505,040
Unreserved Undesignated	$ 2,386,343
Unreserved Undesignated 2008	$ 2,310,837
Increase	$ 75,506

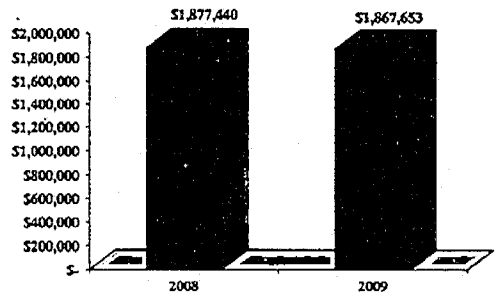
MARTIN-STARNES
& ASSOCIATES, CPAs, P.A.

Unreserved Fund Balance as a Percent of Expenditures – General Fund



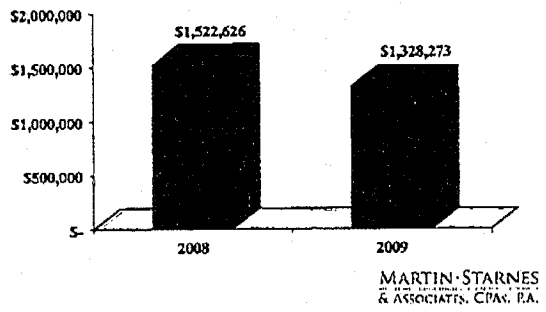
MARTIN-STARNES
& ASSOCIATES, CPAs, P.A.

Property Tax

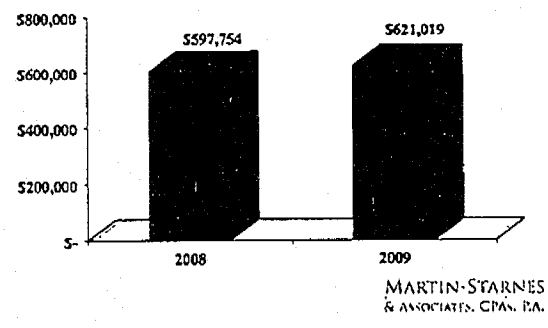


MARTIN-STARNES
& ASSOCIATES, CPAs, P.A.

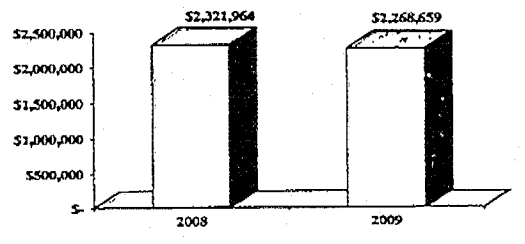
Sales Tax



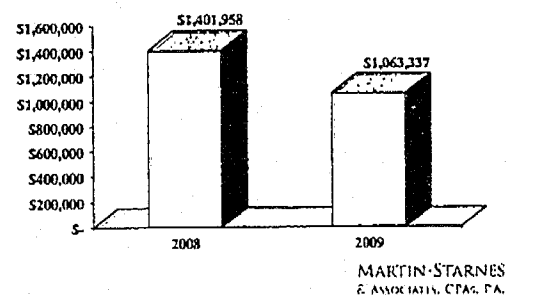
Restricted Intergovernmental



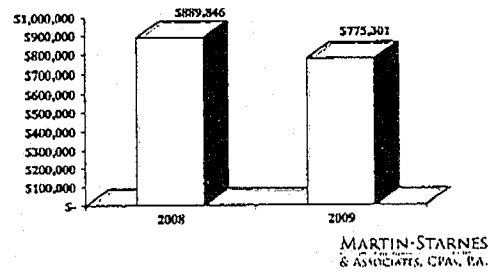
Public Safety Expenditures



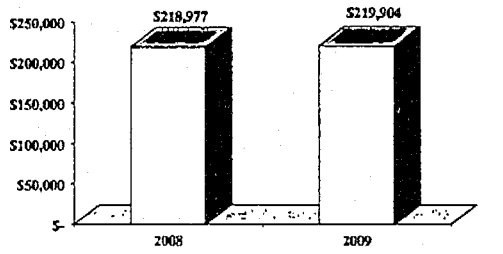
Transportation Expenditures



General Government Expenditures



Debt Service



MARTIN·STARNES
& ASSOCIATES, CPAS, P.A.

Enterprise Fund
Water & Sewer

	2008	2009
Operating Revenues	$3,050,166	$3,151,144
Operating Expenses	2,856,366	2,959,615
Operating Income (Loss)	193,800	191,529

MARTIN·STARNES
& ASSOCIATES, CPAS, P.A.

Enterprise Fund
Water & Sewer

	2008	2009
Required Debt Service	$ 420,365	$ 143,735
Cash Flow from Operations	951,022	573,215
Unrestricted Net Assets	1,010,241	1,801,462

MARTIN·STARNES
& ASSOCIATES, CPAS, P.A.

Discussion

&

Questions

MARTIN·STARNES
& ASSOCIATES, CPAs, P.A.

Ms. Dagenhart summarized that the City received an unqualified, or clean, audit opinion, there were no questioned costs, there were no findings or management letter comments and the auditors encountered a very cooperative City staff.

AA.000000594 (24)

Mayor Pro Tem Little commended Ms. Dagenhart for her concise yet thorough presentation, and for having the slides. Councilman Cuthbertson stated that it was particularly good to receive the presentation in advance.

Finance Director Harriett Thomas stated that she would like to take the opportunity to thank Martin Starnes & Associates, as well as her assistant, Ms. Dawn Penland, for their work during the audit.

The City Manager stated that as usual, the City received an unqualified, or clean, opinion, no findings and no management letter comments. He commended Ms. Thomas and her staff for their excellent work in overseeing the City's finances every day.

Upon a motion by Mayor Pro Tem Little, seconded by Councilman Cuthbertson, those members of Council present voted to approve the Audit Report as presented by Martin Starnes & Associates.

PUBLIC COMMENT PERIOD: There were no other unscheduled citizens present to speak to Council.

UPDATE ON REQUEST TO DOT FOR SIGNAGE ON US 221 BYPASS: The City Manager advised that Mr. Ricky Williams, owner of The Steakhouse on the Five Lane, wrote a letter to the McDowell News in late October, asking for the State and/or City to erect signage on the north and south ends of the Highway 221 Bypass, directing motorists to nearby restaurants, including his restaurant and others. These signs would be identical to ones located on the interstate. Mr. Williams stated that he represented many restaurants who were willing to pay to advertise on such signs.

The City Manager stated that he had contacted Marshall Williams with the NCDOT Division 13 Office in late October to inquire about the possibility of this request being granted. Mr. Williams was unsure about whether such signs would be allowed at a signalized intersection on a controlled access highway, such as is the case at the intersection of US 221 and US 70 at Wal Mart. He said he would need to obtain a ruling from DOT officials in Raleigh.

The City Manager stated that he learned from Marshall Williams that any restaurant, hotel/motel or gas station within three miles of the interstate is eligible to be listed on blue signs on the interstate and to have "trailblazing signs" at subsequent intersections. The businesses must pay a fee to be listed on such signs. This would mean that restaurants near the southern end of the 221 Bypass are eligible for the program, as long as they meet the listed criteria. The City Manager presented Council with information on this program.

The City Manager stated that he contacted Marshall Williams again on November 16 and learned that NCDOT policy would not allow the blue logo signs to be placed at signalized intersection, such as is present at the intersection of the US 221 Bypass and US 70. The City Manager added that the City has no authority to allow any signs on the Bypass, a highway controlled by NCDOT.

Mayor Clark and Council Members stated that the idea from Ricky Williams is good and authorized the City Manager to continue to work to see if allowances could be granted for the blue logo signs by NCDOT. The City Manager stated that he would talk to Mr. Ricky Williams further and determine how the matter could best be pursued.

CONSIDER REQUEST BY NEBO ELEMENTARY SCHOOL – RENTAL OF COMMUNITY BUILDING/REVISION TO COMMUNITY BUILDING AND DEPOT RULES AND REGULATIONS: The City Manager stated that, as shown in information presented to Council, a request had been received from Nebo Elementary to rent the Community Building for a fundraiser. The fundraiser would consist of bingo games, food and beverage sales and possibly horse and carriage rides. The City Manager advised that the Community Building and Depot Rules and Regulations currently prohibit bingo games at either building.

AA.000000595 (24)

The City Manager stated that, in order to consider this request, Council first would need to amend the Rules and Regulations to create some limited allowance for bingo games. The City Manager reported that Finance Director Harriett Thomas drafted proposed amendments to the Community Building and Depot Rules and Regulations to allow bingo games conducted by civic clubs, schools or non-profit organizations at either building, upon the specific approval of Council.

The City Manager stated that, if Council approves this amendment to the Rules and Regulations, consideration could then be given to the request by Nebo Elementary. Council would need to approve the bingo games and the concept of horse and carriage rides, including any necessary lane or street closures. Councilman Cuthbertson suggested that horses be required to wear diapers, to assist with cleanup. The City Manager stated that the only other issue of concern would be manpower to ensure public safety if the horses ride on the streets. He said that he encouraged Nebo Elementary to consider a route that might cross, but not extend along, Main Street, for enhanced safety. However, Nebo prefers a route that runs along Main Street, so closure of lanes or the entire street may be necessary.

A discussion followed.

Upon a motion by Mayor Pro Tem Little, seconded by Council Member Cuthbertson, those members of Council present voted to adopt the following Amendments to the Rules and Regulations for Community Building Main Level, the Community Building Basement and the Marion Depot, to approve the request of Nebo Elementary School to conduct bingo games at the Community Building as a fundraiser in December and to authorize staff to approve any lane or roads closures and to provide necessary staffing for the event:

CITY OF MARION, NORTH CAROLINA

RULES AND REGULATIONS
FOR THE
MARION COMMUNITY BUILDING MAIN LEVEL

REVISED NOVEMBER 17, 2009

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

DAYS OF OPERATION

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

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

Marion Rotary Club	Every Thursday 7:00am to 2:00pm
Lions Club	1st and 3rd Thursday 2:00pm to 9:00pm
Kiwanis Club	Every Tuesday 1:00pm to 8:30pm
Christian Women's Club	3rd Monday 7:00am to 3:00pm
McDowell Ballroom Dancers	Last Saturday each month 1:00pm to 11:00pm
McDowell Board of Realtors	1st Tuesday 8:00am to 1:00pm

HOURS OF OPERATION

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

RULES AND REGULATIONS

AA.0000000596 (24)

Violations of any of these rules and regulations or any damages to the Facility may result in forfeiture of all or part of the security deposit held by the City.

1. No one shall be permitted to use the building without first having made proper reservations and paying the required deposit and payment for the use of the building.

2. A cash deposit, as determined by the City Council, shall be required to insure compliance with the rules and regulations governing the use of the building. The deposit must be made at least thirty (30) days in advance of the event to avoid cancellation. The City may keep any or all of the deposit in the case of any violations of the rules and regulations or any damages to the Facility. In addition to the deposit, a valid credit card may also be required (see #12 below). Civic Clubs and Not–For–Profit organizations using the building on a regular basis shall be exempt from making a deposit.

3. All persons or groups renting the Marion Community Building must pay for the use of the building at the time reservations are made. No refunds will be made by the City should the renter not use the building on the date scheduled, unless a cancellation is made at least sixty (60) days in advance of the scheduled event, in which case a refund will be made, except for an administrative service charge of $25.00. In lieu of receiving a refund, a person or group canceling an event more than sixty (60) days in advance of the scheduled event may reschedule the building without additional cost at some other open date within the next twelve (12) months. A person or group canceling an event less than sixty (60) days in advance of the scheduled event may reschedule the building without additional cost at some other open date within the next twelve (12) months, but will not be eligible to receive a refund. Should the person or group fail to reschedule within the designated twelve (12) month period, the entire rental fee will be forfeited. Reservations must be made in person (no reservations by telephone, fax, e-mail or any other electronic means), no earlier than 9:00 A.M. local time and no earlier than the first day of the calendar month prior to the month one year in advance of the proposed use. (Example: if you wish to schedule the building in the month of October 2009, the earliest you can schedule the building is September 1, 2008). In the event two or more persons are at the counter at City Hall at 9:00 A.M., wishing to rent the building on the same day, the name of the one person representing each group shall have their name placed in a box and drawn to determine which person may rent the building on the desired day. In all other situations, reservations shall be accepted on a first come-first served basis. If the deposit is to be refunded, it will be issued by the City within ten (10) work days following the use of the building.

4. The person or group renting the Community Building may not sublet the building to another person or group.

5. No decorations of any kind, i.e., plaques, pictures, or any other objects shall be fastened to the walls, ceilings, windows or lighting fixtures by use of nails, tacks, screws, tape, etc. Any fixtures, furniture, displays or decorations provided by the user(s) must be removed from the building immediately following the use of the same, so the building will be ready for use for the next group. Failure to remove items shall be cause for revocation of part or all of the rental deposit.

6. The piano in the Community Building shall NOT be moved by anyone other than authorized City employees. If you need the piano moved, please ask that the City have the piano moved for you.

7. Each person or group of persons using the kitchen shall thoroughly clean the kitchen and all fixtures before leaving the building and shall clean and remove all food from the refrigerator. In addition, the stove must be cleaned and the floor mopped before leaving the building. At no time shall any of the kitchen appliances be unplugged or moved from their original location. All garbage and refuse shall be removed from the building and placed in the containers located outside the kitchen door.

8. Any person using the kitchen of the Community Building is responsible for checking the pilot lights on the gas range; located in the kitchen, to make sure they are burning. In the event they are not, Please call the Marion Police Department at 652-3231.

9. Barbeque grills or any outside cooking device shall only be used on the paved area of the Community Building. Any grease or cooking residue shall be cleaned from the area immediately following use.

10. No person(s), organization, etc. may use the Community Building for religious services.

11. No persons, firm or private organization will be allowed to use the building for the purpose of offering bingo games to the general public. Civic clubs, schools or non-profit organizations may use the building for bingo games for fund raising purposes upon approval of Council.

AA.000000597 (24)

12. Each person using the building will be held responsible for any damages to the walls, floors, windows, appliances and fixtures, furniture and outside areas. Cost for damages will be deducted from the security deposit and in the event the costs exceed the security deposit, the person responsible for renting the facility shall also be held responsible for the additional costs. In order to insure payment for any damages incurred that exceed the security deposit, a guarantee by valid credit card will be required at the time the rental reservation is made. THIS CREDIT CARD WILL ONLY BE USED IF DAMAGES ARE INCURRED THAT EXCEED THE SECURITY DEPOSIT. If damages occur and the card charged is deemed to be invalid and prompt payment is not made, the City will pursue legal action to collect such claims. If the person renting the facility has done so for at least three consecutive occasions without damages, the credit card requirement may be waived. In addition, the credit card requirement may be waived for churches, not-for-profit organizations and civic clubs using the facility on a regular basis.

13. Tables and chairs may be rearranged by persons using the building, but must be returned to their original positions after each use. The podium and the head tables at the Community Building are permanently installed. No attempt should be made to move them.

14. Once the area used has been cleaned and set in order, the Marion Police Department must be notified, at 652-3231, to come inspect and lock the building. Reports prepared by the Marion Police Department and reports from the cleaning agency will be used to determine if the security deposits shall be refunded.

15. The microphone for the sound system may be checked out and signed for through the Marion Police Department. When use of the microphone has been completed, it is to be returned to the Police Department immediately.

16. The volume for the speaker system is preset. A switch located on the backside of the podium will turn on the equipment. No other equipment, other than the microphone may be hooked to the sound system at any time.

17. The officers of the Marion Police Department have authority to enter the building at any time for the purpose on insuring compliance with all rules and regulations.

18. Officers of the Marion Police Department shall have authority to open or look in any ice chests and/or coolers on the premises, to monitor possible alcohol use or other improper activity.

19. It is unlawful for any person to consume any alcoholic beverage on any property owned or controlled by the City of Marion. Possession of alcohol or evidence of consumption of alcohol at the Community Building will result in immediate eviction from the premises, forfeiture of security deposit and may result in criminal charges, fines and penalties.

20. Persons or groups renting the Marion Community Building may request to place messages on the permanent sign in front of the building. In order to place a message, the person or group must legibly write out their desired message on a sheet of paper and turn it in at City Hall. Such request must be received at City Hall no later than 48 hours prior to the scheduled date of the event. The person responsible for scheduling the Community Building will forward the message to the Public Works Secretary, who will issue a work order for the message to be spelled out on the Community Building sign.

    The City reserves the right to edit any messages for length and/or content, in the case of language deemed obscene or objectionable. Messages shall contain only the purpose, date and location of the event and the name of the group sponsoring the event (for example: Downtown Business Association Annual Banquet Thursday night, 6:30 P.M.). Personal messages shall not be permitted. Messages advertising political events shall not endorse a specific candidate for any office, but may state the date and time and purpose of a campaign fundraising event held at the Community Building (for example: John Doe for Senate Campaign Dinner, Friday, 7:00 P.M.). In no case shall any message advertising an event not to be located at the Community Building be permitted, unless it is in conjunction with an event sponsored by the City of Marion.

    In no case shall the City display a message more than three business days before an event. If two or more persons or groups renting any part of the Community Building wish to have their message displayed at the same time, the person or group submitting their message to the front counter of City Hall first shall have priority in having their message displayed.

    Letters and keys for the Community Building sign and keys to the Community Building are not to be given out to persons or groups renting the Community Building, except under unique situations approved by the City Manager.

AA.0000005598 (24)

No signs are permitted to be posted in front of or on the Community Building property, except for political signs posted on Election Day.

21. Animals are not permitted inside any part of the Community Building, with the exception of Seeing Eye dogs for legally blind individuals.

22. If the Marion Police Department is called to the Community Building in reference to a disturbance or due to any violations of Federal, State or Local law, the event may be immediately suspended, all persons evicted from the building after applicable clean-up and the deposit revoked for the event.

23. No skateboards, in-line skates, roller skates or bicycles are allowed inside the Community Building or on the Community Building property.

These new regulations shall be effective upon adoption.

Adopted this the 17th day of November 2009.

A. Everette Clark, Mayor

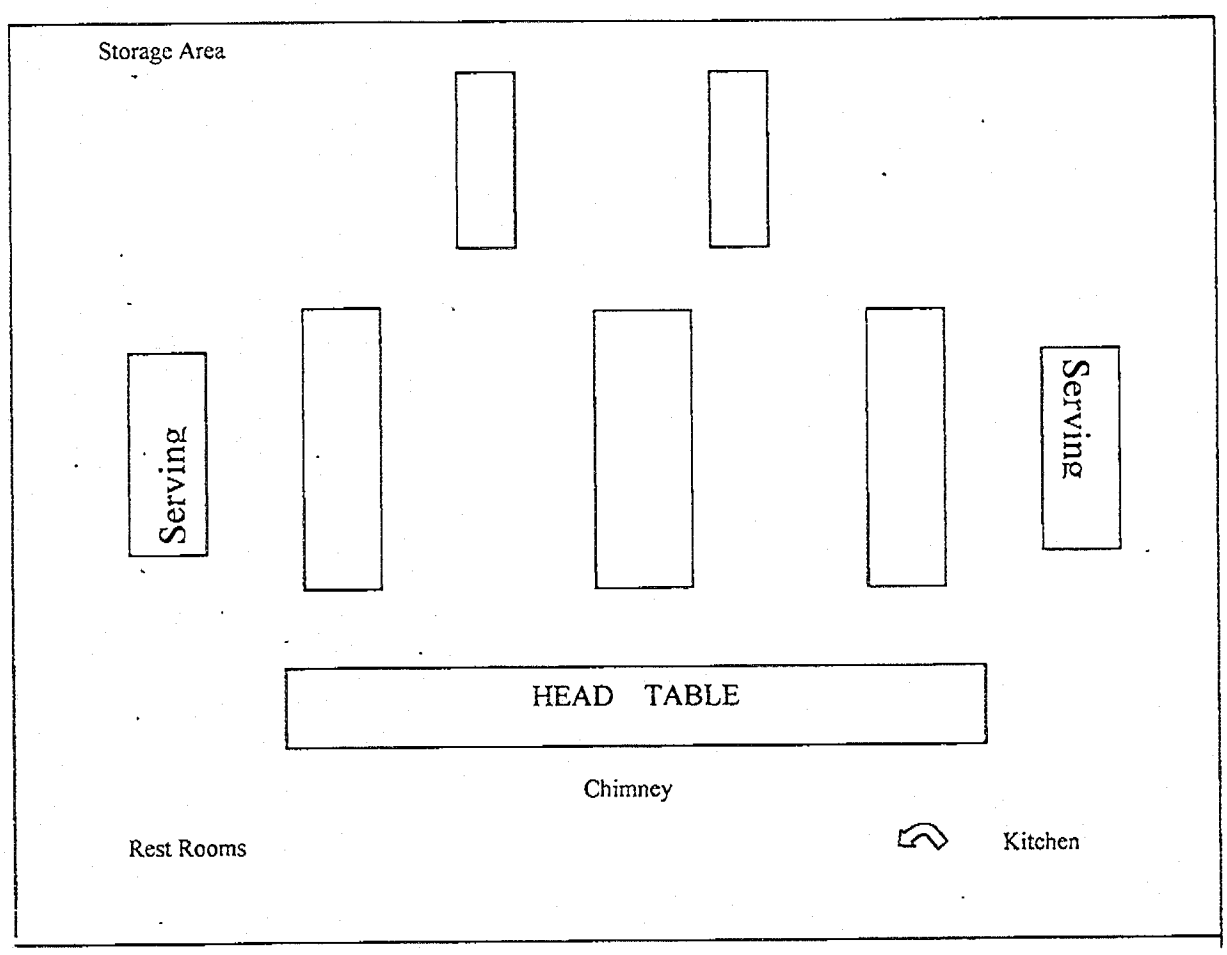
ATTEST:

J. Robert Boyette, City Manager/Clerk

MARION COMMUNITY BUILDING
TABLE ARRANGEMENT

Tables and chairs may be moved by person(s) using the building but must be left in the arrangement shown below. Head tables and podium may not be moved.

Additional tables and chairs are available in the storage area. If these are used, they must be returned to the storage area. Fire regulations prohibit no more than 210 people on the first floor of the Community Building. **Table Size 2 ½ X 8 or 30 ½ Wide by 96 ½ Long**



AA.000000599 (24)

CITY OF MARION, NORTH CAROLINA

RULES AND REGULATIONS
FOR THE
MARION COMMUNITY BUILDING BASEMENT

REVISED NOVEMBER 17, 2009

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

DAYS OF OPERATION

The Community Building Basement is available to be scheduled for use seven (7) days a week, on a year round basis.

HOURS OF OPERATION

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

RULES AND REGULATIONS

Violations of any of these rules and regulations or any damages to the Facility may result in forfeiture of all or part of the security deposit held by the City.

1. No one shall be permitted to use the building without first having made proper reservations, paying the required deposit and payment for the use of the building.

2. A cash deposit, as determined by the City Council, is required to insure compliance with the rules and regulations governing the use of the building. The deposit must be made at least thirty (30) days in advance of the date the building is to be used. The City may keep any or all of the deposit in the case of any violations of the rules and regulations or any damages to the Facility. In addition to the deposit, a valid credit card may also be required (see # 10 below). Civic Clubs and Not–For–Profit organizations using the building on a regular basis are exempt from making a deposit.

3. All persons or groups renting the Marion Community Building Basement must pay for the use of the building at the time reservations are made. No refunds will be made by the City should the renter not use the building on the date scheduled, unless a cancellation is made at least sixty (60) days in advance of the scheduled event, in which case a refund will be made, except for an administrative service charge of $25.00. In lieu of receiving a refund, a person or group canceling an event more than sixty (60) days in advance of the scheduled event may reschedule the building without additional cost at some other open date within the next twelve (12) months. A person or group canceling an event less than sixty (60) days in advance of the scheduled event may reschedule the building without additional cost at some other open date within the next twelve (12) months, but will not be eligible to receive a refund. Should the person or group fail to reschedule within the designated twelve (12) month period, the entire rental fee will be forfeited. Reservations must be made in person (no reservations by telephone, fax, e-mail or any other electronic means), no earlier than 9:00 A.M. local time and no earlier than the first day of the calendar month prior to the month one year in advance of the proposed use. (Example: if you wish to schedule the building in the month of October 2009, the earliest you can schedule the building is September 1, 2008). In the event two or more persons are at City Hall at 9:00 A.M., wishing to rent the building on the same day, the name of the one person representing each group shall have their name placed in a box and drawn to determine which person may rent the building on the desired day. In all other situations, reservations shall be accepted on a first come-first served basis. If the

AA.000000600 (24)

deposit is to be refunded, it will be issued by the City within ten (10) work days following the use of the building.

4. The person or group renting the Community Building Basement may not sublet the building to another person or group.

5. No decorations of any kind, i.e., plaques, pictures, or any other objects shall be fastened to the walls, ceilings, windows or lighting fixtures by use of nails, tacks, screws, tape, etc. Fixtures, furniture, displays or decorations provided by the user(s) must be removed from the building immediately following the use of the same, so the building will be ready for use for the next group. Failure to remove items shall be cause for revocation of part or all of the rental deposit.

6. Each person or group of persons using the kitchen shall thoroughly clean the kitchen and all fixtures before leaving the building and shall clean and remove all food from the refrigerator. In addition, the stove must be cleaned and the floor mopped before leaving the building. At no time shall any of the kitchen appliances be unplugged or moved from their original location. All garbage and refuse shall be removed from the building and placed in the containers located outside.

7. Barbeque grills or any outside cooking device shall only be used on the paved area of the Community Building Basement. Any grease or cooking residue shall be cleaned from the area immediately following use.

8. No person(s), organization, etc. may use the Community Building Basement for religious services.

9. No persons, firm or private organization will be allowed to use the building for the purpose of offering bingo games to the general public. Civic clubs, schools or non-profit organizations may use the building for bingo games for fund raising purposes upon approval of Council.

10. Each person using the building will be held responsible for any damages to the walls, floors, windows, appliances and fixtures, furniture and outside areas. Cost for damages will be deducted from the security deposit and in the event the costs exceed the security deposit, the person responsible for renting the facility shall also be held responsible for the additional costs. In order to insure payment for any damages incurred that exceed the security deposit, a guarantee by valid credit card will be required at the time the rental reservation is made. THIS CREDIT CARD WILL ONLY BE USED IF DAMAGES ARE INCURRED THAT EXCEED THE SECURITY DEPOSIT. If damages occur and the card charged is deemed to be invalid and prompt payment is not made, the City will pursue legal action to collect such claims. If the person renting the facility has done so for at least three consecutive occasions without damages, the credit card requirement may be waived. In addition, the credit card requirement may be waived for churches, not-for-profit organizations and civic clubs using the facility on a regular basis.

11. Tables and chairs may be rearranged by persons using the building, but must be returned to their original positions after each use.

12. Once the area used, has been cleaned and set in order, the Marion Police Department must be notified, at 652-3231, to come inspect and lock the building. Reports prepared by the Marion Police Department and reports from the cleaning agency will be used to determine if the security deposits shall be refunded.

13. The officers of the Marion Police Department have authority to enter the building at any time for the purpose on insuring compliance with all rules and regulations.

14. Officers of the Marion Police Department shall have authority to open or look in any ice chests and/or coolers on the premises, to monitor possible alcohol use or other improper activity.

15. It is unlawful for any person to consume any alcoholic beverage on any property owned or controlled by the City of Marion. Possession of alcohol or evidence of consumption of alcohol at the Community Building Basement will result in immediate eviction from the premises, forfeiture of security deposit and may result in criminal charges, fines and penalties.

16. Persons or groups renting the Marion Community Building Basement may request to place messages on the permanent sign in front of the building. In order to place a message, the person or group must legibly write out their desired message on a sheet of paper and turn it in at City Hall. Such request must be received at City Hall no later than 48 hours prior to the scheduled date of the event. The person responsible for scheduling the Community Building Basement will forward the message to the Public Works Secretary, who will issue a work order for the message to be spelled out on the Community Building Basement sign.

AA.00000601 (24)

The City reserves the right to edit any messages for length and/or content, in the case of language deemed obscene or objectionable. Messages shall contain only the purpose, date and location of the event and the name of the group sponsoring the event (for example: Marion Business Association Annual Banquet Thursday night, 6:30 P.M.). Personal messages shall not be permitted. Messages advertising political events shall not endorse a specific candidate for any office, but may state the date and time and purpose of a campaign fundraising event held at the Community Building Basement (for example: John Doe for Senate Campaign Dinner, Friday, 7:00 P.M.). In no case shall any message advertising an event not to be located at the Community Building Basement be permitted, unless it is in conjunction with an event sponsored by the City of Marion.

In no case shall the City display a message more than three business days before an event. If two or more persons or groups renting any part of the Community Building wish to have their message displayed at the same time, the person or group submitting their message at City Hall first shall have priority in having their message displayed.

Letters and keys for the Community Building sign and keys to the Community Building Basement are not to be given out to persons or groups renting the Community Building Basement, except under unique situations approved by the City Manager.

No signs are permitted to be posted in front of or on the Community Building property.

17. Animals are not permitted inside any part of the Community Building Basement, with the exception of Seeing Eye dogs for legally blind individuals.

18. If the Marion Police Department is called to the Community Building Basement in reference to a disturbance or due to any violations of Federal, State or Local law, the event may be immediately suspended, all persons evicted from the building after applicable clean-up and the deposit revoked for the event.

19. No skateboards, in-line skates, roller skates or bicycles are allowed inside the Community Building Basement or on the Community Building property.

These new regulations shall be effective upon adoption.

Adopted this the 17th day of November 2009.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

CITY OF MARION, NORTH CAROLINA

RULES AND REGULATIONS FOR THE MARION DEPOT

REVISED NOVEMBER 17, 2009

The Marion Depot is owned and operated by the City of Marion. This building is available to civic groups, organizations, and individuals needing a place to meet.

DAYS OF OPERATION

The Depot is available to be scheduled for use seven (7) days a week, on a year round basis.

HOURS OF OPERATION

The Depot may be opened as early as one desires; however, it is requested that the person or persons using the building be out by 12:00 Midnight.

AA.0000000602 (24)

RULES AND REGULATIONS

Violations of any of these rules and regulations or any damages to the Facilities may result in forfeiture of all or part of the security deposit held by the City.

1. No one shall be permitted to use the building without first having made proper reservations, paying the required deposit and payment for the use of the building.

2. A cash deposit, as determined by the City Council, shall be required to insure compliance with the rules and regulations governing the use of the building. The deposit must be made at least thirty (30) days in advance of the date the building is to be used. The City may keep any or all of the deposit in the case of any violations of the rules and regulations or any damages to the Facilities. In addition to the deposit, a valid credit card may also be required (see # 12 below). Civic Clubs and Not–For–Profit Organizations using the building on a regular basis shall be exempt from making a deposit.

3. All persons or groups renting the Marion Depot must pay for the use of the building at the time reservations are made. No refunds will be made by the City should the renter not use the building on the date scheduled, unless a cancellation is made at least sixty (60) days in advance of the scheduled event, in which case a refund will be made, except for an administrative service charge of $25.00. In lieu of receiving a refund, a person or group canceling an event more than sixty (60) days in advance of the scheduled event may reschedule the building without additional cost at some other open date within the next twelve (12) months. A person or group canceling an event less than sixty (60) days in advance of the scheduled event may reschedule the building without additional cost at some other open date within the next twelve (12) months, but will not be eligible to receive a refund. Should the person or group fail to reschedule within the designated twelve (12) month period, the entire rental fee will be forfeited. Reservations must be made in person (no reservations by telephone, fax, e-mail or any other electronic means), no earlier than 9:00 A.M. local time and no earlier than the first day of the calendar month prior to the month one year in advance of the proposed use. (Example: if you wish to schedule the building in the month of October 2009, the earliest you can schedule the building is September 1, 2008). In the event two or more persons are at the counter at City Hall at 9:00 A.M., wishing to rent the building on the same day, the name of the one person representing each group shall have their name placed in a box and drawn to determine which person may rent the building on the desired day. In all other situations, reservations shall be accepted on a first come-first served basis. If the deposit is to be refunded, it will be issued by the City within ten (10) work days following the use of the building.

4. The Courtyard area of the Depot shall only be rented in conjunction with rental of the Depot. Persons renting the Depot have the authority to ask unauthorized Courtyard users to leave. Any damages to the Courtyard or surrounding landscaped areas will be the responsibility of the person renting the facility.

5. The person or group renting the Depot may not sublet the building or Courtyard to another person or group.

6. No decorations of any kind, i.e., plaques, pictures, or any other objects shall be fastened to the walls, ceilings, windows or lighting fixtures by use of nails, tacks, screws, tape, etc. Fixtures, furniture, displays or decorations provided by the user(s) must be removed from the building immediately following the use of the same, so the building will be ready for use for the next group. Failure to remove items shall be cause for revocation of part or all of the rental deposit.

7. Each person or group of persons using the kitchen in the facility shall thoroughly clean the kitchen and all fixtures before leaving the building and shall clean and remove all food from the refrigerator. In addition, the stove must be cleaned and the kitchen floor mopped before leaving the building. At no time shall any of the kitchen appliances be unplugged or moved from their original location. All garbage and refuse shall be removed from the building and placed in the containers located outside. Do not place garbage in refuse in the dumpster belonging to the neighboring business.

8. Barbeque grills or any outside cooking device shall only be used on the paved area of the Depot. Any grease or cooking residue shall be cleaned from the area immediately following use. At no time shall any barbeque grill or outside cooking device be placed on the Courtyard area of the Depot.

9. No motor vehicle of any kind shall be allowed on the Courtyard of the Depot at anytime. All unloading or loading shall be done at curbside.

10. No person(s), organization, etc. may use the Depot for religious services.

11. No persons, firm or private organization will be allowed to use the building for the purpose of offering bingo games to the general public. Civic clubs, schools or non-profit organizations may use the building for bingo games for fund raising purposes upon approval of Council.

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12. Each person using the building will be held responsible for any damages to the walls, floors, windows, appliances and fixtures, furniture and outside areas. Cost for damages will be deducted from the security deposit and in the event the costs exceed the security deposit, the person responsible for renting the facility shall also be held responsible for the additional costs. In order to insure payment for any damages incurred that exceed the security deposit, a guarantee by valid credit card will be required at the time the rental reservation is made. THIS CREDIT CARD WILL ONLY BE USED IF DAMAGES ARE INCURRED THAT EXCEED THE SECURITY DEPOSIT. If damages occur and the card charged is deemed to be invalid and prompt payment is not made, the City will pursue legal action to collect such claims. If the person renting the facility has done so for at least three consecutive occasions without damages, the credit card requirement may be waived. In addition, the credit card requirement may be waived for churches, not-for-profit organizations and civic clubs using the facility on a regular basis.

13. Tables and chairs may be rearranged by persons using the building, but must be returned to their original positions after each use.

14. Once the area used, has been cleaned and set in order, the Marion Police Department must be notified, at 652-3231, to come inspect and lock the building. Reports prepared by the Marion Police Department and the cleaning agency will be used to determine if the security deposits shall be refunded.

15. The microphone for the sound system may be checked out and signed for through the Marion Police Department. When use of the microphone has been completed, it is to be returned to the Police Department immediately.

16. The officers of the Marion Police Department have authority to enter the building at any time for the purpose on insuring compliance with all rules and regulations.

17. Officers of the Marion Police Department shall have authority to open or look in any ice chests and/or coolers on the premises, to monitor possible alcohol use or other improper activity.

18. It is unlawful for any person to consume any alcoholic beverage on any property owned or controlled by the City of Marion. Possession of alcohol or evidence of consumption of alcohol at the Depot will result in immediate eviction from the premises, forfeiture of security deposit and may result in criminal charges, fines and penalties.

19. No signs are permitted to be posted in front of or on the Depot property.

20. Animals are not permitted inside any part of the Depot, with the exception of Seeing Eye dogs for legally blind individuals.

21. If the Marion Police Department is called to the Depot in reference to a disturbance or due to any violations of Federal, State or Local law, the event may be immediately suspended, all persons evicted from the building after applicable clean-up and the deposit revoked for the event.

22. No skateboards, in-line skates, roller skates or bicycles are allowed inside the Depot, in the Courtyard area on anywhere on the Depot property.

These new regulations shall be effective upon adoption.

Adopted this the 17th day of November 2009.

A . Everette Clark
Mayor

ATTEST:

J. Robert Boyette
City Manager/Clerk

Mayor Clark stated that he supports the City assisting with this event as a trial since it will attract people to the downtown area; however, if the City ends up with many groups wanting staff assistance, the City may need to re-evaluate how it will participate.

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The City Manager stated that staffing by the City will be kept to a minimum, but that he and the Police Chief agree that the City needs to make sure that the road closure and the horse and carriage rides take place safely.

APPROVE CONTRACT FOR WATER AND SEWER EXTENSION – HIGHWAY 221 NORTH: The City Manager advised that the City had sought bids for the extension of water and sewer service on Highway 221 North to the new ABC Store site and for a short distance beyond, to the Quality Plus Gas House, a point beyond which a pump station would be required for sewer service. A total of 14 bids were received. The low bid was submitted by Terry Brothers Construction Company in the amount of $157,198.00. The City Manager stated that the City could save a few thousand dollars by ending the extension at the ABC Store; however, he recommended that Council go ahead and complete the entire extension as proposed. In the 2009-10 Water and Sewer Fund Budget, the City has $250,000 earmarked for a Transfer to Water and Sewer Capital Projects. This money is undesignated and can be used for the Highway 221 North Water and Sewer Extension, if Council so desires.

A brief discussion followed.

Upon a motion by Mayor Pro Tem Little, seconded by Council Member Martin, those members of Council present voted to award the contract for the Highway 221 North Water and Sewer Extension to Terry Brothers Construction Company in the amount of $157,198.00 as recommended by the City Manager.

DISCUSS STREET REQUEST – FRANCIS DRIVE: The City Manager advised that he had received a complaint from Ms. Vernice Francis of Francis Drive about church buses going up Francis Drive, a narrow, one lane road maintained by the City and located off of Old West Henderson Street near McDonald's and Farm Bureau. The City Manager stated that Ms. Francis has no issue with the church buses themselves, other than the fact that the buses must back out of the road and, in doing so, cannot navigate the 90 degree curve found on the street. The buses end up running off the road and causing ruts in the grass. In addition, Ms. Francis says that the buses have hit the DOT fence and a street sign.

The City Manager stated that he and the Pubic Works Director had looked at the location and observed the ruts made in the grass, but could find no evidence of the street sign and fence being damaged.

The City Manager suggested that one option to address this matter would be to post the street for no large trucks or buses. The City Manager stated that he certainly did not want to propose that the City create an issue with a church, but it is clear that the street cannot handle large vehicles.

It was the consensus of Council to refer this request to the Street Committee for further review and a recommendation.

CONSIDER APPROVAL OF CITY PARTICIPATION IN NATIONAL LEAGUE OF CITIES PRESCRIPTION DISCOUNT CARD PROGRAM FOR CITY RESIDENTS: The City Manager advised that Ms. Nancy Clark recently made him aware of a program offered by the National League of Cities (NLC) that allows NLC member cities to offer prescription discount cards to City residents.

Finance Director Harriett Thomas stated that she had learned more about the program and determined that it provides a 20 percent discount on prescription drugs. The City would need to sign up for the program and then would be supplied discount cards for distribution to City residents. All pharmacies in Marion currently accept this card. There would be very little work for City staff, as NLC provides the cards, card racks, posters and news releases for the City to use.

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Ms. Thomas stated that she had spoken to the Town Clerk of Tryon who said that the program involves almost no work for City employees; however, they have no idea how many people have used the program.

Upon a motion by Councilman Cuthbertson, seconded by Mayor Pro Tem Little, those members of Council present voted to approve the City's participation in the National League of Cities Prescription Discount Card Program.

CONSIDER APPROVAL OF MUNICIPAL AGREEMENT TO AUTHORIZE INSPECTIONS OF CITY BRIDGES BY DOT: The City Manager presented Council with information regarding the inspection of bridges owned or maintained by the municipality every two years. Public Works Director Chris Hollifield stated that the City has four bridges to inspect, one on Claremont Avenue, two at the Public Works Department and the Prison Pump Station bridge off of Highway 226 South.

Mr. Hollifield reported that there are several options that exist for inspecting the bridges. The City of Marion has always chosen to contract with DOT for bridge inspections and he would request that Council approve an agreement to authorize staff to contract with DOT for the required bridge inspections.

Mayor Pro Tem Little stated that he noticed the cost is not referred to in the agreement.

The City Manager advised that it usually runs approximately $1,500.

Councilman Martin made a motion to approve the Municipal Agreement with the North Carolina Department of Transportation to authorize the inspection of City bridges by NCDOT. The motion was seconded by Councilman Owenby.

The vote was as follows:

Councilman Martin	Yes
Councilman Owenby	Yes
Mayor Pro Tem Little	No
Council Member Cuthbertson	No

Mayor Clark stated that in the event of a tie vote, the Mayor had to vote and break the tie, therefore, Mayor Clark voted Yes.

The vote to approve the agreement with NCDOT carried 3 to 2.

ADD ON – OVERMOUNTAIN VICTORY TRAIL RESOLUTION: The City Manager presented Council with a proposed Resolution asking the National Park Service to select the McDowell House Property as the location of the Overmountain Victory National Historic Trail headquarters and visitor's center.

Upon a motion by Councilman Martin, seconded by Mayor Pro Tem Little, those members of Council present voted to adopt the following Resolution asking the National Park Service to select the McDowell House Property as the location of the Overmountain Victory National Historic Trail headquarters and visitor's center:

Resolution Regarding the McDowell House Property and the Overmountain Victory National Historic Trail Headquarters and Visitor's Center

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WHEREAS, Colonel Joseph McDowell was a farmer, lawyer, physician, Revolutionary War hero, frontiersman, statesman and soldier who served in the 3rd U.S. Congress; and

WHEREAS, Colonel McDowell was the son of "Hunting" John McDowell, who received two Royal Land Grants from Governor Tryon for 640 acres located along the Catawba River; and

WHEREAS, Colonel McDowell built a home on a portion of this property circa 1780-1781, which is one of the oldest surviving frame houses in Western North Carolina and is located in Marion, McDowell County, North Carolina; and

WHEREAS, Colonel McDowell led a band of Overmountain Men on a march to Kings Mountain, where he and his fellow Overmountain Men fought in the historic Battle of Kings Mountain; and

WHEREAS, Colonel McDowell and his frontier militiamen fought valiantly to victory in this battle that Theodore Roosevelt would call, "...the turning point of the American Revolution;" and

WHEREAS, Colonel McDowell was extremely important in the early settlement and development of McDowell County, North Carolina, which was later named for him; and

WHEREAS, the Joseph McDowell House is the only remaining home place in North Carolina for which a county was named; and

WHEREAS, the McDowell House, which is located in Marion, McDowell County, North Carolina, was officially added to the Overmountain Victory Historic Trail in September, 2008 and has been designated a state historic landmark; and

WHEREAS, the McDowell House was purchased by McDowell County government in February, 2008, in cooperation with the City of Marion, North Carolina and the McDowell County Tourism Development Authority; and

WHEREAS, a McDowell House Committee, comprised of a cross-section of community leaders and historians, was formed to begin work on plans to study and restore the McDowell House for use as a museum and historic interpretive site, and access point to the Catawba River Greenway; and

WHEREAS, this Committee has begun archaeological work and planning documents regarding future use of the McDowell House; and

WHEREAS, McDowell County, the City of Marion, North Carolina, the McDowell County Tourism Development Authority, and the McDowell House Committee are in agreement that the best use of this property would include co-location with the Overmountain Victory National Historic Trail Headquarters and Visitor's Center; and

WHEREAS, these groups and leaders are aware that the National Park Service is exploring a number of options regarding the relocation of the OVNHT Headquarters and Visitor's Center; and

WHEREAS, the City Council of the City of Marion, North Carolina strongly believes in forming public and private partnerships to accomplish a wide range of goals including economic development, historic preservation, environmental protection and parks and recreation.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Marion, North Carolina supports efforts to partner with the McDowell County Board of Commissioners and other community agencies to vigorously pursue all options with the National Park Service to move the OVNHT Headquarters and Visitor's Center from its current location to the McDowell House property in Marion, North Carolina, including, but not limited to, use of the existing Joseph McDowell House, additions that exist or could be added to the current historic structure, new structures that could be built elsewhere on the property, or ancillary structures that could be built or occupied off-property and affiliated with the site.

Further, the City Council of the City of Marion, North Carolina supports McDowell County's plans to discuss all ownership options with the National Park Service, full or partial, once further details of National Park Service requirements and interests have been made public. These options include, but are not limited to, gifting, leasing or selling portions of the property to the National Park Service, provided that agreements can be formalized that would allow the county concurrent use of the historic portion of the main house for educational and historical purposes, and provided that access to the Catawba River Greenway can be preserved.

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Finally, the City Council of the City of Marion, North Carolina joins with the McDowell County Board of Commissioners in agreeing to consider all requests by the National Park Service to assist in the development of the property to meet the needs of the federal government and Overmountain Victory National Historic Trail.

ADOPTED this the 17th day of November, 2009

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

CITY MANAGER REPORTS: The City Manager gave a brief report on current projects.

The City Manager reminded Council of the invitation to the Christmas Parade, scheduled for Sunday, November 22, at 3:00 p.m. The City van will be decorated and ready for Council at City Hall. The van will be moved around 2:30 p.m. that day to the parking lot of Advance Auto Parts. Mayor Clark will be the Grand Marshal of this year's parade.

The City Manager advised that NCDOT District Engineer Doug McNeal had informed him that NCDOT would be able to provide 100 percent funding for a sidewalk along West Henderson Street between Reid Street and Wilhemenia Street. The project will go out to bid this winter and likely be constructed in the spring.

The City Manager advised that DOT's contractor paved the new section of North McDowell Avenue in November. The contractor then completed temporary striping of the street on November 9. The contractor will come back and put down themoplast that is used by DOT for striping these days. The traffic signal work is scheduled to be completed by the end of November, which will allow the street to open.

The City Manager stated that staff had completed the Montevista Avenue water line replacement in late October and have connected water customers to the new water line. This project should correct water quality complaints that have been experienced.

City crews will next work on water extensions to the Eastfield Phase 5 annexation area, including Pine Street, Tunnel Road and Westmoreland Street, along with the replacement of a water line on West Carson Street in the Pleasant Gardens Community near the western end of the City's water system.

The City Manager advised that, by the end of November, the City expects to receive from McGill the final greenway design and floodway and floodplain permitting process for the Catawba River Greenway. He added that the City then hopes to go out to bid with the project in the next few months, hopefully by which time the McDowell Trails Association (MTA) will have raised much, if not all, of the $60,000 local match for the State PARTF grant for the project. The MTA has currently raised $33,000 of the local match.

The City Manager added that he had not yet head from McGill, so he would seek to stress the importance of the City receiving the greenway design and permitting information no later than the end of November.

The City Manager advised that the City had received payment of the final $3,000 of the Marion Rotary Club's $3,000 pledge for the Farmer's Market. The City now has $54,000 received for the Farmer's Market, assuming the use of $20,000 in N.C. STEP Program funds. He added that the City can use another $5,000 in N.C. STEP Program funds. The City Manager stated that the City has

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spent to date just over $49,000 on the project. The remaining expenditures involve a donor sign and wiring and fixtures for the Shelter. He stated that the City will seek to proceed as soon as possible with the donor sign. The City has been waiting to hear if the Prison will be able to supply inmate labor for a charge before a contractor is hired to wire the Shelter.

Councilman Martin stated that he would feel better if the City hired a professional contractor to do the wiring. After brief discussion, it was the consensus of Mayor Clark and Council Members for staff to hire a contractor to complete the wiring work and installation of needed fixtures, given that funds are now available for this work.

The City Manager stated that Planning and Development Director Heather Cotton and City interns are working on the final address review with the Census Bureau for the 2010 Census. The City hopes to gain anywhere from a few hundred to over 1,000 addresses for the 2010 Census. Ms. Cotton is also making final annexation and boundary changes for the 2010 Census to make sure the City receives credit for all areas of the City.

The City Manager reported that the City continues to seek volunteers for the City's Complete Count Committee to develop ways to promote the 2010 Census and hopes to hold the next meeting of the Committee in early December.

The City Manager advised that the Sugar Hill Road/Super Wal Mart developer continues to indicate that he will close on the property for the development site in mid January. The developer is currently accepting bids for the grading work required for the project and the engineer for the project has submitted utility plans for City review. The City Manager stated that the City can begin the Sugar Hill Road water and sewer extension to I-40 once the City is under contract with the Rural Center for the $1 million grant, the developer closes on the property, an annexation petition is submitted and the developer provides evidence that he will construct a building or buildings with the minimum target property tax value.

The City Manager advised that he, County Manager Chuck Abernathy and Bobbie Young of the Marion Business Association staff are working with the Marion Rotary Club on planning for a New Year's Eve event to be held downtown. The event would be open to the public and be family oriented.

COUNCILMAN COMMENTS:

Mayor Pro Tem Little stated that if Council Members had any particular desire to be on particular committees to let him know as he would like to place them on their committees of interest once he becomes Mayor on December 1.

Mayor Pro Tem Little also pointed out that there will be a large number of people attending the December 1 Council Meeting and that there would be a need to set up more chairs in the Council Chambers.

Mayor Pro Tem Little also stated that it is often hard to hear people speaking during a Council Meeting and suggested that staff begin exploring a sound system for use during meetings.

Councilman Cuthbertson asked about problems being experienced with the City's leaf machine.

The City Manager stated that the City had experienced mechanical problems with one of the leaf machines. Public Works Director Chris Hollifield stated that when the City bought a new leaf machine a few years ago, it kept the old one as a spare. The City had one machine go down recently along with one of the City's two chippers used for brush collection. In addition, the recent havy rain seemed to cause more leaves to fall at once than usual.

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The City Manager stated that the City tries to avoid overtime; however, he has authorized the Public Works Director to have City employees work overtime as usual so that the City can catch up on leaf and brush collection prior to the holidays, when brush collection schedules will be affected.

Councilman Cuthbertson asked if the City still provide leaf bags to the public. Mr. Hollifield stated that there are leaf bags at the Public Works Department available free to City residents.

Councilman Martin inquired as to what was going on at the intersection of Court and Logan Street. Mr. Hollifield advised that NCDOT is replacing the substandard traffic signal at the intersection with one large pole that will hold all the signal heads for the intersection. This project is a major undertaking and is nearing completion. Mr. Hollifield statted that, once completed, the new traffic signals should be a nice improvement to the downtown area.

ADJOURNMENT: Upon a motion by Councilman Martin, seconded by Mayor Pro Tem Little, those members of Council present voted to adjourn.

A. Everette Clark, Mayor

ATTEST:

J. Robert Boyette, City Manager /Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, December 1, 2009 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

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

Council Member Mike Edwards was not present for this meeting.

OTHERS PRESENT: Bob Boyette, City Manager; Harriett Thomas, CPA, Finance Director; Heather Cotton, AICP, Planning and Development Director; Gaye Noblitt, Police Administrative Sergeant; Chris Hollifield, Public Works Director; Tammy Rose, Personnel Technician; Mike Conley, News Reporter, McDowell News; Wendy McAnally, News Reporter, The News Bulletin.

GUESTS PRESENT: Juanita Doggett, 192 North Garden Street, Marion, NC; Fred and Kathy Moody, 206 North Garden Street, Marion, NC; Rhonda Silver, 812 Hidden View Loop, Marion, NC; Scott & Hanna Hagaman 50 Deepwoods Drive, Marion, NC; Christie Monosso and Sarah Morgan 121 Springdale Drive, Marion, NC; Lee Lattimore, Marion, NC; Betty Markham Nancy Tolley Street, Marion, NC; Betty Childers, 185 Fern Avenue, Marion, NC; Ray & Phyllis McKesson 489 Landis Road, Marion, NC; Robert Hawkins and Janice Adams 527 E. Oak Street, Marion, NC; Jennifer Jackson 26 West Court Street, Marion, NC; Todd, Jane, Tucker and Ethan Clark, Newton, NC; Don Ramsey 188 Hillcrest Drive, Marion, NC; Ansel, Amy, Sara & Emily Clark 78 Richard Drive, Marion, NC; Larry & Ida Mock 1145 Old U.S. Highway 221 South, Marion, NC; Christi Hollifield 407 South Garden Street, Marion, NC; Elaine Laney 259 B South

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Garden Street, Marion, NC; Virginia Terry PO Box 246, Nebo, NC; Janice Pierce 115 Mackey Farm Drive, Old Fort, NC; Margaret Stevens 1100 Old Fort Sugar Hill Road, Old Fort, NC; Gladys Doggett, Autumn Care, Marion, NC; Tella Coward 66 W. Cross Street, Marion, NC; Nancy Clark 330 Fleming Avenue, Marion, NC; Ann Harkey 90 Board Street, Marion, NC; Liz Seaver 209 Ashworth Circle, Marion, NC; Craig and Markham Orange 131 Forest Road, Marion, NC; Dawn Rabon 420 Clear Creek Road, Marion, NC; Bobbie Young 318 Forest Heights Drive, Marion, NC; Ada Cuthbertson 2131 Burma Road E Marion, NC; Charlie Mae Holland 2181 Burma Road Marion, NC; J. P. McNeal PO Box 333, Marion, NC; Tracy S. Ella 2200 US 70 E. Marion, NC; Sylvia Davis 342 Forest Heights Drive, Marion, NC; Lisa Williams 12B Catawba Farms Drive, Marion, NC; Chris Revis 61 Woodston Drive, Marion, NC; Wanda Hoyke 141 Knollwood drive, Marion NC; Grace and Greg Anderson 65 Lincoln Avenue, Marion, NC; Jamie & Kasey Stevens PO Box 954 Old Fort NC; Sharon Parker.75 Oakwood Drive, Marion, NC; Terry Childers 185 Fern Avenue, Marion, NC; Dean Gouge 249 Laurel Ridge Drive, Old Fort, NC; Shirley Brown 1022 Randolph Road, Marion, NC; Cara Lafon 581 East Court Street, Marion, NC; Ruth Hullett 188 Mountain View Street, Marion, NC; Kaye Cuthbertson 201 Broad Street, Marion, NC; Gene & Gloria English Garner, NC; Mary, Sally and Alice Little, 370 S. Garden Street, Marion, NC; Mark Lyons, Marion NC

Mayor A. Everette Clark called the meeting to order and opened the meeting by welcoming everyone and thanking them for coming.

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Little, seconded by Council Member Cuthbertson, those members of Council present voted to approve the consent agenda as follows:

A. Approval of Minutes – November 17, 2009 Regular City Council Meeting Minutes

B. Approve Fire Department Roster/Annual Certification of Firefighters

NAME

Volunteer

Roger McCarthy
Dennis Laws
Marty Coward
Bradley Styles
Terry Depoyster
Scotty Radford
John Morrow
Christopher Burnette
John fox
Amber Cody
Mitch Davenport
Brice Deyton
Wayne Durkee
Phillip Finley
Martthew Gentry
Larry Guffy
Daniel Hollifield
Gregory Hollifield
Adrienne Jones
Bart Kicklighter
Darrell Mason
Josh McMahan
Devon Miller
Tim Moore
Eric Morrow
Fred Nanney
Dale Queen

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Kevin Sisk

Paid Staff

Jim Neal
Ray McDaniel
Amy Hudgins
James Mace
Jim Morris
Kevin Owenby

Retired

John Beck
Ferd T. Brown
Ralph M. Dark, III
R.M. Dark, Jr.
Bruce Edwards
Marvin E. Hall
Tommy W Harris
James R. Hollfield
Millard Hollifield
John C. Laughridge, Jr.
John Mack Laughridge. Jr.
Joseph L. Nea'
James D. Parker
Billy Ray Poteat
Jerry W Poteat
Kenny W Poteat
Charles L Presnell, Jr.
Dennis M Price
John Reese
William Ray Smith, III
Jerry C Stevens
Charles G Suttle, Jr.
James D Willis
William J Young, Jr.

ADMINISTRATION OF OATH OF OFFICE TO MAYOR STEVE LITTLE: McDowell Clerk of Superior Court Don Ramsey administered the oath of office to Mayor Steve Little. Mayor Little's wife Alice and daughters Mary and Sally stood with Mayor Little during the administration of the oath of office. Also present to support Mayor Little were his sister Gloria and Brother-in-Law Gene from Garner, North Carolina.

Mr. Ramsey administered the following oath of office to Mayor Little:

I, Stephen R. Little, do solemnly swear (or firm) 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.

Stephen R. Little

I hereby certify that I, Donald R. Ramsey, Clerk of Superior Court, North Carolina, administered the above Oath of Office to Stephen R. Little, this the 1st Day of December 2009.

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Donald R. Ramsey

ATTEST:

J. Robert Boyette, City Manager/Clerk

Former Mayor A. Everette Clark presented Mayor Steve Little with the gavel and congratulated him on his election.

Mayor Little stated that this is a special and historic meeting, as for the first time in more than a generation, someone other than Everette Clark will serve as Mayor of the City of Marion. He added that Everette Clark will continue to serve the City as a Council Member. Mayor Little advised that this is also a historic meeting in that Juanita Doggett is the first woman elected to serve on the Marion City Council.

Mayor Little stated that, as he had been told, this is not only a big day for the City of Marion, but for all womanhood.

Mayor Little took the opportunity to point out that the young people on the front row are special guests. They represent his Fourth through Sixth grade Sunday School Class at First Baptist Church.

ADMINISTRATION OF OATH OF OFFICE TO COUNCIL MEMBER EVERETTE CLARK: Everette Clark's son, Ansel Clark, Magistrate for McDowell County, administered the oath of Office to Council Member Everette Clark. Council Member Clark's wife Nancy and other family members and friends were also present for the administration of the oath of office.

Mr. Ansel Clark administered the following oath of office to Council Member Clark:

I, A. Everette Clark, do solemnly swear (or firm) 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 Council Member for the City of Marion, North Carolina, so help me God.

A. Everette Clark

I hereby certify that I, R. Ansel Clark, .McDowell County Magistrate, of North Carolina, administered the above Oath of Office to A. Everette Clark, this the 1st Day of December 2009.

R. Ansel Clark

ATTEST:

J. Robert Boyette, City Manager/Clerk

ADMINISTRATION OF OATH OF OFFICE TO COUNCIL MEMBER LLOYD CUTHBERTSON: McDowell Clerk of Superior Court Don Ramsey administered the oath of office to Councilmember Lloyd Cuthbertson. Council Member Cuthbertson's wife Kaye and other family members and friends were also present for the administration of the oath of office.

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Mr. Ramsey administered the following oath of office to Council Member Cuthbertson:

I, Lloyd Cuthbertson, do solemnly swear (or firm) 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 Council Member for the City of Marion, North Carolina, so help me God.

_____
Lloyd Cuthbertson

I hereby certify that I, Donald R. Ramsey, Clerk of Superior Court, North Carolina, administered the above Oath of Office to Lloyd Cuthbertson, this the 1st Day of December 2009.

_____
Donald R. Ramsey

ATTEST:

_____
J. Robert Boyette, City Manager/Clerk

ADMINISTRATION OF OATH OF OFFICE TO COUNCIL MEMBER JUANITA DOGGETT: McDowell Clerk of Superior Court Don Ramsey administered the oath of office to Councilmember Juanita Doggett. Council Member Doggett's mother Gladys Doggett, family members and many friends were present for the administration of the oath of office.

Mr. Ramsey administered the following oath of office to Council Member Doggett:

I, Juanita Doggett, do solemnly swear (or firm) 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 Council Member for the City of Marion, North Carolina, so help me God.

_____
Juanita Doggett

I hereby certify that I, Donald R. Ramsey, Clerk of Superior Court, North Carolina, administered the above Oath of Office to Juanita Doggett, this the 1st Day of December 2009.

_____
Donald R. Ramsey

ATTEST:

_____
J. Robert Boyette, City Manager/Clerk

APPOINTMENT OF CITY ATTORNEY/ADMINISTRATION OF OATH OF OFFICE: Upon a motion by Council Member Martin, seconded by Council Member Clark, Council voted unanimously to appoint Dameron, Burgin, Parker and Jackson as the City Attorneys.

Attorneys Phillip Jackson and Aaron Walker could not attend this meeting and were sworn in by Mayor Little at a later date.

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McDowell Clerk of Superior Court Don Ramsey administered the oath of office simultaneously to Attorneys Jennifer Jackson and Sharon Parker, as follows:

I, Jennifer Jackson, 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.

_____
Jennifer Jackson

I hereby certify that I, Donald R. Ramsey, Clerk of Superior Court , North Carolina, administered the above Oath of Office to Jennifer Jackson, this the 1st Day of December 2009.

_____
Donald R. Ramsey

ATTEST:

_____
J. Robert Boyette, City Manager/Clerk

I, Sharon Parker, 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.

_____
Sharon Parker

I hereby certify that I, Donald R. Ramsey, Clerk of Superior Court , North Carolina, administered the above Oath of Office to Sharon Parker, this the 1st Day of December 2009.

_____
Donald R. Ramsey

ATTEST:

_____
J. Robert Boyette, City Manager/Clerk

SPECIAL PRESENTATION BY MAYOR LITTLE: Mayor Little stated that Everette Clark had been a public servant for more than 24 years and that it was a privilege to present a very dignified plaque to a very dignified gentleman, former Mayor A. Everette Clark in appreciation of the twenty-four years he has served the City of Marion as Mayor. Prior to serving as Mayor he served as Council Member for more than 13 years for a total of almost 38 years of consecutive service to the City.

Mayor Little stated that Council Member Clark has served as President of the of the North Carolina League of Municipalities, on the Board of Directors for the National League of Cities and as Chairman of the National League of Cities Small Cities Council, along with holding numerous other positions.

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Mayor Little advised that Everette Clark has friends all over this country, not just in North Carolina.

Council Member Clark stated that he had many memories over the years. He is most thankful for his wife Nancy being by his side all through the years. He also thanked the people who elected him and all the City employees who have worked with him through the years.

Mayor Little asked Council Member Everette Clark not to be seated just yet and stated that North Carolina Senator Joe Sam Queen was present to make a special presentation to Everette Clark.

Senator Queen stated that it is with great honor that he is here tonight on this historic day to present to former Mayor Everette Clark on behalf of Governor Beverly Perdue, who could not be here tonight, the highest Civic honor in North Carolina, the Order of the Long Leaf Pine.

Senator Queen congratulated Council Member Clark and presented him with the plaque that read as follows:

State of North Carolina
Beverly Eaves Perdue
Governor
Reposing special confidence in the integrity, learning and zeal of

A. Everette Clark
I do by these presents confer
The Order of the Long Leaf Pine
With the rank of Ambassador Extraordinary privileged to enjoy fully all rights granted to members of this exalted order, among which is the special privilege to propose the following North Carolina Toast in select company anywhere in the free world:
Here's to the land
Of the long leaf pine.
The summer land
Where the sun doth shine.
Where the weak grow strong
And strong grow great.
Here's to "down home"
The Old North State
By the Governor
Bev Perdue
Date: December 8, 2009

Council Member Clark thanked Senator Joe Sam Queen for this presentation.

Senator Queen stated that better days are ahead in Marion because of all the things Everette Clark had started.

Mayor Little stated that Planning and Development Director Heather Cotton had another presentation for Everette Clark.

This presentation consisted of various slide photos of Council Member Clark through the years he has served the City, placed on a CD with music playing.

Council Member Clark thanked Ms. Cotton for this presentation. Ms. Cotton and the City Manager advised that Administrative Assistant Debi Sherlin was responsible for putting together the wonderful presentation.

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APPOINTMENT OF MAYOR PRO TEM: Council Member Cuthbertson nominated Council Member Owenby to serve as Mayor Pro Tem.

There were no other nominations made.

A discussion followed.

Upon a motion by Council Member Cuthbertson, seconded by Council Member Martin, Council voted unanimously to appoint Council Member Cecil Owenby as Mayor Pro Tem.

REAPPOINTMENT OF CITY MANAGER AS CITY'S REPRESENTATIVE ON ISOTHERMAL PLANNING AND DEVELOPMENT COMMISSION BOARD OF DIRECTORS: The City Manager advised that Council has typically reappointed the City Manager as the City's representative on the Isothermal Planning and Development Commission Board of Directors.

Upon a motion by Mayor Pro Tem Owenby, seconded by Council Member Cuthbertson, Council voted unanimously to re-appoint City Manager Bob Boyette as the City of Marion's Representative on the Isothermal Planning and Development Commission Board of Directors.

PUBLIC APPEARANCE – LIGHTEN UP FOR LIFE PROGRAM:
Ms. Cara Lafon and Ms. Ruth Hullett from The McDowell Hospital appeared before Council to discuss the Hospital's Lighten Up 4 Life Program.

Ms. Lafon stated that Lighten up 4 Life is a community wide weight loss initiative conducted by McDowell Hospital, sponsored by a variety of local businesses and organizations, and in partnership with Mission Health System. The purpose of this initiative is to help people throughout all of Western North Carolina increase their overall health and fitness through sustainable weight loss strategies.

Ms. Lafon went over who could participate, what can be won for participating, when the competition begins and ends and how to get started.

Council Member Doggett asked if health screenings could be provided. Ms. Lafon stated that screenings would be offered at reduced rates or possibly at no cost.

Ms. Lafon reported that McDowell County has approved a resolution of support for the program and that she would request that City Council adopt a similar resolution of support from the City.

A discussion followed.

Upon a motion by Council Member Clark, seconded by Council Member Cuthbertson, Council voted unanimously to adopt the following resolution in support of The McDowell Hospital's Lighten Up 4 Life Program:

A RESOLUTION OF THE CITY OF MARION
LIGHTEN UP 4 LIFE

WHEREAS, the City of Marion is committed to promoting healthy lifestyles and improving the well-being of residents and visitors of Marion; and

WHEREAS, the City of Marion places a high priority on quality health care for all members of Marion and appreciates the various entities that are part of our collective health care system, and we further recognize that this important goal is advanced by valuable resources, including The McDowell Hospital; and

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WHEREAS, by offering this health awareness program and others like it, and by integrating the delivery of primary care with aggressive outreach, community education, healthy resources, and other enabling services, we are empowering the members of our community; and

WHEREAS, we as individuals, and as a collective whole, must engage in behaviors that support physical fitness, ensure we have access to healthy, affordable food, and empower our families with the information essential for healthy living; and

WHEREAS, there are many dedicated men and women in the City of Marion prepared to engage in said health program and to set a healthy example for the well-being of themselves, their families, and their community; and

WHEREAS, this community-wide health program, known as "Lighten Up 4 Life", strives to build awareness of the importance of good health and well-being for every individual, offers educational and supportive services to create healthy lifestyles, and encourages participation from all members of our City, either directly or indirectly;

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Marion, on behalf of all residents of Marion, does hereby proclaim that January 4th, 2010 is

The Launch Date of the program "Lighten Up 4 Life"

in the City of Marion and urges all residents to participate in activities that promote and involve Lighten Up 4 Life, and results in an individual's overall healthier lifestyle, now and throughout the year.

ADOPTED this the 1st day of December, 2009.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-09-12-01-1

FINAL REVIEW OF DOWNTOWN STREETSCAPE PLAN: Planning and Development Director Heather Cotton stated that, as directed by Council, staff looked over options for adding more on-street parking as part of the Downtown Streetscape Plan, particularly in the block between Court and Henderson Streets.

Ms. Cotton discussed specific details of the proposed addition of two parking spaces that could be added in the block of Main Street between Court and Henderson Streets, as well as other parking spaces that could be added in other blocks. She also gave a brief overview of the Downtown Streetscape Plan for Senator Joe Sam Queen.

Council Member Cuthbertson suggested that the Police Parking Only space on Main Street in front of the Courthouse could perhaps be given up to provide another parking space in the Court to Henderson block of Main Street.

A discussion followed. Council asked the City Manager to consult with the Police Chief and determine if the Police Parking Only space on Main Street in front of the Courthouse could be eliminated without any problems, to provide another parking space in the Court to Henderson block of Main Street.

Upon a motion by Council Member Cuthbertson, seconded by Mayor Pro Tem Owenby, Council voted unanimously to approve the revisions to the Downtown Streetscape Plan as presented by Planning and Development Director Heather Cotton, to include the addition of two on-street

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parking spaces in the block of Main Street between Court and Henderson Streets and the addition of parking spaces in other blocks.

The City Manager advised that the next step would be to present the revised Downtown Streetscape Plan to the North Carolina Department of Transportation for review and approval, after which time implementation of the Plan could take place.

PUBLIC COMMENT PERIOD:

Senator Joe Sam Queen was present for this meeting, and commended the City of Marion for all the efforts and hard work not just with the Downtown Streetscape Plan, but with the Marion Depot, Community Building, Catawba River Greenway, McDowell House and many other projects that have been completed through the years or which will soon be undertaken.

Senator Queen also commended the work of the McDowell Arts Council, McDowell Trails Association and nonprofit organizations.

Senator Queen expressed his utmost appreciation to the City of Marion and offered his support in any endeavors the City has.

CONSIDER APPROVAL OF AUDIT CONTRACT: Finance Director Harriett Thomas advised that, as shown on information presented to Council, the City's current auditor, Martin Starnes, has proposed a contract to complete the City's annual audit for the next five years. The City has worked successfully with Martin Starnes for the past three years. Ms. Thomas advised that the City went out for bid for auditing services several years ago and Martin Starnes was less expensive than any firm that submitted a proposal. Under the proposal of Martin Starnes, the audit costs would rise from the current amount of $13,800 to $15,000, an increase of 8.7 percent over five years. She added that the City is unlikely to find a more competitive price.

Council Member Cuthbertson added that the expertise of Ms. Thomas as Finance Director and as a Certified Public Accountant has allowed the City to enjoy significant cost reductions for the audit over the past few years.

A discussion followed.

Upon a motion by Council Member Clark, seconded by Council Member Owenby, Council voted unanimously to award a contract for City audit services to Martin Starnes & Associates, with the contract price starting at $13,800 for the 2009-10 audit and increasing to $15,000 for the 2013-14 audit.

SCHEDULE TOWN MEETING AND CITY COUNCIL PLANNING SESSION: The City Manager stated that Council had traditionally held the annual Town Meeting on or around the third Thursday of January. Therefore the City Manager proposed that the Town Meeting be scheduled for Thursday, January 21, at 7:00 p.m. at the Community Building and Thursday, January 28 could be set as a back-up date.

The City Manager stated that Council has also traditionally held a Planning Session not long after the Town Meeting to begin identifying budget priorities for the coming year and to address current and future priorities. This Planning Session could be held at any time desired by Council. As previously reported, the City has received a proposal from the Revis Group to update the City's website and to advise the City on other communications issues. The City Manager proposed that Council review this proposal at a short Planning Session as soon as possible and then schedule a date for a longer Planning Session for around early February.

The dates suggested by the City Manager for the Town Meeting were not convenient for Council.

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A discussion followed.

It was the consensus of Council to set Tuesday, January 26, 2010 at 7:00 p.m. as the Town Meeting date and time. This meeting will be held at the Community Building. Thursday, February 4, 2010 will be the back-up date. The back-up meeting would be held at City Hall.

It was the consensus of Council to set Tuesday, December 15, 2009 at 6:30 p.m. for the City Council Planning Session for the purpose of discussing communications issues and the proposal of the Revis Group to update the City's website and consult with the City on other means of communications.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that Ms. Danielle Hagerman, one of the City's interns, has recently completed work on an Energy Plan that will allow the City to apply for energy grants. City staff will be assessing possible projects for energy grants.

The City Manager advised that McGill had recently provided the final Catawba River Greenway design and floodway permitting information. After required permits are obtained from the State, the project can go out to bid, hopefully within a few months. The City Manager added that he is working with the Health Department on a Fit Communities grant application. One of the main purposes of the grant would be to provide the remaining local match for Phase One of the greenway (almost $30,000 is needed).

The City Manager advised that as previously reported, the City has signed a performance agreement with the Sugar Hill Road commercial developer that locks in the $1 million Rural Center grant for the water and sewer extension. The water and sewer extension will not begin until the City signs a contract with the Rural Center, the developer closes on the property and the developer submits an annexation petition for the development site. The developer still says he plans to close on the property in mid January and is seeking bids for grading.

At the last Joint Utility Committee meeting, a discussion was held on the City and County asking DOT to add landscaping along Sugar Hill Road and at the I-40/Sugar Hill Road interchange, beyond the plantings already planned, to ensure that the entrance to the new development is attractive. It was agreed by the Committee representatives that this would be a good idea. The City Manager stated that DOT District Engineer Doug McNeal met with Planning and Development Director Heather Cotton and himself that day and proposed that the City ask DOT to take the money designated for the Sugar Hill Road landscaping and put it towards the Downtown Streetscape Plan implementation. The City could come back at a later time and request that DOT install the landscaping on Sugar Hill Road. The City Manager stated that Mr. McNeal did not guarantee the success of such a request, but felt that a good argument could be made.

Upon a motion by Council Member Cuthbertson, seconded by Council Member Clark, Council voted unanimously to direct the City Manager to request that the North Carolina Department of Transportation transfer funds designated for the Sugar Hill Road landscaping and put it towards the Downtown Streetscape Plan implementation.

The City Manager advised that Council Member Martin had suggested that streetlights are needed at the on and off ramps at the West Henderson Street/US 221 Bypass interchange. The City Manager stated that staff could obtain an estimate from Duke Energy for the cost of installing such lights, if desired by Council. It was the consensus of Council to refer this item to the Street Committee.

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The City Manager advised that staff would be working in the near future to make the donor sign for the Farmer's Market and to hire a contractor to wire the shelter and install light fixtures.

The City Manager advised that the Christmas Parade took place on November 22 despite the rain. The City Manager stated that he had thanked Ms. Freddie Killough of the Marion Business Association, the Police Department, the Public Works and Fire Departments for their efforts to put on the Parade and to make the best of a rainy day.

The City Manager stated that Nebo Elementary will hold their fundraiser for homeless children, to include bingo games, at the Community Building on Tuesday, December 8. This event will not involve horse and carriage rides and a street closure, as Nebo has decided to separate these events. The City Manager stated that he would advise when the horse and carriage rides and street closure is scheduled.

The City Manager stated that the Marion Rotary Club will definitely hold a New Year's Eve Event, to include horse and carriage rides and likely dropping something (perhaps something lighted that resembles a gold nugget). The City will close the street and help provide some staffing of the event to ensure public safety, without objection.

The City Manager asked that Council approve the New Year's Eve Plans and allow the City to be a co-sponsor of the event.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted to approve the City's full support and co-sponsorship of the New Year's Eve Celebration and to authorize the closing of streets and provision of staffing as necessary for the event.

The City Manager stated that work on the McDowell Avenue street extension had been completed and the street had been opened to the public. He added that the Clay Street railroad crossing is scheduled to be closed January 13, 2010, using funds from Norfolk Southern Railway.

The City Manager stated City crews continue work on constructing and equipping the new Eastfield Park and hope to complete this work by the end of 2009.

The City Manager advised that staff had been catching up on leaf and brush collection for the past two weeks. The City Manager stated that he had authorized the Public Works Director to have employees work overtime as necessary to allow the City to catch up on this collection.

The City Manager stated that the E-3 Forum scheduled for Friday, December 11 at the Depot had been canceled and that the next forum would be held in January. Marion Business Association Director Freddie Killough is trying to get Congressman Shuler or his staff to speak at this event.

Planning and Development Director Heather Cotton gave an update on McDowell Arts Council activities, stated that the Safe Routes to School planning process would soon begin and advised of the City winning an award from the North Carolina Main Street Program for the Farmer's Market being the Best Public-Private Partnership for 2009.

COUNCIL MEMBER COMMENTS:

Mayor Pro Tem Martin congratulated Council Member Doggett and welcomed her to the Marion City Council.

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Council Member Cuthbertson advised that there are about seven streetlights on Main Street not burning and that the holly tree in front of the Crooked Door Coffee Shop has been cut in half. The City Manager stated that staff would continue to work with Duke Energy to get all the streetlights burning on Main Street.

Council Member Cuthbertson also suggested that the sign stating no parking on market days at the Farmers Market be removed. The City Manager stated that staff would remove the sign immediately.

Mayor Little stated that the new store Catawhale's located on Main Street, has a magnificent store front. He asked that the City Manager send a letter of appreciation to the business.

Council Member Clark thanked Mayor Little, Council Members and staff for the recognition and appreciation shown to him, both tonight and through the years.

ADJOURNMENT: Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in a Special Called Session on Tuesday, December 15, 2009 at 6:30 P.M. in the City Council Chambers located at 194 North Main Street for the purpose of conducting a Planning Session.

BOARD MEMBERS PRESENT: Mayor Steve Little, Mayor Pro Tem Cecil Owenby, Council Members Everette Clark, Lloyd Cuthbertson, Juanita Doggett and Billy Martin.

OTHERS PRESENT: Bob Boyette, City Manager

GUESTS PRESENT: Chris Revis and Mark Lyons, Revis Group

OPENING DISCUSSION: Mayor Little opened the meeting and welcomed those who were present.

PLANNING SESSION: City Council held a Planning Session and discussed the following topics:

1. Review of Website Development/Communications Proposal from Revis Group – Mr. Chris Revis and Mr. Mark Lyons of the Revis Group presented a proposal for creating a new City website and providing consulting on communications strategies for the City. The cost

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of the website development is $7,500 and involves a new City website that will be easier for staff to update and for citizens and visitors to navigate. The cost of the community messaging module is $6,500 and involves creation of videos for the City website, creating a presence for the City on a social networking site such as Facebook, advising on possible upgrades to the City Channel and other possible communications strategies for the City. The proposal included 12 months of support at $250 per month.

After discussion, the Mayor and Council Members stated that they agreed with the need to create a new City website and for the City to enhance current methods of communication and to use new means of communication such as Facebook. The Mayor and Council Members stated that they would like the Revis Group to modify the contract so that the City could pay for the website development and community development components during the 2009-10 Fiscal Year and to include 24 months of support, at $250 per month, to begin after the new City website goes on-line. The City Manager was directed to obtain a revised agreement from the Revis Group, for consideration by Council at the January 5 Council meeting.

2. Discuss Idea of Marion 101 Class – The City Manager provided information on a possible Marion 101 Class, to provide City residents and business owners with an overview of City government. This class had been suggested by Council Member Clark. The City Manager stated that he was using a similar class in Newton as a model and that the City could launch the program in Fall 2010. The Mayor and Council members encouraged the City Manager to develop more information about pursuing this project.

3. Discuss Idea of Additional Newspapers Qualifying as Newspapers of General Circulation – The City Manager stated that it had been suggested that the City should determine if other newspapers, such as the News Bulletin, could qualify as newspapers of general circulation for Marion, as defined in the North Carolina General Statutes, for purposes of running legal notices and other required notices. The City Manager discussed State law requirements for such qualification. After brief discussion, the Mayor and Council Members directed the City Manager to talk to the City Attorney and determine if more newspapers could qualify as newspapers of general circulation for Marion. The City Manager will bring back the City Attorney's determination to City Council at a future meeting.

4. Discuss City Hall Sound System – The City Manager presented Council with a proposal from Shelby Music Center for a sound system for the City Council Chambers in City Hall. The proposal was for approximately $3,500. After brief discussion, the Mayor and Council Members agreed by consensus for the City Manager to proceed with the sound system, with some minor modifications to the proposal.

5. Scheduling of Next City Council Planning Session – Council agreed to schedule a date for the next City Council Planning Session at the January 5 Council meeting. The Planning Session will be held after the January 26 Town Meeting.

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Owneby, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

AA.000000623 (24)

J. Robert Boyette, 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 5, 2010 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Cecil Owenby, Council Members A. Everette Clark, Lloyd Cuthbertson, Juanita Doggett and Billy Martin.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, AICP, Planning and Development Director; Mika Elliott, Police Chief; Chris Hollifield, Public Works Director; Mike Conley, News Reporter, McDowell News; Matt Dymond, News Reporter, The News Bulletin; Freddie Killough, Executive Director, Marion Business Association Director; Jim Neal, Fire Chief; Ray McDaniel, Assistant Fire Chief.

GUESTS PRESENT: Frank Dean, Ann McNutt, Don Markum and Bill Hendley, McDowell Trails Association Representatives; Frieda Ruppe, Marion Police Department Communicator.

OPENING OF MEETING: Mayor Little opened the meeting by stating that there is a separation between church and state and that he feels this is a good separation. We have a variety of people in our community who have different faiths and as a government we do not favor any one religion.

With that being said, Mayor Little stated that he chooses to have one minute of silence and persons can pray or meditate as they wish.

CITIZEN OF THE MONTH – SELECTED BY COUNCIL MEMBER LLOYD CUTHBERTSON: Council Member Lloyd Cuthbertson selected the Citizen of the Month for January 2010.

BILL HENDLEY

City Council Member Lloyd Cuthbertson stated that Mr. Bill Hendley is only the second non-City resident to be chosen as Citizen of the Month.
Mr. Hendley graduated from Pleasant Gardens High School. He served 22 years in the US Air Force and retired as a Sergeant Major. Mr. Hendley was a Russian translator. Mr. Hendley was an interceptor which means he monitored and translated Russian radio transmission and held the highest security clearance (Top Secret) in the military until he married Olga, a Russian citizen, after he retired from the military.

Mr. and Mrs. Hendley have three sons, Billy, Chris and Alex and one daughter, Christina.

Mr. Hendley is an active Rotarian and was the recipient of the Rotarian of the Year Award in 2009. He drives a school bus, is active in the McDowell County Bee Keepers Association and was recently awarded the Order of the Long Leaf Pine by the Governor of North Carolina.

Council Member Cuthbertson stated that he is honored to be a personal friend of Mr. Hendley.

Mr. Frank Dean stated that Mr. Bill Hendley exemplifies class. He is a visionary, and it is because of Mr. Bill Hendley that the Catawba River Greenway and other projects are happening.

Mayor Little and Council Members all shared kind words about Mr. Hendley.

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CONSENT AGENDA: Upon a motion by Council Member Cuthbertson, seconded by Council Member Clark, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – December 1, 2009 Regular City Council Meeting Minutes
December 15, 2009 City Council Planning Session Minutes

B. Adopt Resolutions of Intent

1. Eastfield Phase 6

A RESOLUTION STATING THE INTENT OF THE CITY COUNCIL OF MARION TO CONSIDERANNEXATION OF THE AREA DESCRIBED HEREIN AND FIXING THE DATE OF A PUBLIC INFORMATIONAL MEETING AND A PUBLIC HEARING ON THE QUESTION OF ANNEXATION – EASTFIELD PHASE 6

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

Section 1. It is the intent of the City Council of the City of Marion to consider annexation of the following described territory pursuant to Chapter 160A, Article 4A, Part 3 of the General Statutes of North Carolina:

BEGINNING at a point at the northern corner of Lot 1969 Block 48 on the McDowell County Tax Map 1711.06; thence following the boundary of said Lot 1969 and Lot 3864 Block 48 on the McDowell County Tax Map 1711.06 in a straight southeasterly direction 646 feet to a point at the southeast corner of said Lot 3864, said point also being on the northern boundary of Tunnel Road (SR 1729), thence following the northern boundary of Tunnel Road (SR 1729) approximately 15 feet to the southwestern corner of Lot 6688 Block 48 on the McDowell County Tax Map 1711.06; thence following the boundary of said Lot 6688 in a northerly direction 65 feet, thence in a northeasterly direction 110 feet, thence in a southeasterly direction 199 feet to the southeastern point of said Lot 6688, said point also being a point on the western boundary of the Carolina Clinchfield & Ohio Railroad Right-of-Way, thence following the western boundary of the Carolina Clinchfield & Ohio Railroad Right-of-Way in a southerly direction 416 feet to a point, said point being the northeast corner of Lot 2997 Block 37 on the McDowell County Tax Map 1711.06, said point also being on the boundary of the current Marion Corporate Limits, thence following the northern boundary of said Lot 2997 and the boundary of the current Marion Corporate Limits in a straight westerly direction 583 feet to a point, thence following the current Marion Corporate Limits in a generally northerly direction 255 feet, thence in a westerly direction 50 feet, thence in a northerly direction 132 feet to a point, said point being the on the boundary of the current Marion Corporate Limits, said point also being on the southern boundary of Tunnel Road (SR 1729), thence following the current Marion Corporate Limits in a straight northerly direction 50 feet to a point on the current Marion Corporate Limits, said point also being on the southern boundary of Lot 2708, Block 48 on the McDowell County Tax Map, thence following the southern boundary of said Lot 2708 and the boundary of the current Marion Corporate Limits in a westerly direction approximately 81 feet to the southwest corner of said Lot 2708 and the boundary of the current Marion Corporate Limits; thence following the western boundary of said Lot 2708 and the boundary of the current Marion Corporate Limits in a generally northerly direction 219 feet to the northwest corner of said Lot 2708, said point also being a point on the boundary of the current Marion Corporate Limits and a point of the northeast corner of Lot 9891 Block 38 on the McDowell County Tax Map, thence following the northern boundary of said Lot 9891 and the boundary of the current Marion Corporate Limits in a westerly direction 142 feet to a point at the northwest corner of said Lot 9891 and the boundary of the current Marion Corporate Limits, said point also being on the eastern boundary of Lot 8965 Block 38 on the McDowell County Tax Map 1711.06, thence following the boundary of the current Marion Corporate Limits in a northerly direction 315 feet to the point of BEGINNING.

Section 2. A public informational meeting on the question of annexing the above described territory will be held at City Hall at 7:00 P.M. on February 23, 2010, at which time plans for extending services to said territory will be explained and all residents and property owners in said territory and all residents of the City of Marion will be given an opportunity to ask questions and receive answers regarding the proposed annexation.

Section 3. A public hearing on the question of annexing the above described territory will be held at City Hall at 7:00 P.M. on March 23, 2010, at which time plans for extending services to said territory will be explained

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and all residents and property owners in said territory and all residents of the City of Marion will be given an opportunity to be heard.

Section 4. A report of plans for extending services to the above described territory shall be made available for public inspection at the office of the City Clerk at least thirty (30) days prior to the date of the public informational meeting. The statement of financial impact contained in the report shall be delivered to the McDowell County Board of Commissioners at least thirty (30) days prior to the date of the public informational meeting.

Section 5. A legible map of the area to be annexed and a list of persons holding freehold interests in property in the area to be annexed who have been identified shall be posted in the office of the City Clerk at least thirty (30) days prior to the date of the public informational meeting.

Section 6. Notice of the public informational meeting and public hearing shall be given by publication and by first class mail, as required by G.S. 160A-49.

ADOPTED the 5th day of January, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, Clerk

RESOLUTION NUMBER: R-10-01-05-1

2. Scott Road

A RESOLUTION STATING THE INTENT OF THE CITY COUNCIL OF MARION TO CONSIDERANNEXATION OF THE AREA DESCRIBED HEREIN AND FIXING THE DATE OF A PUBLIC INFORMATIONAL MEETING AND A PUBLIC HEARING ON THE QUESTION OF ANNEXATION – SCOTT ROAD

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

Section 1. It is the intent of the City Council of the City of Marion to consider annexation of the following described territory pursuant to Chapter 160A, Article 4A, Part 3 of the General Statutes of North Carolina:

BEGINNING at a point at the southeast corner of Lot 6224, Block 77 on the McDowell County Tax Map 1710.02, thence following the eastern boundary of said Lot 6224 and the Southern Railroad Right-of-way in a northwesterly direction approximately 672 feet to a point, said point being a northeast point of said Lot 6224 and a point on the southern boundary of Lot 4140, Block 88 on the McDowell County Tax Map 1710.02, thence following the southern boundary of said Lot 4140 in a northeasterly direction approximately 60 feet to a point, said point being the southeast point of said Lot 4140 and a point of the boundary of the Southern Railroad Right-of-way; thence following the boundary of said Lot 4140 and the boundary of the Southern Railroad Right-of-way in a northerly direction approximately 182 feet to a point on the boundary of said Lot 4140 and Southern Railroad Right-of-Way, said point also being the boundary of the current Marion Corporate Limits; thence following the current Marion Corporate Limits in a straight easterly direction approximately 100 feet crossing the Southern Railroad Right-of-Way to a point, said point being on the boundary of the current Marion Corporate Limits, the Southern Railroad Right-of-Way, and the northwest point of Lot 8005, Block 88 on the McDowell County Tax Map 1710.02, thence following the current Marion Corporate Limits and the boundary of said Lot 8005 in a northeasterly direction approximately 157 feet to a point at the northeast corner of said Lot 8005, the current Marion Corporate Limits, said point also being the southwestern boundary of Scott Drive (State Road 1742); thence running in a southeasterly direction along the boundary of the current Marion Corporate Limits 849 feet, thence following the current Marion Corporate Limits in a westerly direction approximately 430 feet to the point of BEGINNING.

Section 2. A public informational meeting on the question of annexing the above described territory will be held at City Hall at 7:00 P.M. on February 23, 2010, at which time plans for extending services to said territory

AA.00000626 (24)

will be explained and all residents and property owners in said territory and all residents of the City of Marion will be given an opportunity to ask questions and receive answers regarding the proposed annexation.

Section 3. A public hearing on the question of annexing the above described territory will be held at City Hall at 7:00 P.M. on March 23, 2010, at which time plans for extending services to said territory will be explained and all residents and property owners in said territory and all residents of the City of Marion will be given an opportunity to be heard.

Section 4. A report of plans for extending services to the above described territory shall be made available for public inspection at the office of the City Clerk at least thirty (30) days prior to the date of the public informational meeting. The statement of financial impact contained in the report shall be delivered to the McDowell County Board of Commissioners at least thirty (30) days prior to the date of the public informational meeting.

Section 5. A legible map of the area to be annexed and a list of persons holding freehold interests in property in the area to be annexed who have been identified shall be posted in the office of the City Clerk at least thirty (30) days prior to the date of the public informational meeting.

Section 6. Notice of the public informational meeting and public hearing shall be given by publication and by first class mail, as required by G.S. 160A-49.

ADOPTED the 5th day of January, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, Clerk

RESOLUTION NUMBER: R-10-01-05-2

C. Adopt Resolution Directing the Clerk to Investigate a Petition for Annexation – Great Meadows Property

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-31 – GREAT MEADOWS/MCDOWELL HIGH SCHOOL ROAD – 2010

WHEREAS, a petition requesting annexation of an area described in said petition was received on December 23, 2009 by the City of Marion; and

WHEREAS, 160A-31 provides that the sufficiency of the petition shall be investigated by the City Clark 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 of this investigation.

Adopted this the 5th day of January, 2010.

Stephen R. Little, Mayor

ATTEST:

AA.000000627 (24)

J. Robert Boyette, City Clerk

RESOLUTION NUMBER: R-10-01-05-3

INTRODUCTION OF NEW EMPLOYEE: Police Chief Mika Elliott introduced Ms. Frieda Ruppe, as the new telecommunicator for the Police Department. Chief Elliott said that Ms. Ruppe came fully trained from the Town of Forest City Police Department and is doing an excellent job for the City.

Mayor Little, Council members and the City Manager welcomed Ms. Ruppe to the City staff.

Chief Elliott stated that he was under the weather and asked to be excused for the remainder of this meeting.

PUBLIC APPEARANCE – McDOWELL TRAILS ASSOCIATION – DISCUSS CATAWBA RIVER GREENWAY PHASE 2 AND CANOE LAUNCH ON CATAWBA RIVER: Mr. Frank Dean, Mr. Bill Hendley, Ms. Ann McNutt and Mr. Don Markum of the McDowell Trails Association (MTA) were present for this discussion.

Mr. Dean presented a proposed lease between the City and Great Meadows Inc. for a canoe launch and nature park on property located on US 221 North Business, adjacent to the proposed Catawba River Greenway. The proposed lease includes a year to year lease for $1 per year of approximately 1.5 acres of property fronting on US 221 North Business and a 20 year lease for $1 per year with two 5 year options for the remaining 13+ acres of property extending to the US 221 Bypass. These properties would provide room for a parking area and canoe launch and additional walking trails to enhance the Greenway. The property contains a three acre pond. This property is adjacent to the Catawba River. Mr. Dean stated that Great Meadows simply asked that it not be liable for the property taxes on the 15 acres which equate to about $200 per year. Mr. Dean suggested that the City pay the City taxes and that the MTA would pay the County taxes. A map was presented to Council to show the proposed areas to be leased.

The suggested proposal presented to Council read as follows:

"Lease Proposal – 15 +/- acres, between Old US 221 North and the by-pass

The land lease conditions as proposed by Great Meadows to the City of Marion for two parcels on the north side of the Catawba River. Access to the two parcels are via the 5-lane to the stop light at the former Ford dealership. Continue north and cross the bridge. The subject property is on the left and adjoins the river. The lease is to be in two sections due to the variance in the lease conditions.

Section 1. Involves the approximate 1.5 acres with frontage on old US 221 North. It will serve as a parking area for the canoe launch and retrieval site, and the point of access to the proposed nature park.

1. Great Meadows, Inc. will lease the parcel to the City of Marion for $1 per year on a year to year basis.

2. Plans for the canoe launch site must be approved by the officers of Great Meadows, Inc. prior to construction.

3. In the event Great Meadows, Inc. secures a long term land lease tenant or purchaser for the parcel Great Meadows, Inc. can terminate the lease.

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Section 2 involves the remaining approximate 13.88 acres which will serve as a nature park.

The remainder is to have a 20 year lease at $1 per year with 2 five year options to renew. The renewal is to be agreed upon by both parties.

There is no property tax liability to Great Meadows on either of the two parcels. The tax liability is to be shared by the City of Marion and the McDowell Trails Association.

Maintenance for both parcels is to be shared between the City of Marion and the McDowell Trails Association.

The 20 year option to renew has to be agreed upon by both parties."

Mr. Dean further advised that Great Meadows and their tenant, Mr. Jeff Benfield, have agreed to allow Phase 2 of the Catawba River Greenway to stay on the south side of the Catawba River behind Wal Mart, on the condition the City relocates Mr. Benfield's pumps and constructs a fence to keep people out of his nursery stock. Mr. Dean stated that this would eliminate the need for two bridges to be constructed across the Catawba River. He added that Phase 2 of the Greenway will extend from the end of Phase 1 to the McDowell House property. Mr. Dean proposed that the City of Marion own Phase 2, with grant and funding support from McDowell County, with maintenance to be shared between the City and MTA.

Council Member Clark stated that Council had previously agreed to own and maintain Phases 1 and 2 of the Greenway, so this point should not be an issue. Council Member Clark asked who would be held accountable for the liability with the property to be leased and if it would come under the City's insurance policy.

The City Manager stated that he could consult with the City's insurance carrier to determine if a canoe launch and the pond would be a liability concern and have any effect on the City's insurance premiums.

Council Member Clark asked if there would be a place down river for people to take canoes out of the River. Mr. Hendley stated that the MTA is working with other agencies to create a canoe path of 120 miles. There are more launches downstream of this site which are being planned, but which have not been finalized as of yet. Mr. Hendley added that the North Carolina Fish Hatchery would be stocking this section of the River with fish and building a handicapped accessible fishing pier.

Mayor Little thanked Mr. Dean, Mr. Hendley and all MTA representatives for coming to the meeting and all they have done to help with the Catawba River Greenway and other trails projects.

The City Manager stated that the North Carolina Department of Transportation would need to issue an encroachment to allow the Greenway to extend under the US 221 Bypass bridge; however, the City of Morganton had been granted such an encroachment for its greenway, which indicated that approval was likely.

The City Manager noted that a successful project such as the Greenway leads to people wanting to be involved and for budget reasons staff would propose that the City seek bids for design services for Phase 2 of the Greenway, without objection from Council.

The City Manager stated that the proposal on the table involves two separate issues, one regarding approval of the lease agreement with Great Meadows for the canoe launch and nature

AA.00000629 (24)

park on US 221 North Business and one involving agreeing to partner with McDowell County on Phase 2 of the Catawba River Greenway and to seek bids for design services for this phase.

A brief discussion followed.

Upon a motion by Council Member Cuthbertson, seconded by Council Member Martin, Council voted unanimously to approve the following:

1. A lease agreement with Great Meadows Inc. for $1 per year for approximately 1.5 acres of property fronting on US 221 North Business for a canoe launch and nature park, subject to the City Manager consulting with the City's insurance carrier regarding any liability concerns and impacts on insurance premiums.

2. A lease agreement with Great Meadows Inc. for $1 per year for approximately 13 acres of property extending from the 1.5 acres noted in the preceding item to the US 221 Bypass for a nature park, subject to the City Manager consulting with the City's insurance carrier regarding any liability concerns and impacts on insurance premiums.

3. The City partnering with McDowell County and the McDowell Trails Association on Phase 2 of the Catawba River Greenway, with the City owning the property, the County providing grant and funding support and the McDowell Trails Association assisting the City with maintenance.

4. The City bidding out design services for Phase 2 of the Catawba River Greenway.

PUBLIC APPEARANCE – MARION BUSINESS ASSOCIATION:

Ms. Freddie Killough, Executive Director of the Marion Business Association, presented the following report to Council:

October – December, 2009 Quarterly Report to Marion City Council

Economic Development Report

New Businesses Opened – Catauwhale, 20 South Main Street
Envious Beauty, 121 Railroad Street
McDowell House Tea Room, Hwy 70 West
Businesses Closed – Dutchy Debs, 242 North Main Street
Legendary Ford, North Main Street
Business Loan Inquiries – 4
Business Grant Inquiries – 3
Business Visits - Visited All Downtown Businesses for Christmas Promotion.
Property Referral Inquiries – 2
Contacts with interested Commercial Developers – 2

Other Economic Activity – E-3 Forum, November 13. 25 attended. Scott Hamilton of AdvantageWest was guest speaker.

MBA continues to maintain listing of commercial properties in the City of Marion.

Special Events Report

October 10, Mountain Glory Festival – Profit - $7,500.00+
November 22, Christmas Parade – Low turn-out due to rain
December 3, Melodies on Main – Great turn-out
December 22, Merchant Drawing, 23 businesses participated. Created lots of excitement.
December 31, New Year's Eve Celebration – Marion Rotary did a great job. MBA/City gave support services. Several hundred people attended.

Upcoming Events

Friday, January 8 – E-3 Forum with Congressman Heath Shuler

AA.000000630 (24)

Friday, February 5 – E-3 Forum with Commerce Secretary Keith Crisco
Friday, March 5 – E-3 Forum with Local Agency Reports

Marion Calendar of Events
2010 Calendar of Events

Saturday, March 27 – Easter Bonnet Parade @ YMCA
Saturday, May 1 – Sidewalk Yard Sale – Main Street
Friday, June 4 - First Friday Concert & Livermush Festival – Main Street
Saturday, June 26 – Honey Bee Arts Festival – Main Street
Saturday, July 3 – Independence Day Celebration
Monday, July 19 – Folkmoot @ East Junior High
Tuesday, August 3 – National Night Out – Main Street
Friday, August 6 – First Friday Concert
Saturday, August 7 – Sidewalk Yard Sale – Main Street
Monday, September 6 - Labor Day Concert @ Historic Depot – Terry McKinney
Saturday, October 9 – Mountain Glory Festival - Main Street
Sunday, November 21 – Christmas Parade - Main Street
Thursday, December 2 – "Melodies on Main" Christmas Celebration
December – Blue Ridge Craftshow @ MACA
December 31 – Rotary of Marion New Year's Eve Celebration

Every Thursday Night, 7:00 PM - Bluegrass Music Jam @ Depot

It was the consensus of Council to have Ms. Killough come on a quarterly basis to brief Council on current affairs.

Ms. Killough also stated that the Farmer's Market has been selected by the North Carolina Main Street as the best Public Private Partnership in North Carolina.

Council Member Clark stated that he wished the City could come up with a pool of money to assist with persons wanting to open businesses in the City. He suggested that this would be a good Planning Session topic.

Ms. Killough also gave a brief update on the First Annual New Year's Eve Celebration held the previous Thursday evening. She stated that several hundred or more people attended this event, enjoyed many activities and supported downtown businesses that were open, particularly restaurants and the coffee shop.

Mayor Little and Council Members thanked Mr. Don Markum who made the gold nugget used for the New Year's Eve celebration. Mayor Little stated that it was a wonderful sight to see the gold nugget dropping over Main Street at Midnight.

Ms. Killough advised that the New Year's Eve Committee held a wrap up meeting earlier in the day and is already making plans for next year.

The City Manager stated that many organizations assisted with the New Year's Eve celebration, including the Marion Rotary Club, the City of Marion, McDowell County, the Marion Business Association, the McDowell Arts Council Association, the McDowell Chamber of Commerce, the North Carolina Gold Festival, McDowell Cement and First Baptist Church.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

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CONSIDER APPROVAL OF CONTRACT WEBSITE DEVELOPMENT/COMMUNICATIONS CONSULTING: The City Manager advised that as discussed at the December 15 City Council Planning Session, the Revis Group submitted a revised proposal for their website development and communications consulting services. The revised proposal calls for the $7,500 cost of the website development and the $6,500 cost of the community messaging module to be paid by the end of the 2009-10 Fiscal Year. The City Manager stated that the proposal also has been revised to include support services being billed at the rate of $250 per month for 24 months. The 24 month period begins after the new City website is on-line. Approval of the agreement by Council is needed to allow the Revis Group to begin work on this project.

Upon a motion by Council Member Cuthbertson, seconded by Mayor Pro Tem Owenby, Council voted unanimously to approve a contract with the Revis Group in the amount of $7,500 for website development, in the amount of $6,500 for the community messaging module and to include 12 hours of support per month for a cost of $250 per month for 24 months, said 24 month period to begin after the new website is launched.

CONSIDER APPROVAL OF CONTRACT – FIRE BRUSH TRUCK: The City Manager advised that, as shown on the memo presented to Council, bids were sought for the purchase of a new quick response truck (brush truck) for the Fire Department, as previously authorized by Council. Staff had originally forecast that the truck would cost $110,000. The City Manager stated that after Chief Neal and the Fire Department developed detailed specifications, they increased the estimated budget to $125,000.

Fire Chief Jim Neal presented the detailed specifications on the proposed quick response truck. He stated that the City sought bids from four companies. Two companies declined to bid. Bids were received as follows:

Slagle's Fire Equipment	$142,922.00
Anchor-Richey	$132,125.00

Chief Neal stated that, after negotiation, the low bidder, Anchor-Richey reduced the price of the truck to $128,525.00.

The City Manager stated that he had originally thought that the City would use the additional $75,000-$80,000 in revenue anticipated from the extra two cent Marion Area Fire District tax and use $32,000 in funds earmarked for Transfer to Capital Reserve. However, in a recent Budget Ordinance Amendment, the $32,000 in funds earmarked for Transfer to Capital Reserve was eliminated to make up for the reduction in Beer and Wine Tax revenue for this year ($22,650). The City Manager reported that this same Budget Ordinance Amendment reduced the budgeted General Fund Balance Appropriation by $49,050. With the Budget Ordinance amendment eliminating the $32,000 Transfer to Capital Reserve, the City Manager said the General Fund will be around $50,000-$55,000 short. The City Manager stated that staff did not recommend financing this truck in order to save interest costs. The options at this point are taking the additional $50,000-$55,000 out of the General Fund Balance (and thereby bringing the budgeted General Fund Balance back up to its original level) or lowering the cost by any means necessary. The City Manager advised that cost savings options include:

A. Rebidding – Two companies declined to bid and staff is not optimistic that rebidding would result in any lower cost.

B. Swapping the diesel pump with a pump with a gasoline powered engine – This change would lower the cost of the truck by $6,000. Jim and the Fire Department much prefer the diesel pump, but are willing to give it up if deemed absolutely necessary.

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C. Selling the existing 1986 brush truck – The Fire Department has proposed keeping the current brush truck, so that another four wheel drive vehicle will be available. However, if Council wishes to cut costs further, the truck could be sold and perhaps gain a few thousand dollars. Staff does not believe that the current truck would bring much more than $5,000.

The City Manager summarized that cost savings proposals or rebidding will at most save the City a few thousand dollars, so the City will at least need to use $40,000 in General Fund Balance, unless Council wishes to finance the truck. The City Manager added that it is worth noting that the current brush truck has served the City for 23 years and that the new truck would be expected to have at least a 20 year life as well.

Mayor Little stated that we have the proposal and asked for comments.

Council Member Clark stated that he would suggest keeping the diesel pumps, as this will lengthen the life of the truck. He asked the City Manager if the City could afford the truck at this time.

The City Manager stated that the budget is a moving target, but that staff preferred paying cash for the truck this year, so that the City would not have to budget for debt payments in future years. Council Member Clark stated that he agreed with this strategy.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to award the contract for the purchase of a quick response vehicle for the Fire Department to Anchor-Richey in the amount of $128,525.00.

PRESENTATION OF STREET COMMITTEE RECOMMENDATIONS: The City Manager stated that the Street Committee met on December 3 and reviewed the following items:

A. The Street Committee looked at Francis Drive, where the City has recently received complaints about large vehicles going down Francis Drive, being unable to turn around and having to back out the street, creating ruts on the grass and possibly other damage. The Street Committee recommended that a warning sign reading "No Large Vehicle Turnaround" should be placed at the beginning of Francis Drive off Old West Henderson Street. The City has a similar sign in place on Forest Heights Drive.

B. The Street Committee looked at complaints regarding drainage on Oak Street near the Highland Drive intersection and a recent request for a sidewalk along Oak Street. The Street Committee and staff feel that there is no solution to the drainage issue, other than a future major project to install curb and gutter along Oak Street, and even if curb and gutter is installed, it is uncertain whether there is enough fall to allow for adequate drainage. The drainage issue appeared to be relatively minor. Given the number of projects the City has on the Street and Sidewalk Priority List, the Street Committee did not recommend adding the installation of curb and gutter and a sidewalk on Oak Street to the priority list at this time.

C. The Street Committee looked at the suggestion of Council Member Martin that street lights be installed on the on and off ramps of the Highway 221 Bypass at the West Henderson Street exit. The Street Committee suggested that staff determine the feasibility and cost of this installation with Duke Energy and DOT. Staff has discussed this possibility with Duke Energy and DOT. Duke Energy personnel stated that DOT would need to give some direction about the allowance for such street lights. DOT division staff have referred this matter to DOT staff in Raleigh and the City is awaiting direction before any quotes can be given by Duke Energy and a decision can be made regarding the placement of the streetlights.

Council stated no objection to the recommendations of the Street Committee. No action was necessary for this item.

DISCUSS PROJECTS TO INSTALL THREE LANE SECTION ON FLEMING AVENUE AT MARION ELEMENTARY SCHOOL ENTRANCE: Public Works Director Chris Hollifield gave a presentation showing pictures of how flexible delineator barriers could be used

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at the Fleming Avenue entrance to Marion Elementary School, as part of the planned widening of Fleming Avenue at this location to three lanes, to prevent the left turn movement prohibited by City ordinance.

A discussion followed.

A motion was made by Council Member Owenby, seconded by Council Member Martin, to refer this item to the Street Committee.

Council Member Clark asked that the Street Committee also look at the possibility of prohibiting through truck traffic on Robert Street, given the large number of log trucks and other large trucks that use Robert Street in front of Marion Elementary School.
Council Member Doggett stated that large trucks are a problem on many residential streets.

The City Manager advised that Council Member Clark had suggested to him, based on citizen requests, that the City look at creating allowances for golf carts on lower speed streets in the City

Council voted unanimously to refer the items noted above to the Street Committee for review and recommendation.

SCHEDULE CITY COUNCIL PLANNING SESSION: The City Manager advised that Council agreed at the December 15 Planning Session to consider at the January 5 meeting a date for the next Planning Session.

The City Manager stated that the Town Meeting is scheduled for January 26, 2010. The Planning Session could be set after that date.

Mayor Little stated that the City has held Planning Session in different ways and that he would like to see Council take their time and discuss issues without interruptions.

Council Member Clark outlined some of the planning retreats Council had taken out of town in the past and suggested that such a retreat should be considered again at some point.

Council Member Cuthbertson suggested that Council start with a brainstorming session prior to holding a full Planning Session.

It was the consensus of Council to hold the Planning Session for brainstorming only on Thursday, February 25, from 6:00 p.m. until 9:00 p.m. at City Hall.

RESCHEDULE MARCH 16 CITY COUNCIL PLANNING SESSION:
The City Manager advised that Mayor Little and perhaps some Council Members will be attending the National League of Cities Conference in Washington, D.C. from March 13-17, which will conflict with the March 16 City Council meeting. The City Manager proposed changing the March 16 Council meeting to March 23.

Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Owenby, Council voted unanimously to change the regularly scheduled March 16 City Council Meeting to March 23.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that he had received a letter from DOT Division Engineer Jay Swain, advising that DOT was exploring the request the City made requesting that policy be changed to allow the blue logo signs to be placed at signalized intersections along controlled access highways, such as at the northern and southern ends of the Highway 221 Bypass. The City Manager stated that he had since spoken further with DOT Division 13 staff, who forwarded the

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request to DOT in Raleigh. DOT Division 13 staff said that they would support the request, but could offer no guarantees of success. The City Manager reported that he subsequently received word from DOT staff in Raleigh that the request was being reviewed. He added that restaurant owners who have asked for such a change are being kept abreast of the progress of this matter.

The City Manager advised that Planning and Development Director Heather Cotton had submitted the Downtown Streetscape Plan to DOT for review on December 14. The City Manager added that Ms. Cotton, Public Works Director Chris Hollifield and he met with DOT District Engineer Doug McNeal on December 22 to discuss the details and timing of the plan in more detail. The City Manager stated that Mr. McNeal seemed encouraged that the plan could be approved, perhaps with only some minor modifications.

As directed by Council at the December 1 meeting, the City Manager said that he and Police Chief Mika Elliott discussed the Police Parking Only space on Main Street in front of the Courthouse. The City Manager stated that both Chief Elliott and he agree that this space is not needed and could be better used for public parking, thus allowing the City to gain another public parking space in the critical Court to Henderson block of Main Street. The City Manager added that police officers could park in public parking spaces as they are available, without tying up such a prime space for Police Parking Only. The City Manager stated that this change would be reflected on the Downtown Streetscape Plan, without objection from Council. Mayor Little and Council members stated no objection to this recommendation.

The City Manager stated that he had directed staff to begin the condemnation process on the next round of dilapidated houses. He hopes that staff will have ordinances prepared to begin the condemnation process at an upcoming Council meeting.

The City Manager stated that the City's contractor is nearing completion on the replacement of the Hospital Pump Station on Rankin Drive. The replacement of the pump station will allow for adequate wastewater capacity for development along the Sugar Hill Road corridor and Hospital area.

The City Manager advised Ronny Turner Construction is almost complete with the work to eliminate the Catawba River Wastewater Plant and to turn the facility into a pump station to pump wastewater flow from the northern part of the City to the Corpening Creek Wastewater Plant. Laughlin Sutton Construction began work on the Corpening Creek Plant improvements in the summer of 2009. This construction project is making good progress and will last well into 2010.

The City Manager stated that he had asked McGill Associates for a report on where the Wastewater Improvements Project stands with change orders. He noted that only a small fraction of the contingency budgeted for the project has been used for change orders. The City Manager stated that he had encouraged City staff and McGill to look at needed work that could be completed with money that will likely be left over for this project. The City Manager suggested that demolition work and cosmetic work not originally proposed in the project therefore may be able to take place at the Corpening Creek Wastewater Treatment Plant.

The City Manager advised that the City continues to work with the U.S. Census Bureau to promote the 2010 Census. He added that City Sanitation personnel recently delivered flyers door to door in the City. The flyers contained information about the 2010 Census. This information is also posted at City Hall, on the City website and on the City's government access channel.

The City Manager stated that he and Mayor Little had sent out thank you notes to numerous internal departments and external agencies and individuals involved with last week's New Year's Eve Celebration.

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The City Manager stated that he would like to thank the Public Works Department for the effort made with snow removal with the snowstorm experienced two weeks ago.

Mayor Pro Tem Owenby stated that, when the Downtown Streetscape Plan is implemented and Main Street is reduced to three lanes, it may be more difficult for the City to push snow to the middle of the street as has been the City's practice for many years.

Council Member Martin stated that he agreed that City personnel did a great job clearing streets quickly, but that he believed that snow was left in the middle of streets for too long.

COUNCIL MEMBER COMMENTS:

Mayor Little presented the following list of Mayor Appointed Committees to Council Members and stated that if they had questions to please let him know.

MAYOR APPOINTED COMMITTEES
JANUARY 2010

STREET COMMITTEE
Council Member Clark
Council Member Cuthbertson

FIRE COMMITTEE
Council Member Cuthbertson
Council Member Martin

RECREATION COMMITTEE
Council Member Doggett
Mayor Pro Tem Owenby

POLICE COMMITTEE
Council Member Clark
Council Member Doggett

SAFETY COMMITTEE
Council Member Cuthbertson

UTILITY COMMITTEE
Council Member Martin
Mayor Pro Tem Owenby

CEMETERY COMMITTEE
Council Member Clark
Mayor Pro Tem Owenby

TREE COMMITTEE
Council Member Cuthbertson
Council Member Doggett

COUNCIL ON AGING
Council Member Clark

FIREMEN'S RELIEF FUND
Council Member Doggett
Council Member Martin

Council Member Clark asked if any of the Council Members had taken the ethics course required by the State for local elected officials. The City Manager advised that Council Member Doggett would receive the required ethic training, as part of the Essentials of Municipal Government

AA.000000636 (24)

course held by the School of Government in late January. Member Clark suggested that the City Manager seek to schedule. The City Manager stated that he had asked Isothermal Planning and Development Commission to schedule ethics training in the Isothermal region. After brief discussion, it was agreed that the City Manager would contact the N.C. League of Municipalities, School of Government and Isothermal Planning and Development Commission and state the willingness of the City to host ethics training at a City facility.

Council Member Cuthbertson stated that there was a tree limb on Claremont Street blocking the sidewalk. The City Manager asked Public Works Director Chris Hollifield to make sure this problem was corrected.

Council Member Cuthbertson also asked if the City Traffic Schedule had been changed to reflect the new traffic pattern at North McDowell Avenue and Oak Street. The City Manager stated that the Traffic Schedule had been changed accordingly, by action of Council.

Council Member Cuthbertson stated that the ABC Store had a record day of sales on New Year's Eve, taking in $25,000 in one day.

Council Member Cuthbertson asked where the City stood with the legality of video poker machines. The City Manager stated that there was a recent court ruling upholding the State ban on video poker machines. He added that this ruling is being studied and that local law enforcement is looking at a coordinated enforcement effort, if so allowed by the court ruling.

Council Member Doggett thanked the City Manager for the time he had spent conducting several orientation sessions with her regarding City issues and operations.

ADJOURNMENT: Upon a motion by Council Member Doggett, seconded by Council Member Martin, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.000000637 (24)

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 19, 2010 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Pro Tem Cecil Owenby, Council Members Everette Clark, Lloyd Cuthbertson and Billy Martin.

Mayor Steve Little was not present for this meeting due to being out of the country on a mission trip to Belize.

Council Member Juanita Doggett was not present for this meeting due to the passing of her mother earlier that day.

OTHERS PRESENT: Bob Boyette, City Manager; Tammy Rose, Personnel Technician; (Filling in for Administrative Assistant Debi Sherlin who was in Savannah, Georgia due to a death in the family); Heather Cotton, AICP, Planning and Development Director; Mika Elliott, Police Chief; Chris Hollifield, Public Works Director; Mike Conley, News Reporter, McDowell News; Matt Dymond, News Reporter, The News Bulletin.

GUESTS PRESENT:

CONSENT AGENDA: Upon a motion by Council Member Cuthbertson, seconded by Council Member Martin, those members of Council present voted to approve the consent agenda as follows:

A. Approval of Minutes – January 5, 2010 Regular City Council Meeting Minutes

B. Approve Annexation Reports and Plan of Services

2010 ANNEXATION AREAS – ANNEXATION REPORT AND PLAN OF SERVICES
TABLE OF CONTENTS

INTRODUCTION TO ANNEXATION

DESCRIPTION OF PROPOSED ANNEXATION

SECTION I. **SUMMARY OF REPORT**

SECTION II. **BOUNDARY DESCRIPTION**

SECTION III. **STATEMENT SHOWING THAT AREAS PROPOSED FOR ANNEXATION MEET THE LEGISLATIVE STANDARDS OF G.S. 160A-36**

SECTION IV. **STATEMENT SETTING FORTH PLANS FOR EXTENDING CITY SERVICES TO THE AREAS PROPOSED TO BE ANNEXED AND METHODS OF FINANCING THESE SERVICES**

SECTION V. **ESTIMATED REVENUES**

SECTION VI. **REVENUES AND COST ESTIMATES**

EXHIBITS

EXHIBIT A. **GENERAL LOCATION/BOUNDARY MAP**

EXHIBIT B. **EXISTING LAND USE**

AA.00000638 (24)

EXHIBIT C. **WATER LINES**

EXHIBIT D. **SEWER LINES**

EXHIBIT E. **STREET LIGHTS**

INTRODUCTION TO ANNEXATION

North Carolina's Constitution (Art. VII, Sec. 1) directs the General Assembly to "...provide for the organization and government and the fixing of boundaries..." In response to this charge the General Assembly has provided three general law procedures to effect municipal annexations. Those procedures embody the principle that land development for urban purposes should be within an incorporated municipality.

Annexation is the procedure whereby the corporate limits of a municipality are extended to encompass additional land, which, in most cases, is "urban in character." In addition to providing urban services to people that need them, annexation is a tool to implement policies and plans adopted by the community. Annexation is one method of achieving the community's growth objective, which is balanced and directed growth. Annexation is also a method of strengthening the tax base of a municipality, which will allow the locality to provide an adequate level of services to its citizens.

The City of Marion has four (4) methods available to it for annexation; these are: (1) action by the General Assembly, (2) annexation of contiguous areas upon petition of all owners of real property by G.S. Chapter 160-A, Article 4A, Part 1 (G.S. 160A-31 and G.S. 160A-31.1, (3) annexation of non-contiguous (satellite) areas upon petition of all owners of real property by G.S. Chapter 160A, Article 4A, Part 4 (G.S. 160A-58 through G.S. 160A-58.8 and (4) by authority granted to municipalities under 5,000 population by G.S. Chapter 160A, Article 4A, Part 2 (G.S. 160A-33 through G.S. 160A-42).

Action by General Assembly. The General Assembly may at any time enlarge the boundaries of a municipality by special act. This method is especially useful in annexing territory that cannot be annexed under one of the general law procedures because of some local condition. It is thus an important method even though not often used.

Annexation of Contiguous Areas upon Petition of All Owners of Real Property. The governing body of any municipality may annex by ordinance any areas contiguous to its boundaries upon presentation to the governing board of a petition signed by the owners of all real property located within such area. (G.S. 160A-31 and 160A-31.1)

This procedure, first enacted in 1947 in a more restricted form, involves a public hearing and a finding that the petition and the area to be annexed meet the statutory requirements. The procedure is most often used to annex small areas, new subdivisions, and tracts with only a few property owners. Of all methods, this is the most frequently used.

Annexation of Non-Contiguous (Satellite) Areas Upon Petition of All Owners of Real Property. Upon petition signed by all owners of real property in the area, the governing body of a qualified municipality may annex by ordinance certain "satellite" areas whose boundaries do not at any point touch its primary corporate limits. The primary corporate limits consist of the boundaries of a municipality as defined in its charter and as enlarged by annexation of contiguous territory according to applicable laws or diminished by exclusion of contiguous territory of the General Assembly. (G.S. 160-58 through G.S. 160A-58.8)

Before July 1, 1974, the effective date of the general satellite annexation statute, eleven cities had secured satellite annexation authority by special acts, starting with Raleigh in 1967. The satellite procedure, although not often used, is typically employed when owners of satellite property want municipal services or regulations for their property – usually retail establishments, new subdivisions, and occasionally industry.

Annexation of Areas meeting Statutory Standards. On the recommendation of the Municipal Government Study Commission (created by the 1957 General Assembly) the 1959 General Assembly enacted a new and comprehensive municipal annexation statute. The statute defines "developed for urban purposes" and provides that such an area that is contiguous to a municipality's boundaries may be annexed by ordinance if the municipality can provide the area with services on the same basis that it provides services within its existing boundaries. Reports must be prepared that (1) show that urban development in the area proposed for annexation meets the statutory standards and (2) detail the municipality's plans for extending and financing services to the area upon annexation. A special examination of the proposed annexation's effect on any rural fire department must be made. Under some circumstances, arrangements to contract with these departments

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for services, to assist in meeting their financing needs, or to employ their personnel must be offered. The statute requires extensive notice to affected property owners and a public hearing. After following these steps and finding that all the statutory standards and requirements have been met, the municipal governing board may effect an annexation by ordinance. The statute includes extensive safeguards to assure that citizens in the areas that are annexed receive municipal services as planned. There is no requirement for a petition or a referendum, either within the area proposed for annexation or within the existing municipality. These annexations, based on statutory standards, are subject to the following requirements.

Standards the Area Must Meet Under G.S. 160A-36:

(1) Contiguity. The area must be contiguous to the existing municipal boundary. "Contiguous area" means any area which, at the time the annexation procedures are initiated, either abuts directly on the municipal boundary or is separated from the municipal boundary by a street pr street right-of-way, a creek or river, the right-of- way of a railroad or other public service corporation, or lands owned by the municipality, another political subdivision or the State. (G.S. 160A-41(1).

If the entire territory of a county water and sewer district created under G.S. 162A-86(b1) is being annexed, the annexation shall also include any non-contiguous pieces of the district so long as the largest part of the district is contiguous.

(2) One-Eighth Common Boundary. At least one-eighth (12.5%) of the total external boundary of the area must coincide with the municipal boundary.

(3) Unincorporated. No part of the area may be within another incorporated municipality.

(4) Developed to Urban Standards. The area must be "developed for urban purposes" under G.S. 160A-36(c) as of the time of the approval of the annexation report. That means the area must meet one of the tests set forth in (A) through (C) below. Note that areas of streets and street right-of-way may not be used to determine total acreage in making these calculations:

(A) Use + Subdivision Test. The area is developed such that it meets both of the following tests:

(1) Use Test. At least sixty percent (60%) of the total number of lots and tracts are used for residential, commercial, industrial, Institutional or governmental purposes; and

(2) Subdivision Test. The area is subdivided into lots and tracts such that at least sixty percent (60%) of the total acreage, not counting the acreage used at the time of annexation for commercial, industrial, governmental or institutional purposes, consists of lots and tracts three acres or less in size.

OR

Nonresidential Urban Areas. The area is developed such that at the time of the approval of the annexation report, all tracts in the area are used for commercial, industrial, governmental, or institutional purposes.

OR

(C) Water/Sewer District. The annexation area is the entire area of any county water and sewer district created under G.S. 162A-86(b1), so long as the municipality contracts with the district to operate the sewer system and the contract provides that the area is developed for urban purposes. The area of an abolished water and sewer district is still considered a water and sewer district even after its abolition under G.S. 162A-87.2(b).

(5) Boundaries. Recorded property lines and streets must be used in setting the boundaries of the annexation area. Some or all of the boundary of a county water and sewer district may be used when the entire district not already within corporate limits of a municipality is being annexed.

ADVANTAGES OF ANNEXATION

Many of the property owners in the area proposed for annexation may feel that annexation offers no advantages for them. This assessment is only superficial, as the following advantages will prove:

Water and Sewer – Areas unserved by Marion's water and sewer system will be served within a reasonable time after annexation. These services are needed to protect the health and safety of the

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residents. Customers already served by City water and/or sewer will enjoy a 60 percent decrease in water and sewer rates.

Police Protection – Police protection would be provided by the Marion Police Department on a 24-hour basis. City police protection involves more frequent patrols and a more rapid response rate when emergencies arise. The McDowell County Sheriff's Department now provides protection to unincorporated areas of McDowell County.

Fire Protection – Usually a change in fire insurance ratings occurs when an area is annexed into the city limits. The City now has a Class 5 rating while areas outside the municipality have a Class 9 rating.

Some insurance companies will give a reduction in rates once the property has been annexed into the city limits and the class rating has been changed; however, the practice of a reduction in rates is not uniform among insurance companies.

Streetlights – Areas annexed by the City of Marion will be provided with streetlights, which help prevent crime and accidents.

Solid Waste Collection and Disposal – Marion will provide for the collection and disposal of solid waste (garbage and trash) for all newly annexed areas. The property owners now must dispose of their solid waste themselves or contract for this service from a private contractor.

Streets – The City of Marion will maintain all streets which meet City requirements except those which are continually maintained by the North Carolina Department of Transportation.

Right to Vote – Residents in the areas annexed by the City of Marion will be able to vote in City elections and hold City office.

Tax Exemption – Real and personal property taxes are an allowable exemption on both the State and Federal income tax forms.

Annexation will offer some advantages to the City of Marion also. These advantages are as follows:

Increased Revenues – The property tax levy would provide the largest source of new revenue from newly annexed areas. Revenues from water and sewer services would provide funds for general operation of those services.

Such revenues as utility franchise taxes, sales taxes, beer and wine taxes and Powell Bill funds are collected by the State and returned to the municipalities.

The distribution of franchise taxes to the municipalities is based on the gross receipts from sales. Powell Bill funds are based on a combination of local street mileage and population.

Increased Tax Base – The new values of real and personal property will increase the appraised tax valuation for Marion. This will increase the City's debt limit and enable it to expand its borrowing capability, as well as its services and facilities.

Increased Population – The increased population will enhance Marion's desirability as a site for new commercial and industrial expansion and support new levels of community service. An increase in population quite often results in an increase in State and Federal funding.

SECTION I

SUMMARY OF REPORT

Pursuant to the authority vested in the City Council of the City of Marion by Part 2, Article 4A, Chapter 160-A of the General Statutes of North Carolina, a Resolution of Intent to consider annexation of the areas covered by this report was adopted by the City Council at a regular meeting held on January 5, 2010. A notice of the public informational meeting to be held on February 23, 2010 and the public hearing to be held on March 23, 2010 on the question of annexation is being published in accordance with legal requirements and the Resolution of Intent.

A municipality exercising its authority to annex shall make plans for the extension of services to the area proposed to be annexed and shall, prior to the public hearing provided for in G.S. 160A-35, prepare a report setting forth such plans to provide services to such areas. The report shall include:

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Annexation Report and Services Plan
G.S. 160A-35

G.S. 160A-35 requires a detailed annexation report and services plan. The report must include the following information:

1. A map or maps of the municipality and the adjacent territory to show:

   A. The present and proposed boundaries.

   B. The present major trunk water mains and sewer interceptors and outfalls and any proposed extensions of water mains and sewer outfalls to serve the area to be annexed. The map must bear the seal of a registered professional engineer.

2. A statement showing that the area meets the standards of G.S. 160A-36.

3. A statement setting forth the plans for extending to the annexation area such major services performed within the municipality. The plan must specifically provide for:

   A. Police protection, fire protection, solid waste collections, street maintenance and street lighting services on substantially the same basis and in the same manner as provided in the rest of the municipality as of the effective date of the annexation. If a water distribution system is not available in the area to be annexed, the plans must provide for reasonably effective fire protection until such time as water lines are made available under existing municipal extension policies. A contract with a rural fire department is an acceptable method of providing fire protection, and a contract with a private solid waste collection firm is an acceptable method of providing solid waste collection services.

   B. Extension of major trunk water mains and sewer outfall lines so that property owners in the area will be able to secure public water and sewer service according to the municipal policies in effect for extending such services to individual lots or subdivisions. If requested in writing by any owner of an occupied dwelling unit or an operating commercial or industrial property no later than five (5) days after the public hearing, the report and plans must be amended, at the time of adoption of the ordinance to provide for the extension of water and sewer lines to the property or a point on a public street or road right-of-way adjacent to the property, in accordance with the current financial policies of the municipality for making such extensions. Where extension of water and sewer is necessary, the plans must set out a timetable for completion of construction as soon as possible but not more than two (2) years after the effective date of annexation. In areas where the installation of sewer is not economically feasible due to the unique topography of the area, the city must provide septic system maintenance and repair service until such time as sewer service is provided to properties similarly situated.

4. A statement of the method under which the municipality plans to finance extension of services to the annexed area.

5. A statement of the impact of the annexation on any rural fire department providing service in the area to be annexed and a statement of the impact of the annexation on fire protection and fire insurance rates in the area to be annexed, if the area is in an insurance district, a rural fire protection district or a county fire protection service district. The rural fire department is required to make available to the municipality within thirty (30) days following the municipality's written request, information within its possession or control necessary for preparation of the impact statement, including but not limited to operational, financial and budgetary information. If the rural fire department fails to respond within forty-five (45) days following receipt of a written request, it forfeits its rights to negotiate a contract to provide fire protection under G.S. 160A-37.1 or receive a proportionate share of debt payments under G.S. 160A-37.2. The city must include in its written request reference to the section containing the requirements [G.S. 160A-35(4)] or no forfeiture will occur.

6. A statement showing how the proposed annexation will affect the city's finances and services, including city revenue change estimates. This statement must also be delivered to the clerk of the county board of commissioners at least thirty (30) days before the date of the public information meeting.

This report has been prepared by the City of Marion in compliance with the foregoing requirements and is available for public inspection at the office of the City Clerk.

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SECTION II

BOUNDARY DESCRIPTIONS

EASTFIELD PHASE 6 AREA

BEGINNING at a point at the northern corner of Lot 1969 Block 48 on the McDowell County Tax Map 1711.06; thence following the boundary of said Lot 1969 and Lot 3864 Block 48 on the McDowell County Tax Map 1711.06 in a straight southeasterly direction 646 feet to a point at the southeast corner of said Lot 3864, said point also being on the northern boundary of Tunnel Road (SR 1729), thence following the northern boundary of Tunnel Road (SR 1729) approximately 15 feet to the southwestern corner of Lot 6688 Block 48 on the McDowell County Tax Map 1711.06; thence following the boundary of said Lot 6688 in a northerly direction 65 feet, thence in a northeasterly direction 110 feet, thence in a southeasterly direction 199 feet to the southeastern point of said Lot 6688, said point also being a point on the western boundary of the Carolina Clinchfield & Ohio Railroad Right-of-Way, thence following the western boundary of the Carolina Clinchfield & Ohio Railroad Right-of-Way in a southerly direction 416 feet to a point, said point being the northeast corner of Lot 2997 Block 37 on the McDowell County Tax Map 1711.06, said point also being on the boundary of the current Marion Corporate Limits, thence following the northern boundary of said Lot 2997 and the boundary of the current Marion Corporate Limits in a straight westerly direction 583 feet to a point, thence following the current Marion Corporate Limits in a generally northerly direction 255 feet, thence in a westerly direction 50 feet, thence in a northerly direction 132 feet to a point, said point being the on the boundary of the current Marion Corporate Limits, said point also being on the southern boundary of Tunnel Road (SR 1729), thence following the current Marion Corporate Limits in a straight northerly direction 50 feet to a point on the current Marion Corporate Limits, said point also being on the southern boundary of Lot 2708, Block 48 on the McDowell County Tax Map, thence following the southern boundary of said Lot 2708 and the boundary of the current Marion Corporate Limits in a westerly direction approximately 81 feet to the southwest corner of said Lot 2708 and the boundary of the current Marion Corporate Limits; thence following the western boundary of said Lot 2708 and the boundary of the current Marion Corporate Limits in a generally northerly direction 219 feet to the northwest corner of said Lot 2708, said point also being a point on the boundary of the current Marion Corporate Limits and a point of the northeast corner of Lot 9891 Block 38 on the McDowell County Tax Map, thence following the northern boundary of said Lot 9891 and the boundary of the current Marion Corporate Limits in a westerly direction 142 feet to a point at the northwest corner of said Lot 9891 and the boundary of the current Marion Corporate Limits, said point also being on the eastern boundary of Lot 8965 Block 38 on the McDowell County Tax Map 1711.06, thence following the boundary of the current Marion Corporate Limits in a northerly direction 315 feet to the point of BEGINNING.

SCOTT ROAD AREA

BEGINNING at a point at the southeast corner of Lot 6224, Block 77 on the McDowell County Tax Map 1710.02, thence following the eastern boundary of said Lot 6224 and the Southern Railroad Right-of-way in a northwesterly direction approximately 672 feet to a point, said point being a northeast point of said Lot 6224 and a point on the southern boundary of Lot 4140, Block 88 on the McDowell County Tax Map 1710.02, thence following the southern boundary of said Lot 4140 in a northeasterly direction approximately 60 feet to a point, said point being the southeast point of said Lot 4140 and a point of the boundary of the Southern Railroad Right-of-way; thence following the boundary of said Lot 4140 and the boundary of the Southern Railroad Right-of-way in a northerly direction approximately 182 feet to a point on the boundary of said Lot 4140 and Southern Railroad Right-of-Way, said point also being the boundary of the current Marion Corporate Limits; thence following the current Marion Corporate Limits in a straight easterly direction approximately 100 feet crossing the Southern Railroad Right-of-Way to a point, said point being on the boundary of the current Marion Corporate Limits, the Southern Railroad Right-of-Way, and the northwest point of Lot 8005, Block 88 on the McDowell County Tax Map 1710.02, thence following the current Marion Corporate Limits and the boundary of said Lot 8005 in a northeasterly direction approximately 157 feet to a point at the northeast corner of said Lot 8005, the current Marion Corporate Limits, said point also being the southwestern boundary of Scott Drive (State Road 1742); thence running in a southeasterly direction along the boundary of the current Marion Corporate Limits 849 feet, thence following the current Marion Corporate Limits in a westerly direction approximately 430 feet to the point of BEGINNING.

SECTION III

STATEMENT SHOWING THAT THE AREAS PROPOSED TO BE ANNEXED MEETS THE LEGISLATIVE STANDARDS PRESCRIBED BY G. S. 160A-36

EASTFIELD PHASE 6 AREA

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The proposed annexation area meets the general standards of G. S. 160A-36 as follows:

The area is adjacent and contiguous, as defined by G. S. 160A-41(1) as of the 5th day of January, 2010, the date upon which this annexation proceeding was begun, and shown on the map included herein marked Exhibit A.

The aggregate external boundary line of the area to be annexed is 3,278 feet, of which 1,826 feet (or 55.70%), coincides with the City boundary, as shown on the map included herein marked Exhibit A. Therefore, at least one eighth (or 12.5%) of the said external boundary coincides with the City boundary.

No part of the area to be annexed is included within the boundary of another incorporated municipality (See Exhibit B).

The area to be annexed is developed for urban purposes in that 78.57% of the total number of lots and tracts in said area are used for residential, commercial, industrial, institutional or governmental purposes as is shown below. 100.00% of the total of residential and vacant acreage consists of lots and tracts three (3) acres or less in size.

Total number of lots and tracts	14
Number of lots and tracts used for:	
Residential	9
Commercial	0
Industrial	2
Institutional	0
Governmental	0
Total	11
Percentage of lots and tracts developed for urban purposes	78.57%
Total Residential and Vacant Acreage	6.95
Total Residential and Vacant Acreage in lots and tracts three (3) acres or less	6.95
Percentage of Residential and Vacant Acreage in lots and tracts three (3) acres or less	100.00%

SCOTT ROAD AREA

The proposed annexation area meets the general standards of G. S. 160A-36 as follows:

The area is adjacent and contiguous, as defined by G. S. 160A-41(1) as of the 5th day of January, 2010, the date upon which this annexation proceeding was begun, and shown on the map included herein marked Exhibit A.

The aggregate external boundary line of the area to be annexed is 2,599 feet, of which 1,660 feet (or 63.87%), coincides with the City boundary, as shown on the map included herein marked Exhibit A. Therefore, at least one eighth (or 12.5%) of the said external boundary coincides with the City boundary.

No part of the area to be annexed is included within the boundary of another incorporated municipality (See Exhibit B).

The area to be annexed is developed for urban purposes in that 80.00% of the total number of lots and tracts in said area are used for residential, commercial, industrial, institutional or governmental purposes as is shown below. 100.00% of the total of residential and vacant acreage consists of lots and tracts three (3) acres or less in size.

Total number of lots and tracts	5
Number of lots and tracts used for:	

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Residential	4
Commercial	0
Industrial	0
Institutional	0
Governmental	0
Total	4
Percentage of lots and tracts developed for urban purposes	80.00%
Total Residential and Vacant Acreage	5.51
Total Residential and Vacant Acreage in lots and tracts three (3) acres or less	5.51
Percentage of Residential and Vacant Acreage in lots and tracts three (3) acres or less	100.00%

SECTION IV

STATEMENT SETTING FORTH PLANS FOR EXTENDING CITY SERVICES TO THE AREA PROPOSED TO BE ANNEXED AND METHODS OF FINANCING THESE SERVICES

City services will be provided to the areas proposed for annexation upon the effective date of annexation in accordance with the General Statutes of North Carolina as follows:

EASTFIELD PHASE 6 AREA

POLICE PROTECTION

The Marion Police Department presently provides police services for all areas of the City of Marion including preventative and directed patrol, criminal response and investigation, traffic enforcement and other services such as funeral escorts, alarm response, vacation home checks, and animals running at-large. The full-time force is composed of the Chief of Police, 23 other sworn officers, 4 telecommunication officers and 1 police aide/ordinance enforcement officers. At least 1 telecommunication officer and 4 sworn officers are on duty at all times. All telephone calls are automatically tape-recorded. The telecommunication officer has direct communications capability with all City police cars as well as the McDowell County Sheriff's Office, McDowell County Rescue Squad, North Carolina Highway Patrol dispatch, City of Marion Public Works, and all law enforcement agencies in "Region C." The department is connected to the North Carolina Division of Criminal Information (DCI), which provides the department access to motor vehicle, boat, and airplane registration information, driver's license information, stolen property and wanted or missing persons. Network access is also available to the National Crime Information Center (NCIC), Interpol and out of state and Canada motor vehicle information.

Response time to the proposed area of annexation is zero (0) to ten (10) minutes, if a patrol vehicle is readily available. Every effort will be made to patrol the streets in this area once or more each 24 hours.

Additional patrol street mileage for the proposed annexation area is approximately 0.22 miles. Assuming the area is patrolled a minimum of three (3) times a day, a 0.22 mile patrol route would require approximately 481 traveled miles per year. An estimate of 50 miles would be required to handle calls for this area. The patrol vehicles average ten (10) miles to a gallon of gas and $.09 per mile in maintenance cost.

Using the figures above, the estimated additional expenses to provide police services to the proposed area of annexation would be $156.11 per year ($108.32 for gas and $47.79 for maintenance.) The funding for this additional expense will come from anticipated revenues in the area and be budgeted in the City's General Fund.

No additional personnel will be required to provide service to this area.

The total annual cost to provide police protection to this area is estimated to be $156.11.

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The City will ensure that on the effective date of annexation police protection will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

FIRE PROTECTION

The City of Marion is served by the fire department located at the intersection of West Court Street and Logan Street. The fire department is currently protecting an area ranging up to six miles from the station including the area to be annexed. Equipment from this station can respond to the area proposed for annexation in 1 to 4 minutes depending on traffic conditions. The route to this area is easily accessible to fire fighting equipment.

The fire department has two diesel-powered pumpers, one 1,000 GPM (gallons per minute) pumper and two 1,250 GPM pumpers. The department also has two diesel powered pumper/tankers that carry 1,000 gallons of water. The pump capacities of each truck are 1,250 GPM and 1,500 GPM, respectively. The department also has a four-wheel drive brush unit, an equipment van, a four wheel drive pickup truck and the Chief's car.

There are six paid firefighters and at least one is on duty at all times. The duty firefighter and 26 volunteers are dispatched by the 911 County Emergency Operations Center. All firefighters have pagers and many have portable hand held radios. The fire department also maintains a fire inspections department that handles fire safety inspections of businesses and industries in the city. The fire department is also involved in the field of fire education.

Because of the proximity of the area to be annexed to the station, and because the area is located within the Marion Area Fire District which is already being served by this department, no additional personnel or equipment will be needed. There will be no additional cost as this area is already included in the present operating budget.

The annexation area is located in the Marion Area Fire District. The amount of Service District Tax paid by McDowell County to the City will be reduced by approximately $320.88 per year due to the annexation of this area. No other county volunteer fire departments will be affected as a result of the annexation of this area.

There should be no change in property insurance rating when the area is annexed into the city. Since the area to be annexed is already close to areas served by existing city water lines and fire hydrants, property owners in the area to be annexed should already be receiving the insurance rating in effect for the city. However, because of the difference in policies of insurance companies, individual property owners should check with their insurance representative to determine what effect, it any, annexation will have on their insurance rates.

The City will ensure that on the effective date of annexation fire protection will be provided in the area annexed on substantially the same basis and in the same manner as provided by the Marion Fire Department in the rest of the City.

WATER AND SEWER SERVICE

Within the proposed annexation area, there is one customer currently on City sewer service. Once the area is annexed, the loss in revenues due to water and sewer rates being decreased by 60 percent is estimated to be approximately $18.99 monthly and $227.88 annually.

Sewer service is available to all properties located in the area proposed for annexation and water service is available to part of the area. A water extension of approximately 1,220 feet will be needed along Tunnel Road. The estimated cost of the water extension is $18,300.

The City will ensure that on the effective date of annexation water and sewer service will be provided in the area annexed on substantially the same basis as provided in the rest of the City. Water and sewer improvements will be completed in accordance with the time schedule in the General Statutes and provided within two (2) years of the effective date of the annexation.

Funds for water and sewer service will come from anticipated revenues in the area and be budgeted in the City's Water and Sewer Fund.

Exhibits C and D show the location of existing and proposed water and sewer lines.

STREET MAINTENANCE

All of the streets in the area proposed for annexation are paved, with the exception of Atwood Street, which is a private dirt road. All of the streets in the area proposed for annexation are paved. All streets in the annexation area are maintained by the State of North Carolina or are private streets. It is proposed that

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the State of North Carolina will continue maintenance on the public streets in the area and that privately maintained streets will remain private.

The City will ensure that on the effective date of annexation street maintenance service will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

STREETLIGHTS

To provide streetlights in the area proposed for annexation, the City will follow the current policy of a streetlight on every other pole in a residential or commercial area.

Exhibit E shows the location of the existing and proposed lights. Upon annexation, the City will work closely with Duke Energy to determine the best location for the lights.

The City will have approximately 3 streetlights installed in the area proposed for annexation. Duke Energy will install the streetlights. The City will be charged approximately $7.72 per month per streetlight.

The estimated cost for providing streetlights to the area proposed for annexation will be $277.92 annually.

The funds to provide streetlights in the annexation area will come from anticipated revenues in this area and be budgeted in the City's General Fund.

The City will ensure that on the effective date of annexation streetlights will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

SOLID WASTE COLLECTION AND RECYCLING

Present City policy provides for solid waste collection and recycling collection once a week at each residence in the city.

For residential collection, the City is currently using a solid waste packer unit and three pickup trucks. Each truck is equipped with a 4 cubic yard capacity for the collection of solid waste. The trucks are able to collect solid waste from approximately 20 residences before unloading into the packer unit. There are approximately 2,600 residential units within the current City Limits. Each truck will average collecting solid waste from approximately 200 residences in a six to seven hour period. There are 20 residential units in the area proposed for annexation. A curbside recycling truck will be used to provide recycling pickup at each residence once each week.

No additional employees or equipment will be required to provide solid waste collection service to this area. It is estimated that $500.00 will cover annual fuel cost. An additional $150.00 is estimated for vehicle maintenance for a total annual cost of $650.00 to provide solid waste and recyclable collections to the residential units. One time costs, involving $160 for the purchase of recycling bins, will also be needed to serve the area to be annexed. Solid waste collection and recycling collection service is currently provided in the city by City of Marion personnel and equipment and will also be provided to the area to be annexed by City of Marion personnel and equipment. These funds for this service will come from revenues collected in this area and budgeted in the City's General Fund.

The City will attempt to contact any solid waste firm servicing the annexation area as required, or which has stated its interest in contracting with the City. If required by the General Statutes, the City will offer to contract with the solid waste firms or will pay such firms for their monetary loss in compliance with the General Statutes.

The City will ensure that on the effective date of annexation solid waste collection service will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

SCOTT ROAD AREA

POLICE PROTECTION

The Marion Police Department presently provides police services for all areas of the City of Marion including preventative and directed patrol, criminal response and investigation, traffic enforcement and other services such as funeral escorts, alarm response, vacation home checks, and animals running at-large. The full-time force is composed of the Chief of Police, 23 other sworn officers, 4 telecommunication officers and 1 police aide/ordinance enforcement officers. At least 1 telecommunication officer and 4 sworn officers are on duty at all times. All telephone calls are

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automatically tape-recorded. The telecommunication officer has direct communications capability with all City police cars as well as the McDowell County Sheriff's Office, McDowell County Rescue Squad, North Carolina Highway Patrol dispatch, City of Marion Public Works, and all law enforcement agencies in "Region C." The department is connected to the North Carolina Division of Criminal Information (DCI), which provides the department access to motor vehicle, boat, and airplane registration information, driver's license information, stolen property and wanted or missing persons. Network access is also available to the National Crime Information Center (NCIC), Interpol and out of state and Canada motor vehicle information.

Response time to the proposed area of annexation is zero (0) to ten (10) minutes, if a patrol vehicle is readily available. Every effort will be made to patrol the streets in this area once or more each 24 hours.

Additional patrol street mileage for the proposed annexation area is approximately 0.13 miles. Assuming the area is patrolled a minimum of three (3) times a day, a 0.13 mile patrol route would require approximately 284 traveled miles per year. An estimate of 10 miles would be required to handle calls for this area. The patrol vehicles average ten (10) miles to a gallon of gas and $.09 per mile in maintenance cost.

Using the figures above, the estimated additional expenses to provide police services to the proposed area of annexation would be $86.44 per year ($59.98 for gas and $26.46 for maintenance.) The funding for this additional expense will come from anticipated revenues in the area and be budgeted in the City's General Fund.

No additional personnel will be required to provide service to this area.

The total annual cost to provide police protection to this area is estimated to be $86.44.

The City will ensure that on the effective date of annexation police protection will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

FIRE PROTECTION

The City of Marion is served by the fire department located at the intersection of West Court Street and Logan Street. The fire department is currently protecting an area ranging up to six miles from the station including the area to be annexed. Equipment from this station can respond to the area proposed for annexation in 1 to 4 minutes depending on traffic conditions. The route to this area is easily accessible to fire fighting equipment.

The fire department has two diesel-powered pumpers, one 1,000 GPM (gallons per minute) pumper and two 1,250 GPM pumpers. The department also has two diesel powered pumper/tankers that carry 1,000 gallons of water. The pump capacities of each truck are 1,250 GPM and 1,500 GPM, respectively. The department also has a four-wheel drive brush unit, an equipment van, a four wheel drive pickup truck and the Chief's car.

There are six paid firefighters and at least one is on duty at all times. The duty firefighter and 26 volunteers are dispatched by the 911 County Emergency Operations Center. All firefighters have pagers and many have portable hand held radios. The fire department also maintains a fire inspections department that handles fire safety inspections of businesses and industries in the city. The fire department is also involved in the field of fire education.

Because of the proximity of the area to be annexed to the station, and because the area is located within the Marion Area Fire District which is already being served by this department, no additional personnel or equipment will be needed. There will be no additional cost as this area is already included in the present operating budget.

The annexation area is located in the Marion Area Fire District. The amount of Service District Tax paid by McDowell County to the City will be reduced by approximately $166.38 per year due to the annexation of this area. No other county volunteer fire departments will be affected as a result of the annexation of this area.

There should be no change in property insurance rating when the area is annexed into the city. Since the area to be annexed is within 1,000 feet of existing water lines and fire hydrants, property owners in the areas to be annexed should already be receiving the insurance rating in effect for the city. However, because of the difference in policies of insurance companies, individual property owners should check

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with their insurance representative to determine what effect, it any, annexation will have on their insurance rates. City water service will be extended to the area annexed and fire hydrants added if necessary on the same basis and in the same manner as provided in the rest of the City.

The City will ensure that on the effective date of annexation fire protection will be provided in the area annexed on substantially the same basis and in the same manner as provided by the Marion Fire Department in the rest of the City.

WATER AND SEWER SERVICE

Within the proposed annexation area, there are no customers currently on City water or sewer service. Once the area is annexed, the loss in revenues due to water and sewer rates being decreased by 60 percent is estimated to be approximately $0.00 monthly or $0.00 annually

Sewer service is available to all properties located in the area proposed for annexation. A water extension of approximately 880 feet will be needed on Scott Road. The estimated cost of the water extension is $13,200.

The City will ensure that on the effective date of annexation water and sewer service will be provided in the area annexed on substantially the same basis as provided in the rest of the City. Water and sewer improvements will be completed in accordance with the time schedule in the General Statutes and provided within two (2) years of the effective date of the annexation.

Funds for water and sewer service will come from anticipated revenues in the area and be budgeted in the City's Water and Sewer Fund.

Exhibits C and D show the location of existing and proposed water and sewer lines.

STREET MAINTENANCE

All of the streets in the area proposed for annexation are paved. All streets in the annexation area are maintained by the State of North Carolina. It is proposed that the State of North Carolina will continue maintenance of the public streets in the area.

The City will ensure that on the effective date of annexation street maintenance service will be provided in the area annexed on substantially the same basis as provided in the rest of the City.

STREETLIGHTS

To provide streetlights in the area proposed for annexation, the City will follow the current policy of a streetlight on every other pole in a residential or commercial area.

Exhibit E shows the location of the existing and proposed lights. Upon annexation, the City will work closely with Duke Energy to determine the best location for the lights.

The City will have approximately 2 streetlights installed in the area proposed for annexation. Duke Energy will install the streetlights. The City will be charged approximately $7.72 per month per streetlight.

The estimated cost for providing streetlights to the area proposed for annexation will be $185.28 annually.

The funds to provide streetlights in the annexation area will come from anticipated revenues in this area and be budgeted in the City's General Fund.

The City will ensure that on the effective date of annexation streetlights will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

SOLID WASTE COLLECTION AND RECYCLING

Present City policy provides for solid waste collection and recycling collection once a week at each residence in the city.

For residential collection, the City is currently using a solid waste packer unit and three pickup trucks. Each truck is equipped with a 4 cubic yard capacity for the collection of solid waste. The trucks are able to collect solid waste from approximately 20 residences before unloading into the packer unit. There are approximately 2,600 residential units within the current City Limits. Each truck will average collecting solid waste from approximately 200 residences in a six to seven hour period. There are 4 residential units

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in the area proposed for annexation. A curbside recycling truck will be used to provide recycling pickup at each residence once each week.

No additional employees or equipment will be required to provide solid waste collection service to this area. It is estimated that $200.00 will cover annual fuel cost. An additional $50.00 is estimated for vehicle maintenance for a total annual cost of $250.00 to provide solid waste and recyclable collections to the residential units. One time costs, involving $32 for the purchase of recycling bins, will also be needed to serve the area to be annexed. Solid waste collection and recycling collection service is currently provided in the city by City of Marion personnel and equipment and will also be provided to the area to be annexed by City of Marion personnel and equipment. These funds for this service will come from revenues collected in this area and budgeted in the City's General Fund.

The City will attempt to contact any solid waste firm servicing the annexation area as required, or which has stated its interest in contracting with the City. If required by the General Statutes, the City will offer to contract with the solid waste firms or will pay such firms for their monetary loss in compliance with the General Statutes.

The City will ensure that on the effective date of annexation solid waste collection service will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

SECTION V

ESTIMATED REVENUES

EASTFIELD PHASE 6 AREA

PROPERTY TAXES

Based on tax listings at the beginning of January 2010, it is estimated that the proposed annexation will bring in the following tax revenues based on the current City tax rate of $.51 per $100.00 of property value.

Current Taxable Value	$534,800.00
Estimated Property Taxes	2,727.48

WATER AND SEWER REVENUES

One structure in the area to be annexed is currently being billed for City sewer service. The annexation of this area will result in water and sewer rates being reduced by 60 percent, resulting in a savings for residents and property owners and a revenue loss for the City of an estimated $227.88 per year.

OTHER REVENUES

Because of changes in distribution formulas from year to year estimates on the following revenues may fluctuate. These estimates are based on formulas and information received from the North Carolina Department of Commerce (Division of Community Assistance), North Carolina Department of Transportation, North Carolina Department of Revenue, Isothermal Planning and Development Commission, North Carolina Office of Budget and Management and Duke Energy.

Local Sales Tax	$1,417.45
Powell Bill Revenue	861.08
Utility Franchise Tax	720.00
Beer and Wine Tax	197.12

POPULATION INCREASE

The City's current population is based on the 2000 Census and annual population certifications from the State of North Carolina. Annexation of this area and other proposed annexations to take effect on June 30, 2010 will increase the population by approximately 53 people for a population of 7,503.

SCOTT ROAD AREA

PROPERTY TAXES

Based on tax listings at the beginning of January 2010, it is estimated that the proposed annexation will bring in the following tax revenues based on the current City tax rate of $.51 per $100.00 of property value.

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Current Taxable Value	$277,300.00
Estimated Property Taxes	1,414.23

WATER AND SEWER REVENUES

No structures in the area to be annexed are currently connected to City water or sewer service. Therefore, the annexation of this area will result in no revenue losses for the City due to water and sewer rates being reduced by 60 percent.

OTHER REVENUES

Because of changes in distribution formulas from year to year estimates on the following revenues may fluctuate. These estimates are based on formulas and information received from the North Carolina Department of Commerce (Division of Community Assistance), North Carolina Department of Transportation, North Carolina Department of Revenue, Isothermal Planning and Development Commission, North Carolina Office of Budget and Management and Duke Energy.

Local Sales Tax	$ 289.93
Powell Bill Revenue	176.13
Utility Franchise Tax	144.00
Beer and Wine Tax	40.32

POPULATION INCREASE

The City's current population is based on the 2000 Census and annual population certifications from the State of North Carolina. Annexation of this area and other proposed annexations to take effect on June 30, 2010 will increase the population by approximately 53 people for a population of 7,503.

SECTION VI
REVENUES AND COST ESTIMATES

EASTFIELD PHASE 6 AREA

ESTIMATED ANNUAL REVENUES	
Property Tax	$2,727.48
Local Sales Tax	1,417.45
Powell Bill	861.08
Utility Franchise Tax	720.00
Beer and Wine Tax	197.12
Total Estimated Annual Revenues	$5,923.13

ESTIMATED ANNUAL EXPENDITURES	
Police Department	$ 156.11
Fire Department	277.92
Street Department	0.00
Streetlights	0.00
Solid Waste/Recycling	650.00
Total Estimated Annual Expenditures	$1,084.03

ESTIMATED LOSS IN REVENUE	
Fire Service District Tax	$ 320.88
Water and Sewer Revenues	227.88
Total Estimated Revenue Loss	$ 548.76

ESTIMATED ONE-TIME EXPENDITURES	
Water Extension	$18,300.00
Recycling Containers	160.00
Total One-Time Expenditures	$18,460.00

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SCOTT ROAD AREA

ESTIMATED ANNUAL REVENUES	
Property Tax	$ 1,414.23
Local Sales Tax	289.93
Powell Bill	176.13
Utility Franchise Tax	144.00
Beer and Wine Tax	40.32
Total Estimated Annual Revenues	$ 2,064.61
ESTIMATED ANNUAL EXPENDITURES	
Police Department	$ 86.44
Fire Department	0.00
Street Department	0.00
Streetlights	185.28
Solid Waste/Recycling	250.00
Total Estimated Annual Expenditures	$ 521.72
ESTIMATED LOSS IN REVENUE	
Fire Service District Tax	$ 166.38
Water and Sewer Revenues	0.00
Total Estimated Revenue Loss	$ 166.38
ESTIMATED ONE-TIME EXPENDITURES	
Water Extension	$13,200.00
Recycling Containers	32.00
Total One-Time Expenditures	$13,232.00

EXHIBIT A

AA.000000652 (24)

GENERAL LOCATION MAPS

EXHIBIT A: This map is not a certified survey and has not been reviewed by a local government agency for compliance with any applicable land development regulations.

EASTFIELD PHASE 6 ANNEXATION

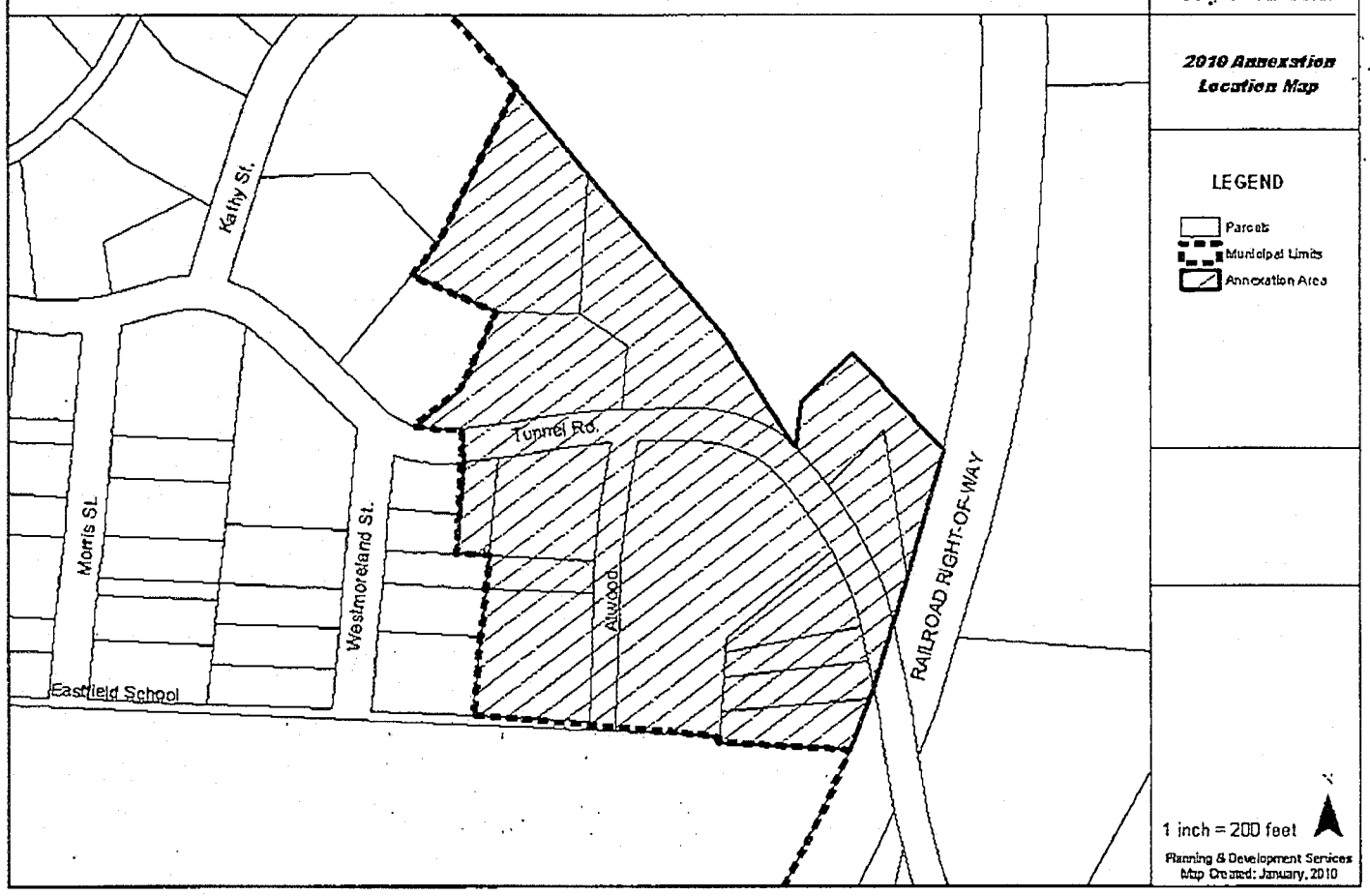
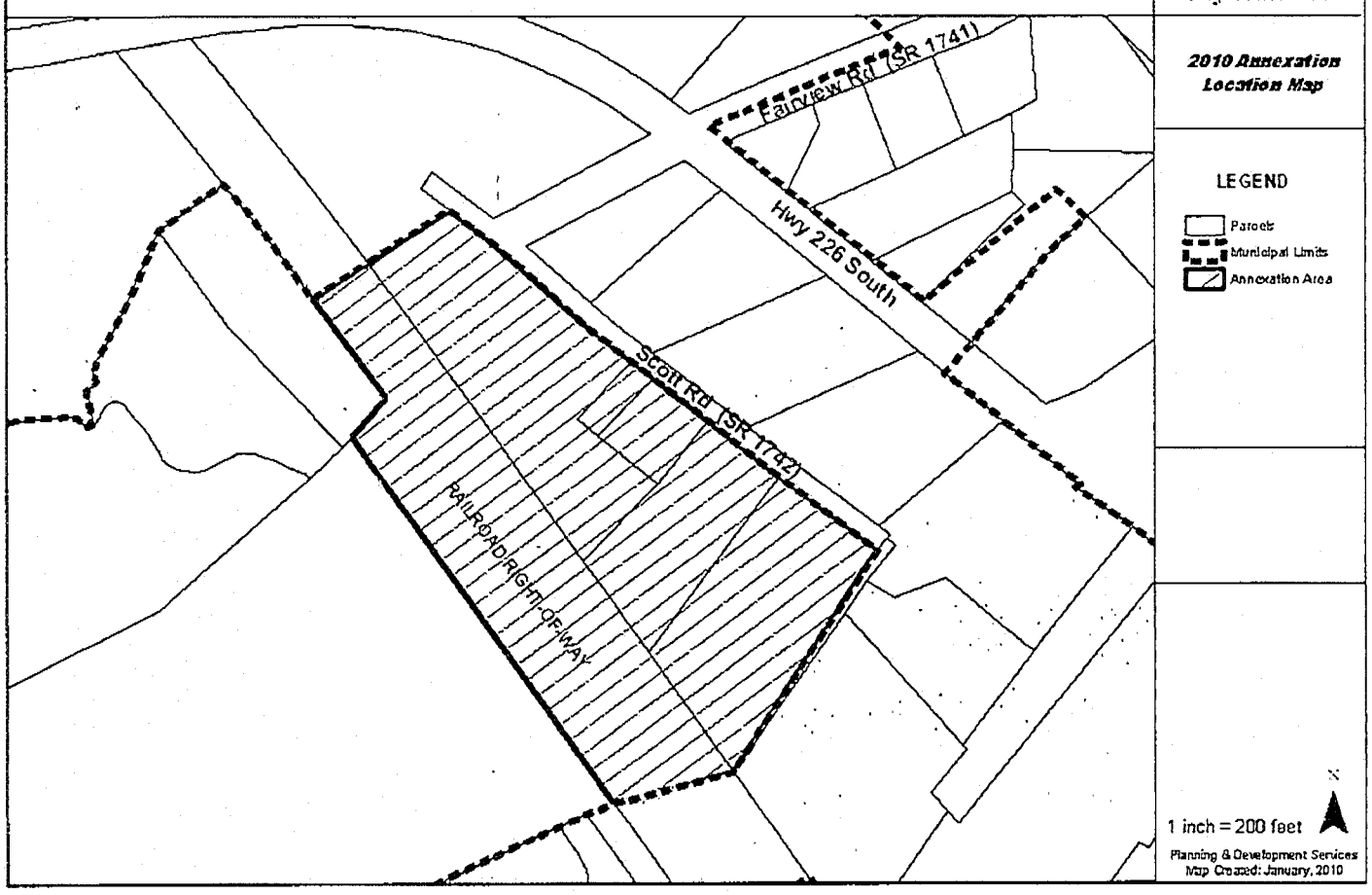


EXHIBIT A: This map is not a certified survey and has not been reviewed by a local government agency for compliance with any applicable land development regulations.

SCOTT RD ANNEXATION

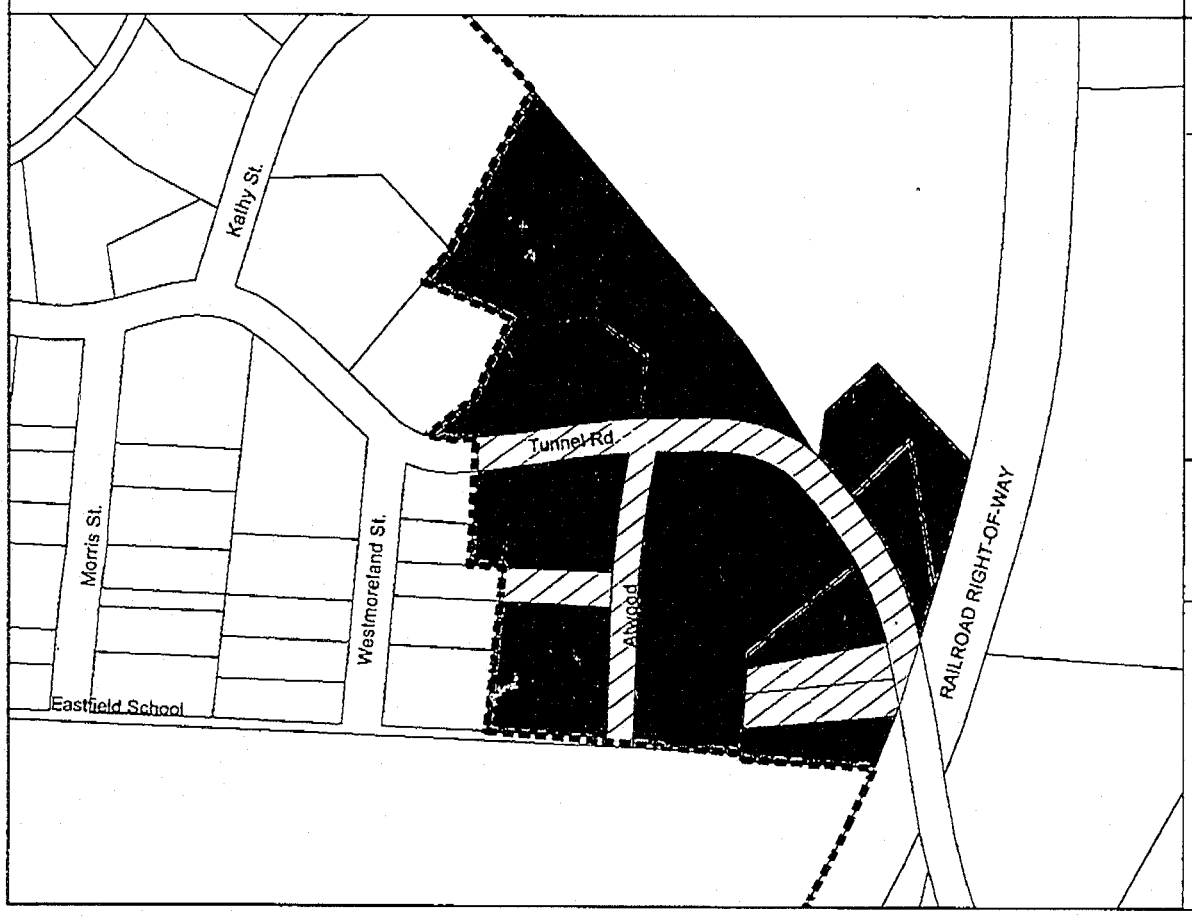


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EXHIBIT B
EXISTING LAND USE MAPS

EXHIBIT A: This map is not a certified survey and has not been reviewed by a local government agency for compliance with any applicable land development regulations.

EASTFIELD PHASE 6 ANNEXATION



City of Marion

2010 Annexation Landuse Map

LEGEND
- Parcels
- Municipal Limits
- Annexation Area

LandUse
- COMMERCIAL
- GOVERNMENT
- INDUSTRIAL
- INSTITUTIONAL
- RESIDENTIAL
- VACANT

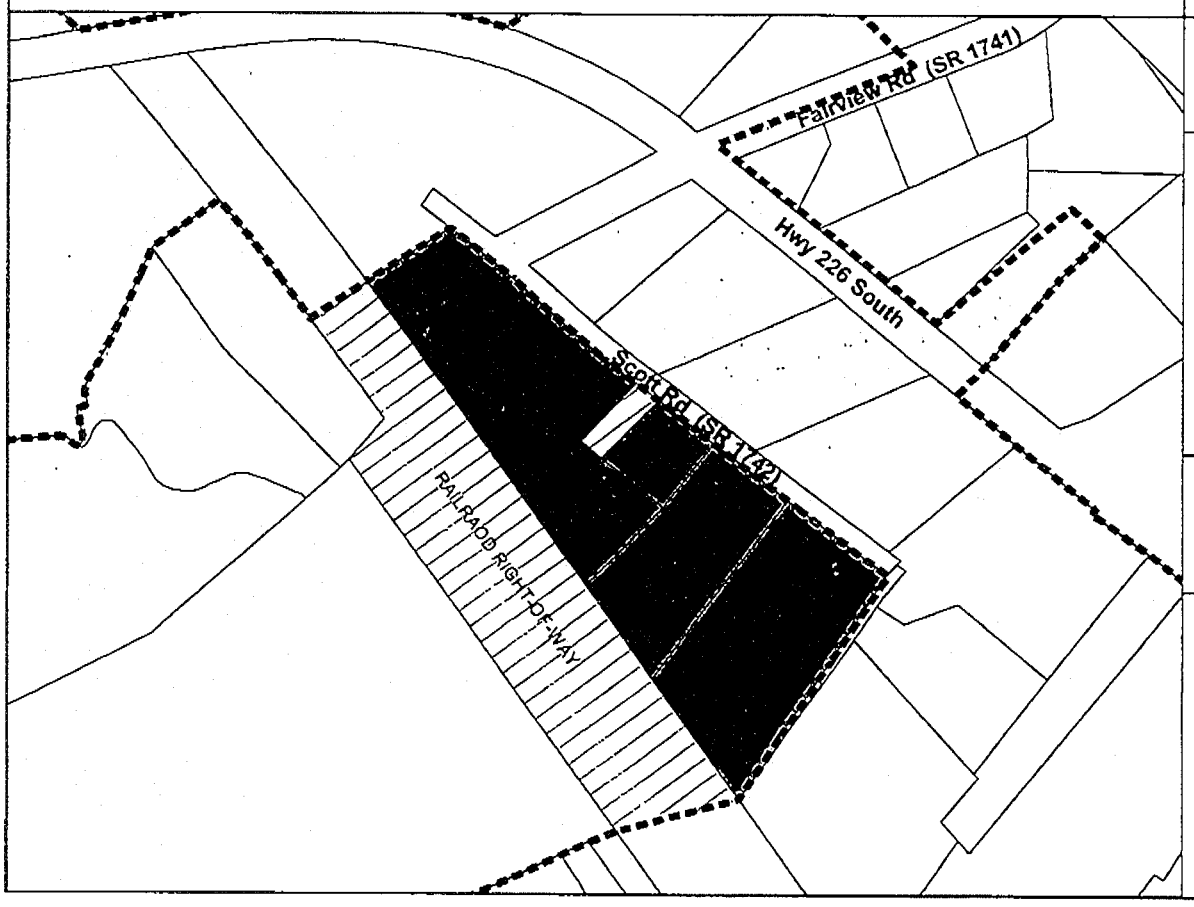
N

1 inch = 200 feet

Planning & Development Services
Map Created: January, 2010

EXHIBIT A: This map is not a certified survey and has not been reviewed by a local government agency for compliance with any applicable land development regulations.

SCOTT RD ANNEXATION



City of Marion

2010 Annexation Landuse Map

LEGEND
- Parcels
- Municipal Limits
- Annexation Area

LandUse
- COMMERCIAL
- GOVERNMENT
- INDUSTRIAL
- INSTITUTIONAL
- RESIDENTIAL
- VACANT

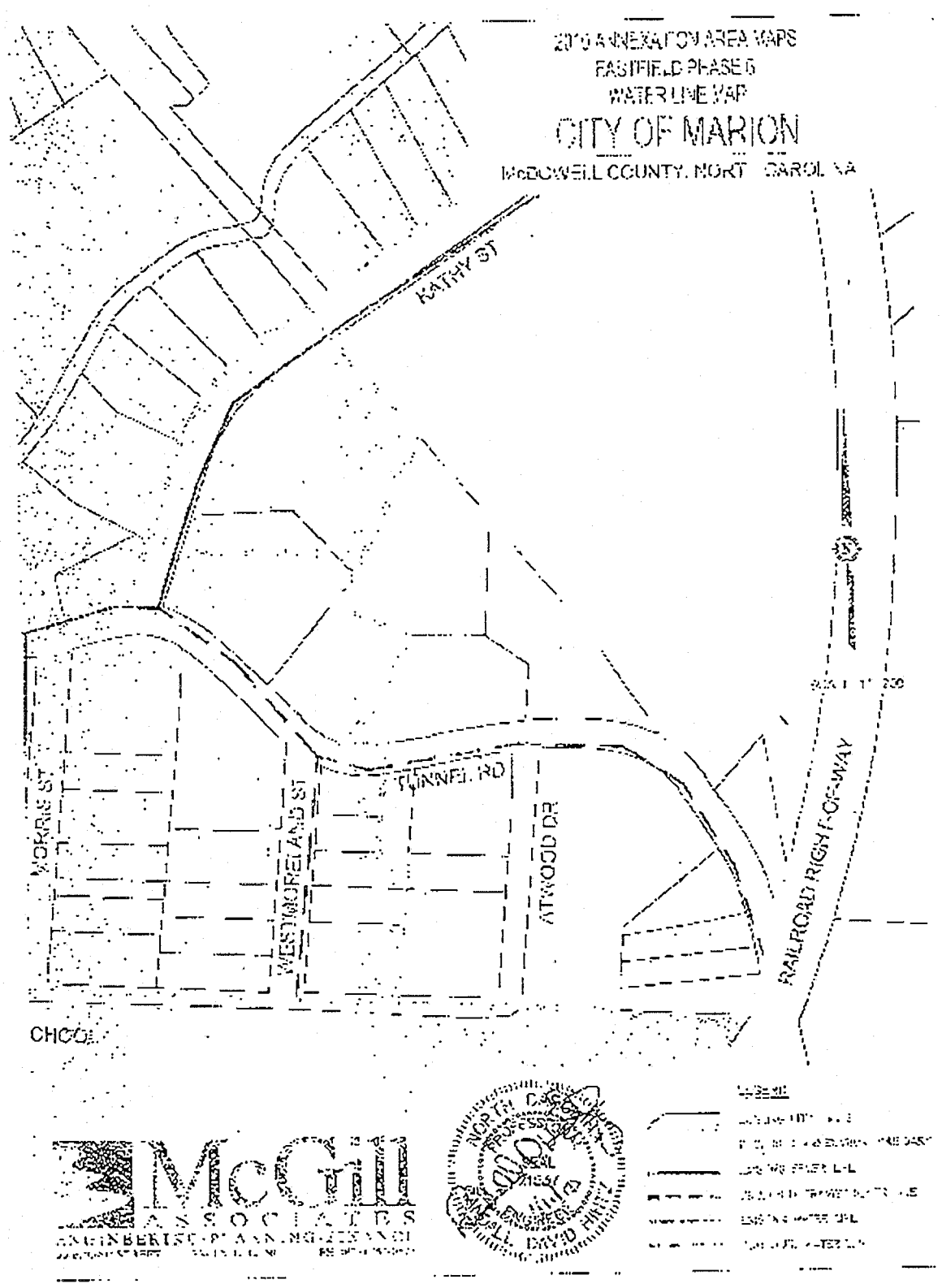
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1 inch = 200 feet

Planning & Development Services
Map Created: January, 2010

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EXHIBIT C
EXISTING AND PROPOSED WATER LINE MAPS



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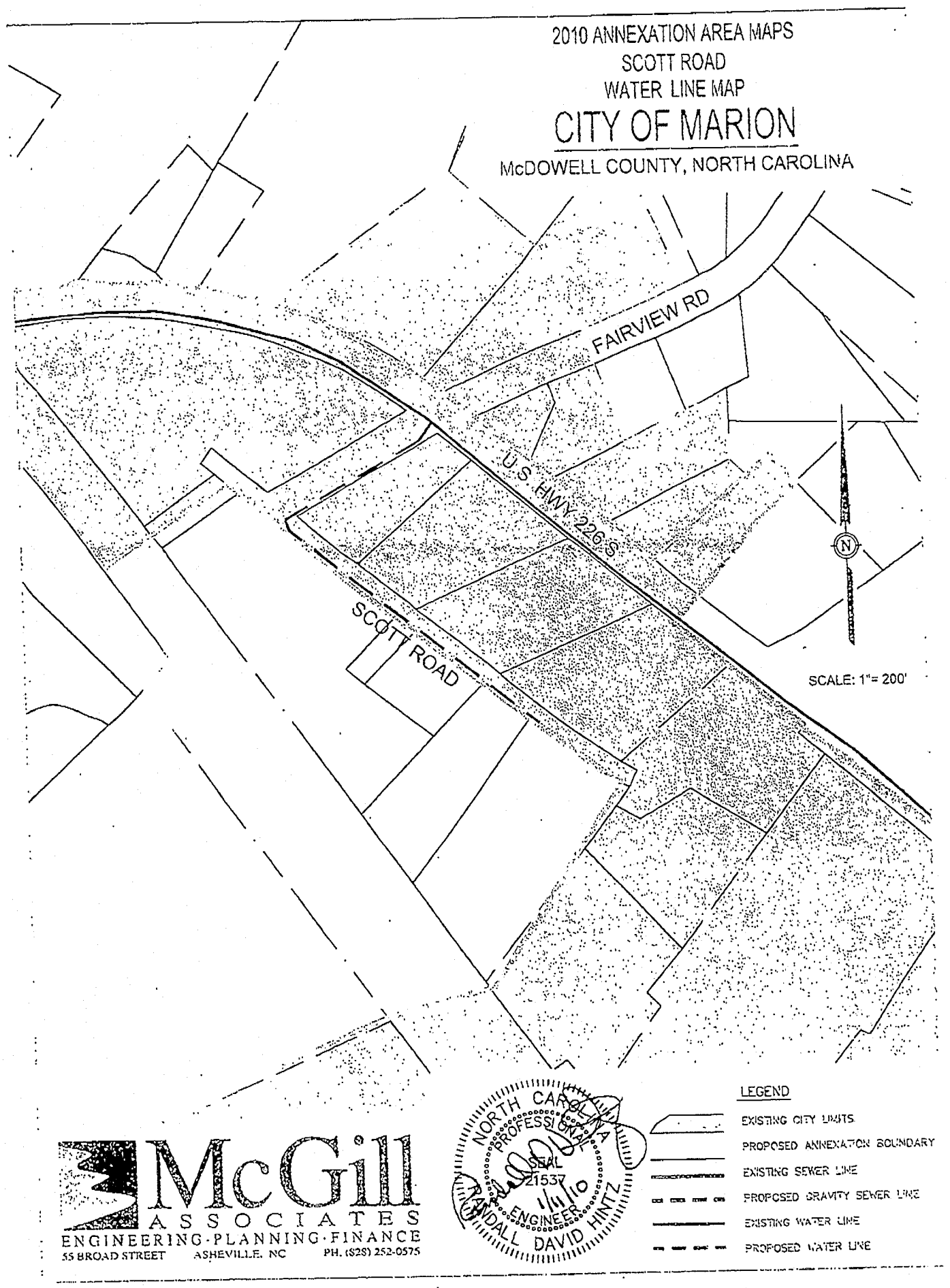
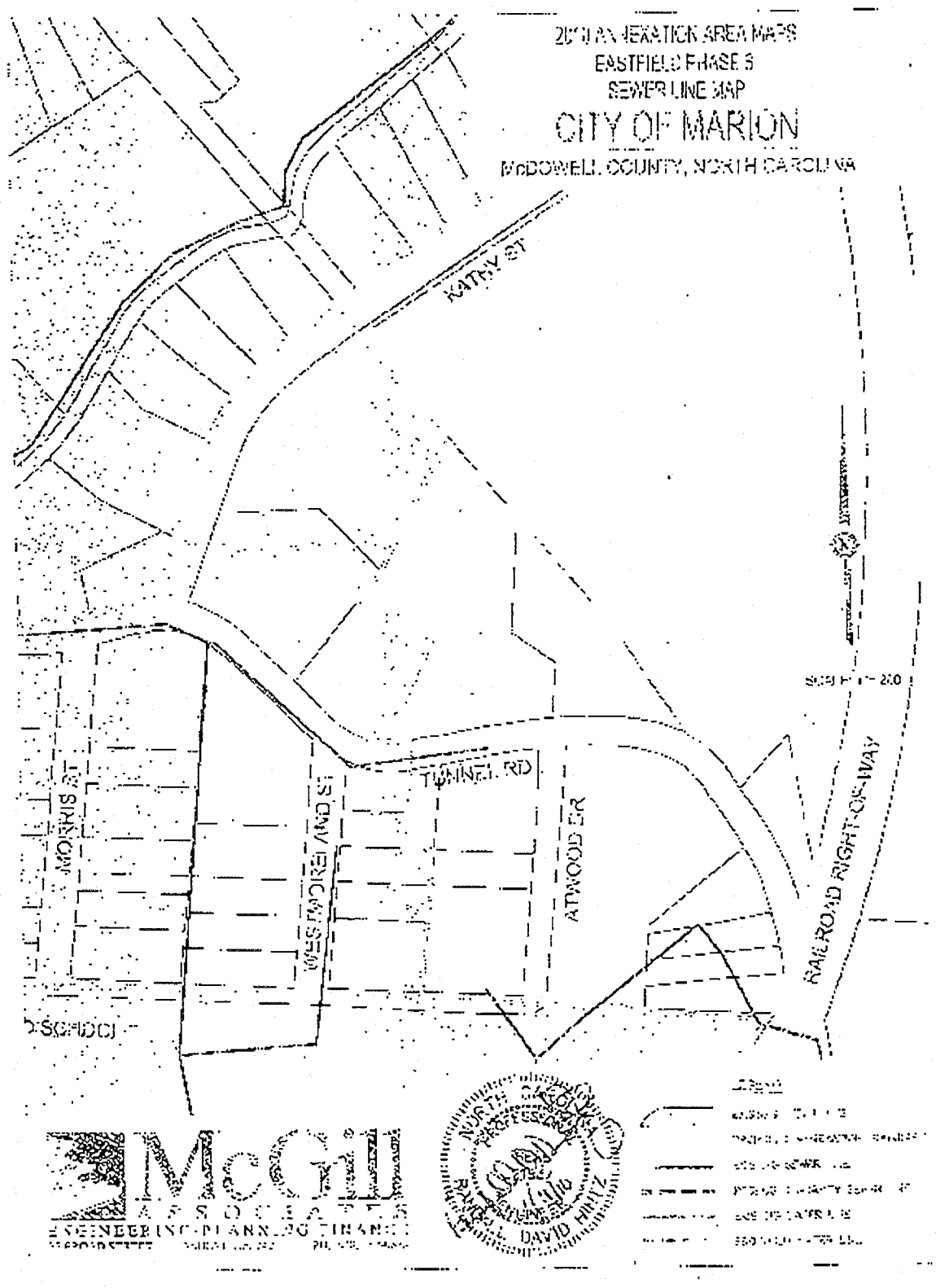


EXHIBIT D
EXISTING AND PROPOSED SEWER LINE MAPS

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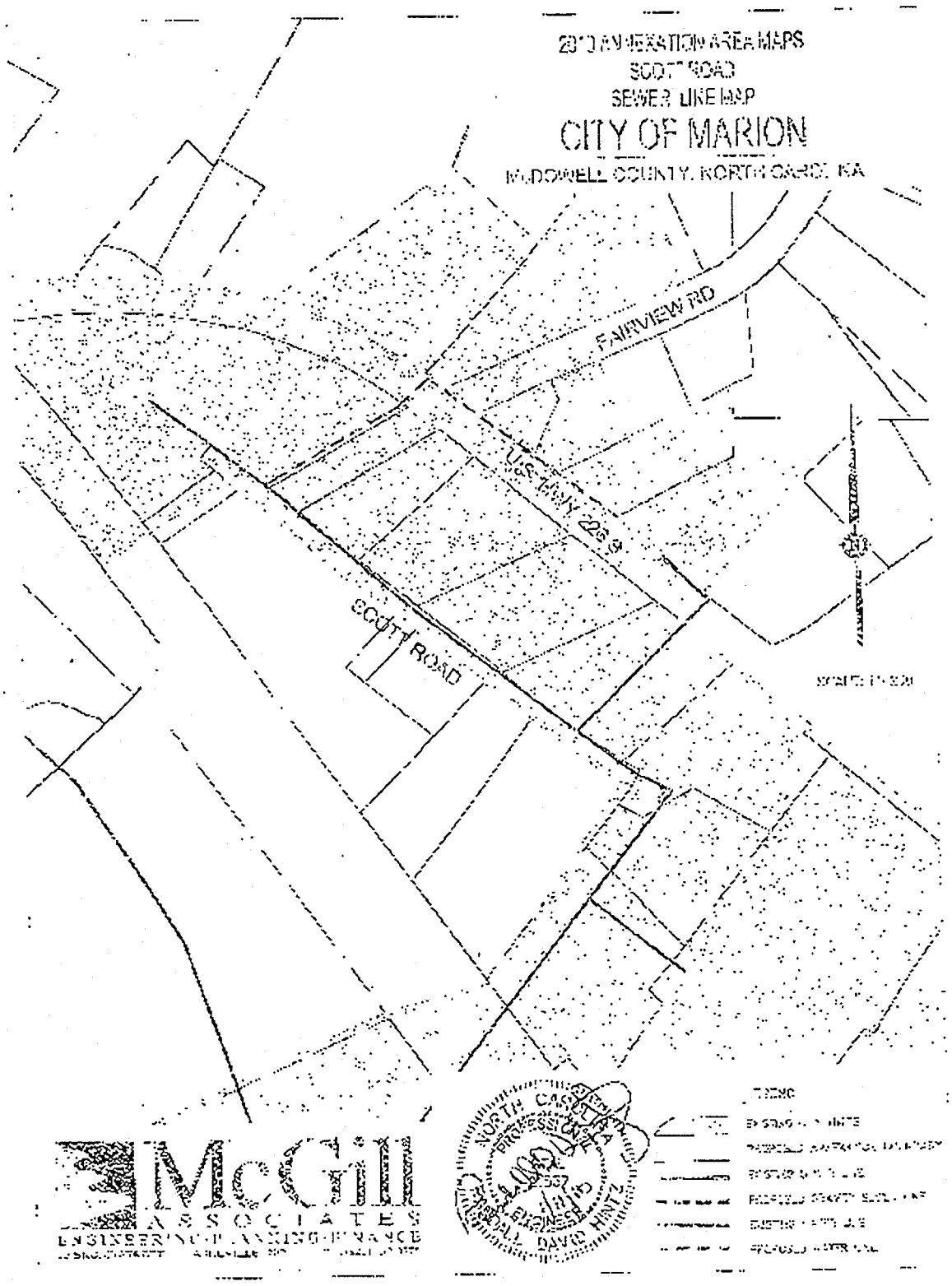


EXHIBIT E
STREET LIGHT MAPS

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EXHIBIT A: This map is not a certified survey and has not been reviewed by a local government agency for compliance with any applicable land development regulations.

EASTFIELD PHASE 6 ANNEXATION



City of Marion

2010 Annexation Street Light Map

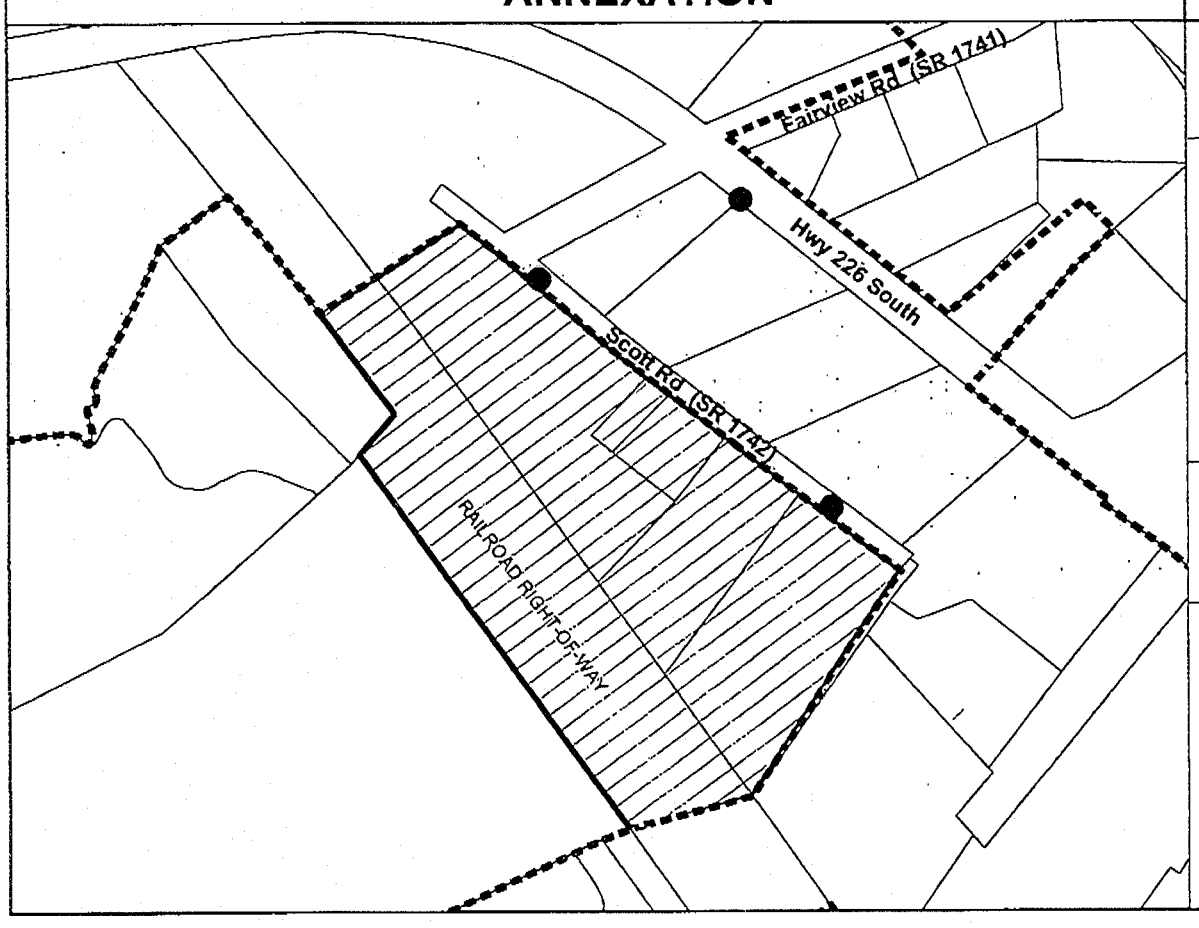
LEGEND
Street Light Location
Parcels
Municipal Limits
Annexation Area

N
1 inch = 200 feet

Planning & Development Services
Map Created: January, 2010

EXHIBIT A: This map is not a certified survey and has not been reviewed by a local government agency for compliance with any applicable land development regulations.

SCOTT RD ANNEXATION



City of Marion

2010 Annexation Street Light Map

LEGEND
Street Light Location
Parcels
Municipal Limits
Annexation Area

N
1 inch = 200 feet

Planning & Development Services
Map Created: January, 2010

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C. Receive Certificate of Sufficiency – Great Meadows/McDowell High School Road Annexation Request:

CERTIFICATE OF SUFFICIENCY –
GREAT MEADOWS/MCDOWELL HIGH
SCHOOL ROAD ANNEXATION - 2010

To the City Council of the City of Marion:

I . J. Robert Boyette, City Clerk, do hereby certify that I have 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 seal of the City of Marion this the 6th day of January, 2010.

(Seal)

J. Robert Boyette, City Clerk

D. APPROVE RESOLUTION FIXING THE DATE OF PUBLIC HEARING ON THE QUESTION OF ANNEXATION – GREAT MEADOWS/MCDOWELL HIGH SCHOOL ROAD ANNEXATION REQUEST:

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTIONS OF ANNEXATION PURSUANT TO G.S. 160A-31 – GREAT MEADOWS – MCDOWELL HIGH SCHOOL ROAD - 2010

WHEREAS, a petition requesting annexation of the contiguous 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 contiguous area described herein will be held at City Hall at 7:00 P.M. on Tuesday, February 16, 2010.

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

BEGINNING at a point at the northeast corner of Lot 2170, Block 65 on the McDowell County Tax Map 0792.00; thence following the northern boundary of said Lot 2170 in westerly direction 177.05 feet; then in a southeasterly direction 41.72 feet to a point on the boundary of said Lot 2170 and the northwest corner of Lot 4067, Block 13 on the McDowell County Tax Map 1702.03; thence in a following the boundary of said Lots 2170 and 4067 in a northeasterly direction 149.75 feet to the point of BEGINNING.

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

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Adopted this the 19th day of January, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-10-01-19-1

PRESENTATION OF INTERMEDIATE LAW ENFORCEMENT CERTIFICATE TO OFFICER D. J. BARRIER: Chief Elliott presented Police Officer D. J. Barrier with his Intermediate Law Enforcement Certificate from the State of North Carolina. The certificate read as follows:

Department of Justice
Of the State of North Carolina
North Carolina Criminal Justice Education and Training Standards Commission

By virtue of the authority vested in the laws of the State and in recognition of, the satisfactory completion of the basic training requirements and the demonstrated ability to perform those tasks required of a criminal justice officer, the North Carolina Criminal Justice Education and Training Standards Commission hereby awards to

Dennis Jerel Barrier II
This
Intermediate
Law Enforcement Certificate

Signed this 2nd day of December, 2009.

Commission Chairman

Mayor Little and Council Members all congratulated Officer Barrier on this achievement.

PUBLIC APPEARANCE - JOSH KING – ISOTHERMAL AND DEVELOPMENT COMMISSION RURAL TRANSPORTATION PLANNING ORGANIZATION : Mr. Josh King, the Regional Planner for Isothermal Planning and Development Commission appeared before Council and stated that this recent election brought some changes to the make up of several municipal boards throughout the region. He said he wanted to remind Council about the Isothermal Rural Transportation Planning Organization (RPO) and its functions mandated by NCDOT.

Mr. King gave a presentation of past, current and planned RPO activities to Council and encouraged the City to continue participating in the RPO and to let him know how he could help.

Council Member Clark stated that the City had tried for years to advance several transportation requests, without success. He asked how the RPO intended to lobby for the requests of cities and counties. Mr. King stated that the RPO had worked out objective criteria so that projects could be ranked within the region. Council Member Clark stated that it would be difficult for cities and counties in the region to rank each other's projects without truly objective criteria.

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Council Member Clark asked what the RPO had accomplished in Marion. Mr. King listed several items, including help with parking studies, grant applications and technical assistance.

Mayor Little thanked Mr. King for his appearance and for providing Council with this information.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

REVIEW REQUEST FOR CITY TO TAKE OVER MAINTENANCE OF LEACH STREET EXTENSION: The City Manager advised that, as shown in information presented to Council, three property owners with property fronting on what was formerly called Leach Street Extension in the Eastfield area have requested that the City take over maintenance of the dirt street, pave the street and then move water meters from Yancey Road to property lines. The City Manager stated that there are currently three homes that use this street. This section of dirt street is 280 feet long, according to the County tax maps; however, the actual dirt street is only about 205 feet long. The tax maps show a 40 foot right of way. The City Manager advised that one of the property owners, Mr. Mark Shuman, had stated that he had researched the old subdivision maps and believes that there is adequate right of way in place. The City Manager advised that he did the same and found a map showing a 40 foot right of way for Leach Street Extension.

Council Member Clark stated that the City should take over maintenance of the street and eventually pave the street, since the area was now in the City Limit. Council Member Martin stated that he agreed with this opinion.

Upon a motion by Council Member Clark, seconded by Council Member Martin, those members of Council present voted for the City to take over maintenance of Leach Street Extension and for staff to explore paving of the street as soon as practical.

CONSIDER AWARD OF CONTRACT – PURCHASE OF STREET DEPARTMENT VEHICLE: The City Manager advised that the City had recently submitted bids to replace the truck of Public Works Superintendent Roger Estes that was recently totaled in a traffic accident. Bids were sought from nine dealerships and received from three. The City Manager stated that, for comparison, the City sought bids for a pickup truck and SUV.
Staff asked that consideration be given to buying a mid-size SUV and therefore the City Manager stated that he would recommend awarding a contract to Phillips Ford in Carthage for the purchase of a 4X4 Ford Explorer in the amount of $22,240.41. A Jeep Liberty could be purchased from Stamey Chrysler Jeep Dodge for $20,743, but the Jeep is considered to be a bit small. The City Manager advised that the City is receiving about $8,800 net from insurance for Roger's truck, so the net costs would be a little more than $13,000.

The bids were as follows:

Vendor	Make/Model	Cost
4X4 Truck:		
Bobby Jones Ford Augusta GA	2010 Ford F150 XL 4X4 Truck	$19,590.20
Phillips Ford Carthage NC	2010 Ford F150 4X4 XL Truck	$20,139.97
Stamey Chrysler, Jeep, Dodge Marion NC	2010 Dodge Ram 1500	$21,028.00

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4X4 SUV

Bobby Jones Ford Augusta, GA	2010 Ford Explorer XLT 4X4	$24,584.20
Phillips Ford Carthage, NC	2010 Ford Explorer XLT 4X4	$22,240.41
Stamey Chrysler, Jeep, Dodge, Marion NC	2010 Jeep Liberty 4X4	$20,743.00

Upon a motion by Council Member Martin, seconded by Council Member Clark, those members of Council presented to award the contract for the purchase of a vehicle for the Street Department to Phillips Ford in Carthage, North Carolina in the amount of $22,240.41 for a 2010 Ford Explorer XLT 4X4.

RECEIVE STREET COMMITTEE RECOMMENDATIONS: The City Manager stated that the Street Committee met on January 11 and reviewed several locations and made the following recommendations:

A. The Street Committee recommended that Council adopt an ordinance to prohibit through truck traffic the entire length of North McDowell Avenue, Azalea Street and Robert Street, as suggested by Council Member Clark. This would keep large through trucks from passing by Marion Elementary School. The City Manager suggested that Council authorize him to draft an ordinance for approval and that Council may wish to notify property owners along these streets of the proposed restriction.

B. The Street Committee recommended the placement of flexible delineators to prohibit left turns from Fleming Avenue into Marion Elementary School, as had been presented by Public Works Director Chris Hollifield at the January 5 Council meeting.

C. The Street Committee felt that the issue of allowing golf carts on certain lower speed streets in the City would be more appropriate as a future Planning Session topic.

D. The Street Committee looked at a drainage complaint at 250 Church Street in the Clinchfield neighborhood. A proposed solution was identified, the cost of which is currently being estimated. The City Manager stated that he will bring the proposal to Council for review as soon as the cost estimate is prepared.

It was the consensus of Council to approve the recommendations of the Street Committee, including authorizing the placement of flexible delineators at the Fleming Avenue entrance of Marion Elementary School and considering approval of an ordinance to prohibit through truck traffic on Robert Street, Azalea Street and North McDowell Avenue at the February 2 Council meeting.

CITY MANAGER COMMENTS: The City Manager advised that he advised the School of Government, N.C. League of Municipalities, Western Carolina University Local Government Training Program and Isothermal Planning and Development Commission that the City was willing to host the required ethics training. The League told the City Manager that the ethics training will begin around the state in March, but that they were not sure if locations had been set. The City Manager said that he had later learned that a webinar had been scheduled for the ethics training on March 25 and that he and County Manager Chuck Abernathy had discussed holding a joint session for the City, County and Town of Old Fort. The City Manager said that he would advise Council once the date and location of the webinar was set.

The City Manager advised that the Town Meeting is scheduled for Tuesday, January 26, at 7:00 p.m. at the Community Building. City staff will be present and the usual guests have been invited to attend.

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The City Manager reported that he continued to work with NCDOT to request a Statewide policy change to allow blue logo signs advertising motels, restaurants and gas stations to be placed at signalized intersections along controlled access highways, as had been sought by several restaurants in the City.

The City Manager reported that Planning and Development Director Heather Cotton and he had met with DOT District Engineer Doug McNeal in late December to review the Downtown Streetscape Plan. The City Manager advised that he was awaiting comments on the plan from DOT and that Mr. McNeal was optimistic that the plan could be approved with very little modification.

The City Manager stated that he spoke with Marsh Dark of McDowell Insurance about the proposed lease of property on Highway 221 Business from Great Meadows for a canoe launch and nature park. Mr. Dark indicated that the City's insurance carrier had no concerns about liability and would not increase the City's premiums as a result of the lease.

The City Manager reported that the water and sewer lines on Highway 221 North to the ABC store site had been completed, to allow the ABC store to open on January 15.

The City Manager stated that the City's contractor is nearing completion on the replacement of the Hospital Pump Station on Rankin Drive. Ronny Turner Construction is also within about a month of the completion of the work to eliminate the Catawba River Wastewater Plant and to turn the facility in a pump station to pump wastewater flow from the northern part of the City to the Corpening Creek Wastewater Plant. Laughlin Sutton Construction began work on the Corpening Creek Plant improvements in late June. This construction is going well and will last well into 2010.

The City Manager advised that the Revis Group had begun work on the new City website.

The City Manager stated that State permits had been received for the first phase of the Catawba River Greenway and that the project would soon go out to bid.

The City Manager reported that the Clay Street railroad crossing had been closed on January 13. NCDOT will remove the traffic signal at Clay and East Court Streets by late January and the signal heads and equipment will be given to the City.

COUNCIL COMMENTS: None

ADJOURNMENT: Upon a motion by Council Member, seconded by Council Member Martin, those members of Council present voted to adjourn in memory of the loss in the past week of several members of the City's extended family, including Gladys Doggett, mother of Council Member Juanita Doggett, retired City employee Harvey Gouge, Angie Sherlin, daughter of retired Public Works Director Glen Sherlin and Chris Edwards, son of retired City employee Donna Edwards.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

AA.000000664 (24)

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL
CITY OF MARION

The City Council for the City of Marion held its Annual Town Meeting January 26, 2010 at 7:00 P.M. at the Marion Community Building located at 191 Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Cecil Owenby, Council Members A. Everette Clark, Lloyd Cuthbertson, Juanita Doggett and Billy Martin.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Harriett Thomas, CPA, Finance Director; Heather Cotton, AICP, Planning and Development Director, Scott Spratt, Patrol Lieutenant; Jim Neal, Fire Chief; Chris Hollifield, Public Works Director; Jay Suttles, Building Inspector; Roger Estes, Public Works Superintendent; Steve Basney, Utility Maintenance Superintendent; Dean Ollis, Sanitation Superintendent; Larry Carver, Wastewater Treatment Superintendent; Steve Miller, Water Plant Superintendent; Mike Conley, News Reporter, McDowell News; Matt Dymond, News Reporter, The News Bulletin.

GUESTS PRESENT: Kellie C. Vaden 97 Dusty Arch Drive, Marion, NC; Laurie Brown 159 Sinclair Avenue, Marion, NC; Ricky Williams 1610 North Main Street, Marion; Virginia Norton 199 Circle C Street Clinchfield, NC; Robert Hawkins, 527 East Oak Street, Marion, NC.

UTILITY/AGENCY REPRESENTATIVES:

PUBLIC SERVICE COMPANY OF NORTH CAROLINA:
Don Hallingse, External Relations Manager

UNITED STATES POSTAL SERVICE:
Opted not to attend

CHARTER COMMUNICATIONS:
Doug Underwood, Director of Operations
Dean Cox, Technical Operations Manager

MARION BUSINESS ASSOCIATION
Freddie Killough, Executive Director

MCDOWELL COUNTY EMERGENCY MANAGEMENT/EMS:
Terry Young, Emergency Management Director
William Kehler, EMS Director

DUKE ENERGY:
James Nations, Duke Energy Representative

VERIZON:
Chris Vaughn, Customer Operations Manager

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION:
Doug McNeal, District Engineer

OPENING OF MEETING: Mayor Little opened the meeting and thanked everyone present for attending. City Council members also stated their appreciation to the invited guests and the public for their presence.

The City Manager introduced City staff and invited guests.

AA.000000665 (24)

CITIZEN COMMENTS: Mr. Ricky Williams of 1610 North Main Street, owner of the Steak House, stated that he was appearing on behalf of numerous restaurants and 200 plus employees on North Main Street. Mr. Williams said he wanted to express his appreciation to the City for its effort and support to convince the N.C. Department of Transportation to erect blue logo signs on Highway 221 Bypass advertising motels, restaurants and gas stations. He asked how this process was going.

The City Manager stated that the DOT Division staff in Asheville had been helpful and supportive of the request and had forwarded the request to DOT staff in Raleigh. The City Manager stated that a Statewide policy change was needed and that the City Council was committed to pushing for such a change. He said that he would keep Mr. Williams informed as progress is made.

Mayor Little thanked Mr. Williams for bringing this matter to the City's attention and stated that he was confident that DOT would do the right thing and make the policy change, in which case businesses across the State could thank Ricky Williams for the idea.
Ms. Kellie Vaden of 97 Dusty Arch Drive asked Duke Energy representatives why her electric bill continues to increase each month. Ms. Vaden stated that she lives alone and does not have a clothes dryer and her bill was over $300.00 last month. Mr. James Nation, Duke Energy Representative stated that the region had seen the coldest temperatures in over 15 years and that power usage had increased as a result. He said he would be happy to meet with Ms. Vaden after the meeting to discuss her issues and to schedule an assessment of how she can make her home more energy efficient.

Mayor Little stated that other people had mentioned to him recent large increases in their power bill from Duke Energy. He said that the recent cold temperatures and the recently approved rate increase could not account for bills rising by as much as 700 percent. Mr. Nations stated that Duke was approved for a 3.2 percent rate increase effective January 1, 2010, with a similar increase scheduled to be effective on January 1, 2011.

Council Member Cuthbertson stated that his power bill also had doubled. He said that he had heard from people who claimed that their bill rose dramatically for no reason each December.

Mr. Robert Hawkins of 527 East Oak Street stated that his neighbor's heat pump had run constantly for the past month, which could provide explanation of power bills doubling. Mr. Nations stated that Duke can check the efficiency of heat pumps for customers.

Mr. Don Hallingse of PSNC Energy stated that PSNC often sees its peak usage in December due to cold weather and people being at home during the holidays.

Ms. Virginia Norton of 199 Circle C Street advised of recent problems with her telephone service, along with customer service issues with Verizon. Mr. Chris Vaughn of Verizon stated that he would address Ms. Norton's problems immediately.

Council Member Cuthbertson stated that there was a flooding issue on North Main Street in front of theMarion City Square during recent heavy rains. Mr. Doug McNeal of DOT stated that he would look into this location, noting that DOT was aware of drainage issues in that area.

Council Member Cuthbertson also stated that there was a telephone pole on Rutherford Road near Mi Publito Restaurant that was leaning. Mr. Vaughn stated that the pole in question had been replaced earlier in the week.

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Mayor Pro Tem Owenby advised that the local weather forecast on the Weather Channel had not been visible for two weeks. Mr. Doug Underwood of Charter Communications stated that he would look into this problem immediately.

Council Member Doggett stated that her Verizon Wireless high speed internet had been very slow recently. Mr. Vaughn advised that Verizon Wireless was a separate company from Verizon, but that he could give Council Member Doggett a contact.

Council Member Cuthbertson asked if Charter provided call waiting i.d. with its telephone service. Mr. Underwood stated that Charter did provide this service.

Fire Chief Jim Neal stated that the City of Marion Fire Department, McDowell County EMS and other agencies had been experiencing for several months a rash of traffic accidents on I-40 Westbound near Mile Marker 81 during periods of rainfall. Mr. McNeal stated that DOT was studying this issue and trying to determine the cause of the accidents, so that necessary repairs could be made.

Mr. James Nations ask if high speed internet would be coming to the Montford Cove area in the near future. Neither Charter nor Verizon had any plans to expand service into Montford Cove, but representatives from both companies said they would check into the possibility.

Mr. Ricky Williams stated that a no truck turn around sign needs to be placed on US 221 North near Baxter Healthcare. He said that trucks often miss the turn into Baxter and then cannot turn around. Mr. McNeal said that he would pass this idea on to the DOT Division Traffic Engineer.

Mayor Little asked when Charter planned to offer high definition (HD) service in Marion. Mr. Underwood stated that Charter lacked bandwidth on the Marion system and said that such improvements would definitely not take place this calendar year. Administrative Assistant Debi Sherlin stated that she had received many phone calls from people advising that Charter customer service representatives had blamed the presence of the City channel on the Marion Charter lineup for Charter not offering HD service. She asked if the existence of the City channel had anything to do with the lack of HD service in Marion. Mr. Underwood stated that the City channel took up only a small amount of bandwidth and that it would take much more bandwidth to provide HD service. The City Manager asked Mr. Underwood if Charter could instruct its customer service representatives not to make such statements. Mr. Underwood stated that this communication would be made, as it would be incorrect to blame the presence of the City channel on the lack of HD service in Marion.

Mr. James Nations asked if the City would be having any events this year in the downtown area that would encourage shopping at home. Ms. Freddie Killough, Executive Director of the Marion Business Association, gave a summary of downtown events held in the past year and planned for 2010, including some new events.

Mayor Little complimented the Marion Business Association and other agencies for the work in holding the first annual New Year's Eve Event in the Downtown area a few weeks ago.

The City Manager stated that the City, County, Marion Business Association, McDowell Chamber of Commerce and the McDowell Tourism Development Authority are working together on plans to possibly host Cycle North Carolina in Marion, an event that could bring over 1,200 cyclists through the community.

Mr. Ricky Williams stated that he had heard that Rutherford County wanted to take the N.C. Gold Festival away from McDowell County. Mayor Little stated that the community could not let that occur, as the Gold Festival is extremely important to the City and County.

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The City Manager advised that the next E-3 Forum would be held at the Depot on Friday, February 5, beginning at 8:00 a.m. N.C. Commerce Secretary Keith Crisco will speak. Council Member Clark had invited Secretary Crisco. The City Manager added that Ms. Killough is working to reschedule Congressman Heath Shuler to speak at the March E-3 Forum.

Ms. Killough stated that the City and McDowell County Farm Bureau would be receiving later that week an award from the North Carolina Main Street Program, recognizing the Farmer's Market as the Best Public-Private Partnership in North Carolina for 2009.

Mayor Little and Council Members thanked everyone again for attending this year's Town Meeting and for their participation.

ADJOURNMENT: The Town Meeting was adjourned at 8:15 P.M.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.000000668 (24)

Volume

15

AA.000000669 (24)

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 2, 2010 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Cecil Owenby, Council Members A. Everette Clark, Lloyd Cuthbertson, Juanita Doggett and Billy Martin.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, AICP, Planning and Development Director; Scott Spratt, Interim Police Chief; Chris Hollifield, Public Works Director, Steve Basney, Utility Maintenance Superintendent; Dean Ollis, Sanitation Superintendent; Mika Elliott, Retired Police Chief; Fred McCormick, Retired Utility Maintenance Crew Leader; Rusty Jenkins, Police Investigative Sergeant; Rick Gutierrez, Police Investigative Sergeant; Brenda Bailey, Police Administrative Assistant; Jack Wood, Community Policing Coordinator; Mike Conley, News Reporter, McDowell News; Matt Dymond, News Reporter, The News Bulletin; Marc Cook, President, Marion Business Association; Freddie Killough, Executive Director, Marion Business Association.

GUESTS PRESENT: Dale Elliott, 3419 Hwy. 70 West, Marion, NC; Barry and Darren Bailey, Marion, NC; Kay Cline, 45 Beck Street, Marion, NC; Donaiel and Eris Allen 135 Oak Avenue, Marion, NC; Mike & Kathy Rabb 217 South Garden Street, Marion, NC; Lee & Kathy Elliott, 206 Reid Street, Marion, NC; Sheriff Dudley Greene, McDowell County Sheriff's Department, Marion, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

CITIZEN OF THE MONTH – SELECTED BY COUNCIL MEMBER BILLY MARTIN: Council Member Billy Martin selected the Citizen of the Month for February 2010.

Mrs. Donaiel Avery Allen

Council Member Billy Martin stated that Mrs. Allen is a native of McDowell County and the eldest of four children born to Minister Donald Avery of Asheville, NC and Mrs. Jimmie Avery Wilkins of Lenoir, NC. Mrs. Allen resides in the West Marion Community and with her husband Eris Allen and has three children, Tonda, Rakeem and Marquesha.

Mrs. Allen is employed with Strategic Interventions in Nebo. She earned an Associate's Degree in Human Services Technology from Western Piedmont Community College in Morganton and is currently a Junior at Gardner Webb University majoring in Human Services with a concentration in Psychology.

Mrs. Allen also serves as a licensed minister under Pastor Michael Smith of Mt. Moriah Missionary Baptist Church. She founded and directs the "Anointed Praise & Mime Ministry" and has set a wonderful example for others in the community who may have thought they would want to do things that make a difference. Mrs. Allen is dedicated to all she does and willing to go that extra mile to achieve her goals.

Mrs. Donaiel Allen possesses a "Right" spirit and has stated that her everyday aspirations are to serve God, her family and humanity.

Mayor Little, Council Members, family and friends all shared kind words about Mrs. Allen.

CONSENT AGENDA: Upon a motion by Council Member Cuthbertson, seconded by Council Member Clark, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – January 19, 2010 Regular City Council Meeting Minutes
January 26, 2010 Annual Town Meeting Minutes

B. Receive Certification of Mailing – 2010 Annexation Areas

CERTIFICATION OF MAILING OF 2010 ANNEXATION AREA NOTICES

I, J. Robert Boyette, City Manager of the city of Marion, certify that notices were mailed by First Class mail on January 21, 2010 to all persons owning property in the 2010 Annexation Areas, including the Eastfield Phase 6 Area and the Scott Road Area.

AA.00000670 (24)

Signed this the 21st day of January, 2010.

J. Robert Boyette
City Manager
City of Marion

C. Receive Report of Unpaid 2009 Real Property Taxes

As stated in G.S. 105-369(a), the Tax Collector must report to governing board total unpaid 2008 taxes that are liens on real property.

As shown in a report from Tax Collector Claudia Hall, as of January 25, 2010, the amount of unpaid 2009 City of Marion real property taxes was $177,758.79.

D. Approve Advertisement of Delinquent 2009 real Property Taxes

As stated in General Statute 105-369(c), the Tax Collector must advertise tax liens on Real Property at least once between March 1 and June 30.

Council approved the advertisement of delinquent City of Marion 2009 Real Property Taxes in The News Bulletin on Wednesday, May 12, 2010.

E. Approve Award of Duty Weapon and Badge to Retired Police Chief Mika Elliott

Council approved the recommendation of the City Manager to award retired Police Chief Mika Elliott his duty weapon, a Glock 9mm handgun with serial number EVY777, his holster and his badge, as is tradition for retiring officers.

F. Approve Property Tax Refund

Council approved a tax refund of $834.53 to Willard and Linda Laws. It was discovered that property in the name of Willard and Linda Laws had been billed incorrectly. Their house burned down in 2006 which was attached to parcel 170110472142. The tax records were not corrected to remove the value of the house from that parcel number, therefore 2007, 2008 and 2009 were billed incorrectly. They rebuilt, but the value of the new home was put on Parcel 170110471095, an adjoining piece of property that is also owned by Laws. According to the McDowell County Tax Office, this has been corrected for 2010.

The value of the house that burned down was $53,650 @ $0.51 per $100.00 valuation, the taxes were $273.62. The 2007, 2008 and 2009 taxes were paid in full on Parcel 170110472142, at this time the 2009 taxes are unpaid on Parcel 170110471095 (Parcel Statements attached). Below is a breakdown of the year and amount paid each year.

2007 - Amount paid $273.62 (Principal)
2008 – Amount paid $287.29 (Principal $273.62 + Interest $13.67)
2009- Amount paid $273.62 (Principal)

Mr. Laws has requested any refund be applied to his 2009 taxes that are still outstanding.
Based on the above information $834.53 will be applied to the 2009 taxes.

PRESENTATION OF MAIN STREET CHAMPION AWARD FOR BEST PUBLIC PRIVATE PARTNERSHIP FOR FARMER'S MARKET AWARD: Ms. Freddie Killough, Executive Director of the Marion Business Association (MBA) advised that the North Carolina Main Street Program selected the Farmer's Market Project as one of two Best Public-Private Partnership projects in North Carolina for 2009. Ms. Killough and Council Member Everette Clark received the award the previous week at the annual North Carolina Main Street Conference in New Bern. Council Member Clark stated that the Farmer's Market was the most impressive project presented with an award at the conference.

Mayor Little presented the award to MBA President Marc Cook and to
McDowell County Farm Bureau Representative Wayne Miller.

Mayor Little and Council Members stated their appreciation to the MBA, McDowell County Farm Bureau, City staff and other donors for their efforts in constructing the Farmer's Market shelter.

PRESENTATION OF MAIN STREET AWARD: Ms. Freddie Killough, Executive Director of the Marion Business Association (MBA), advised that the MBA selects a Main Street Champion that is recognized by the North Carolina Main Street Program annually. She reported that the MBA had selected Kathy Rabb as the Main Street Champion for Marion for 2009.
Mayor Little presented information on Ms. Rabb's accomplishments, as follows:

- Ms. Rabb has been active on the MBA Board of Directors since 1996.
- Ms. Rabb is a longtime volunteer for downtown events, including July 4th, the Christmas Parade and the Mountain Glory Festival, and faithfully attends monthly board meetings.

AA.000000671 (24)

- Ms. Rabb has served as Chairperson of the MBA Design Committee, meticulously reviewing all façade grant applications. Having a wonderful sense of design, she does her homework with each application and offers detailed suggestions for the project. She always presents a well thought-out opinion.
- Ms. Rabb and her husband are former small business owners and currently own downtown property. They strive to maintain small businesses that will be an asset to the downtown and the community. As realtors, they have a keen insight into the fabric of the community and are on the front line of welcoming new people and businesses to Marion.
- Ms. Rabb has a long range vision of Marion and knows most every business owner. She believes every business owner has a responsibility to give back to the community in some form. She is a wonderful champion for civic pride, knowing that each person has something unique to offer to the community.
- Ms. Rabb is active in her church, current Chairperson of the Marion Christian Women's Connection, former Chairperson of the McDowell Economic Development Association, past President of the Marion Business Association and a former member of the City of Marion Planning Board.

Mayor Little and Council Members all commended Ms. Rabb for all she does for the City of Marion and for the downtown area.

Ms. Killough provided an update on the 2010 Farmer's Market schedule. She said that she had recently met with growers using the Farmer's Market and that the growers wanted to start the Tuesday afternoon market in May and go through October. During the peak season, the growers want to be open on Saturdays.

Mayor Little stated that he is proud that not a single dollar of tax money was used for the Farmer's Market project, due to grants and donations received for the project. Ms. Killough added that Marion is the envy of farmer's markets in the region because of the shade provided by the beautiful structure.

Council Member Clark stated that Ms. Killough has been asked to serve on a North Carolina Main Street Program committee to select future award recipients.

RECOGNITION OF RETIRED UTILITY MAINTENANCE CREW LEADER FRED MCCORMICK: The City Manager advised that Mr. Fred McCormick retired on December 31 after 21 years of service to the City. He most recently served as Crew Leader in Utility Maintenance.

Mayor Little presented Mr. McCormick with a plaque and a sesquicentennial medallion. The Plaque read as follows:

In Appreciation
To
Fred McCormick
For Your Years of Dedication and
Service While Serving as
Crew Leader & Equipment Operator II
For the City of Marion Water Department
August 7, 1989 – January 1, 2010

Presented this 2nd Day of February, 2010
By
Mayor Stephen R. Little and Marion City Council

The City Manager advised that the City's greatest assets are not equipment and buildings, it is the great employees of the City. The City Manager stated that Fred served the City faithfully and worked extremely hard over the years. He said that the City is sorry to see Fred retire, but wishes him the best for the future.

Mayor Little, Council Members and City staff all shared kinds words about Fred McCormick.

RECOGNITION OF RETIRED POLICE CHIEF MIKA ELLIOTT:
The City Manager advised that Mika Elliott retired on January 31 after seven years of service as Police Chief. He said that the City has had many Police Chiefs over the years, but that Mika Elliott took the Police Department to a new level. The City Manager added that the City is sad to see Chief Elliott's service with the City come to an end, but wishes him the best in his retirement.

Mayor Little stated that when Mika Elliott was selected as Police Chief, the City wanted someone who was knowledgeable and dependable. He added that Mika has fit these descriptions and provided so much more.

AA.000000672 (24)

Mayor Little presented Chief Elliott with a plaque and sesquicentennial medallion. The Plaque read as follows:

In Appreciation
To
Mika Elliott
For Your Years of Dedication and
Service While Serving as
Police Chief
For the City of Marion
February 3, 2003 – February 1, 2010

Presented this 2nd Day of February, 2010
By
Mayor Stephen R. Little and Marion City Council

The City Manager presented Chief Elliott with his badge and service weapon, as is tradition for retired police officers.

Sheriff Dudley Greene thanked Chief Elliott for his great service to the community and for his cooperation with the Sheriff's Department. Sheriff Greene presented Chief Elliott with a certificate of appreciation, as follows:

Office of the Sheriff
McDowell County
North Carolina
Certificate of Appreciation
Presented to
Chief Mika Elliott
For his steadfast promotion of strong working
Relations between our agencies
And the
Cooperative support he provided to the McDowell County Sheriff's Office
As Chief of Marion Police

Mayor Little, Council Members, City staff, friends and family members all shared kinds words about Chief Elliott.

Mayor Little stated that Council would take a brief recess and share refreshments with honored guests.

Council Member Martin had to be excused from the remainder of this meeting due to sickness.

PUBLIC COMMENT PERIOD:.

Mr. Matt Dymond was present for this meeting and stated that on behalf of the Woodlawn Fire Department, he wanted to thank Council for the fire hydrant that was recently placed on US 221 North just north of the Gas House. He said that the fire hydrant would be useful to the Woodlawn Fire Department and the community for firefighting purposes.

CONSIDER ADOPTION OF ORDINANCE TO PROHIBIT THROUGH TRUCK TRAFFIC ON NORTH MCDOWELL AVENUE, AZALEA STREET AND ROBERT STREET: The City Manager stated that, at the January 19 Council meeting, Council directed him to draft an ordinance to prohibit through trucks on North McDowell Avenue, Azalea Street and Robert Street. Language is recommended in the proposed ordinance to apply the restriction to trucks with three or more axles or a gross weight of 13,000 pounds or more, based on information from DOT and other cities. The City Manager stated that the ordinance would apply only to through truck traffic, not to local deliveries.

The City Manager stated that he sent notice to residents of these streets to make them aware of the proposed restriction and that the City had received positive feedback from residents.

Council Member Doggett asked how truck drivers would be notified.

The City Manager stated that signs would be placed and that the enforcement effort could start with warning for a period of time.

Council Member Cuthbertson stated that McDowell County Schools is aware of the proposed change and supports the restriction, due to safety concerns at Marion Elementary School, located on Robert Street.

AA.00000673 (24)

Upon a motion by Council Member Cuthbertson, seconded by Council Member Clark, those members of Council present voted to approve the following ordinance amending the Traffic Schedule as follows:

ORDINANCE
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 18-239 is amended by adding the following:

STREET NAME	REGULATION	REG. APPLICATION
NORTH MCDOWELL AVENUE	NO THROUGH TRUCKS WITH THREE AXLES OR MORE OR A GROSS VEHICLE WEIGHT OF 13,000 LBS. OR MORE	ENTIRE LENGTH OF STREET
AZALEA STREET	NO THROUGH TRUCKS WITH THREE AXLES OR MORE OR A GROSS VEHICLE WEIGHT OF 13,000 LBS. OR MORE	ENTIRE LENGTH OF STREET
ROBERT STREET	NO THROUGH TRUCKS WITH THREE AXLES OR MORE OR A GROSS VEHICLE WEIGHT OF 13,000 LBS. OR MORE	ENTIRE LENGTH OF STREET

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 2nd day of February, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-10-02-02-1

CONSIDER REQUEST TO ALLOW SEPTIC TANK INSTALLATION: Public Works Director Chris Hollifield stated that Mr. Lee Charles of Patton's Scrap Metal is planning to relocate his business from Highway 221 North Business to Highway 226 South. The new location has access to City sewer; however, said access is 407 feet from the property line and across Corpening Creek. The City Policy Regarding Sewer Service for Properties at Lower Elevations than Available Sewer Lines allows property owners to request approval from the City Council to install a septic tank if the property in question is more than 300 feet from a gravity sewer line. Approval of the Health Department is also required. The Health Department has already reviewed the request, but referred Mr. Charles to the City.

Mr. Hollifield advised that, due to the 407 foot distance involved in Mr. Charles running a private sewer line, the necessary aerial crossing of Corpening Creek, the fact that an easement would be needed (the property has no road frontage) and the fact that Mr. Charles would need to install a private grinder pump to pump his

AA.000000674 (24)

wastewater to the nearest gravity sewer line. Mr. Hollifield said that Council approval of a septic tank at this location is therefore recommended.

The City Manager added that this situation appears to fit the adopted policy perfectly and that two other such requests have been approved in recent years where properties were more than 300 feet from a gravity sewer line.

Mr. Lee Charles was present for this discussion and stated that he would be using a small trailer with one bathroom on this property.

Mayor Little stated that this type of situation is exactly why the policy was adopted.

Upon a motion by Council Member Cuthbertson, seconded by Council Member Clark, those members of Council presented voted to approve the installation of a septic tank by Mr. Lee Charles of Patton's Scrap Metal for his new business location on NC 226 South, based on the fact that the property in question is more than 300 feet from a City gravity sewer line.

CONSIDER ADOPTION OF RESOLUTION TO APPROVE SETTLEMENT OF INTERBASIN TRANSFER LAWSUIT:

The City Manager stated that, as previously reported, the Protect the Catawba River Coalition has proposed a settlement of the lawsuit with the cities of Concord and Kannapolis regarding the interbasin transfer (IBT) both cities have sought and for which partial approval has been given by the State.

The City Manager presented a copy of a resolution that would approve the settlement. A news release summarizing the settlement and the actual settlement documents were also presented.

The City Manager stated that, in general, the settlement would provide Concord and Kannapolis some, but not all, of the IBT they have sought. The IBT would be further limited in periods of drought, depending on the severity of the drought. Concord and Kannapolis will be prohibited from withdrawing more than 3 millions per gallon (mgd) of water from the Catawba River until July 1, 2015 and after they are withdrawing at least 5 mgd from the Yadkin River.

The City Manager stated that most, if not all, of the Coalition members have approved or intend to approve the settlement. He provided a list of Coalition members who have approved the settlement so far and those which plan to approve the settlement in the near future. The City Manager stated that Council could certainly reject the settlement and continue the lawsuit, but without financial support from most Coalition members.

Mayor Little stated that he feels the settlement is a good compromise and should be approved.

Mayor Pro Tem Owenby asked if State law would be impacted by the settlement.

Mayor Little stated that the settlement would not be binding on the State and would not change State law. However, he believes it is the best result for the City of Marion and other Coalition members.

Council Member Clark stated that he has a problem with the agreement, since it is nothing but a promise. He said that the burden of enforcing the conditions agreed to by Concord and Kannapolis would fall on the Coalition members. Council Member Clark advised that he thought the point of the legal fight was to stop interbasin transfers. This settlement will limit the IBT, but will not stop it entirely. He added that he would have liked to have waited until the U.S. Supreme Court heard the case of *South Carolina v. North Carolina*, in which South Carolina is suing North Carolina over the approval of the IBT.

Council Member Clark said that he recognized that the City does not have the money to continue the legal fight and that this may be the best result, but that he still does not like the idea of settling.

Mayor Little said that a legal settlement is often nothing but a promise. He added that he also has a problem with the agreement, but that this is likely the best outcome possible for the City.

Council Member Clark stated that it was apparent from the beginning that Concord and Kannapolis would receive the water needed, due in large part to the State's major investment in a Biotechnology Center in Kannapolis.

Upon a motion by Mayor Pro Tem Owenby, seconded by Council Member Cuthbertson, those members of Council present voted to approve the proposed Resolution authorizing the settlement of the lawsuit, *Protect the Catawba Coalition, Catawba River Foundation, et al. v. The Environmental Management Commission, et al* as follows:

RESOLUTION OF CITY OF MARION

AA.000000675 (24)

**AUTHORIZING APPROVAL OF SETTLEMENT OF CONTESTED CASE: COALITION TO PROTECT THE CATAWBA V.
N.C. ENVIRONMENTAL MANAGEMENT COMMISSION**

WHEREAS, in response to the request by the cities of Concord and Kannapolis, North Carolina for a certificate authorizing the interbasin transfer ("IBT") from the Catawba River, the City of Marion joined together with other local governments in North and South Carolina in forming the Protect the Catawba Coalition ("Coalition") monitoring and expressing concern regarding the IBT request; and

WHEREAS, after the North Carolina Environmental Management Commission ("EMC") granted the requested IBT to Concord and Kannapolis, the Coalition and its member local governmental entities authorized the filing of a Petition for Contested Case Hearing ("Petition") at the North Carolina Office of Administrative Hearings ("OAH") challenging the IBT (the "Appeal"); and

WHEREAS the Coalition and its members are dedicated to taking all necessary actions to protect the Catawba River and its environment and water users, including our citizens, and to that end have been actively pursuing the Appeal and also successfully secured the amendment of the North Carolina law governing the issuance of future IBTs, in order to protect the Catawba River and its water users, including our citizens and businesses; and

WHEREAS, based on the fact that the Appeal process contemplates that parties should consider mediation of the issues in any appeal, representatives of the Coalition participated in a multi-day mediation of the Appeal with the Catawba Riverkeeper and representatives of the other parties in the Appeal, which mediation resulted in a tentative settlement agreement embodied in a proposed settlement agreement; and

WHEREAS the proposed settlement agreement protects the Catawba River and its environment and water users by significantly limiting interbasin withdrawals from the Catawba by Concord and Kannapolis during times of drought; and

WHEREAS the proposed settlement agreement protects the Catawba River and its environment and water users by significantly limiting interbasin withdrawals from the Catawba by limiting withdrawals from the Catawba until Concord and Kannapolis have taken sufficient actions to withdraw at least half of their allowed withdrawal from the Yadkin River; and

WHEREAS the proposed settlement agreement protects the Catawba River and its environment and water users by significantly limiting interbasin withdrawals from the Catawba
by requiring Concord and Kannapolis to engage in stringent water conservation measures as a condition of their withdrawals; and

WHEREAS the proposed settlement agreement protects the Catawba River and its environment and water users by imposing additional conditions and restrictions on Concord and Kannapolis and their use of the water from the Catawba, including provisions regarding pricing, sale and resale, measurement, reporting and other provisions designed to ensure that the settlement accomplishes its purposes; and

WHEREAS the proposed settlement agreement explicitly provides a private right to monitor and enforce its terms and conditions by the Coalition and any Coalition member signatory, including the right to stipulated daily monetary penalties in the event of default; and

WHEREAS the proposed settlement agreement, through its terms and conditions, provides protections and assurances to the Coalition and its member entities that would not have been available through a pursuit of the Appeal, due to the nature of the IBT appeal process.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Marion approves of the terms of the proposed settlement agreement and authorizes its execution and implementation on its behalf as a member of the Coalition, subject to execution of the proposed settlement agreement by Concord and Kannapolis and the Catawba Riverkeeper; and

NOW, THEREFORE, BE IT FURTHER RESOLVED that counsel for the Coalition, Hunton & Williams LLP, is hereby authorized: (a) to sign the settlement agreement on behalf of the City of Marion in a form approved by the City Manager and/or substantially in the form of the attached proposed settlement agreement on its behalf individually and as a member of the Coalition, (b) to file appropriate documents at OAH to withdraw and dismiss the Appeal; and (c) to take such other actions as re reasonable and necessary to implement the settlement agreement in the form approved.

This Resolution is effective upon its adoption this the 2nd day of February, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Resolution Number: R-10-02-02-1

CONSIDER REQUEST FROM BOY SCOUTS FOR USE OF DEPOT:
The City Manager presented Council with a letter from Mr. Jim Wilken,

AA.000000676 (24)

District Commissioner of the Boy Scout Swamp Fox District. Mr. Wilken requests that Council waive the $200 rental fee for the Depot to allow the Boy Scouts to hold a 100th Birthday Party for the Boy Scouts of America on Sunday, February 28.

The City Manager stated that Mr. Wilken stated that the event would take place between 1:00 p.m. and 2:30 p.m. on Sunday, February 28 and the building will be needed for setup and clean up between 10:00 a.m. and 4:00 p.m. that day.

Council Member Cuthbertson stated that Council has typically not waived rental fees for the Community Building or Depot, to provide proper tracking of revenues and expenditures for the operations of these buildings, but has on occasion made contributions to non-profit organizations to cover the cost of the rent. Council Member Cuthbertson stated that he felt that a $200 donation to the Boy Scouts would be appropriate in this case.

Upon a motion by Council Member Cuthbertson, seconded by Mayor Pro Tem Owenby, those members of Council present voted to donate $200.00 to the Boy Scouts Swamp Fox District to cover the cost of the rental of the Depot for a 100th Birthday Party for the Boy Scouts, on the condition that the Boy Scouts pay the proper deposit and follow all rules and regulations in place for the Depot.

ADOPT RESOLUTION TO ACCEPT ADDITIONAL FEDERAL STIMULUS FUNDING FOR WASTEWATER IMPROVEMENTS PROJECT: The City Manager stated that, as previously reported, the State of North Carolina had verbally offered the City another $260,000 (or 10 percent) in Federal Stimulus (ARRA) funding for the Wastewater Improvements Project. This funding would be one-half grant and one-half loan, paid back over 20 years at no interest.

The City Manager reported that subsequent discussions with the State indicated that the additional money would need to be used for part of a project already designed, permitted and preferably bid. He advised that the City did not have enough additional project that had already been bid, so the State had decided to award the additional funds to another project.

No action was required by Council, since the State's offer had been withdrawn.

REVIEW PROPOSAL – CITY HALL SOUND SYSTEM: The City Manager stated that Mayor Little had suggested in December that the City look at the possibility of installing a sound system in the City Council Chambers.

The City Manager stated that he had received a proposal from Shelby Music Center, which had been recommended by Woody Killough. This proposal includes a 14 input mixer, 6 ceiling mount speakers, 7 wireless clip-on microphones, 3 wireless handheld microphones and other hardware and installation costs. The total cost for the equipment and installation is $5,957.90 plus sales tax, for which the City receives a reimbursement from the State.

The City Manager reported that, after discussion, staff feels that the City could eliminate one of the ceiling mounted speakers and only have one wireless handheld microphone, instead of three. This microphone could be placed at the podium and passed to the audience if necessary. The elimination of one of the speakers and two of the handheld microphones would reduce the cost down to about $5,130.90.

Mayor Little stated that it is important that everyone present at meetings be able to hear; therefore, he would support the proposal.

Mayor Pro Tem Owenby stated that he also felt that the sound system should be approved.

Upon a motion by Council Member Owenby, seconded by Council Member Cuthbertson, those members of Council voted to authorize the City Manager to contract for the purchase and installation of a sound system for the City Council Chambers in City Hall.

ADOPT ORDINANCES TO START CONDEMNATION PROCESS ON DILAPIDATED STRUCTURES: Planning and Development Director Heather Cotton advised that City staff had identified several dilapidated structures in the City that are in need of immediate repair or demolition, including a mobile home on Morehead Road, a house on Spring Street, a house on Bostic Street in Eastfield and a commercial building on North Main Street (near the Berryhill auto repair shop).

Ms. Cotton stated that Council needed to adopt ordinances to start the condemnation process for these structures. Ms. Cotton also presented background information, including photos of each structure. The process will continue with notice being provided to property owners, a hearing being scheduled with

AA.0000006777 (24)

property owners and a time frame being given to repair and demolish each structure. If property owners do not take action within the prescribed timeline, staff can bring ordinances back to Council to authorize the City to take appropriate action, which would likely be demolition.

Upon a motion by Council Member Clark, seconded by Council Member Cuthbertson, those members of Council present voted to adopt the following ordinances to start the condemnation process for the four identified structures:

CITY OF MARION
ORDINANCE CONCERNING PARTICULAR ABANDONED STRUCTURES

WHEREAS, on the 21st day of January, 2003, the City of Marion enacted an Ordinance pursuant to and in compliance with Part 6, Article 19, Chapter 160A of the North Carolina General Statutes;

WHEREAS, said Ordinance was amended on the 4th day of April, 2006 to change the public officer designated to exercise powers of said Ordinance;

WHEREAS, this Ordinance provides for the repair, closure or demolition of any abandoned structure which the City Council finds to be a health or safety hazard as a result of the attraction of insects, rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities;

NOW, THEREFORE, the City of Marion, by action of the City Council, **HEREBY ORDAINS** the following:

Section 1. That the City Council finds as a fact that one or more abandoned structures located on the real property which is located within the corporate limits of the City of Marion as herein described as Morehead Road, Marion, McDowell County, North Carolina, Tax ID 1711.09-05-1666, and as further described in Exhibit A.

Section 2. That the City Council finds as a fact that the abandoned structures(s) referred to above constitutes a health and safety hazard as a result of the attraction of insects, rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities; and

Section 3. That the public officer named in the Ordinance adopted on the 21st day of January 2003, as amended on the 4th day of April 2006, which governs hazardous abandoned structures, shall carry out the provisions and procedures contained therein.

ADOPTED THIS the 2nd day of February, 2010

Stephen R. Little
Mayor

ATTEST:
J. Robert Boyette
City Manager/Clerk

Ordinance Number: 10-02-02-2

CITY OF MARION
ORDINANCE CONCERNING PARTICULAR ABANDONED STRUCTURES

WHEREAS, on the 21st day of January, 2003, the City of Marion enacted an Ordinance pursuant to and in compliance with Part 6, Article 19, Chapter 160A of the North Carolina General Statutes;

WHEREAS, said Ordinance was amended on the 4th day of April, 2006 to change the public officer designated to exercise powers of said Ordinance;

WHEREAS, this Ordinance provides for the repair, closure or demolition of any abandoned structure which the City Council finds to be a health or safety hazard as a result of the attraction of insects, rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities;

NOW, THEREFORE, the City of Marion, by action of the City Council, **HEREBY ORDAINS** the following:

Section 1. That the City Council finds as a fact that one or more abandoned structures located on the real property which is located within the corporate limits of the City of Marion as herein described as 216 Spring St, Marion, McDowell County, North Carolina, Tax ID 1701.12-86-4332, and as further described in Exhibit A.

Section 2. That the City Council finds as a fact that the abandoned structures(s) referred to above constitutes a health and safety hazard as a result of the attraction of insects, rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities; and

Section 3. That the public officer named in the Ordinance adopted on the 21st day of January 2003, as amended on the 4th day of April 2006, which governs hazardous abandoned structures, shall carry out the provisions and procedures contained therein.

ADOPTED THIS the 2nd day of February, 2010

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Stephen R. Little
Mayor

ATTEST:
J. Robert Boyette
City Manager/Clerk

Ordinance Number: 10-02-02-3

CITY OF MARION
ORDINANCE CONCERNING PARTICULAR ABANDONED STRUCTURES

WHEREAS, on the 21st day of January, 2003, the City of Marion enacted an Ordinance pursuant to and in compliance with Part 6, Article 19, Chapter 160A of the North Carolina General Statutes;

WHEREAS, said Ordinance was amended on the 4th day of April, 2006 to change the public officer designated to exercise powers of said Ordinance;

WHEREAS, this Ordinance provides for the repair, closure or demolition of any abandoned structure which the City Council finds to be a health or safety hazard as a result of the attraction of insects, rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities;

NOW, THEREFORE, the City of Marion, by action of the City Council, **HEREBY ORDAINS** the following:

Section 1. That the City Council finds as a fact that one or more abandoned structures located on the real property which is located within the corporate limits of the City of Marion as herein described as Bostic St, Marion, McDowell County, North Carolina, Tax ID 1711.05-18-8556, and as further described in Exhibit A.

Section 2. That the City Council finds as a fact that the abandoned structures(s) referred to above constitutes a health and safety hazard as a result of the attraction of insects, rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities; and

Section 3. That the public officer named in the Ordinance adopted on the 21st day of January 2003, as amended on the 4th day of April 2006, which governs hazardous abandoned structures, shall carry out the provisions and procedures contained therein.

ADOPTED THIS the 2nd day of February, 2010

Stephen R. Little
Mayor

ATTEST:
J. Robert Boyette
City Manager/Clerk

Ordinance Number: 10-02-02-4

CITY OF MARION
ORDINANCE CONCERNING PARTICULAR ABANDONED STRUCTURES

WHEREAS, on the 21st day of January, 2003, the City of Marion enacted an Ordinance pursuant to and in compliance with Part 6, Article 19, Chapter 160A of the North Carolina General Statutes;

WHEREAS, said Ordinance was amended on the 4th day of April, 2006 to change the public officer designated to exercise powers of said Ordinance;

WHEREAS, this Ordinance provides for the repair, closure or demolition of any abandoned structure which the City Council finds to be a health or safety hazard as a result of the attraction of insects, rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities;

NOW, THEREFORE, the City of Marion, by action of the City Council, **HEREBY ORDAINS** the following:

Section 1. That the City Council finds as a fact that one or more abandoned structures located on the real property which is located within the corporate limits of the City of Marion as herein described as North Main Street, Marion, McDowell County, North Carolina, Tax ID 1702.03-04-4707, and as further described in Exhibit A.

Section 2. That the City Council finds as a fact that the abandoned structures(s) referred to above constitutes a health and safety hazard as a result of the attraction of insects, rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities; and

Section 3. That the public officer named in the Ordinance adopted on the 21st day of January 2003, as amended on the 4th day of April 2006, which governs hazardous abandoned structures, shall carry out the provisions and procedures contained therein.

AA.00000679 (24)

ADOPTED THIS the 2nd day of February, 2010

Stephen R. Little
Mayor

ATTEST:

J. Robert Boyette
City Manager/Clerk

Ordinance Number: 10-02-02-5

Council Member Doggett noted that there was a vehicle parking in front of the Spring Street house and asked if the house was occupied. Ms. Cotton stated that it was her understanding that the house is not occupied, but that staff could verify that point.

Council Member Cuthbertson stated that the structure on North Main Street has two owners, Eugene Holland and Anthony Austin, contrary to what was included in the Council agenda packet. Ms. Cotton stated that she would correct the information so that notices would be sent to the correct owners.

CONSIDER AWARD OF CONTRACT – PURCHASE OF POLICE CARS: Finance Director Harriett Thomas stated that bids for two marked police cars were opened on Thursday, January 14, 2010 at 2:00 p.m. City staff mailed out seven bid notices and received back three bids.

Ms. Thomas reported that, after negotiation with the low bidder, the bids were as follows:

Vendor	Make/Model	Cost for 2 Vehicles
Ilderton Dodge, High Point, NC	Dodge Charger	$63,340.00
Capital Ford Inc, Raleigh, NC	Ford Crown Victoria	$66,258.88
Phillips Ford, Carthage, NC	Ford Crown Victoria	$69,069.02

Ms. Thomas advised that the bid from Ilderton Dodge consists of $40,052.00 for the chassis to be delivered by the City to Light-n-Up for the installation of emergency equipment and detailing for $23,288.00.

Upon a motion by Council Member Clark, seconded by Council Member Cuthbertson, those members of Council present voted to award the contract for the purchase of two marked police cars to Ilderton Dodge for Dodge Chargers in the amount of $63,340.00.

Mayor Little asked if the City was buying all new equipment.

Interim Police Chief Scott Spratt stated that the City reduced the costs by reusing the radars and radios from the old cars. He said that other equipment, such as lights and consoles, could not be reused, due to new standards for lights and the equipment becoming old and obsolete.

Council Member Clark asked what would be done with the old equipment. Interim Chief Spratt said that the old equipment is essentially worthless, since it is obsolete.

Council Member Clark said that the City should be getting rid of old vehicles when new vehicles are purchased. The City Manager stated that he had gone through a process last year with department heads whereby justifications were made for all vehicles in the City fleet. Several vehicles were identified as not being needed and were disposed of by the City. The City Manager added that the City disposed of an equal number of vehicles as were purchased new, unless there was a compelling reason or need to keep an extra vehicle.

Ms. Thomas stated that old vehicles are sold by the City using the on-line auction service, Gov Deals.

Council Member Cuthbertson asked how the Dodge Chargers are working as police cars. Interim Chief Spratt said that the Chargers are performing well and are actually preferred by the officers.

Council Member Doggett asked how often the City replaces vehicles.

Ms. Thomas stated that the City tries to stretch out the life of vehicles as much as possible, but that Police cars generally had to be replaced around 100,000 miles. The City Manager stated that the City had tried a few years ago to delay purchasing police cars for a year and had bad results, as maintenance costs escalated.

Council Member Doggett asked if the City had ever purchased used cars. Council Member Clark stated that the City had bought used cars many years ago to save money, but often ended up with another agency's junk. He said that the purchase of about two police cars per year was the way to go.

CITY MANAGER REPORTS: The City Manager gave a brief report on current projects..

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The City Manager stated that, as directed by Council, he notified all local emergency agencies of the recent closing of the Clay Street railroad crossing. On January 26, DOT removed the traffic signal at East Court and Clay Streets. City staff installed stop signs and new traffic pattern signs at the intersection. DOT gave the City the traffic signal heads and associated equipment.

The City Manager noted that Mayor Pro Tem Owenby had received a complaint about a bank impairing the visibility at the East Court and Clay Street intersection. He said that the Street Committee may want to look further at this intersection.

Council agreed by consensus to refer this matter to the Street Committee for review and a recommendation.

The City Manager stated that Planning and Development Director Heather Cotton had been working with the County on a joint $200,000 Energy Grant. The City initially wanted to request relamping of City buildings and replacement of inefficient heating and air systems. However, the State wanted as quick a payback period as possible. Relamping typically provides a quicker payback than HVAC system replacement. To improve the chances of funding, City staff therefore focused on relamping. This grant would not require any match and would potentially save the City hundreds if not thousands of dollars per year in electrical costs.

The City Manager stated that the City is going out to bid for Phase 1 of the Catawba River Greenway. The bid opening will be held on February 23 and staff hopes to have the bids ready for Council to review at the March 2 Council meeting.

The City Manager advised that the City Attorney is preparing the lease approved by Council with Great Meadows for the canoe launch/nature park site on US 221 North Business.

The City Manager advised that the new Police Chief will start work between February 15 and March 1, depending on how quickly paperwork is approved by the State, as is required for all new law enforcement hires.

The City Manager stated that the City's contractor has completed the water and sewer line extension to the Gas House on Highway 221 North. He added that work continues on the Wastewater Improvements Project.

The City Manager advised that the Revis Group has begun work on the new City website, to be followed by consulting work regarding the City channel, Facebook and other communications issues. The City Manager stated that he would advise as progress is made.

The City Manger advised that, as previously reported, WRS Realty indicates that they will close on the property for the Super Wal Mart development site on Sugar Hill Road in mid to late April. WRS plans to begin construction almost immediately with an anticipated opening of the Super Wal Mart in Spring 2011. Staff will begin the water and sewer extension upon WRS satisfying the conditions previously communicated.

The City Manager reported that he is working with Isothermal Planning and Development Commission to submit an Appalachian Regional Commission (ARC) grant application in the amount of $300,000 for the Sugar Hill Road water and sewer extension. ARC is stressing job creation with this round of funding, so the City should stand a good chance of funding.

The City Manager thanked the Public Works Department for the great job they recently did with the snow removal.

COUNCIL MEMBER COMMENTS:

Council Member Cuthbertson stated that the Local Emergency Planning Committee recently discussed issues involving addressing on Clay Street, now that the street was divided by the closed railroad crossing. He advised that the Committee discussed redesignating part of Clay Street as East Oak Street to aid in emergency response. Council Member Cuthbertson reported that the Committee also proposed that Azalea Street be eliminated and that the street be redesignated as Robert Street.

Council Member Cuthbertson suggested that the Street Committee review these recommendations. Council agreed by consensus to review these matters to the Street Committee for review and recommendation.

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Mayor Little presented a thoughtful card received from Council Member Doggett, thanking Council for its visits and flowers during the recent passing of her mother. Mayor Little stated that he regrets that he was out of the country when Mrs. Doggett passed away.

ADJOURNMENT: Upon a motion by Council Member Cuthbertson, seconded by Council Member Clark, those members of Council present voted to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, 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 16, 2010 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Cecil Owenby, Council Members Everette Clark, Lloyd Cuthbertson, Juanita Doggett and Billy Martin.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, AICP, Planning and Development Director; Scott Spratt, Police Lieutenant; Mark Brooks, Police Chief; Chris Hollifield, Public Works Director; Jim Neal, Fire Chief; Harriett Thomas, CPA, Finance Director; Gaye Noblitt, Police Administrative Sergeant; Glenda Elam, Police Telecommunicator; Eddie Swofford, Reserve Police Officer; Phillip Jackson, City Attorney; Mike Conley, News Reporter, McDowell News; Stephen Irish, News Reporter, The News Bulletin.

GUESTS PRESENT: Ross A. Moore 721 Midway Road Statesville, NC 28625; A. J. Stamey 4839 Slanting Bridge Road, Sherills Ford NC; Michael Keller, Statesville, NC; Stuart Mitchell, David Brown and Josh Dowdle, North Carolina State Highway Patrol; Zachary & Sarah Killough – God's Country Outreach – 214 Barefoot Park Drive, Marion, NC; Marvin Hutchinson USDA – Rural Development; Don Ramsey 188 Hillcrest Drive, Marion, NC; Sarah Beam 102 Kendallwood Drive, Shelby, NC 28152; John & Nanci Ellis 1507 Wesson Road, Shelby, NC 28152; Rev. Bill Warren 3939 Harmony Grove Road, Nebo, NC; Sam Arrowood 593 Spaulding Road, Marion, NC; Sheriff Dudley Greene 593 Spaulding Road, Marion, NC; Katherine Brooks 102 Kendallwood Drive, Shelby, NC 28152.

CONSENT AGENDA: Upon a motion by Council Member Cuthbertson, seconded by Council Member Clark, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – February 2, 2010 Regular City Council Meeting Minutes

B. Approve Budget Ordinance Amendment

CITY OF MARION, NORTH CAROLINA
2009-2010 BUDGET ORDINANCE
(Second Amendment)

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

Section 1. That the Budget Ordinance for the City of Marion, North Carolina for the fiscal year 2009-10 as adopted by the Marion City Council on the 16th day of June, 2009 is hereby amended as follows:

GENERAL FUND

a. General Fund Expenditures, Administration, Account Number 10-420-0400, Professional Services is increased from $35,000 to $42,250.

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b. General Fund Expenditures, Administration, Account Number 10-420-7400, Capital Outlay is increased from $8,600 to $16,100.

c. General Fund Expenditures, Police, Account Number 10-510-7400, Capital Outlay is increased from $70,155 to $80,360.

d. General Fund Expenditures, Streets, Account Number 10-560-7400, Capital Outlay is increased from $5,750 to $30,400.

e. General Fund Revenues, Account Number 10-334-1600, Federal Drug Asset Revenue is increased from $5,108 to $14,000.

f. General Fund Revenues, Account Number 10-334-1700, State Controlled Substance Revenue is increased from $1,200 to $2,700.

g. General Fund Revenues, Account Number 10-335-0400, Urban Forestry Grant Revenues is increased from $-0- to $13,460.

h. General Fund Revenues, Account Number 10-390-0000, Cemetery Revenue is increased from $6,000 to $7,600.

i. General Fund Revenues, Account Number 10-392-2000, Property Insurance Reimbursement is increased from $-0- to $16,470.

j. General Fund Revenues, Account Number 10-399-0000, Fund Balance Appropriated is decreased from $401,240 to $408,923.

GENERAL FUND CAPITAL PROJECTS FUND

a. General Fund Capital Project Fund Expenditures, Account Number 11-510-0200, NCSTEP - Branding, is increased from $110,000 to $144,000.

b. General Fund Capital Project Fund Revenues, Account Number 11-365-1000, NCSTEP – Matching Funds, is increased from $-0- to $34,000.

c. General Fund Capital Project Fund Revenues, Account Number 11-370-0400, Greenway Matching Funds, is increased from $-0- to $10,000.

d. General Fund Capital Project Fund Revenues, Account Number 11-381-0100, Transfer from GF - Greenway, is decreased from $82,300 to $72,300.

WATER AND SEWER FUND

a. Water and Sewer Fund Expenses, Utility Line Maintenance, Account Number 30-810-7400, Capital Outlay, is increased from $148,000 to $331,200.

b. Water and Sewer Fund Revenues, Account Number 30-375-0100, Nebo Maintenance Fees is decreased from $21,000 to $2,625.

c. Water and Sewer Fund Revenues, Account Number 30-335-0100, Property Insurance Reimbursement is increased from $-0- to $9,094.

d. Water and Sewer Fund Revenues, Account Number 30-299-0000, Fund Balance Appropriated is increased from $211,467 to $403,948.

WATER AND SEWER CAPITAL PROJECTS FUND

a. Water and Sewer Capital Project Fund Expenses, Account Number 31-172-0100, Corpening Creek – SOC, is decreased from $606,000 to $600,000.

b. Water and Sewer Capital Project Fund Expenses, Account Number 31-172-0200, Corpening Creek – Capital Improvement, is increased from $2,626,700 to $3,402,030.

c. Water and Sewer Capital Project Fund Expenses, Account Number 31-172-0300, Catawba River Basin Sewer Improvement, is decreased from $2,025,200 to $1,463,546.

d. Water and Sewer Capital Project Fund Expenses, Account Number 31-172-0400, WWTP Improvements – Miscellaneous, is decreased from $901,364 to $853,187.

e. Water and Sewer Capital Project Fund Revenues, Account Number 31-370-0250, Matching Funds - WWTP, is increased from $-0- to $159,499.

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 16th day of February, 2010.

Stephen R. Little, Mayor

ATTEST:
J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–10–02–16–1

C. Approve Resolution Designating Applicant's Agent

CITY OF MARION
RESOLUTION
DESIGNATION OF APPLICANT'S AGENT
NORTH CAROLINA DIVISION OF EMERGENCY MANAGEMENT

BE IT RESOLVED BY the governing body of the City of Marion, a public entity duly organized under the laws of the State of North Carolina that J. Robert Boyette, Primary Agent and Harriett Thomas, Secondary Agent are hereby authorized to execute and file applications for federal and/or state assistance on behalf of the City of Marion for the purpose of obtaining certain state and federal financial assistance under the Robert T. Stafford Disaster Relief & Emergency Assistance Act, (Public Law 93-288 as amended) or as otherwise available.

BE IT FURTHER RESOLVED that the above named agents are authorized to represent and act for the City of Marion in all dealings with the State of North Carolina and the Federal Emergency Management Agency for all matters pertaining to such disaster assistance required by the grant agreements and assurances.

BE IT FINALLY RESOLVED THAT the above named agents are authorized to act severally.

GOVERNING BODY
Cecil Owenby, Mayor Pro Tem
Everette Clark, Council Member
Juanita Doggett, Council Member
Lloyd Cuthbertson, Council Member
Billy Martin, Council Member

CERTIFYING OFFICIAL
Stephen R. Little, Mayor

Adopted this the 16th day of February 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-10-02-16-3

PUBLIC APPEARANCE – MR. ROSS MOORE – ROLLING THUNDER: Mr. Ross Moore of Rolling Thunder appeared before Council with other representatives of Rolling Thunder, Mr. A. J. Stacey and Mr. Michael Keller, a Vietnam vet of the 82nd Airborne.

Mr. Moore stated that Rolling Thunder is a non-profit organization. Members donate their time because they believe in the issues promoted by the organization. The major function of Rolling Thunder, Inc. is to publicize POW-MIA Issues, to educate the public that many American prisoners of war were left behind after all previous wars and to help correct the past and to protect future veterans from being left behind should they become prisoners of war or missing in action. Mr. Moore said Rolling Thunder is also committed to helping American veterans from all wars.

Rolling Thunder was incorporated in 1995 and is a 501(C)(4) non-profit organization with over 80 chartered chapters throughout the United States and with members abroad. Membership is comprised of men and women with 40 to 45 percent of members being non-veterans. Mr. Moore said that while many of its members ride motorcycles, a person does not have to own or ride a motorcycle to be a member, just the time and willingness to be an advocate for troops, veterans, and POW/MIA's.

Mr. Moore said that Rolling Thunder wants to locate its first chapter west of I-77 in Marion. The organization is meeting at the National Guard Armory the 3rd Saturday of each month at 2:00 P.M. and wanted to speak to Council to publicize the new chapter.

Mayor Little welcomed the members of Rolling Thunder and stated that he feels that the organization chose a great location for a new chapter in Marion.

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Council Member Clark asked if members of Rolling Thunder would be willing to participate with military funerals. Mr. Moore stated that the organization is happy to help out if so desired by families.

Council Member Doggett stated that her father had been a prisoner of war and that she certainly appreciated the efforts being made by Rolling Thunder.

PUBLIC HEARING ADOPTION OF ANNEXATION ORDINANCE – GREAT MEADOWS/MCDOWELL HIGH SCHOOL ROAD ANNEXATION: Mayor Little opened the Public Hearing.

The City Manager advised that the City has gone through the annexation process for the request of Great Meadows to annex their property on McDowell High School Road. This 0.07 acre property is a small portion of a larger parcel at the intersection of North Main Street and McDowell High School Road. The City Manager reported that commercial development was planned for the property and that annexation of the entire property was therefore needed.

There were no citizens present to discuss this item.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Clark, seconded by Council Member Cuthbertson, Council voted unanimously to adopt the following Annexation Ordinance annexing the Great Meadows/McDowell High School Road property effective February 28, 2010.

AN ORDINANCE TO EXTEND
THE CORPORATE LIMITS OF THE
CITY OF MARION, NORTH CAROLINA –
GREAT MEADOWS – MCDOWELL HIGH SCHOOL ROAD - 2010

WHEREAS, the City Council has been petitioned under G.S. 160A-31 to annex the area described below; and

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

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at City Hall at 7:00 P.M. on Tuesday, February 16, 2010, after due notice by publication on Wednesday, January 27, 2010; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-31;

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

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the City of Marion as of February 28, 2010:

BEGINNING at a point at the northeast corner of Lot 2170, Block 65 on the McDowell County Tax Map 0792.00; thence following the northern boundary of said Lot 2170 in a westerly direction 177.05 feet; then in a southeasterly direction 41.72 feet to a point on the boundary of said Lot 2170 and the northwest corner of Lot 4067, Block 13 on the McDowell County Tax Map 1702.03; thence in a following the boundary of said Lots 2170 and 4067 in a northeasterly direction 149.75 feet to the point of BEGINNING.

Section 2. Upon and after February 28, 2010, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City of Marion. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Marion shall cause to be recorded in the office of the Register of Deeds of McDowell County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the McDowell County Board of Elections, as required by G.S. 163-288.1.

ADOPTED this the 16th day of February, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Approved As To Form:

City Attorney

AA.000000685 (24)

Ordinance Number: O-10-02-16-2

PUBLIC HEARING – ZONING TEXT AMENDMENT – ALLOW RESIDENTIAL LIVING QUARTERS IN M1 INDUSTRIAL DISTRICT: Mayor Little opened the Public Hearing.

Planning and Development Director Heather Cotton stated that staff had proposed a zoning text amendment to revise the Zoning Ordinance to allow residential living quarters as an accessory use in the M-1 Industrial Zoning District. The proposed text amendment would allow for one single family residential dwelling unit with an approved principal use of property. Ms. Cotton stated that the City identified the need to convert a City-owned building into residential living quarters to house interns and/or temporary living quarters for a new employee establishing in Marion. In addition, this change would allow other industrial/manufacturing operations to offer a residential incentive as well as an opportunity to improve onsite security and safety.

Ms. Cotton reported that the Planning Board recommended approval of this zoning text amendment in a 4-0 vote at their regularly scheduled meeting held on February 4, 2010.

There were no citizens present to discuss this item.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Owenby, seconded by Council Member Cuthbertson, Council voted unanimously to adopt the following Ordinance to allow residential living quarters as an accessory use in the M-1 Industrial Zoning District.

ORDINANCE
AMENDING CHAPTER 21
ZONING
MARION CITY CODE

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Section 2. That Chapter 21, Zoning, Section 21.206.2 Permitted Uses within the M-1 Industrial Zoning District is amended to add the following:

Sec. 21-206.2. Permitted uses. Within the M-1 Industrial District the following uses are permitted:

(1) Contractor's plants or storage yards.

(2) Commercial recreation conducted entirely within an enclosed building.

(3) Industrial equipment machinery repair and service.

(4) Lumber yards, building materials storage.

(5) Machine shops.

(6) Plumbing shops and their accessory storage yards.

(7) Radio and television stations and masts.

(8) Signs, as regulated by Article VII, section 21-131.

(9) Tire recapping shops.

(10) Trucking terminals.

(a) Wholesale establishments for storage of oil, fuel oil and gasoline.

(b) Temporary retail sales for itinerant merchants as defined in section 10-172 of the Marion City Code provided that the temporary sale last no longer than seven (7) consecutive days and are not held more than once per quarter.

See section 21-86 for parking requirements.

(11) One residential unit to serve as accessory living quarters to a permitted principal use.

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 16th day of February, 2010.

Stephen R. Little
Mayor

ATTEST:

J. Robert Boyette
City Manager/ Clerk

Ordinance Number: O-10-02-16-3

PUBLIC HEARING – ZONING TEXT AMENEDMENT - ALLOW TEMPORARY COLLECTION CENTERS FOR NON-PROFIT DONATIONS: Mayor Little opened the Public Hearing.

AA.0000006686 (24)

Planning and Development Director Heather Cotton stated that the City had received a request from Goodwill Industries in Asheville to amend the Zoning Ordinance to expand the duration of time for the placement of temporary structures for donation collection centers. Ms. Cotton advised that current regulations do not allow for donation collection centers except for those associated with a permanent business and the placement of a temporary structure is only permitted for a 30-day period twice a year. Goodwill does not have a permanent business location and would like to establish a temporary tractor trailer in Marion to collect donations for an extended period of time.

Ms. Cotton stated that she drafted a zoning text amendment to allow for a 60-day time extension for non-profit collection centers, provided that such collection centers are adequately staffed, hours of operation are posted, and all trash and/or materials not accepted for donation are removed from the site each day.

Ms. Cotton advised that the Planning Board recommended denial of this zoning text amendment in a 4-0 vote at their regularly scheduled meeting on February 4, 2010. Ms. Cotton stated that the Planning Board felt that additional allowances for temporary collection centers were not needed, as they could present a visual eyesore and could divert donations from the community.

Ms. Cotton presented written comments received from God's Country and Family Services of McDowell County which between them operate three thrift stores in the City, requesting denial of the zoning text amendment.

Rev. Bill Warren of McDowell Mission Ministries located on State Street stated that he is against the zoning text amendment for the reasons cited by the Planning Board. He reported that Marion now has many thrift stores and that allowing an organization without a permanent location in the community to accept donations and take them out of the community is just wrong. Rev. Warren noted that 100 percent of the profits from McDowell Mission Ministries are used for the benefit of the community.

Zachary Killough spoke on behalf of God's Country, located in the Lady Marian Plaza on North Main Street. Mr. Killough stated that the God's Country ministry has been going on for a long time and one hundred percent of the profits go back into the community. He said that temporary collection centers would be an eyesore and would not benefit the community. Mr. Killough asked Council to deny the amendment.

Council Member Cuthbertson stated that he looks at creating more allowances for temporary collection centers as retail leakage and feels that the request should be denied.

Council Member Doggett stated that she is also opposed to expanding the time period for temporary collection centers.

There were no other persons present to discuss this item.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Owenby, seconded by Council Member Cuthbertson, Council voted unanimously to accept the Planning Board's recommendation and deny the request for a zoning text amendment to expand the time period allowed for temporary collection centers operated by non-profit organizations.

PUBLIC HEARING APPROVAL OF USDA LOAN FOR FIRE TOWER TRUCK – ADOPT RESOLUTION APPROVING FINANCING: Mayor Little opened the Public Hearing.

Finance Director Harriett Thomas stated that this Pubic Hearing is for comment on the City's proposed USDA Rural Development loan for the purchase of an aerial platform truck for the Fire Department. The loan will be for a maximum of $860,000 at four percent for a term of 20 years. Bids have been received for this truck and are being reviewed by the Fire Chief to ensure compliance with the specifications.

Mr. Marvin Hutchinson of USDA was present for this meeting and stated that this public hearing is to put public on notice that the City of Marion is planning to accept a USDA loan to purchase the fire truck.

Mayor Little asked if there were any questions from any guests present for this meeting.

Mayor Pro Tem Owenby asked what the interest rate would be for the life of the loan. Mr. Hutchinson stated that the interest rate will be four percent for the life of the loan, although the interest could be lowered if the April 1 interest rate charged by USDA goes down. The interest rate will never increase above four percent. Mr. Hutchinson added that there will be no prepayment penalty and no application fees.

Council Member Cuthbertson asked about the time frame for approving the loan. Mr. Hutchinson stated that, if Council approved the loan tonight, he should be able to have funds available in less than 30 days.

AA.000000687 (24)

Council Member Clark asked what the payment would be for the truck. Mr. Hutchinson stated that the payments would be $64, 820 per year. The first annual payment will be due one year from the date of truck delivery.

There were no other questions.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Clark, seconded by Council Member Cuthbertson, Council voted to authorize the City to enter into a loan with USDA for up to $860,000, at four percent interest and with a term of 20 years, to finance the purchase of an aerial platform truck for the Fire Department.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

ADMINISTER OATH OF OFFICE NEW POLICE CHIEF MARK BROOKS: The City Manager stated that over the last few months, he went through a lengthy process to hire a new Police Chief to replace retired Police Chief Mika Elliott. The City Manager stated that the City received 96 applications, but that he ended up hiring someone not far from Marion, Mr. Mark Brooks, Police Captain with the City of Shelby.

The City Manager introduced Mr. Brooks who comes to the City with about 25 years experience in municipal law enforcement, the last 21+ years with the City of Shelby. The City Manager added that Mr. Brooks impressed the interview panel and himself with his education, experience and professionalism during the recent interview and assessment process.

Mayor Little administered the following Oath of Office to Chief Brooks. Mr. Brooks' wife, Katherine, held the Bible during the oath.

I, **Mark LeGrand Brooks,** do solemnly swear (or affirm) that I will support the Constitution of the United States; so help me God.

I, **Mark LeGrand Brooks,** do solemnly swear (or affirm) that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are, or may be, established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said state, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability; so help me God.

I, **Mark LeGrand Brooks,** do solemnly swear (or affirm) that I will be alert and vigilant to enforce the criminal laws of this State; that I will not be influenced in any matter on account of personal bias or prejudice; that I will faithfully and impartially execute the duties of my office as a law enforcement officer according to the best of my skill, abilities, and judgement; so help me God.

I, **Mark LeGrand Brooks,** do solemnly swear (or affirm) that I will well and truly execute the duties of Police Officer for the City of Marion, North Carolina, according to the best of my skill and ability, according to law; so help me God.

SWORN to and subscribed before me,
This the 16th day of February, 2010

Stephen R. Little, Mayor
City of Marion, North Carolina

Chief Brooks started that it is a privilege to serve the City of Marion and he takes it as a great responsibility. He added that he already spoken with many of the officers and feels the City has great men and women working in the Police Department. Chief Brooks stated that there are things that can be improved and that any changes will be for the good of the department and the City.

Mayor Little and Council Members welcomed Chief Brooks and wished him great success in the future.

McDowell County Sheriff Dudley Greene thanked the City for the invitation to be at the meeting and stated that he hopes continue the great working relationship with the City as Chief Brooks assumes command.

AA.000000688 (24)

Chief Deputy Sam Arrowood of the McDowell County Sheriff's Department, Clerk of Court Don Ramsey, members of the North Carolina Highway Patrol, family of Chief Brooks and other guests were also present for this meeting and wished Chief Brooks well.

Mayor Little stated that it is very appropriate and symbolic to have Sheriff Greene and Chief Deputy Arrowood, as well as members of the North Carolina Highway Patrol, here tonight to demonstrate the excellent cooperation that exists among law enforcement agencies in the community.

The City Manager stated that there is one more item to cover, being that Chief Brooks needs a badge. The City Manager presented Chief Brooks with his badge. Chief Brooks received a standing ovation from all persons present.

Mayor Little stated that Council would take a brief intermission to share fellowship and refreshments with Chief Brooks and guests.

Mayor Little called the meeting back in session.

CONSIDER ADOPTION OF RESOLUTION - AUTHORIZING THE SALE OF PROPERTY OWNED BY THE CITY OF MARION:

The City Manager stated that the City had received a written offer from Mr. Roberto Sierra of 115 West Wilhemenia Street to purchase the City owned property adjacent to his property for $2,000. As shown on a map presented to Council, this property is 0.32 acres in size and has 93 feet of street frontage.

The City Manager stated that Mr. Calvin Little had made a $2,000 offer on the same property and failed to schedule a closing for the property, so it was placed back on the market.

The City Manager stated that Council adoption of a resolution is necessary to start the upset bid process. The City would then obtain the necessary five percent bid deposit from Mr. Sierra, as well as the cost of legal advertising. Once the notice is published, interested persons will have ten days to raise the bid by at least ten percent of the first $1,000 plus five percent of any additional amount. If an upset bid is received, the process repeats itself. If no upset bids are received, Council can then adopt a resolution to authorize the final sale of the property and the closing could be scheduled.

Mayor Little asked if there were any questions or concerns from anyone. There were no questions.

Upon a motion by Council Member Martin, seconded by Council Member Cuthbertson, Council voted to adopt the following Resolution authorizing the sale of City property on West Wilhemenia Street for $2,000, subject to upset bid:

Resolution Authorizing the Sale of Certain Property Owned by the City of Marion by Negotiated Offer and Upset Bid

WHEREAS, the City Council of the City of Marion desires to dispose of certain surplus property of the City; and

WHEREAS, N.C.G.S. 160A-269 authorizes a city to convey by negotiated offer and upset bid any real or personal property; and

WHEREAS, Mr. Roberto Sierra has submitted a bid in the amount of $2,000 for the purchase of approximately 0.32 acres of property owned by the City of Marion located on West Wilhemenia Street (McDowell County Parcel Identification Number 1701.18-22-7385).

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

1. The parcel owned by the City of Marion on West Wilhemenia Street (McDowell County Parcel Identification Number 1701.18-22-7385) that is approximately 0.32 acres in size is hereby declared to be surplus to the needs of the City of Marion.

2. The City Council accepts the offer of Mr. Roberto Sierra to purchase the above described property for $2,000, subject to the upset bid process being followed as required by N.C.G.S. 160A-269.

3. The City Clerk shall notify Mr. Roberto Sierra of the acceptance of this offer, receive a five percent bid deposit from the bidder, and cause a notice of this resolution to be published in accordance with G.S. 160A-269. Such notice shall state that prospective bidders have ten days from the date the notice is published to offer an upset bid, pursuant to G.S. 160A-269.

4. Once the upset bid process is completed, in accordance with G.S. 160A-269, the City Manager is designated to dispose of the above described property to the bidder selected by City Council, for a minimum price of $2,000.

Adopted this the 16th day of February, 2009.

Stephen R. Little, Mayor

AA.0000006B9 (24)

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-10-02-16-1

ADOPT RESOLUTION TO APPROVE CITY SUSTAINABILITY PLAN: Planning and Development Director Heather Cotton advised that Council approval of a Sustainability Plan is needed to assist the City with energy grant applications. The Plan promotes environmental stewardship through energy conservation, water conservation, waste reduction and pollution prevention, among other items. Ms. Cotton provided a brief overview of the proposed Plan.

Council Member Clark asked about section three of the resolution, which states that the City would develop, promote, and implement sustainable stewardship education programs within the community.

Ms. Cotton stated that the City can implement these items through educational materials placed on the City website, the City's Government Access Channel and other printed materials.

Upon a motion by Council Member Clark, seconded by Council Member Cuthbertson, Council voted unanimously to adopt the following Resolution approving the City's Sustainability Plan.

City of Marion
Sustainability Resolution

WHEREAS, Sustainability means satisfying our present needs without compromising the ability of future generations to meet their needs; and

WHEREAS, the City of Marion is committed to lead by demonstrating sustainable stewardship that will yield cost savings to taxpayers by reducing operating costs, providing healthy work environments for city staff and public, protecting, conserving and enhancing the city's resources, and establishing community standards of sustainable practices; and

WHEREAS, the City of Marion is committed to designing, constructing, and operating city facilities to minimize environmental impacts by incorporating the use of resource and energy efficient materials, renewable resources, alternative energy sources, water conservation, waste reduction, pollution prevention; and

WHEREAS, the City of Marion should be a leader in North Carolina by setting policies, guidelines, goals, and strategic actions that will result in a more sustainable community.

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

Section 1: The Marion City Council hereby adopts the City of Marion Sustainability Plan as a guiding document for all city operations and public outreach;

Section 2: That the City Manager may direct City staff to develop policies, guidelines, and strategic actions for sustainable practices for City facilities and services;

Section 3: The City will develop, promote, and implement sustainable stewardship education programs within the community; and

Section 4: That the City Manager may direct city staff to provide on-going training and education opportunities for staff to further sustainable stewardship.

Section 5: This resolution shall become effective upon adoption.

ADOPTED THIS the 16th day of February, 2010

Stephen R. Little
Mayor

ATTEST:

J. Robert Boyette
City Manager/Clerk

Resolution Number: 10-02-16-2

CITY MANAGER COMMENTS: The City Manager advised that he had recently spoken to Randy Hollifield about his plans to raise money to bring the traveling Vietnam Memorial Wall to Marion. Mr. Hollifield told him that several organizations, including the County, have agreed to serve on a committee to discuss this project. He asked for a representative from the City.

The City Manager stated that he told Mr. Hollifield that the City would be happy to serve on the committee, although he could not in any way promise any money from the City. The City Manager presented Council with information about this project and asked that Council advise him if they had any interest in being involved in the project.

AA.000000690 (24)

The City Manager advised that the December snowstorm had been declared a Federal disaster, making local governments, the school system and volunteer fire departments eligible for reimbursement. Snow removal is not an eligible expense. The City Manager reported that the City hopes to receive between $5,000 and $6,000 in reimbursements.

The City Manager advised that the next City Council Planning Session is scheduled for Thursday, February 25, from 6:00 p.m. to 9:00 p.m. at City Hall. This Planning Session will be for brainstorming only, per previous agreement by Council.

The City Manager advised that the N.C. STEP Program Leadership Committee has recommended scaling back the approved Made in McDowell Project to about $10,000 (the original budget for this project was $50,000). Part of the money earmarked for Made in McDowell has already been used for the downtown wireless network and for the Farmer's Market, resulting in there now being about $40,000 designated for Made in McDowell. The City Manager reported that the N.C. STEP Program Leadership Committee recommended using the money not used for Made in McDowell to cover the full costs of the way-finding signage (another $12,000-$15,000 estimated) with the remaining $15,000 being designated for the MACA building renovation. The City Manager asked Council for their approval of the reallocation of the N.C. STEP money, so that a request could be made to the N.C. Rural Center. He added that the N.C. Rural Center stated that a re-designation of the N.C. STEP Program funds would not be a problem.

Upon a motion by Council Member Cuthbertson, seconded by Council Member Clark, Council voted to reallocate the N.C. STEP Program money as recommended by the N.C. STEP Program Leadership Committee to reduce the budget for the Made in McDowell project to $10,000, with leftover money used to fully fund the way finding signage, with any remaining funds allocated for the MACA building renovation project.

The City Manager advised that the School of Government will hold a webinar for the required ethics training for local elected officials on Thursday, March 25 from 4:00 p.m. to 6:00 p.m. The City has registered for this webinar and will hold it at the Community Building. The Town of Old Fort and McDowell County plan to participate. The City Manager added that the N.C. League of Municipalities had asked if other cities could participate, if they did not have a location to receive the training. Mayor Little and City Council members agreed by consensus that the City would be willing to have any local elected officials attend the webinar who wished to do so.

The City Manager stated that the Revis Group has begun work on the new City website, to be followed by consulting work regarding the City channel, a Facebook page for the City and other communications issues.

The City Manager stated that the City had received word from DOT that streetlights will not be feasible on the on and off ramps of the Highway 221 Bypass at the West Henderson Street exit, due to Federal requirements that would involve 15 or more lights to be installed per ramp.

Council Member Cuthbertson asked if the City could place more powerful streetlights at the Highway 226/221 intersection, since the intersection is quite dark. The City Manager stated that he would inquire with Duke Energy to see if brighter lights could be used.

The City Manager stated that DOT staff in Raleigh are still reviewing the City's request to allow restaurants, gas stations and motels to place blue logo signs at signalized intersections along the US 221 Bypass.

The City Manager advised that as previously reported, WRS Realty indicates that they will close on the property for the Super Wal Mart development site on Sugar Hill Road in early to mid April. WRS plans to begin construction almost immediately with an anticipated opening of the Super Wal Mart in Spring 2011. The City will begin the water and sewer extension upon WRS satisfying the conditions previously communicated.

COUNCILMAN COMMENTS:

Council Member Owenby asked about the request made from the owner of KG's Quik Stop, asking for annexation of his property. The City Manager stated that this property is located on US 221 North, near Tom's Creek Road, at a location the City to which the City could not provide full services, especially water and sewer service.

AA.000000691 (24)

Council Member Cuthbertson asked if the City's contractors who had completed the Wastewater Improvements Project had been back in touch with the owners of the Harvest Drive-In regarding needed repair work. The City Manager asked Public Works Director Chris Hollifield to make sure that the project engineer and/or contractor contacts the owner of the Harvest about this needed repair work.

Council Member Clark stated that a manhole also needs to be repaired on North Main Street near the mail box between Moondoggy's Restaurant and the Harvest Drive In. The City Manager asked Mr. Hollifield to make sure this repair was completed.

Council Member Doggett stated that she had received several complaints from Hillcrest Drive residents about numerous recent power outages and the need for trees to be trimmed by Duke Energy. The City Manager stated that he has spoke with the District Manager for Duke Energy about these complaints and hopes to have a meeting with Duke representatives in the next week or two to discuss areas that need tree trimming, in order to prevent repeated power outages.

ADJOURNMENT: Upon a motion by Council Member Owenby, seconded by Council Member Cuthbertson, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in a Special Called Session on Thursday, February 25, 2010 at 5:30 P.M. in the City Hall Conference Room located at 194 North Main Street for the purpose of conducting a Planning Session.

BOARD MEMBERS PRESENT: Mayor Steve Little, Mayor Pro Tem Cecil Owenby, Council Members Everette Clark, Lloyd Cuthbertson, Juanita Doggett and Billy Martin.

OTHERS PRESENT: Bob Boyette, City Manager

GUESTS PRESENT: Chris Revis, Revis Group

OPENING DISCUSSION: Mayor Little opened the meeting and welcomed those who were present.

PLANNING SESSION: City Council held a Planning Session and discussed the following topics:

A. Review of Ideas for Proposed Website Economic Development Video - Mr. Chris Revis presented his preliminary ideas for the economic development video to be produced for the City's website. Mr. Revis also provided a preview of the revised City website. After discussion, Mayor Little and Council Members agreed by consensus for Mr. Revis to proceed with the video and website in accordance with his recommendations.

B. Brainstorming – Mayor Little, Council Members and the City Manager identified several possible topics for consideration by Council in the near or distant future. These ideas included:

1. Growth priorities
2. Marion City Government 101 class for public
3. Transportation Improvement Program/DOT Enhancement Program priorities

4. Street and sidewalk project priorities

5. Retiree health insurance benefits

6. Expansion of Downtown Façade Grant Program

7. Placement of historic markers

8. Explore grants to fund revolving loan fund for new business development

9. Allowances for golf carts on residential and lower speed streets

10. Research possible expansion of no smoking ordinance to include parks and areas outside doors of City building, to the limit allowed by State law

11. Elimination of "Children at Play" signs due to potential liability

12. Contract with Robert Segal, CPA on contingency basis to identify opportunities to find lost revenues and cost savings

13. Water and sewer connections

14. Changes in policies for brush collection

15. Changes in policies for large item collection

16. Changes in policies for placement of utility trailers for solid waste collection

17. Changes in policies for residential garbage collection

18. Explore changes to health insurance coverage to reduce costs

19. Obtain additional equipment for snow removal on sidewalks

20. Downtown appearance issues

21. Encouraging more use of upper floors in downtown area, particularly residential uses

22. Development of strategic plan to incorporate short and long term goals for City

23. Implementation of Urban Forestry Plan completed last year, including possibly having a certified arborist

24. Working with YMCA and other organizations to produce educational materials and/or signage about walking trails in the City, showing the distance of designated paths, the amount of calories burned on a trail, etc.

25. Planning for future Water Treatment Plant renovations

26. Programs/grants to improve housing in City

C. Determination of How Identified Discussion Topics Will be Handled: Mayor Little and Council Members assigned each discussion topic to one of four categories: Items to be Discussed at Future City Council Planning Sessions, Items to be Discussed at Future City Council Meetings, Items to be Handled by Staff and Items to be Trashed or Considered in the Distant Future. The items were assigned as follows, using the same numbers listed above:

<u>Items to be Discussed at Future City Council Planning Sessions</u>

1. Growth priorities

3. Transportation Improvement Program/DOT Enhancement Program priorities

4. Street and sidewalk project priorities

5. Retiree health insurance benefits

6. Expansion of Downtown Façade Grant Program

9. Allowances for golf carts on residential and lower speed streets

13. Water and sewer connections

20. Downtown appearance issues

21. Encouraging more use of upper floors in downtown area, particularly residential uses

22. Development of strategic plan to incorporate short and long term goals for City

AA.000000693 (24)

23. Implementation of Urban Forestry Plan completed last year, including possibly having a certified arborist

24. Working with YMCA and other organizations to produce educational materials and/or signage about walking trails in the City, showing the distance of designated paths, the amount of calories burned on a trail, etc.

25. Planning for future Water Treatment Plant renovations

26. Programs/grants to improve housing in City

Items to be Discussed at Future City Council Meetings

7. Placement of historic markers

11. Elimination of "Children at Play" signs due to potential liability

12. Contract with Robert Segal, CPA on contingency basis to identify opportunities to find lost revenues and cost savings

Items to be Handled by Staff

2. Marion City Government 101 class for public

8. Explore grants to fund revolving loan fund for new business development and bring recommendations to City Council.

10. Research possible expansion of no smoking ordinance to include parks and areas outside doors of City building, to the limit allowed by State law, and bring recommendations to City Council.

15. Policies on large item collection. Research possible changes and bring recommendations to City Council.

18. Explore changes to health insurance coverage to reduce costs and bring recommendations to City Council.

19. Obtain additional equipment for snow removal on sidewalks

Items to be Trashed or Considered in the Distant Future

14. Changes in policies for brush collection

16. Changes in policies for placement of utility trailers for solid waste collection

17. Changes in policies for residential garbage collection

D. Scheduling of Next City Council Planning Session – Council agreed to schedule the next City Council Planning Session for Tuesday, March 30 at 6:00 p.m. at City Hall.

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Owenby, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.000000694 (24)

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 2, 2010 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Cecil Owenby, Council Members A. Everette Clark, Lloyd Cuthbertson, Juanita Doggett and Billy Martin.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Mark Brooks, Police Chief; Chris Hollifield, Public Works Director; Jim Neal, Fire Chief; Gaye Noblitt, Police Administrative Sergeant; Kellie Duncan, Police Corporal; Ray McDaniel, Assistant Fire Chief; Stephen Irish, News Reporter, The News Bulletin.

GUESTS PRESENT: Ricky Williams, The Steak House; Tim, Scott and Matthew Noblitt, Pine Street, Marion, NC; Wayne and Darlene Ollis, Sunny Street, Marion, NC; George Williams, Jr., Shuttle Truck Service, Inc., Marion, NC; Brenda & Barry Bailey, Marion, NC; Doris Prichard 1610 North Main Street, Marion, NC; Sandra Hensley, Shuttle Truck Service, Inc., Marion, NC; Roger Reel, Chowtime Pizza, Marion, NC; Kit Cosgrove, Hospice of McDowell County; Sim Butler Hospice of McDowell County.

Mayor Little opened the meeting with a moment of silence.

CITIZEN OF THE MONTH – SELECTED BY COUNCIL MEMBER JUANITA DOGGETT: The citizen of the month was held over until March 23, 2010.

CONSENT AGENDA: Upon a motion by Council Member Cuthbertson, seconded by Mayor Pro Tem Owenby, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – February 16, 2009 Regular City Council Meeting Minutes

B. Adopt Resolution Directing Clerk to Investigate a Petition for Annexation – Day's Inn/SAA Incorporated Property – US 221 South

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-58.1 - DAY'S INN – U.S. 221 SOUTH – 2010:

WHEREAS, a petition requesting annexation of an area described in said petition was received on February 19, 2010 by the City of Marion; and

WHEREAS, 16A-58.2 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 of his investigation.

Adopted this the 2nd day of March, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-10-03-02-1

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PUBLIC APPEARANCE – KIT COSGROVE – HOSPICE OF McDOWELL: Ms. Kit Cosgrove introduced herself to Mayor Little Council Members and stated that she wanted to make a presentation about Hospice of McDowell County. Ms. Cosgrove's presentation was as follows:

I am Mary John Smith: I am as old as these mountains, as young as a rainbow, and as fleeting as time. I might be 100 or a newborn babe, and perhaps I fall squarely in the middle of those age markers that define a life span. I am white, black, yellow, brown, red, Hispanic and a mixture of all that is good and yes, all that is God. I am a practicing Baptist, Catholic, Methodist, Episcopalian, Presbyterian and all religions who claim Christianity as their foundation. I may also practice Judaism, Muslimism Buddhism, Separatism, Atheism, or Agnosticism. And sometimes I practice no "ism" at all. I am wealthy beyond my wildest imagination I am middle class, and sometimes I am without any means and I rely entirely on the assistance of the government, area churches, civic clubs, and everyone I know and all who see me coming. I live in a house, an apartment, or a condominium; I may even live in a castle. I live in a nursing home, an assisted living home, a homeless shelter, my car, or even a cardboard box under the train trestle. I have an abundance of loving, committed, family, and friends and I may have alienated everyone in my life leaving on one who chooses to be available to me. I have cancer, AIDS, heart disease, complications from my diabetes, I can't catch my breath, kidney failure, Alzheimer's dementia, failure to thrive, diseases yet unspecified, and sometimes the dwindles and no one can really put a finger on what is happening to make things not quite right. And today, at this moment I am dying. I have always been dying since having taken my first breath. I have always known that I would die and today I am facing my mortality and this fragile, fleeting, and finite life I have always known would end and never truly believed would happen to me. I have never died before and my family and friends have never been forced to consider their world without me. It is awkward, sometimes frightening, and completely unknown which makes for a very difficult time for me and those whom I love. We suddenly don't seem to know what to say to one another and I am so sorry I haven't brought this up years earlier in our life together so that we each would really know what I want my life to look like when it is my time to go. Instead of talking about my Five Wishes I somehow believed that those whom I love would simply know. Instead of saying "When it is my time to go I want to be at home with my family and life surrounding me: instead I have left my wife, husband, children, doctor, pastor, friends or even strangers to imagine my wishes without a road map.

I could have helped more if I had a little by been clear that I do not want to be tube fed through my nose when I no longer feel like eating which is quite likely to happen as a part of my body's natural process of slowing down. I might have saved us all a lot of agony, if I have simply said "if I am ever diagnosed with something terminal and incurable please don't please don't ask for CPR when I stop breathing or my heart just flat gives out. I'm told very few people in my condition survive such an assault and for what purpose? To live a little long with all my chest bones cracked and bruised? No thank you! I might have said earlier than later "when it is my time" when my medical treatment plan changes from seeking a cure to offering comfort I welcome hospice of McDowell County to come into my life to help me start the conversations that can no longer be placed in the good intentions box of "some day". I have learned from my doctor that the word hospice means both host and guest. Hospice of McDowell County hosts my experience with which they have some familiarity and they do so as a guest in my home.
The Hospice of McDowell County is serving people like me who are living well until there is no more breath. Delivering Hospital like services in the comfort of my home teaching me and my family, friends, loved ones that we can do an awful lot of good together that cannot be done as well in any other setting. The nurses, nursing assistants, family and faith resource coordinators, and trained volunteers help us start those tough conversations that we wanted to have and never quite knew how to start. What do I want my life to look like at the end of my life? I want my loved ones to be in charge of my care, I want to participate fully in my life without the distress of pain or symptoms as much as is possible with the intervention of medications that hospice will provide when the medications are related to my terminal illness. I want to remain hopeful that today will be a good day and I will be able to go fishing. Have fellowship with my rotary club, enjoy the blooms in my garden and delight in the first breath of spring after this long hard winter. The Hospice of McDowell County serving Marion, Nebo, Pleasant Gardens, Old Fort, Glenwood, Hankins and all the communities of McDowell County since 1994. The home town hospice born out of a grass roots effort of McDowell County doctors, nurses, clergy, social workers, and my neighbors in the belief that people living with a terminal illness have the right to be inspired by hope that their physical, emotional, and spiritual needs will be taken care of at home with their family and loved ones in attendance. The family and friends are taught how to care for me without fearing they will do me harm. And when I am laid upon the shelf I will have lived well through all of my days. That is what I want my life to look like at the end of my life. My only regret is that I didn't make the time to have that important conversation sooner giving those who love me most a clear direction when we got to this fork in the road. I will briefly mention the story of J.J. Fortune, a high school senior, who was adopted as a child by Max Fortune and his wife, Ruth, because they had a mission of bringing learning challenged young boys into their home and developing them. They touched the lives of more than 150 challenged children over the years through providing a foster home and one adoption, which was J.J. Diane Brooks, the director of our Children's Grief and Loss Program, "A Safe Harbor", worked with J.J. due to the impending death of Max. She and some of the teachers and counselors who have worked with J.J. in the Exceptional Children's Program planned a mock graduation for J.J. so that Max

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could share in that proud moment. Even a school bus driver attended. It was a very moving celebration complete with cap and gown and diploma. It was well timed because Max passed away the next week.

Ms. Cosgrove thanked Council for listening to her presentation and asked if anyone had any questions.

Mayor Little stated that he is an attorney and works extensively in estate planning. He said he often works with people whom Hospice of McDowell County is assisting. Mayor Little advised that the community probably does not fully appreciate how important Hospice of McDowell County is to this community. Mayor Little added that he also appreciates Mr. Sim Butler of Hospice being present and helping with the presentation.

Council Member Martin welcomed Ms. Cosgrove to the community.

Council Member Clark echoed what Mayor Little said, adding that you truly appreciate Hospice when you see their services at work in your own family. He added that many people worked extremely hard to get Hospice of McDowell County to the point it is today.

Council Member Doggett stated that her mother, who passed away recently, was under Hospice care and could not have been treated any better.

PRESENTATION BY POLICE DEPARTMENT: Police Chief Mark Brooks announced that, after observing the Police Department for a short time, it did not take him long to find out the great work and contribution provided by Administrative Sergeant Gaye Noblitt. Chief Brooks stated that he had subsequently recommended the promotion of Sergeant Noblitt to Lieutenant and clearly placing her in command of the Police Department Administrative Division. Chief Brooks stated that he would therefore like to ask Sergeant Noblitt to receive a new oath of office as Police Lieutenant.

Mayor Little administered the oath of Office to Lieutenant Noblitt as follows:

I, **Kimberly Gaye Noblitt,** do solemnly swear (or affirm) that I will support the Constitution of the United States; so help me God.

_____

I, **Kimberly Gaye Noblitt,** do solemnly swear (or affirm) that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are, or may be, established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said state, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability; so help me God.

_____

I, **Kimberly Gaye Noblitt,** do solemnly swear (or affirm) that I will be alert and vigilant to enforce the criminal laws of this State; that I will not be influenced in any matter on account of personal bias or prejudice; that I will faithfully and impartially execute the duties of my office as a law enforcement officer according to the best of my skill, abilities, and judgment; so help me God.

_____

I, **Kimberly Gaye Noblitt,** do solemnly swear (or affirm) that I will well and truly execute the duties of Police Officer for the City of Marion, North Carolina, according to the best of my skill and ability, according to law; so help me God.

_____

SWORN to and subscribed before me,
This the 2nd day of March, 2010

Stephen R. Little, Mayor
City of Marion, North Carolina

Chief Brooks pinned lieutenant's bars on Lieutenant Noblitt's uniform collar and Lieutenant Noblitt's husband, Tim, pinned her lieutenant's badge to her uniform.

Mayor Little, Council Members, the City Manager, family and friends all congratulated Lieutenant Noblitt on her promotion and for a job well done over 20+ years for the City.

Fire Chief Jim Neal congratulated the City Manager for picking Chief Brooks as Police Chief. He added that, as a result of that choice, Chief Brooks came in and immediately recognized talent in the department. Gaye has always been a team player and a person that the Fire Department could always count on for help.

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DISCUSS DOT RESPONSE TO LOGO SIGN REQUEST – US 221 BYPASS: The City Manager advised that DOT in Raleigh had sent a letter denying the City's request to change DOT rules to allow logo signs advertising restaurants, motels and gas stations to be placed at signalized intersections on controlled access highways. DOT states that the changes the City requested would require a change in State statutes and the State administrative code. DOT also advised that a petition could be made for an amendment to the existing rules. This process would take two years. The City Manager stated that this letter is certainly not a great example of cooperation from our State government.

The City Manager stated that he would welcome direction from Council as to how to proceed. He said that he had written a letter to local restaurant owners Ricky Williams and Rob Noyes, with copies sent to County Manager Chuck Abernathy, Freddie Killough and Rod Birdsong, advising them of DOT's response.

Mayor Little stated that when he read the letter he was shocked and that he did not appreciate that type of attitude from State officials. He said that fortunately Governor Perdue does not have the same attitude as some people in her administration.

Council Member Clark asked if the City's billboard ordinance pertaining to the US 221 Bypass could possibly be amended to provide an exception for a billboard to advertise local businesses. The City Manager stated that the ordinance could be explored.

Council Member Cuthbertson stated that part of the problem is that DOT rules state that no signs are permitted along the 221 Bypass, period.

Council Member Clark stated that he would like to see Council explore all possibilities to assist our local food establishment owners.

The City Manager stated that the City could also ask Senator Queen and Representative Gillespie to introduce legislation to allow the logo signs, as requested, and also petition the State for a rule change.

Mayor Little stated that Mr. Ricky Williams, owner of The Steakhouse was present, and had written a letter to Council. On the request of Mr. Williams, Mayor Little read the following letter:

Mr. Williams asked Mayor Little to read his letter. The letter read as follows:

"I would like to thank you again for your effort and support on behalf of the business establishments and their employee' on the five lane. I feel the next steps the city should proceed with is a petition to the North Carolina Office of Administrative Hearings, publisher of the rules, to amend an existing rule. According to Mr. Ron King from the NC Department of Transportation it would take approximately two years for this process. We could also go to Raleigh to voice our concerns jointly.

In the mean time I would like to see the city erect a digital marquee sign at the US 221 Bypass/Hwy 70 intersection that businesses could advertise on the five lane, visible from both directions, a V-shaped billboard.

Thank you for the opportunity to bring our concerns to you tonight, on behalf of our businesses, employees and their families."

Mayor Little thanked Mr. Williams for his continued patience while dealing with this matter.

Mr. Rod Birdsong, Executive Director of the McDowell Chamber of Commerce, stated that he was impressed that City Council has taken an interest in this request. Mr. Birdsong also stated that he is in favor of contacting Senator Queen and Representative Gillespie and asking for their assistance in introducing legislation.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to take the following steps to continue the City's efforts to create allowances for blue logo signs on the US 221 Bypass:

1. To contact Senator Queen and Representative Gillespie, asking them to introduce legislation to create allowances for blue logo signs at signalized intersection within controlled access highways such as the US 221 Bypass.

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2. To petition the North Carolina Office of Administrative Hearings, asking for a rule change to create allowances for blue logo signs at signalized intersection within controlled access highways such as the US 221 Bypass.

3. Exploring the possibility of amending City ordinances and DOT rules to allow a billboard to be placed on the US 221 Bypass to advertise local businesses.

Council Member Doggett asked for clarification of this request and motion.

The City Manager briefly explained why DOT will not allow blue logo signs at signalized intersection, but will at grade separated intersections.

PUBLIC APPEARANCE – MARION BUSINESS ASSOCIATION – DISCUSS MAIN STREET SOLUTIONS FUND: The City Manager advised that the City of Marion and the Marion Business Association are eligible to apply for a new grant program from the North Carolina Department of Commerce, Division of Community Assistance called the Main Street Solutions Fund. The grant is available for private business development, creation of revolving loan funds, public improvements and other activities. The projects that can be considered should be "Shovel Ready", meaning that projects are ready to begin implementation as soon as the grant is awarded. Grant amounts are $20,000.00 minimum, and up to $300,000.00 maximum with private investment. The more matching investment that can be provided will strengthen the grant application. Job creation must be proven as a result to the grant. Timelines for the awarded grant projects to be completed are one year, two years and three years, with one year projects receiving highest priority. The grant is available only to businesses located in the downtown business district.

The City of Marion would administer the grant and applications will be submitted in conjunction with the City of Marion and Marion Business Association. Grants will be on a reimbursement basis.
The following information would be needed to apply:

- Description of Project:
- Confirmed funding source(s):
- Project Timeline:
- Number of jobs that will be created:
- What are your top two concerns for your business? What does your business need to be more successful?

The City Manager advised that Marion Business Association Executive Director Freddie Killough had sent letters to downtown businesses and property owners, asking them to submit proposals for the grant by March 15. The City must submit the grant application to the State by April 15.

The City Manager stated that he and Ms. Killough both would suggest that Council consider job creation a priority. If multiple proposals are submitted, Council could either combine the applications, keeping the total request under $300,000 or choose the projects to submit.

Mayor Pro Tem Owenby stated that he would like to see the City go for the entire $300,000 and divide the amount between businesses submitting proposals.

Council Member Cuthbertson stated that if the City is going to set priorities, it should go ahead and do so upfront.

Council Member Doggett asked if this would this be an opportunity for new businesses or existing businesses. The City Manager stated that it would be for both.

Council Member Clark stated that he served on the North Carolina Community Development Council and would like to ask the North Carolina Department of Commerce some questions about the program before final decisions are made.

Mayor Little suggested that this item be placed on back on the next agenda for discussion, after proposals are submitted by local businesses.

Council Member Cuthbertson stated that he still feels that job creation should be the top priority.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

RECEIVE STREET COMMITTEE RECOMMENDATIONS: The City Manager stated that the Street Committee met on February 17 and made the following recommendations:

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A. Regarding the sight distance complaint received by Mayor Pro Tem Owenby at the intersection of Oak Street and North McDowell Avenue, the Street Committee and staff felt that the stop bar on Oak Street could simply be moved closer to the intersection. If vehicles pull up to the new stop bar, there should be no sight distance issue.

B. The Street Committee recommended renaming the one block section of Azalea Street to Robert Street. Robert Street would therefore extend to North McDowell Avenue. One house would be impacted by this change.

C. The Street Committee recommended renaming the portion of Clay Street between East Oak Street and the railroad tracks to East Oak Street. This change would lessen confusion by emergency vehicles now that Clay Street is split by the railroad tracks. About four or five houses would be impacted.

The City Manager stated that no action is needed regarding the first recommendation. Staff checked with Eddie Epley at the County 911Center and he said that there would be no problem changing the street names as proposed and assigning addresses. The City Manager added that letters had been sent to residences affected by the proposed street name changes and no objections had been stated.

Upon a motion by Council Member Clark, seconded by Council Member Cuthbertson, Council voted unanimously to approve the recommendations of the Street Committee to rename Azalea Street to Robert Street, to rename Clay Street north of the railroad tracks to East Oak Street and to adopt the following ordinance amending the Traffic Schedule to account for the street name changes.

ORDINANCE
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 18-239 is amended by deleting the following:

STREET NAME	REGULATION	REG. APPLICATION
OAK STREET (EAST)	PARKING PROHIBITED	BOTH SIDES OF STREET FROM CLAY STREET TO HIGHLAND DRIVE
AZALEA STREET	STOP SIGN	AT PARK AVENUE
	NO THROUGH TRUCKS WITH THREE AXLES OR MORE OR A GROSS VEHICLE WEIGHT OF 13,000 LBS. OR MORE	ENTIRE LENGTH OF STREET
CLAY STREET	PARKING PROHIBITED	EAST SIDE, FROM E. COURT 128 FT. SOUTHERLY (CENTER OF RAILROAD TRACKS)
		EAST SIDE, FROM NE CORNER OF CLAY AND STATE ST. 1267 FT. NORTHERLY
		NORTH END, EAST AND WEST SIDE FROM MORGAN TERRACE TO EAST COURT ST.
		WEST SIDE, FROM E. COURT TO STATE ST. EXCEPT SUNDAYS. HANDICAPPED PARKING IS PERMITTED BEGIN 30 FT. FROM STATE ST. 200 FT. NORTHERLY
		WEST SIDE, FROM STATE ST. TO E. COURT ST.

Section 2. Section 18-239 is amended by adding the following:

STREET NAME	REGULATION	REG. APPLICATION
OAK STREET (EAST)	PARKING PROHIBITED	BOTH SIDES OF STREET FROM CURVE NORTHWEST OF INTERSECTION OF MORGAN TERRACE AND EAST OAK STREET TO

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		HIGHLAND DRIVE
		BOTH SIDES OF STREET FROM MORGAN TERRACE TO EAST COURT STREET
		EAST SIDE, FROM E. COURT 128 FT. SOUTHERLY (CENTER OF RAILROAD TRACKS)
		WEST SIDE, FROM EAST COURT STREET TO RAILROAD TRACKS
	STOP SIGN	AT EAST COURT STREET
CLAY STREET	PARKING PROHIBITED	WEST SIDE FROM STATE STREET TO RAILROAD TRACKS EXCEPT SUNDAYS.
		HANDICAPPED PARKING IS PERMITTED BEGINNING 30 FT. FROM STATE STREET EXTENDING 200 FT. NORTHERLY
		EAST SIDE, FROM THE NE CORNER OF CLAY STREET AND STATE STREET TO RAILROAD TRACKS

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 2nd day of ~~March~~, 2010.

Stephen R. Little
Mayor

ATTEST:
J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-10-03-02-1

Council Member Clark stated that when Marion Elementary School was dismissed early today, traffic was backed up all the way to Garden Street.

CONSIDER REQUEST TO APPROVE STREET CLOSURE: The City Manager stated that he had received an e-mail from Jacque Mentink of ERA Mountain View Properties. Ms. Mentink is requesting permission to close Main Street between Fort and Court Streets for a Customer Appreciation Day from 12:00 Noon to 4:00 p.m. on Saturday, May 15. ERA would have several activities for the public on the street.

The City Manager stated that Marion Business Association Executive Director Freddie Killough had suggested to Ms. Mentink that the street closure not take place until 12:00 Noon, due to Main Street Exxon and other businesses being open on Saturday mornings.

The City Manager reported that Council has typically approved this type of requests to close the street in the past when there are events provided that are open to the public. With this event, the Police Department could handle the street closing, so that the City does not incur overtime expenses with the Public Works Department.

Council Member Clark ask if DOT officials would allow this type of street closure. The City Manager stated that DOT would allow the street closure, if the City sends in the proper paperwork.

Upon a motion by Council Member Martin, seconded by Council Member Cuthbertson, Council voted unanimously to approve the request by ERA Mountainview Properties to close Main Street between Fort and Court Streets for a Customer Appreciation Day from 12:00 Noon to 4:00 p.m. on Saturday, May 15.

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AWARD LANDSCAPING CONTRACT: The City Manager advised that bids for the City's landscaping services were opened on February 23. Six requests for bids were mailed and notice of the bid request was published in the local newspaper. The only bid received for the City's landscaping services was from L.L. Moore Landscapes & Lawn Service, the City's current landscaper. Mr. Moore bid $480.00 per week, a 3.5% increase over last year's price of $465.00.

The City Manager stated that Mr. Moore has requested that he would like to be awarded this contract for the next three years with no price increase. L.L. Moore Landscapes & Lawn Service has been the contractor for the City of Marion landscaping services for at least 16 years.

Upon a motion by Mayor Pro Tem Owenby, seconded by Council Member Clark, Council voted unanimously to award the contract for City landscaping services to L.L. Moore Landscapes & Lawn Service for the 2010, 2011 and 2012 landscaping seasons in the amount of $480.00 per week.

AWARD CONTRACT FOR PURCHASE OF FIRE TOWER TRUCK:

The City Manager stated that the City had recently accepted bids for the purchase of a new fire tower truck. The City received several bids for the tower truck. One of the bidders did not include air packs which were included in the specifications. However, staff later determined that the City can purchase the air packs separately for a lower price, so staff evaluated the bids without air packs included.

The City Manager low bid without air packs is from C.W. Williams for a Rosenbauer truck in the amount of $826,450. However C.W. Williams offers discounts of $16,000 if 50 percent of the cost is paid at the time the truck is ordered and $33,000 if 100 percent of the cost is paid at the time the truck is ordered. The truck would not be available for 365-395 days while it is being constructed. The City Manager stated that the City typically would not prepay for a truck one year in advance. This truck also contains a 2010 diesel engine, which requires the use of a fuel additive called urea. The most conservative estimates for the cost of the urea are $4 per gallon and could increase. It is also possible that the urea additive is corrosive. The technology with the 2010 diesel engines is also unproven. The City Manager stated that Fire Chief Jim Neal advised that this engine will be used only for three years, when a new, cleaner engine will be mandated. The City is therefore concerned about the availability of the fuel additive and parts for an engine that will only be used for three years.

Because of the delay in the availability of the truck, the required use of the fuel additive and the uncertainty of the new diesel engine, the City Manager stated that staff looked at the difference between the low bidder and the second low bidder, Slagle Fire Equipment for a stock KME truck. Slagle's price is $828,251, which is $1,801 higher than the Williams bid. The KME truck, however, has been built and could be obtained within 45-60 days. The KME truck also has a 2009 diesel engine and would not require the fuel additive.

The City Manager stated that, based on the Slagle/KME truck being available almost immediately versus the Williams/Rosenbauer truck not being available for 365-395 days and the fact the Slagle/KME truck contains a 2009 diesel engine versus the Williams/Rosenbauer truck having a 2010 diesel engine requiring the use of a fuel additive, he would recommend that Council reject the low bid from C.W. Williams and award the contract for the purchase of the fire tower truck to Slagle Fire Equipment for the stock KME truck.

The bids with air packs were:

- Slagle Fire Equipment (KME) Stock Unit - first come first serve $862,061.00
- Fire Connections, Inc. $917,095.00 Less 100% prepay $891,968.00 ($25,127.00 discount)
- Fire Connections, Inc. $887,090.00 Stock Unit SO#134210 - first come first serve
- Triad Fire, Inc.(Pierce Manufacturing) (not quoted with air packs)
- C.W. Williams & Company, LLC (Rosen Bauer) $856,550.00 100% prepay at time of order - $823,500.00 ($33,000.00 discount); 50% prepay at time of order - $840,500.00 ($16,000.00 discount).

Without air packs:

- Slagle Fire Equipment (KME) Stock Unit - first come first serve $828,251.00
- Fire Connections, Inc. (not quoted without air packs)
- Triad Fire, Inc.(Pierce Manufacturing) $830,297.00
- C.W. Williams & Company (Rosen Bauer) $826,450.00 100% prepay at time of order - $793,450.00 ($33,000.00 discount); 50% prepay at time of order - $810,450.00 ($16,000.00 discount).

The City Manager added that the new truck would replace a tower truck with a 1968 chassis that the City had between 1995 and 2008, when it was taken out of service due to the truck not passing the annual inspection and due to the cost of repairs being hundreds of thousands of dollars, an amount many time higher than the worth of the truck. The City Manager noted that the City had now been without an aerial truck for more than 16 months.

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Chief Neal stated that the Fire Department could have used an aerial truck at the Kelly Automotive Fire on North Main Street last week. He added that the KME truck is needed, since it will be available within a few weeks, and since the Fire Department is very familiar with this type of truck.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to reject the $826,450 bid of the low bidder, C.W. Williams & Company, and to award the contract for a new fire tower truck to the second low bidder, Slagle Fire Equipment, in the amount of $828,251, due to the fact the City of Marion currently does not have an aerial fire truck in service and due to the award of the contract to Slagle Fire Equipment being in the best interest of the City and the Fire Department by having the new truck from Slagle delivered within 45-60 days and including a 2009 diesel engine instead of the truck from C.W. Williams being delivered in 365-395 days and including a 2010 diesel engine that requires the use of fuel additives.

CONSIDER ADOPTION OF RESOLUTION – AUTHORIZING THE SALE OF PROPERTY OWNED BY THE CITY ON WEST YANCEY STREET BY NEGOTIATED OFFER AND UPSET BID: The City Manager advised that he had received a written offer from Mr. Steven O'Kelly of 83 South Madison Street to purchase the City owned property on West Yancey Street for $2,000. This property is 0.20 acres in size and has 75 feet of street frontage. The property also contains a dilapidated building the City was going to demolish. The City Manager stated that the City can sell the property with the existing building. The City acquired this property through tax foreclosure. Council would need to adopt a resolution to start the upset bid process. Upon Council adoption of the resolution, the City would obtain the necessary five percent bid deposit from Mr. O'Kelly, as well as the cost of legal advertising. Once the notice is published, interested persons will have ten days to raise the bid by at least ten percent of the first $1,000 plus five percent of any additional amount. If an upset bid is received, the process repeats itself. If no upset bids are received, Council can adopt a resolution to authorize the final sale of the property and the closing can be scheduled.

Upon a motion by Council Member Clark, seconded by Council Member Cuthbertson, Council voted unanimously to adopt the following Resolution authorizing the sale of City property on West Yancey Street in the amount of $2,000, subject to upset bid:

Resolution Authorizing the Sale of Certain Property Owned by the City of Marion by Negotiated Offer and Upset Bid

WHEREAS, the City Council of the City of Marion desires to dispose of certain surplus property of the City; and

WHEREAS, N.C.G.S. 160A-269 authorizes a city to convey by negotiated offer and upset bid any real or personal property; and

WHEREAS, Mr. Steven O'Kelly has submitted a bid in the amount of $2,000 for the purchase of approximately 0.20 acres of property owned by the City of Marion located on West Yancey Street (McDowell County Parcel Identification Number 1701.14-33-9687).

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

1. The parcel owned by the City of Marion on West Yancey Street (McDowell County Parcel Identification Number 1701.14-33-9687) that is approximately 0.20 acres in size is hereby declared to be surplus to the needs of the City of Marion.

2. The City Council accepts the offer of Mr. Steven O'Kelly to purchase the above described property for $2,000, subject to the upset bid process being followed as required by N.C.G.S. 160A-269.

3. The City Clerk shall notify Mr. Steven O'Kelly of the acceptance of this offer, receive a five percent bid deposit from the bidder, and cause a notice of this resolution to be published in accordance with G.S. 160A-269. Such notice shall state that prospective bidders have ten days from the date the notice is published to offer an upset bid, pursuant to G.S. 160A-269.

4. Once the upset bid process is completed, in accordance with G.S. 160A-269, the City Manager is designated to dispose of the above described property to the bidder selected by City Council, for a minimum price of $2,000.

Adopted this the 2nd day of March, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-10-03-02-2

AA.000000703 (24)

ADD ON – HOUSE BURNING REQUEST – ANNUAL FIRE COLLEGE: Fire Chief Jim Neal advised that the annual Fire College will be held in a few weeks and that he would request permission to burn a dilapidated house at 106 West Grayson Street and possibly a house on Park Avenue for training during the March 19-21Fire College. Chief Neal stated that all paperwork would be completed for these houses.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Owenby, Council voted unanimously to approve the burning of houses at 106 West Grayson Street and on Park Avenue during the March 19-21 Fire College.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager stated that he had placed a letter in front of each Council Member from the City's auditor, Martin Starnes & Associates. Each year, Martin Starnes asks that Council complete a short survey about fraud. The City Manager asked that each Council Member please complete this survey and mail or e-mail it to Martin Starnes.

The City Manager advised that the School of Government will hold a webinar for the required ethics training for local elected officials on Thursday, March 25 from 4:00 p.m. to 6:00 p.m. The Town of Old Fort and McDowell County plan to participate and other cities and counties will be invited as well.

The City Manager advised that the City opened bids on February 23 for Phase 1 of the Catawba River Greenway. Eight bids were received. The low bid was about $102,000 more than McGill had estimated. Staff and McGill are talking to the low bidder about ways to reduce the project costs substantially and he hopes to have the bids ready for Council to review at the March 23 Council meeting. The City Manager commended Planning and Development Director Heather Cotton for her efforts in identifying ways to cut the project budget substantially.

The City Manager advised that the City' contractor has completed the replacement of the Hospital Pump Station on Rankin Drive. The replacement of the pump station will allow for adequate wastewater capacity for development along the Sugar Hill Road corridor and Hospital area. The old pump station on Rankin Drive will soon be demolished.

The City Manager stated that the State has approved the City's request to allow the television towers to remain on Mt. Ida. The City is preparing a new deed for the 2.58 acres to be subdivided and a final site plan for the State. Once these items are completed, the City will pay the State for the appraised value of the land ($20,600), reimbursing them for the grant proceeds for this part of the property. UNC-TV and WLOS will pay for all associated costs with this request.

The City Manager stated that he had received a phone call from a parent of the First Baptist Daycare describing the difficulty the Daycare has crossing the street at the Fort and Logan Street intersection. The suggestion was to have a pedestrian crossing signal placed at this intersection. The City Manager stated that the City would need to request the placement of a pedestrian crossing signal at this location.

Council Member Clark suggested that the City request the crosswalk as part of the Safe Routes to School Program. Mayor Little and Council Members agreed by consensus to authorize the City Manager to submit the request for a pedestrian crossing signal at the Fort and Logan Street intersection in the manner deemed most appropriate.

The City Manager stated that he and Public Works Director Chris Hollifield had met recently with Duke Energy. Mr. Hollifield advised that Duke is planning on starting another round of tree trimming in the City in a few weeks. He also reported that Duke will be eliminating the need for an antiquated transformer that has caused recurring problems in the Fern Avenue area. Mr. Hollifield stated that the planned work by Duke will hopefully address some recent complaints received from residents in the Hillcrest Drive area.

COUNCIL MEMBER COMMENTS:

There were no comments from Council Members.

ADJOURNMENT: Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

AA.000000704 (24)

J. Robert Boyette, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session, one week later than their normally scheduled meeting, on Tuesday evening, March 23, 2010 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Cecil Owenby, Council Members A. Everette Clark, Lloyd Cuthbertson, Juanita Doggett and Billy Martin.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Mark Brooks, Police Chief; Gaye Noblitt, Police Administrative Lieutenant; Jamie Harklerode, Police Sergeant; Mike Conley, News Reporter, McDowell News; Steve Irish, News Reporter, The News Bulletin.

GUESTS PRESENT: C. W. Pool, Marion, NC; Margrett Hyatt, Forest City, NC; Judge Randy Pool ,501 East Glenview Street, Marion, NC; Kathy Pool, Marion NC; Dr. Mike Murray, Associate Superintendent, McDowell County Schools; Stephanie Harklerode, Marion, NC.

OPEN MEETING: Mayor Little opened the meeting with a moment of silence.

CITIZEN OF THE MONTH – SELECTED BY COUNCIL MEMBER JUANITA DOGGETT:
Council Member Juanita Doggett selected the Citizen of the Month for March 2010.

The Honorable Judge Randy Pool

City Council Member Juanita Doggett advised that, in December 2008, the Honorable Judge Randy Pool engaged in talks with the Associate Superintendent of McDowell Schools, Dr. Mike Murray, and his Central Office staff about his desire to support the schools in keeping students in school and out of the court system. The increased enforcement by the school system, starting in the 2007-2008 school year, with two additional attendance counselors working truancy enforcement, demonstrated to Judge Pool and others that the schools were facing a daunting problem. Judge Pool committed his own time and the resources of the court to begin an intervention through family truancy meetings that began in January of 2009. Since the start of this joint effort by the courts, the Department of Social Services and the school system, the number of six or more unexcused absences have been reduced by as much as 70 to 80 percent in McDowell County.

Upon reviewing the favorable statistics and the response of school administrators, the HonorableJudge Randy Pool committed his time and resources for a second year. The collaborative truancy meetings continue to bring parents and students into the Schools' Central Office to participate with a team of court, DSS, and school officials to discus issues and strategies which will prevent further truancy. This effort has begun to reduce the number of truancy cases being seen in juvenile and criminal court. It is the belief of the school administration and those involved in this effort that intervening with families early, when truancy first occurs, will help reduce the dropout rate in McDowell County and give youth a better chance at a brighter future.

The Marion City Council, the Superintendent of McDowell Schools, Dr. Ira Trollinger, the Board of Education, and School System administrators and leaders wish to participate in the recognition and expression of appreciation to Judge Pool for this leadership and dedication to the youth of McDowell County.

Council Member Doggett stated that she was proud to recognize Judge Randy Pool as Citizen of the Month for March 2010.

Judge Pool is married to Kathy and has two daughters, Tyler and Krista, who live out of the area. Judge Pool's father, C.W. Pool was in attendance for this honor.

Council Member Doggett stated that she also wanted to thank Dr. Mike Murray and Dr. Conway with the School System for all of their help with compiling the information needed for this recognition.

Mayor Little, Council Members, family and friends all shared kind words about The Honorable Judge Pool.

PUBLIC APEARANCE – JUDGE RANDY POOL – DISCUSS TRUANCY COURT: Judge Pool gave a brief overview of how the Truancy Court is working in McDowell County.

AA.00000705 (24)

CONSENT AGENDA: Upon a motion by Council Member Clark, seconded by Council Member Cuthbertson, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – February 25, 2010 City Council Planning Session and March 2, 2010 Regular City Council Meeting Minutes

B. Receive Report of Sale of City Surplus Property

Asset Description	Date Sold	Total Received $	Fee Commission $
1990 Cushman 341	01/29/09	1,180.00	88.50
1997 Cushman 515	01/29/09	1,100.00	82.50
Minolta Di450 Copier	01/29/09	510.00	38.25
Twin Peak Tent	02/02/09	3,500.00	262.50
Minolta Di450 Copier	02/16/09	510.00	38.25
Lanier 2000 Fax Machine/Copier	02/16/09	10.00	5.00
Aerial Fire Truck	03/11/09	5,000.00	375.00
1996 Chevy Lumina	05/13/09	1,050.00	78.75
2000 Ford Crown Vic	05/28/09	2,400.00	180.00
Desks & Chairs	10/27/09	14.00	5.00
Fire Extinguishers (outdated)	11/03/09	8.00	5.00
Fire Extinguishers (outdated)	11/03/09	9.00	5.00
Fire Extinguishers (outdated)	11/03/09	8.00	5.00
Fire Extinguishers (outdated)	11/03/09	8.00	5.00
1992 Ford Ranger	12/01/09	606.00	45.45
Total		$ 15,913.00	$ 1,219.20

C. Endorse Governor's Proclamation – 2010 Spring Litter Sweep

Council endorsed Governor Perdue's Proclamation for the Spring 2010 Litter Sweet Roadside Cleanup April 17 - May 1

D. Approve Waiver of Charges for Collection of Bulky Trash Items During Spring Litter Sweep 2010:

During Spring Litter Sweep 2010, April 19-23, the City will pick up large, heavy items that normally require a special pick-up at no charge to residents.

E. Receive Certificate of Sufficiency – Days Inn/US 221 South Satellite Annexation Request:

CERTIFICATE OF SUFFICIENCY – DAY'S INN PROPERTY/US 221 SOUTH – 2010:

To the City Council of the City of Marion:

I. J. Robert Boyette, City Clark do hereby certify that I have investigated the petition attached herein, 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 the 3rd day of March, 2010.

(SEAL)

J. Robert Boyette, City Clerk

AA.00000706 (24)

F. Approve Resolution Fixing the Date of Public Hearing on the Question of Annexation – Days Inn/US 221 South Annexation Request

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-58.1 – DAY'S INN-US 221 SOUTH - 2010

WHEREAS, a petition requesting annexation of the non-contiguous 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 non-contiguous area described herein will be held at City Hall at 7:00 P.M. on Tuesday, April 20, 2010.

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

BEGINNING on an existing iron pin, said existing iron pin marking the southern margin of the right-of-way for Interstate I-40 said, existing iron pin also being located North 86 degrees 01 minutes 39 seconds West 317.52 feet from a P.K. Nail set in the western margin of the right-of-way for U.S. Highway 221; thence, South 86 degrees 01 minutes 39 seconds East 317.52 feet to a P.K. Nail set in the western margin of the right-of-way for U.S. Highway 221; thence, South 86 degrees 01 minutes 39 seconds East 50.00 feet to a point in the centerline of U.S. Highway 221; thence, following the centerline of U.S. Highway 221, South 04 degrees 00 minutes 19 seconds West 493.86 feet to a point in the centerline of U.S. Highway 221; thence, leaving U.S. Highway 221, South 86 degrees 10 minutes 28 seconds West 50.48 feet to an existing iron pin set in the western margin of the right-of-way for U.S. Highway 221; thence, South 86 degrees 10 minutes 28 seconds West 93.96 feet to an existing iron pin set; thence, North 03 degrees 19 minutes 55 seconds West 140.06 feet to an existing iron pin set; thence, South 87 degrees 43 minutes 16 seconds West 237.69 feet to an existing iron pin set; thence, South 76 degrees 03 minutes 12 seconds west 363.82 feet to an existing iron pin set near a creek; thence, North 15 degrees 08 minutes 24 seconds West 24.96 feet to an existing iron pin set in the margin of the right-of-way of Interstate I-40; thence, following the margin of the right-of-way for Interstate I-40. North 38 degrees 56 minutes 28 seconds East 193.12 feet to a right-of-way monument; thence, North 43 degrees 29 minutes 26 seconds East 226.23 feet to a right-of-way monument, thence, North 46 degrees 13 minutes 58 seconds West 9.71 feet to a right-of-way monument, thence, North 46 degrees 26 minutes 42 seconds East 203.05 feet to an existing iron pin set in the southern margin of the right-of-way for Interstate I-40, said existing iron pin marking the point and place of beginning. Containing 5.61 acres more or less as shown by that certain unrecorded plat of survey dated the 20th of November 2004 and prepared by Surveying Dimensions, Donald R. McEntire, Registered land surveyor, #L-4183.

Section 3. Notice of the public hearing shall be published once in The News Bulletin, 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 the 23rd day of March, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-10-03-23-1

G. Approve Contract with Robert Segal, CPA to Analyze City Revenues and Expenditures on a Contingency Basis

LETTER OF AGREEMENT

Robert S. Segal, CPA, PA (SEGAL) and City of Marion, NC (CIENT) hereby enter into this letter of Agreement whereby SEGAL shall serve as a consultant to CIIENT to examine and analyze the following listed expenses/revenues of CLIENT and to make recommendations to achieve savings, credits, refunds or additional revenues, hereafter referred to as funds, in these areas:

Any and all revenues and expenses

SEGAL will furnish CLIENT with a written report as to recommendations that may be made in the above areas. CLIENT will then determine which (if any) of these recommendations CLINET wishes to implement. SEGAL will then assist in the implementation of these recommendations to achieve the funds. Future savings and revenues are computed on a per unit basis.

AA.000000707 (24)

CLIENT agrees to pay SEGAL on each recommendation for funds which is implemented, a fee equal to fifty (50) cents of every dollar saved, credited, refunded or additional revenues during the 24 month period immediately following full implementation of the recommendation. This fee will be paid quarterly following the date of full implementation of the particular recommendation.

SEGAL AGREES TO MAINTAIN IN STRICT CONFIDENCE ALL INFORMATION RECEIVED FROM CLIENT CONCERNING ITS REVENUES/EXPENSES AND METHODS OF DOING BUSINESS. FURTHERMORE, SEGAL ACTRS AS A CONSULTANT ONLY AND DOES NOT RECEIVED ANY COMMISSIONS OR REMUNERATION OR ANY KIND FROM ANY VENDORS OR SERVICE PROVIDERS.

The persons signing below are authorized t do so on behalf of their respective organizations. This Letter of Agreement shall be binding upon the parties hereto, their heirs, successors and assigns. This Letter of Agreement is entered into effective as of _____day of ____, __.

CLIENT: City of Marion, NC Robert S. Segal, CPA PA
By: _____ By: _____

Title: _____ Title: _____

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

Date: _____ _____ Finance Officer

H. Approve Use of Main Street Sidewalks and North Main Street Gazebo Parking Lot for Marion Business Association Sidewalk Sale:

Council approved the use of Main Street sidewalks and the North Main Street Gazebo Parking Lot for Marion Business Association yard sales on Saturday, May 1, 2010 and Saturday, August 7, 2010.

PRESENTATION OF ADVANCE LAW ENFORCEMENT CERTIFICATE TO SERGEANT JAMIE HARKLERODE

Police Chief Mark Brooks stated that one of our own has achieved one of the highest ranks of law enforcement and presented Sergeant Jamie Harklerode with his Advanced Law Enforcement Certificate from the State of North Carolina that read as follows:

STATE OF NORTH CAROLINA
DEPARTMENT OF JUSTICE
CRIMINAL JUSTICE EDUCATION AND TRAINING
STANDARDS COMMISSION
To all to whom these presents may come
Greeting

Be it known that in recognition of the attainment of training and educational objectives commensurate with the role of a professional criminal justice officer and of personal devotion and service to the people of North Carolina, the Attorney General and the Chairman and Members of the North Carolina criminal Justice Education and Training Standards Commission, through the authority vested in them by the laws of the State, do hereby award to

James Riley Harklerode III
This
Advanced Law Enforcement Certificate
With all the rights and privileges thereunto belonging.

In Testimony Whereof we fix our hand this 19th day of February 2010 in the City of Raleigh in the State of North Carolina in the United States of America.

_____ Attorney General _____ Member

_____ Commission Chairman _____ Member

_____ Director, Criminal Justice Standards Division _____ Member

Chief Brooks read a letter from Wayne Woodard, Director of the North Carolina Department of Justice Criminal Justice Standards Division that read as follows:

Dear Officer Harklerode III,

The Criminal Justice Education and Training Standards Commission recently met in regular session. Among other transactions, the Commission accepted nominations of those candidates qualified to receive the Law Enforcement Officers' and the Criminal Justice Officers' Advanced Certificate.

After examination of your credentials, the commission unanimously approved issuance of the Advanced Certificate to you.

May I be the first to offer you congratulations on the attainment of this most significant award. Your dedication to your chosen profession is evidenced in the fact that you are one of a very select group of officers to receive this honor.

Sincerely,

Wayne Woodard

Sergeant Harklerode introduced his wife, Stephanie, and stated that her support was probably the biggest reason he was here tonight.

Mayor Little, Council Members and the City Manager thanked Officer Harklerode for a job well done and commended him for his dedication to the City.

PUBLIC HEARING – 2010 ANNEXATION AREAS:

The City Manager advised that public hearings are required for the two 2010 annexation areas. These areas include about 60 people.

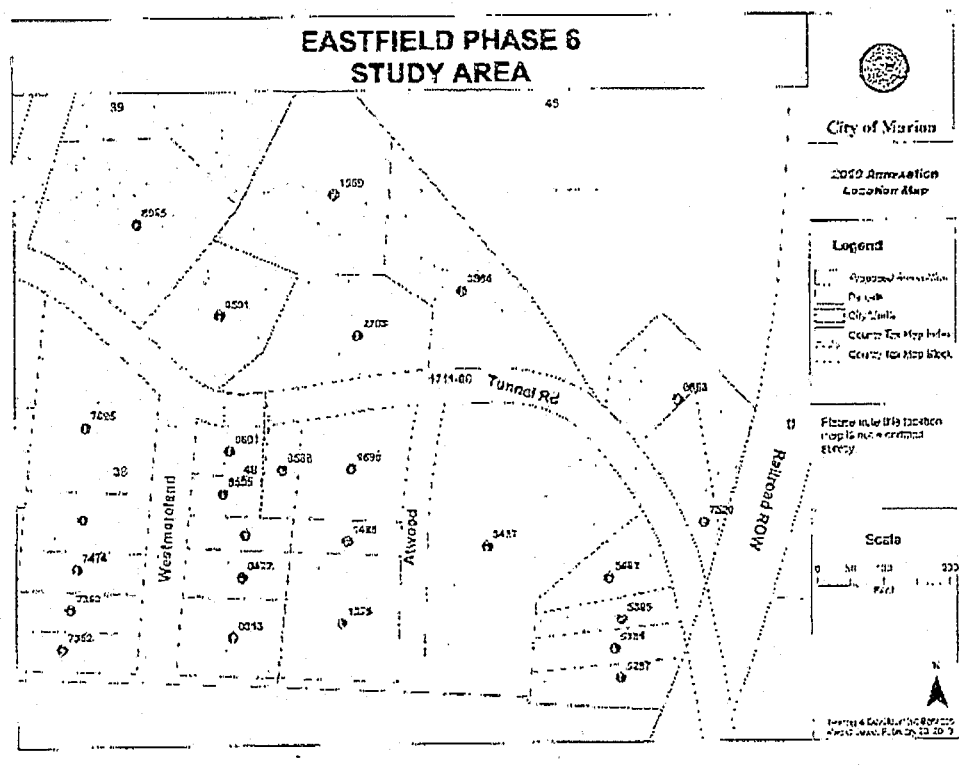
In accordance with State Law, the City Manager gave an overview of the Annexation Report and Plan of Services for each area.

A. Eastfield Phase 6 Area

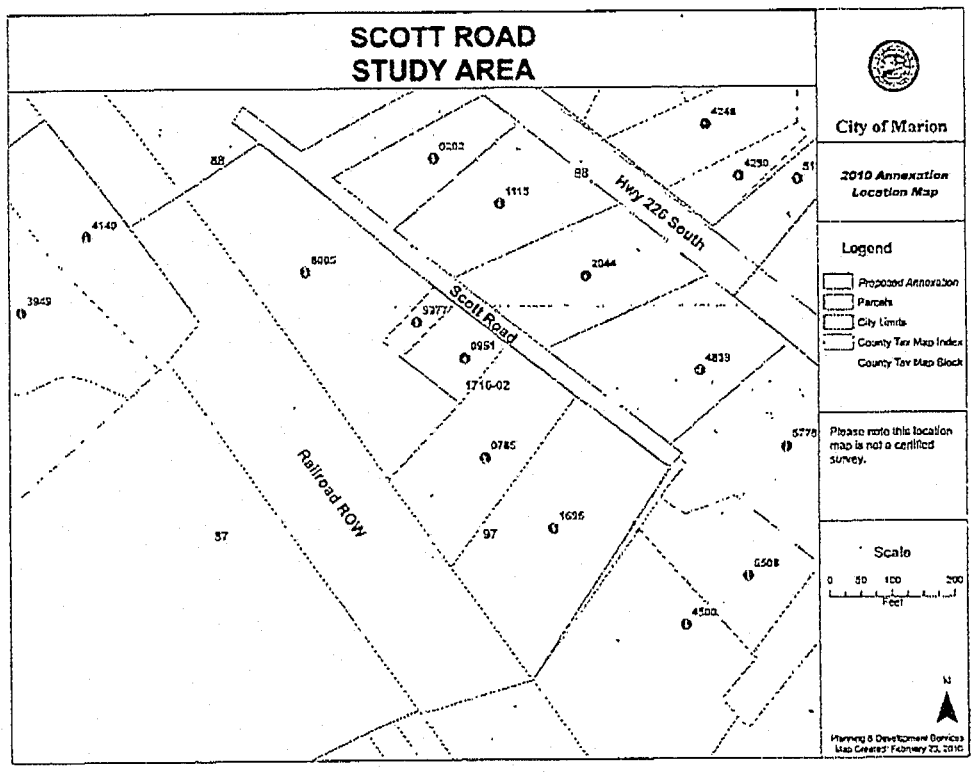
B. Scott Road

The City Manager stated that adoption of the ordinances to annex these areas would be considered at a future meeting and that these annexations will take effect on June 30, 2010.

The City Manager presented maps of the annexation areas for Council's review, as follows:



AA.00000709 (24)



Mayor Little opened the public hearing for the Eastfield Phase 6 Annexation Area.

There were no persons present to speak regarding the Eastfield Phase 6 Annexation Area.

Mayor Little closed the Public Hearing for the Eastfield Phase 6 Annexation Area.

Mayor Little opened the public hearing for the Scott Road Annexation Area.

There were no persons present to speak regarding the Scott Road Annexation Area.

Mayor Little closed the Public Hearing for the Scott Road Annexation Area.

No action was necessary on this item by Council.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present.

DISCUSS PRIORITIES FOR MAIN STREET SOLUTIONS GRANT FROM N.C. DEPARTMENT OF COMMERCE: The City Manager advised that Council had directed that staff put back on this agenda the Main Street Solutions Grant from the N.C. Department of Commerce so that priorities for grant applications could be set.

The City Manager presented Council with summaries of proposals received from downtown businesses for this grant. He advised that the City can apply for a grant for up to $300,000 and can pool applications up to that limit. Grant applications are due in to the State by April 15.

AA.000000710 (24)

The City Manager reported that the State will not release grant funds until the project is complete and the jobs are created. In essence, businesses will have to front the money for their project and then apply for reimbursement after project completion (much like our Small Business Grant Program).

The City Manager stated that Council could apply for funding for the City to establish a Revolving Loan Program; however, the City could also potentially apply for grant funding from USDA to establish a Revolving Loan Fund Program.

The City Manager reported that downtown property and business owners were asked to submit proposals for the grant. Projects had to include building renovations and not be used to purchase equipment, under the rules established for this program by the State.

The City Manager advised that three applications were received. One application did not qualify for the grant, since it requests only the purchase of equipment and establishment of programs. Two qualifying applications were received. One project involves a new commercial business that requested $104,000 for building renovations. This business plans to employ seven full-time and 13 part-time people. The second project involves an expansion of an existing commercial business that requested $126,000 for building renovations. The business plans to add three to four new jobs.

The City Manager stated that Council could select one of the two qualifying projects for the City's grant application or could bundle the two proposals, since they total less than the $300,000 grant maximum.

Mayor Little asked how the businesses would complete the projects if grant funds would not be received until after the project is completed.

The City Manager stated that the two qualifying businesses have been made aware that the State would not pay the grant funds until the project was completed. Both businesses say they can obtain financing on the promise that grant funds will be received. He noted that the businesses cannot complete the projects until the grants are awarded and contracts are signed with the State.

Council Member Clark asked how the businesses would know for sure if they would receive the grant funding, if they had to borrow money to complete their projects. The City Manager stated that he thought that the State would enter into a contract with the City that would commit the State to paying the grants upon completion of selected projects, but that he would obtain verification on this point from the State.

After brief discussion, Mayor Little stated that it sounded as if the consensus of Council would be to bundle the two qualifying proposals from downtown businesses.

Council Member Clark called for the question.

Upon a motion by Council Member Martin seconded by Council Member Cuthbertson, Council voted unanimously to direct staff to bundle the two qualifying proposals, totaling $230,000, as received from downtown businesses, and submit a grant application for the Main Street Solutions Fund administered by the North Carolina Department of Commerce.

ADOPT RESOLUTION AUTHORIZING THE SALE OF CITY PROEPRTY ON WEST YANCEY STREET BY NEGOTIATED OFFER AND UPSET BID AND REFECTING PREVIOUS OFFER TO PURCHASE SAID PROPERTY DUE TO THE SUBMISSION OF A QUALIFYING UPSET BID:

The City Manager stated that, as shown in the information presented to Council, the City received an upset bid in the amount of $2,500 from Mr. Wynn Jackson on March 17 for the City property on West Yancey Street. This bid was received during the ten day upset bid period and upsets the previous bid of Mr. Steven O'Kelly for $2,000. In accordance with State law, Council action is needed to adopt the attached resolution to reject Mr. O'Kelly's offer and to accept the new offer Mr. Jackson, subject to publication and upset bid.

The City Manager stated that the property in question is 0.20 acres in size and has 75 feet of street frontage. The property also contains a dilapidated building the City was going to demolish. The City acquired this property through tax foreclosure. Upon Council adoption of the resolution, the City will obtain the necessary five percent bid deposit from Mr. Jackson, as well as the cost of legal advertising. Once the notice is published, interested persons will have ten days to raise the bid by at least ten percent of the first $1,000 plus five percent of any additional amount. If an upset bid is received, the process repeats itself. If no upset bids are received, Council can adopt a resolution to authorize the final sale of the property and the closing can be scheduled.

Mayor Little stated that he meant to look at the laws for this type of bid process.

The City Manager stated that he feels the City is well within the time frame for this type of bid.

AA.00000711 (24)

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following Resolution authorizing the sale of property owned by the City of Marion on West Yancey Street to Mr. Wynn Jackson in the amount of $2,500, subject to publication and upset bid, as follows:

Resolution Authorizing the Sale of Certain Property Owned by the City of Marion on West Yancey Street by Negotiated Offer and Upset Bid and Rejecting a Previous Offer to Purchase Said Property Due to the Submission of a Qualifying Upset Bid

WHEREAS, the City Council of the City of Marion desires to dispose of certain surplus property of the City; and

WHEREAS, N.C.G.S. 160A-269 authorizes a city to convey by negotiated offer and upset bid any real or personal property; and

WHEREAS, on February 24, 2010, Mr. Steven O'Kelly submitted a bid in the amount of $2,000 for the purchase of approximately 0.20 acres of property owned by the City of Marion located on West Yancey Street (McDowell County Parcel Identification Number 1701.14-33-9687); and

WHEREAS, the City Council of the City of Marion adopted a resolution on March 2, 2010, in accordance with N.C.G.S. 160A-269, accepting the offer of Mr. O'Kelly to purchase the property, as described above, for a sum of $2,000, subject to public notice and upset bid; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion received a five percent bid deposit from Mr. O'Kelly; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion, on March 10, 2010, caused notice of the proposed sale of the property, as described above, to be published in The News Bulletin, a newspaper of general circulation in the City of Marion; and

WHEREAS, on March 17, 2010, Mr. Wynn Jackson submitted a bid in the amount of $2,500 for the purchase of the property described above; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the bid submitted by Mr. Jackson is a qualifying upset bid for the purchase of the property described above; and

WHEREAS, the City Council of the City of Marion desires to reject the previous bid of Mr. O'Kelly and to complete the sale of the property described above to Mr. Jackson, subject to public notice and upset bid.

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

1. The parcel owned by the City of Marion on West Yancey Street (McDowell County Parcel Identification Number 1701.14-33-9687) that is approximately 0.20 acres in size is hereby declared to be surplus to the needs of the City of Marion.

2. The City Council rejects the offer of Mr. Steven O'Kelly to purchase the above described property for $2,000, due to the submission of a qualifying upset bid during the required ten day upset bid period after publication of the proposed sale, as provided for in N.C.G.S. 160A-269.

3. The City Clerk shall refund Mr. O'Kelly the five percent bid deposit that he paid to the City.

4. The City Council accepts the offer of Mr. Wynn Jackson to purchase the above described property for $2,500, subject to the upset bid process being followed as required by N.C.G.S. 160A-269.

5. The City Clerk shall notify Mr. Wynn Jackson of the acceptance of this offer, receive a five percent bid deposit from the bidder, and cause a notice of this resolution to be published in accordance with G.S. 160A-269. Such notice shall state that prospective bidders have ten days from the date the notice is published to offer an upset bid, pursuant to G.S. 160A-269.

6. Once the upset bid process is completed, in accordance with G.S. 160A-269, the City Manager is designated to dispose of the above described property to the bidder selected by City Council, for a minimum price of $2,500.

Adopted this the 23rd day of March, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-10-03-23-3

AA.000000712 (24)

ADOPT RESOLUTION AUTHORIZING FINAL SALE OF CITY PROEPRTY ON WEST WILHEMENIA STREET: The City Manager stated that, at the February 16 Council meeting, Council adopted a resolution accepting the offer of Mr. Roberto Sierra to purchase a 0.32 acre parcel owned by the City on West Wilhemenia Street for $2,000, subject to upset bid. After receiving the required five percent bid deposit from Mr. Sierra, as well as requiring him to prepay for the required legal advertising, the City published notice in the News Bulletin of the proposed sale on March 3 that interested persons had ten days to submit an upset bid. The ten day upset bid process passed with no further bids. Therefore, Council action is needed to approve the resolution to authorize the final sale of this property to Mr. Sierra.

The City Manager noted that the City would insist that closing take place within 30 days if at all possible.

Upon a motion by Council Member Owenby, seconded by Council Member Cuthbertson Council voted unanimously to adopt the resolution authorizing the final sale of City property on West Wilhemenia Street to Mr. Roberto Sierra in the amount of $2,000, as follows:

Resolution Authorizing Final Acceptance of Offer to Purchase Certain Property Owned by the City of Marion After Solicitation of Upset Bids

WHEREAS, N.C.G.S. 160A-269 authorizes a city to convey by negotiated offer and upset bid any real or personal property; and

WHEREAS, Mr. Roberto Sierra has submitted a bid in the amount of $2,000 for the purchase of approximately 0.32 acres of City property located on West Wilhemenia Street (McDowell County Parcel Identification Number 1701.18-22-7385); and

WHEREAS, the City Council of the City of Marion adopted a resolution on February 16, 2010, in accordance with N.C.G.S. 160A-269, accepting the offer of Mr. Sierra to purchase the property, as described below, for a sum of $2,000; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion received a five percent bid deposit from Mr. Sierra; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion, on March 3, 2010, caused notice of the proposed sale of the property, as described below, to be published in The News Bulletin, a newspaper of general circulation in the City of Marion; and

WHEREAS, the City of Marion has completed the ten day upset bid period required by N.C.G.S. 160A-269, without the receipt of any upset bids; and

WHEREAS, the City Council of the City of Marion desires to complete the sale of the property described below to Mr. Sierra.

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

1. The parcel owned by the City of Marion on West Wilhemenia Street (McDowell County Parcel Identification Number 1701.18-22-7385) that is approximately 0.32 acres in size is hereby declared to be surplus to the needs of the City of Marion.

2. The City Council accepts the offer of Mr. Roberto Sierra to purchase the above described property for $2,000 and directs the City Manager to proceed with the sale of said property, as authorized by N.C.G.S. 160A-269.

Adopted this the 23rd day of March, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-10-03-23-2

DISCUSS WEBSITE VIDEOS: The City Manager stated that Mr. Chris Revis had sent him an e-mail, apologizing for not getting back to Council about the City website videos discussed at the February 25 Council Planning Session. The City Manager advised that Mr. Revis had recently ruptured his patella tendon and has been out of commission for some time. The City Manager reported that Mr. Revis thought that it might be good to make sure that Mayor Little and Council Members agreed on the intent and audience for the videos and proposed the following goals for the videos:

A. Promote to website visitors the economic, tourism and lifestyle opportunities that exist in Marion, with the idea that we want them to come experience it for themselves.

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B. Use the videos as a morale booster to City residents and business owners to show that the City is becoming more actively involved in their success.

C. Share with other municipalities to show how we are trying to attract external interest and raise awareness within our tax base.

Mayor Little stated that he personally liked Goals A and B and saw Goal C as by-product, as the City is now seeking to show off to other cities.

Council Member Martin stated that he liked Goals A and B as well.

It was the consensus of Council for the City Manager to advise Mr. Revis that Council's main goals for the website videos were as follows:

A. Promote to website visitors the economic, tourism and lifestyle opportunities that exist in Marion, with the idea that we want them to come experience it for themselves.

B. Use the videos as a morale booster to City residents and business owners to show that the City is becoming more actively involved in their success.

CITY MANAGER REPORTS: The City Manager gave a brief report on current projects.

The City Manager advised that he had sent a letter to Doug McNeal with DOT, asking for the installation of pedestrian crossing signals at Fort and Logan Streets and some way for pedestrians to trigger the signal to change, if it is not activated by a vehicle after a reasonable period of time. The City Manager stated that support letters were sent to DOT regarding this request by the parent making the original request, First Baptist Church and the First Baptist Church Children's Center.

Council Member Clark stated that he did not understand why DOT would put up a large pole and new traffic signals at the intersection of Logan and Court Streets and not install pedestrian crossing signals. The City Manager stated that he asked DOT to install pedestrian crossing signals at the Logan and Court Street intersection at the same time the new signals were being installed. He said that DOT did not pursue the pedestrian crossing signals at the time due to cost.

The City Manager advised that the next City Council Planning Session is scheduled for Tuesday, March 30 at 6:00 p.m. at City Hall.

The City Manager advised that, after talking with the County 911 Center and the Public Works Department, the effective date for the street name changes approved by Council on Azalea and Clay Street has been set for April 1. On this date, street signs and 911 records will be changed. This will also give people time to obtain their new address from the 911 Center.

The City Manager advised that, as noted earlier, City crews completed the extension of water service to all unserved streets in Eastfield. The City is now working on the replacement of an old, undersized water line on West Carson Street off of Highway 70 West near the western end of the City's water system. The City may then look at extending water service to some sewer-only service areas on Forsyth Street and perhaps Virginia Drive off of Virginia Road.

The City Manager advised that Finance Director Harriett Thomas ended up making a Federal and State disaster claim for our December snowstorm in the amount of more than $18,000. FEMA would not accept a claim for time and equipment for snow removal, but did agree to pay for overtime, equipment time and materials use to pretreat streets with brine. The City Manager stated that the City hopes to hear soon if this full amount will be paid. All indications are that the City will receive the full amount claimed.

The City Manager advised that the annual City Open House for the Third Graders has been set for Friday, April 23. The event should take place as in past years. This will be the Eighth Annual Open House. Old Fort Elementary will not participate. The home school children have chosen not to participate this year and the City has invited both private schools in the county to be present, Marion Christian Academy and New Manna. The City will have fewer than 500 children this year, much less than the City had the first few years of the Open House when Old Fort Elementary did participate. The City Manager reported that Baxter has already committed to cook lunch and provide food and drinks and that Administrative Assistant Debi Sherlin is working on schedules and to recruit volunteers to ride the buses.

The City Manager advised that Planning and Development Director Heather Cotton is working with McGill Associates and the Catawba River Greenway Phase 1 low bidder on ways to bring the project back within budget. The City Manager stated that the low bid was $102,000 over the project budget, but Ms. Cotton has

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done a great job identifying ways that should significantly reduce the project cost. Staff hopes to have a recommendation to present to Council at the April 6 meeting, so that this project can start in the near future.

The City Manager advised that the City continues to work with the Census on ways to promote the 2010 Census. He stated that City Sanitation personnel delivered Census information to each household in the City in December and that the City has received Census information to display at City Hall.

The City Manager advised that the School of Government will hold a webinar for the required ethics training for local elected officials on Thursday, March 25 from 4:00 p.m. to 6:00 p.m. The Town of Old Fort, McDowell County, the School Board and perhaps elected officials from other cities and counties plan to participate.

The City Manager advised that he had informed Shelby Music that Council had approved the purchase and installation of a sound system for the City Council Chambers. Shelby Music should be able to start this project in the next couple of weeks.

The City Manager advised that the Street Committee needs to look at a drainage issue on Glenview Street. Council agreed by consensus to refer the drainage issue to the Street Committee for a recommendation.

The City Manager stated that, at the March 18 Joint Utility Committee meeting, Mayor Little suggested that the City Council and County Commissioners have dinner together in late April. Mayor Little stated that he proposed that this gathering be a fellowship event, with no business discussed.

Mayor Pro Tem Owenby stated that he thought this would be a good idea.

Council Member Doggett stated that she also agreed that this would be a good idea.

It was the consensus of Council to set Thursday, April 22 as the proposed date for this gathering, with Thursday, April 29 as a back-up date. The City Manager will work with the County Manager to schedule the gathering. Council agreed that the City will pay for the initial dinner.

COUNCIL MEMBER COMMENTS:

Council Member Clark advised that he attended a meeting the previous Thursday at McDowell Technical Community College regarding how Appalachian Regional Commission (ARC) funds should be spent. He noted that the City needs to continue to put pressure on NCDOT to change the equity formula for transportation funding in North Carolina, so as not to count ARC funds that are supposed to be designated for Western North Carolina against the equity formula.

Council Member Martin stated that he had a citizen bring to his attention that other cities are planting apple trees in their parks. Apples are available for the public to enjoy. He said he would like to see the City of Marion do something similar. Council Member Martin suggested that people could purchase the trees in memory or in honor of family and/or friends.

Mayor Pro Tem Owenby thanked Mayor Little for the proclamation he signed the week before honoring Ms. Tassie Bradley's 102nd birthday and thanked the City Manager for presenting the proclamation to Ms. Bradley.

Council Member Doggett stated that a utility pole that had been changed out in front of P & R Produce on Rutherford Road is almost in the road.

Council Member Cuthbertson stated that a utility pole on South Main Street had been replaced and the old pole is still there.

Council Member Clark stated that there are numerous instances of Duke Energy not removing old power poles all over the City. However, the City has no way to force Duke Energy to remove such poles.

ADJOURNMENT: Upon a motion by Council Member Cuthbertson , seconded by Council Member Martin, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.000000715 (24)

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in a Special Called Session on Tuesday, March 30, 2010 at 6:00 P.M. in the City Hall Conference Room located at 194 North Main Street for the purpose of conducting a Planning Session.

BOARD MEMBERS PRESENT: Mayor Steve Little, Mayor Pro Tem Cecil Owenby, Council Members Lloyd Cuthbertson, Juanita Doggett and Billy Martin.

Council Member Everette Clark was out of town and unable to attend this meeting.

OTHERS PRESENT: Bob Boyette, City Manager

PLANNING SESSION: City Council held a Planning Session and discussed the following topics:

1. Growth Priorities
2. Transportation Improvement Program/DOT Enhancement Program Priorities
3. Street and Sidewalk Project Priorities
4. Retiree Health Insurance Benefits
5. Expansion of Downtown Façade Grant Program
6. Allowances for Golf Carts on Residential and Lower Speed Residential Streets
7. Water and Sewer Connections
8. Downtown Appearance Issues
9. Encouraging Greater Use of Upper Floors in Downtown Area
10. Development of Strategic Plan
11. Implementation of Urban Forestry Plan
12. Working with YMCA to Designate Walking Trails in Downtown Area and Develop Educational Materials
13. Planning for Future Water Treatment Plant Renovations
14. Programs/Grants to Improve Housing in City
15. Scheduling of Next City Council Planning Session

No action was taken on these items. Items requiring City Council action will be included in the 2010-11 or future budgets or placed on future City Council meeting agendas for consideration.

Council agreed to schedule the next City Council Planning Session as a Budget Workshop in late May or early June. The exact meeting date and time will be set at a regular City Council meeting.

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Owenby, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.000000716 (24)

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 6, 2010 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Cecil Owenby, Council Members A. Everette Clark, Lloyd Cuthbertson, Juanita Doggett and Billy Martin.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, AICP, Planning and Development Director; Mark Brooks, Police Chief; Mike Conley, News Reporter, McDowell News; Stephen Irish, News Reporter, The News Bulletin.

GUESTS PRESENT: Bob & Sonja Elledge, Marion, NC; Pat Brown, Tree Board Member, 435 Montevista Avenue, Marion, NC; Steve Swaim, Duke Energy Representative; Phil & Betty Ray, Duke Energy/Tree Board, Hillsborough, NC; Nancy Clark, Tree Board Chairperson, 330 Fleming Avenue, Marion, NC; Cliff McLarty, North Madison Street, Marion, NC.

OPEN MEETING: Mayor Little openeded the meeting with a moment of silence.

CITIZEN OF THE MONTH – SELECTED BY MAYOR PRO TEM OWENBY: Mayor Pro Tem Owenby selected the Citizen of the Month for April 2010.

Bob Elledge

Mayor Pro Tem Owenby stated that he was proud to present Bob Elledge as his citizen of the month. Mr. Elledge is married to Sonya and they reside in Marion.

Mr. Elledge has served on the City of Marion Planning Board/Adjustment since 2000. He has also served on other Boards and in Civic Organizations.

Mr. Elledge is a member of the First Baptist Church and has served as Sunday School Teacher, Audio-Visual Chairperson and as a Deacon in the Church.

Mr. Elledge has worked for the old Burgin Hardware Store, the Employment Security Commission and the McDowell County Department of Social Services where he served as the ADAP teacher for a group of sixty (60) mentally handicapped and developmentally disabled adults.

Mr. Elledge has also served on the McDowell County Board of Elections and has gotten to know many people in Marion and McDowell County through the years.

Mayor Little, Council Members, family and friends all shared kind words about Bob Elledge.

CONSENT AGENDA: Upon a motion by Council Member Cuthbertson, seconded by Mayor Pro Tem Owenby, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – March 23, 2010 Regular City Council Meeting Minutes
March 30, 2010 City Council Planning Session Minutes

B. Approve Amended Annexation Report and Plan of Services

2010 ANNEXATION AREAS – ANNEXATION REPORT AND PLAN OF SERVICES – AMENDED APRIL 6, 2010

The Annexation Report and Plan of Services for the City of Marion 2010 Annexation Areas is hereby amended as follows:

1. Section IV, Statement Setting Forth Plans for Extending City Services to the Areas Proposed to be Annexed and Methods of Financing these Services, is amended by deleting the section on street maintenance for the Scott Road Area in its entirety and replacing it with the following:

SCOTT ROAD AREA

STREET MAINTENANCE

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All of the streets in the area proposed for annexation are paved. All streets in the annexation area are maintained by the State of North Carolina. It is proposed that the City will take over maintenance of Scott Road, upon approval of the North Carolina Department of Transportation. The estimated cost for providing street maintenance to the area proposed for annexation will be $500.00 annually.

The City will ensure that on the effective date of annexation street maintenance service will be provided in the area annexed on substantially the same basis as provided in the rest of the City.

2. Section V, Estimated Revenues, is amended by deleting the estimated revenues for the Scott Road Area in its entirety and replacing it with the following:

SCOTT ROAD AREA

PROPERTY TAXES

Based on tax listings at the beginning of January 2010, it is estimated that the proposed annexation will bring in the following tax revenues based on the current City tax rate of $.51 per $100.00 of property value.

Current Taxable Value	$277,300.00
Estimated Property Taxes	1,414.23

WATER AND SEWER REVENUES

No structures in the area to be annexed are currently connected to City water or sewer service. Therefore, the annexation of this area will result in no revenue losses for the City due to water and sewer rates being reduced by 60 percent.

OTHER REVENUES

Because of changes in distribution formulas from year to year estimates on the following revenues may fluctuate. These estimates are based on formulas and information received from the North Carolina Department of Commerce (Division of Community Assistance), North Carolina Department of Transportation, North Carolina Department of Revenue, Isothermal Planning and Development Commission, North Carolina Office of Budget and Management and Duke Energy.

Local Sales Tax	$ 289.93
Powell Bill Revenue	510.73
Utility Franchise Tax	144.00
Beer and Wine Tax	40.32

POPULATION INCREASE

The City's current population is based on the 2000 Census and annual population certifications from the State of North Carolina. Annexation of this area and other proposed annexations to take effect on June 30, 2010 will increase the population by approximately 53 people for a population of 7,503.

3. Section VI, Revenues and Cost Estimates, is amended by deleting the revenues and cost estimates for the Scott Road Area in its entirety and replacing it with the following:

SCOTT ROAD AREA

ESTIMATED ANNUAL REVENUES	
Property Tax	$ 1,414.23
Local Sales Tax	289.93
Powell Bill	510.73
Utility Franchise Tax	144.00
Beer and Wine Tax	40.32
Total Estimated Annual Revenues	$ 2,399.21
ESTIMATED ANNUAL EXPENDITURES	
Police Department	$ 86.44
Fire Department	0.00
Street Department	500.00
Streetlights	185.28
Solid Waste/Recycling	250.00
Total Estimated Annual Expenditures	$ 1,021.72
ESTIMATED LOSS IN REVENUE	
Fire Service District Tax	$ 166.38
Water and Sewer Revenues	0.00
Total Estimated Revenue Loss	$ 166.38
ESTIMATED ONE-TIME EXPENDITURES	
Water Extension	$13,200.00
Recycling Containers	32.00

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Total One-Time Expenditures $13,232.00

This amended Annexation Report and Plan of Services for 2010 Annexation Areas is hereby adopted by the City Council of the City of Marion this the 6th day of April, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

C. Approve Resolution Authorizing Submission of Main Street Solutions Fund Grant

RESOLUTION
AUTHORIZING SUBMISSION OF MAIN STREET SOLUTIONS FUND GRANT APPLICATION

WHEREAS, the City of Marion is fortunate to have a historic downtown and active downtown program, as evidenced by the City's designation as a Main Street Community and the downtown commercial area's listing on the National Register of Historic Places; and

WHEREAS, the City of Marion has for several decades supported improvements and made investments in the downtown area; and

WHEREAS, the North Carolina Department of Commerce recently announced the creation of the Main Street Solutions Fund to result in building renovation and job creation in designated downtown areas in qualifying communities; and

WHEREAS, the City received proposals from downtown building and business owners for projects qualifying for funding under the Main Street Solutions Fund grant; and

WHEREAS, the City of Marion now desires to submit an application for a Main Street Solutions Fund grant to enhance the downtown economy.

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Marion authorizes the submission of a Main Street Solutions Fund grant application to allow for building improvements at two businesses in the downtown area, thereby creating new full-time and part-time jobs and greatly enhancing the economic vitality and climate of Marion's downtown area.

BE IT FURTHER RESOLVED that the City Council of the City of Marion hereby authorizes J. Robert Boyette, City Manager, and successors to said position to submit an application for the Main Street Solutions grant for the projects listed above and to sign a grant agreement with the North Carolina Department of Commerce on behalf of the City of Marion.

Adopted by the City Council of the City of Marion this the 6th day of April, 2010.

Stephen R. Little, Mayor

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-10-04-06-2

RECOGNITION OF PHIL RAY, DUKE ENERGY REPRESENTATIVE ON TREE BOARD: The City Manager advised that the City wished to publicly recognize Mr. Phil Ray for his many years of service to the City of Mairon Tree Board upon the occasion of his upcoming retirement from Duke Energy. The City Manager said that the City and the Tree Board will miss Mr. Ray and all he brought to Marion through the years.

Mayor Little asked Mr. Ray to come forward. Mayor Little and Council Members shared kind words about Mr. Ray and thanked him for his service to the City. Mayor Little asked if members of the Tree Board wanted to say anything.

Tree Board Chairperson Nancy Clark stated that she had only been on the Tree Board a short time and had already learned to appreciate what Phil Ray brought to Tree Board meetings with his inspiring advice and expertise. Ms. Clark stated that if she was the governor, she would present Mr. Ray with the Order of the Long Leaf Pine. However, the best she could offer was a poem patterned after the Order of the Long Leaf Pine, as follows:

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Here's to the man trimming the long leaf pines
All over North Carolina where the sun doth shine
Where the pines grow weak, he makes them great
Here's to Phil Ray – known all across the State!

Ms. Pat Brown, Tree Board Member, stated that Phil Ray had brought a wealth of knowledge to the Tree Board and that he had a great personality. Marion was lucky to have Phil through the years and he will be missed.

Mr. Steve Swaim, former District Manager with Duke Energy, was also present for this recognition. Mr. Swain stated that he came to honor Phil Ray, and stated that behind every good man is a good woman, and this is very rue with Mr. Ray's wife Betty. Mr. Swaim stated that he and Mr. Ray worked shoulder to shoulder for many years from Orange County all the way to McDowell County. He advised that Mr. Ray is the authority on trees in Duke Energy and is a certified arborist. Mr. Swaim stated that he appreciated Mr. Ray for his service and thanked City Council for recognizing Mr. Ray.

Mayor Little presented Mr. Ray with a plaque that read:

In Appreciation
To
Phillip R. Ray
For Your Years of Dedication and Service
To the
City of Marion
While Serving as
Duke energy representative
For the
City of Marion Tree Committee



1996 – 2010
Presented This 6th Day of April 2010
By
Mayor Stephen R. Little
And
Marion City Council

Mayor Little also presented Mr. Ray with a coffee cup signifying the City's Logo "Marion, Where Main Street Meets the Mountains" and a City of Marion Sesqecentennial Medallion.

ADOPTION OF ANNEXATION ORDINANCES – 2010 ANNEXATION AREAS: The City Manger stated that with the completion of the annexation process for the 2010 Annexation Areas, he would recommend that Council adopt ordinances to annex the Eastfield Phase 6 and Scott Road areas, effective June 30, 2010.

Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Owenby, Council voted unanimously to adopt an Ordinance to extend the corporate limits of the City of Marion to include the Eastfield Phase 6 Area as follows:

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS
OF THE CITY OF MARION UNDER THE AUTHORITY
GRANTED BY CHAPTER 160A, ARTICLE 4A, PART 2
OF THE GENERAL STATUTES OF NORTH CAROLINA – EASTFIELD PHASE 6 AREA - 2010

WHEREAS, all of the prerequisites to adoption of this ordinance prescribed in Chapter 160A, Article 4A, Part 2 of the General Statutes of North Carolina, have been met; and

WHEREAS, the City Council has taken into full consideration of statements presented at the public hearing held on March 23, 2010, on the question of this annexation; and

WHEREAS, the City Council has concluded and hereby declares that annexation of the area described herein is necessary to the orderly growth and development of the City of Marion.

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

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Section 1. From and after the effective date of this annexation, the following territory shall be annexed to and become a part of the City of Marion, and the corporate limits of the City of Marion shall be extended to include said territory more particularly described by metes and bounds as follows:

BEGINNING at a point at the northern corner of Lot 1969 Block 48 on the McDowell County Tax Map 1711.06; thence following the boundary of said Lot 1969 and Lot 3864 Block 48 on the McDowell County Tax Map 1711.06 in a straight southeasterly direction 646 feet to a point at the southeast corner of said Lot 3864, said point also being on the northern boundary of Tunnel Road (SR 1729), thence following the northern boundary of Tunnel Road (SR 1729) approximately 15 feet to the southwestern corner of Lot 6688 Block 48 on the McDowell County Tax Map 1711.06; thence following the boundary of said Lot 6688 in a northerly direction 65 feet, thence in a northeasterly direction 110 feet, thence in a southeasterly direction 199 feet to the southeastern point of said Lot 6688, said point also being a point on the western boundary of the Carolina Clinchfield & Ohio Railroad Right-of-Way, thence following the western boundary of the Carolina Clinchfield & Ohio Railroad Right-of-Way in a southerly direction 416 feet to a point, said point being the northeast corner of Lot 2997 Block 37 on the McDowell County Tax Map 1711.06, said point also being on the boundary of the current Marion Corporate Limits, thence following the northern boundary of said Lot 2997 and the boundary of the current Marion Corporate Limits in a straight westerly direction 583 feet to a point, thence following the current Marion Corporate Limits in a generally northerly direction 255 feet, thence in a westerly direction 50 feet, thence in a northerly direction 132 feet to a point, said point being the on the boundary of the current Marion Corporate Limits, said point also being on the southern boundary of Tunnel Road (SR 1729), thence following the current Marion Corporate Limits in a straight northerly direction 50 feet to a point on the current Marion Corporate Limits, said point also being on the southern boundary of Lot 2708, Block 48 on the McDowell County Tax Map, thence following the southern boundary of said Lot 2708 and the boundary of the current Marion Corporate Limits in a westerly direction approximately 81 feet to the southwest corner of said Lot 2708 and the boundary of the current Marion Corporate Limits; thence following the western boundary of said Lot 2708 and the boundary of the current Marion Corporate Limits in a generally northerly direction 219 feet to the northwest corner of said Lot 2708, said point also being a point on the boundary of the current Marion Corporate Limits and a point of the northeast corner of Lot 9891 Block 38 on the McDowell County Tax Map, thence following the northern boundary of said Lot 9891 and the boundary of the current Marion Corporate Limits in a westerly direction 142 feet to a point at the northwest corner of said Lot 9891 and the boundary of the current Marion Corporate Limits, said point also being on the eastern boundary of Lot 8965 Block 38 on the McDowell County Tax Map 1711.06, thence following the boundary of the current Marion Corporate Limits in a northerly direction 315 feet to the point of BEGINNING.

Section 2. The City Council hereby finds and declares that the above described territory meets the requirements of G.S. 160A-36, in that:

The area is adjacent and contiguous, as defined by G. S. 160A-41(1) as of the 5th day of January, 2010, the date upon which this annexation proceeding was begun.

The aggregate external boundary line of the area to be annexed is 3,278 feet, of which 1,826 feet (or 55.70%), coincides with the City boundary. Therefore, at least one eighth (or 12.5%) of the said external boundary coincides with the City boundary.

No part of the area to be annexed is included within the boundary of another incorporated municipality.

The area to be annexed is developed for urban purposes in that 78.57% of the total number of lots and tracts in said area are used for residential, commercial, industrial, institutional or governmental purposes as is shown below. 100.00% of the total of residential and vacant acreage consists of lots and tracts three (3) acres or less in size.

Section 3. It is the purpose and intent of the City of Marion to provide services to the area being annexed under this ordinance, as set forth in the report of plans for services approved by the City Council on January 19, 2010 and filed in the office of the Clerk for public inspection on January 22, 2010.

Section 4. The City Council hereby finds and declares that, on the effective date of annexation prescribed in Section 8 hereof, the City of Marion will have sufficient funds approved, in the amount of $18,300, to finance the estimated cost of construction of water and sewer facilities found necessary in the report of plans for services to extend the basic water system of the City of Marion into the area to be annexed under this ordinance. (No sewer extensions are necessary in the area to be annexed).

Section 5. From and after the effective date of this annexation, the territory annexed and its citizen and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City.

Section 6. The newly annexed territory described above shall be subject to City taxes according to G.S 160A-58.10.

Section 7. The Mayor of the City of Marion shall cause an accurate map of the annexed territory described in Section 1 hereof, together with a duly certified copy of the ordinance, to be recorded in the office of the register of deeds of McDowell County, and to the office of the Secretary of State in Raleigh. Such a map shall also be delivered to the McDowell County Board of Elections, as required in G.S. 163-288.1.

Section 8. This ordinance shall become effective on June 30, 2010.

As to qualified tracts of agricultural land, horticultural land and forestland, the annexation will become effective on the last day of the month in which the tract or part thereof becomes ineligible for present-use classification under G.S 105-227.4 or no longer meets the requirements of G.S 160A-37(f1)(2).

Adopted this 6th day of April, 2010.

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Stephen R. Little, Mayor

ATTEST: APPROVED AS TO FORM:

J. Robert Boyette, City Clerk City Attorney

Ordinance Number: O-10-04-06-1

Upon a motion by Council Member Cuthbertson, seconded by Mayor Pro Tem Owenby, Council voted unanimously to adopt an Ordinance to extend the corporate limits of the City of Marion to include the Scott Road Area as follows:

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF MARION UNDER THE AUTHORITY GRANTED BY CHAPTER 160A, ARTICLE 4A, PART 2 OF THE GENERAL STATUTES OF NORTH CAROLINA – SCOTT ROAD AREA - 2010

WHEREAS, all of the prerequisites to adoption of this ordinance prescribed in Chapter 160A, Article 4A, Part 2 of the General Statutes of North Carolina, have been met; and

WHEREAS, the City Council has taken into full consideration of statements presented at the public hearing held on March 23, 2010, on the question of this annexation; and

WHEREAS, the City Council has concluded and hereby declares that annexation of the area described herein is necessary to the orderly growth and development of the City of Marion.

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

Section 1. From and after the effective date of this annexation, the following territory shall be annexed to and become a part of the City of Marion, and the corporate limits of the City of Marion shall be extended to include said territory more particularly described by metes and bounds as follows:

BEGINNING at a point at the southeast corner of Lot 6224, Block 77 on the McDowell County Tax Map 1710.02, thence following the eastern boundary of said Lot 6224 and the Southern Railroad Right-of-way in a northwesterly direction approximately 672 feet to a point, said point being a northeast point of said Lot 6224 and a point on the southern boundary of Lot 4140, Block 88 on the McDowell County Tax Map 1710.02, thence following the southern boundary of said Lot 4140 in a northeasterly direction approximately 60 feet to a point, said point being the southeast point of said Lot 4140 and a point of the boundary of the Southern Railroad Right-of-way; thence following the boundary of said Lot 4140 and the boundary of the Southern Railroad Right-of-way in a northerly direction approximately 182 feet to a point on the boundary of said Lot 4140 and Southern Railroad Right-of-Way, said point also being the boundary of the current Marion Corporate Limits; thence following the current Marion Corporate Limits in a straight easterly direction approximately 100 feet crossing the Southern Railroad Right-of-Way to a point, said point being on the boundary of the current Marion Corporate Limits, the Southern Railroad Right-of-Way, and the northwest point of Lot 8005, Block 88 on the McDowell County Tax Map 1710.02, thence following the current Marion Corporate Limits and the boundary of said Lot 8005 in a northeasterly direction approximately 157 feet to a point at the northeast corner of said Lot 8005, the current Marion Corporate Limits, said point also being the southwestern boundary of Scott Drive (State Road 1742); thence running in a southeasterly direction along the boundary of the current Marion Corporate Limits 849 feet, thence following the current Marion Corporate Limits in a westerly direction approximately 430 feet to the point of BEGINNING.

Section 2. The City Council hereby finds and declares that the above described territory meets the requirements of G.S. 160A-36, in that:

The area is adjacent and contiguous, as defined by G. S. 160A-41(1) as of the 5th day of January, 2010, the date upon which this annexation proceeding was begun.

The aggregate external boundary line of the area to be annexed is 2,599 feet, of which 1,660 feet (or 63.87%), coincides with the City boundary. Therefore, at least one eighth (or 12.5%) of the said external boundary coincides with the City boundary.

No part of the area to be annexed is included within the boundary of another incorporated municipality.

The area to be annexed is developed for urban purposes in that 80.00% of the total number of lots and tracts in said area are used for residential, commercial, industrial, institutional or governmental purposes as is shown below. 100.00% of the total of residential and vacant acreage consists of lots and tracts three (3) acres or less in size.

Section 3. It is the purpose and intent of the City of Marion to provide services to the area being annexed under this ordinance, as set forth in the report of plans for services approved by the City Council on January 19, 2010 and filed in the office of the Clerk for public inspection on January 22, 2010.

Section 4. The City Council hereby finds and declares that, on the effective date of annexation prescribed in Section 8 hereof, the City of Marion will have sufficient funds approved, in the amount of $13,200, to finance the estimated cost of construction of water and sewer facilities found necessary in the report of plans for services to extend the basic water system of

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the City of Marion into the area to be annexed under this ordinance. (No sewer extensions are necessary in the area to be annexed).

Section 5. From and after the effective date of this annexation, the territory annexed and its citizen and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City.

Section 6. The newly annexed territory described above shall be subject to City taxes according to G.S 160A-58.10.

Section 7. The Mayor of the City of Marion shall cause an accurate map of the annexed territory described in Section 1 hereof, together with a duly certified copy of the ordinance, to be recorded in the office of the register of deeds of McDowell County, and to the office of the Secretary of State in Raleigh. Such a map shall also be delivered to the McDowell County Board of Elections, as required in G.S. 163-288.1.

Section 8. This ordinance shall become effective on June 30, 2010.

As to qualified tracts of agricultural land, horticultural land and forestland, the annexation will become effective on the last day of the month in which the tract or part thereof becomes ineligible for present-use classification under G.S 105-227.4 or no longer meets the requirements of G.S 160A-37(f1)(2).

Adopted this 6th day of April, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

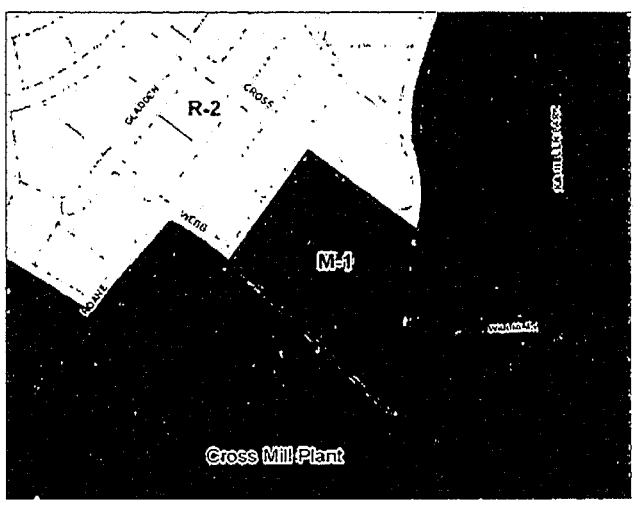
APPROVED AS TO FORM:

City Attorney

Ordinance Number: O-10-04-06-2

PUBLIC HEARING – ZONING MAP AMENDMENT: Planning and Development Director Heather Cotton advised that the proposed ordinance would amend the *Official Zoning District Map* to rezone a residential block in the Crossmill Community from M1 Industrial to R2 General Residential.

Ms. Cotton stated that on March 22, 2010, a resident at 100 West Cross Street applied for a building permit to install an unattached garage on her property. The M1 Zoning district requires a twenty-five foot (25 ft.) rear yard setback, while the R2 General Residential Zoning District requires only a ten foot (10 ft.) rear setback. Staff reviewed the zoning within Crossmill and found that many of the residential homes adjacent to the old Crossmill Plant are still zoned industrial. Staff recommended that the resident gauge interest from her neighbors to see if there was group application to rezone all within the area. The three other the same block between Oliver and petition to have their properties discussed in detail the existing and Ms. Betty Stock, one of the largest area. Ms. Stock is in favor of rezoning that she owns on the block, but wanted rezone other residential properties later date and after further review of



further interest in a residential properties property owners within Carson Streets signed a rezoned. Staff proposed zoning with land owners in the four of the properties to reserve her right to within the area at a her options.

Ms. Cotton stated that staff recommended approval of the rezoning to the Planning Board. The Planning Board recommended approval of the rezoning request in a 5-0 vote at their regularly scheduled meeting held April 1, 2010.

Mayor Little opened the Public Hearing for discussion.

Council Member Doggett asked how this rezoning would affect the residents in Cross Mill.

Ms. Cotton advised that the rear yard setbacks are different between the R-2 and M-1 district and there are more allowances for residential uses, which would be a benefit to existing residential properties.

Council Member Clark stated that this situation is interesting to him. He said this rezoning should have been done years ago; however, it was evidently missed.

There was no one else present wishing to discuss this request.

Mayor Little closed the Public Hearing.

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Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted to adopt the following Ordinance to amend the Official Zoning Map to change properties bounded by Webb, Oliver, Carson and Webb Streets in the Cross Mill neighborhood from the M-1 Industrial zoning classification to R-2 General Residential:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
CROSSMILL REZONING

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to rezone properties in the Crossmill Community, having the Parcel Identification Numbers 1701.10-35-8525, 1701.10-35-8570, 1701.10-35-9445, 1701.10-35-9331, 1701.10-35-8377, 1701.10-35-8422, and 1701.10-35-7467, from the M1 Industrial Zoning District to the R-2 General Residential Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing on April 1, 2010.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective upon adoption.

Adopted this the 6th day of April 2010.

Stephen R. Little
Mayor

ATTEST:

J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-10-04-06-3

CONSIDER REQUEST FROM MACA TO ADOPT RESOLUTION STATING THAT QUILT BLOCKS ARE NOT CONSIDERED SIGNS UNDER THE CITY'S ZONING ORDINANCE:

Planning and Development Director Heather. Cotton stated that a letter had been sent from the McDowell Arts Council Association (MACA) asking the City to clarify the Zoning Ordinance to make it clear that quilt blocks are not considered signs. Ms Cotton stated that she felt that the proper thing to do would be to obtain City Council interpretation that, for Zoning Ordinance purposes, quilt blocks will not be considered signs.

Ms. Cotton stated that the Planning Board met on April 1 and unanimously recommended that Council adopt a resolution stating that quilt blocks are not considered signs. Ms. Cotton stated that staff would therefore request Council adoption of a resolution to approve the request from MACA that quilt blocks not be considered signs.

The letter read as follows:

Dear Mayor and City Council,

As you know, MACA established the McDowell Quilt Trail program in June 2009, with the installation of the "Where Main Street Meets the Mountains" block and the "Grape Basket" block, and today we have twenty-five blocks installed or in production across McDowell County. The program has generated a lot of interest, and continues to grow in popularity throughout Marion and the surrounding community. Our story is even spreading across the country with an Atlanta-based author who wants to document our trail in an upcoming book, and our website continues to receive hits from all over the country. The purpose of this project was to promote art, celebrate our history, and support greater economic prosperity for our community. The purpose of this letter is to request that the City of Marion officially recognize our new McDowell Quilt Trail program as a public art project, which would greatly help us further our program's mission.

As with all new programs, it has been a learning experience for us, and we continue to make improvements each day to make the program even more successful. One such experience was our lack of understanding regarding specific requirements for development activity within the City. We appreciate Ms. Cotton, our MACA Board President and City Planning Director, who helped explain the requirements so that we do not make the same mistakes in the future. Please know that we will do our part to communicate any activity that may require City approval before proceeding, however we would like to make one request that we feel would be a great benefit to MACA, the City and our hosts, and resolve a growing debate among various interests.

One of the City's regulations that Ms. Cotton and I discussed is the City's Sign Ordinance. According to the City Code, a sign is defined as *"any display of letters, words, numbers, figures, devices, emblems, pictures, logos, or any other means whereby the same are made visible for the purpose of*

making anything known, whether such display be on, or attached to, or as a part of a structure, surface, or any object whether manmade or natural." While it is clear that our quilt blocks could be interpreted as a sign under this definition, it is not the intent of our program to create quilt blocks for the purpose of advertising a particular business. The host contract specifically does not allow the private use of quilt blocks for advertising, or use as a logo. MACA uses the blocks to promote the Arts Council and to promote the County as a whole. In an effort to be in compliance with City Code, protect everyone's interests, and avoid any future conflict, on behalf of the Board of Directors I would like to request that the City Council deem the McDowell Quilt Trail as a public art project and exempt it from the requirements of the City of Marion's Sign Ordinance.
Thank you for this opportunity to hear our request. I would be happy to answer any questions that you may have regarding MACA or the Quilt Trail program. As always, we thank you for your ongoing support for promoting arts in the community and the generous support you have shown to our organization.

Sincerely,

Susan Pyatt, Executive Director
McDowell Arts Council Association

Council Member Cuthbertson stated that he had been asked about this matter and that he had advised that Council never intended to consider quilt blocks signs. He said he understood that at least one person had paid a sign permit fee for a quilt block. Ms. Cotton stated that MACA had already paid one sign permit fee for a quilt block and that other applications were on hold, pending the outcome of this decision.

Council Member Cuthbertson stated that Council should approve the request by MACA and authorize the reimbursement of any sign permit fees paid for quilt blocks.

Upon a motion by Council Member Cuthbertson, seconded by Mayor Pro Tem Owenby, Council voted unanimously to adopt the following Resolution stating that quilt blocks are not considered signs for Zoning Ordinance purposes and to authorize the reimbursement of any sign permit fees paid for the placement of quilt blocks:

City of Marion
Resolution
McDowell Arts Council
McDowell Quilt Trail Program

WHEREAS, the McDowell Arts Council Association was established on February 28, 1978 with a mission to "Bring Arts to the People and People to the Arts"; and

WHEREAS, the McDowell Arts Council Association is committed to promoting local artistic heritage and sharing this legacy while promoting local artists and enriching life in McDowell County; and

WHEREAS, the McDowell Arts Council Association established the McDowell Quilt Trail in July 2009 to promote the arts, heritage, and the local economy;

WHEREAS, the City Council recognize that arts are instrumental in creating a vibrant community with unique places that yield cultural, social, and economic benefits;

WHEREAS, the City Council support the McDowell Arts Council Association in its efforts to promote arts in the community.

NOW THEREFORE BE IT RESOLVED that the Marion City Council does hereby support the McDowell Arts Council Association and their McDowell Quilt Trail program, and further do hereby exempt the program from the requirements of Section 21-121 *Signs* of the Marion City Code.

ADOPTED THIS the 6th day of April, 2010.

Stephen R. Little
Mayor

ATTEST:
J. Robert Boyette
City Manager/Clerk

Resolution Number: 10-04-6-1

CONSIDER AMENDMENT TO PLANNING AND DEVELOPMENT FEE SCHEDULE
ORDINANCE: Planning and Development Director Heather Cotton advised that Mr. Jeff Silver, owner of Signs By Design at 26 Highland Drive, recently applied for an application to install an off-premise directional sign on an existing on-premise sign located at 705 East Court Street. Mr. Silver was upset with the $250 permit cost of an off-premise directional sign due to the size limitation of no greater than eight square feet and the limitation of permitted content in comparison to an off-premises advertising sign, which can be three hundred square feet with no limits on content. He made a request to the Planning and Development Department to change the fee schedule that would make the permit fee for off-premises directional signs consistent with on-premises advertising signs.

Ms. Cotton presented the following comparison in cost for the sign being requested is identified below:

- Current cost for 8 square foot. off-premises directional sign is $250.00

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- Under the on-premise sign fee schedule the permit cost would be $30.00

Ms. Cotton therefore recommended that Council adopt an amendment to the Planning and Development Services Fee Schedule Ordinance to place off-premise directional signs in the same permit fee category as small on-premise signs.

Council Member Doggett stated that she was glad to see this addressed and thought that the request should be approved.

Council Member Clark stated he agrees that the permit fee should be lowered for small off-premise directional signs. He said that the reason the permit fee is so high for off-premise directional signs is because there is no limit on how many directional signs can be placed. Council Member Clark stated that he thought Council should set a limit on how many directional signs should be placed, since no one likely wanted the City to be cluttered with such signs.

Mayor Little stated that he was on the Committee that worked on the off-premise sign ordinance and that the committee discussed not wanting people to place an unlimited number of such signs around the City.

Ms. Cotton stated that she has issued permits for only two off-premises directional signs in recent years, but that a limit on the number of signs was a good idea.

A discussion followed.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following Ordinance amending the Planning and Development Department Fee Schedule to lower the permit fee for off-premises directional signs and to limit businesses to no more than two off-premises directional signs:

AN ORDINANCE
ESTABLISHING FEES FOR THE PLANNING AND DEVELOPMENT DEPARTMENT FOR OFF-PREMISES DIRECTIONAL SIGN PERMIT FEES

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

SECTION 1. That the City of Marion Planning & Development Department Fee Schedule be amended to include the following:

SIGN PERMITS.
This section shall apply to all signs regulated pursuant of Section 706 *Signs, billboards and other advertising structures* of Chapter 21 *Zoning* of the Code of the City of Marion.

On Premise Signs & Off Premise Directional Signs. The permit fee for an on-premise sign or off-premise directional sign that is twenty-four (24) square feet or less that does not require a footing and/or an electrical inspection shall be $30.00 plus $1.00 for each additional square foot over 24 square feet. An on-premise sign or off-premise directional sign that is twenty-four (24) square feet or less that does require a footing and/or an electrical inspection shall be $60.00 plus $1.00 for each additional square foot over 24 square feet. The fee for a temporary two (2) week spectacular sign or directional sign permit and all other thirty (30) day temporary sign permits shall be $20.00. No fee shall be charged for a temporary sign permit for non-profit organizations with offices or locations within the City Limits.

Off-Premise Advertising Signs. The initial fee for an off-premise sign permit shall be $250.00 plus $1.00 for each additional square foot over one hundred square feet. The fee shall include footing and/or an electrical inspection. An annual renewal fee shall be charged for all off-premise advertising signs. Failure to renew an off-premise sign shall result in a revocation of permit. The annual off-premise sign fee will be as follows:

OFF-PREMISE SIGN FEE SCHEDULE	
Sign Face	**Annual Renewal Fee**
0-100 square feet	$125.00
101-200 square feet	$125.00 + $0.25 per square foot
201-300 square feet	$125.00 + $0.50 per square foot

SECTION 2. This ordinance shall become effective upon its adoption.

Adopted this the 6th day of April 2010.

Stephen R. Little
Mayor

ATTEST:

J. Robert Boyette
City Manager/ Clerk

Ordinance Number: O-10-04-06-4

AWARD CONTRACT – CONSTRUCTION OF CATAWBA RIVER GREENWAY PHASE 1: The City Manager advised that the City sought bids for the construction of Phase 1 of the Catawba River Greenway. Bids were received from eight firms and opened on February 23. The low bid, not including the alternate bid, was from

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Eagle Wood, Inc. of Denver, North Carolina, was in the amount of $402,010.34, which was more than $102,000 over budget.

The City Manager reported that Planning and Development Director Heather Cotton worked with the City's consulting engineer, McGill Associates and the low bidder to identify ways to reduce the cost of the Greenway. These ideas are outlined in the letter from McGill presented to Council, and include reducing the width of the Greenway from 10 feet to 8 feet, reducing the size of the parking lot and, most importantly rerouting the Greenway around a marshy area. The City Manager stated that, based on these changes, Eagle Wood has submitted a revised bid of $286,945.74, which brings the project in under budget. He said that the City will still not be able to complete work requested under the alternate bids, which would include paving the access road and parking lot, but the City will be able to construct an eight foot Greenway for the entire identified length of Phase One.

The City Manager stated that he would recommend that Council award the contract for the construction of the Catawba River Greenway Phase One to Eagle Wood, Inc. in the amount of $402,010 and approved Change Order One to reduce the amount of the contract by $115,064.60, for a net contract amount of $286,945.74.

Upon a motion by Council Member Cuthbetson, seconded by Mayor Pro Tem Owenby, Council voted unanimously to award the Contract to Eagle Wood, Inc. in the amount of $402,010 and approved Change Order One to reduce the amount of the contract by $115,064.60, for a net contract amount of $286,945.74.

Council Member Clark asked who will oversee the project. Ms. Cotton stated that McGill Associates will supply construction administration and inspection services for the project.

Council Member Clark stressed the need to direct McGill to have frequent inspections to make sure the contractors construct the project properly.

The City Manager stated that the City is fortunate to have dedicated McDowell Trails Association volunteers like Frank Dean and Bill Hendley, who can assist City staff and McGill with inspections.

PUBLIC COMMENT PERIOD: Mr. Cliff McLarty was present for this meeting and stated that he would like to request that a shelter of some sort be installed at the Community Building Park Splash Pad to shield parents and grandparents from direct sunlight while watching their children.

The City Manager stated that Council Member Doggett had mentioned this idea to him the day before and that City crews should be able to design and construct an attractive looking shelter, as part of the planned improvements to the Community Building Park later in the year.

UPDATE ON DOT LOGO SIGN REQUST: The City Manager stated that he had explored opportunities for a billboard along the US 221 Bypass, petitioned for a State rule change to increase allowances for DOT logo signs at signalized intersections at either end of the US 221 Bypass and asked Senator Queen and Representative Gillespie to introduce legislation to increase allowances for the logo signs, as directed by City Council previously.

The City Manager stated that he had heard back from DOT officials in Raleigh that they would look into the request. He advised that he would also follow-up on the request with Senator Queen and Representative Gillespie. The City Manager further advised that State rules, as well as County and City ordinances, would make it almost impossible for a billboard to be placed on US 221 south of the US 221/US 221 North Business intersection. He said that it would be easier to get the logo sign rules changed, especially since the City's request seemed relatively minor.

Council Member Doggett asked if this request involved the blue DOT logo signs. The City Manager stated that the request did involve the blue DOT logo signs.

Mayor Little stated that this continues to be a great idea and encouraged the City Manager to keep up the efforts with this request.

No action was necessary on this item/.

PRESENT RECOMMENDATIOSN FOR 2010 STREET PAVING/ RESURFACING: The City Manager presented Council with a memo from Public Works Director Chris Hollifield detailing recommendations and options for the City's Spring 2010 street paving and resurfacing, to include the resurfacing of several streets and the paving of Leach Street Extension in Eastfield (as previously directed by Council). The City Manager stated that he would recommend that Council endorse the staff prioritization for street resurfacing or approve a revised priority list and then authorize staff to seek bids for the street

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resurfacing. He added that staff can present the bids to Council once they are received and a determination can then be made by Council which streets can be resurfaced this year, based on available funds.

The recommended priority list was as follows:

1. 4th Street, Clinchfield - resurfacing
2. 5th Street, Clinchfield – resurfacing
3. Leach Street Extension – paving of dirt road
4. Montevista Avenue - resurfacing
5. New Street (North Garden Street to North Madison Street) – resurfacing
6. Robert Street – resurfacing
7. Maple Avenue – resurfacing of a small section of street near East Court Street

The City Manager stated that the Public Works Director has estimated that it will cost $131,324 to resurface and pave the streets shown on the priority list. The City Manager stated that the City normally spends $80,000-$110,000 on street resurfacing each year. Last year, the City paved several dirt roads and limited the number of streets we resurfaced. He said that the City currently has $189,422 in its Powell Bill account. The City will spend some money on street patching and should receive around $180,000 in Powell Bill revenues in early October. The City Manager stated that, as discussed at the March 30 Council Planning Session, he hopes to reserve enough money in Powell Bill funds to be able to consider contracting a project or two in the next year, as has periodically done in the past.

The City Manager stated that staff had also received requests for speed humps at 22 locations and that he would welcome Council guidance regarding whether to study and present recommendations for these speed humps. If so, the City could ask pavers to submit a unit price for speed humps and Council could award a contract for as many speed humps they wish.

A discussion followed.
Council Member Cuthbertson stated that the City should focus on patching and resurfacing streets, given the rough winter experienced in the area, and not construct additional speed humps.

The City Manager stated that staff may have one speed hump to recommend in a high volume, cut through area.

Upon a motion by Council Member Cuthbertson, seconded by Mayor Pro Tem Owenby, Council voted unanimously to endorse the Spring 2010 street resurfacing and paving priority list recommended by staff and authorize staff to seek bids for this work.

PRESENT REQUEST FROM YMCA FOR USE OF DEPOT FOR STRONG KIDS CAMPAIGN EVENT: The City Manager advised that Mr. Tim Blenco, Executive Director of the Corpening YMCA, submitted a letter, requesting free use of the Depot on Tuesday evening, April 27, from 5:30 p.m. to 7:00 p.m. for a Strong Kids Campaign Victory Dinner. The Strong Kids Campaign is an effort of the YMCA to raise money for financial assistance to allow young people to join the YMCA and attend camps and other programs.

The City Manager stated that Council typically does not waive charges for rentals of the Depot or Community Building, but has on occasion made a donation to a requesting non-profit organization that can be used to pay the rent. The YMCA is an organization to which the City could make a donation.

Upon a Motion by Mayor Pro Tem, seconded by Council Member Cuthbertson, Council voted unanimously to make a$200 donation to the Corpening YMCA that could be used to pay the Depot rent.

REQUEST – CITY PARKING LOT - NEW COFFEE SHOP: Mr. Matthew Hebb walked into the Council Chamber during this segment of the meeting and asked that he be allowed to speak to Council.

Mr. Hebb stated that he is opening a coffee shop on West Henderson Street and would like to request that Council change the hours of City owned off-street parking lot to allow parking between the hours of 6:00 a.m. and 2:00 a.m., since he planned for his business to be opened these hours, at least on weekends. Mr. Hebb stated that he has recently moved from Asheville and wished to commend the Planning and Development Department staff, who have been excellent to work with, especially as compared to the City of Asheville.

Council Member Clark stated that this suggestion sounded good to him and that staff should look at the request and bring a recommendation back to Council at the next meeting.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

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The City Manager advised that a letter was sent to the Federal Surface Transportation Board, requesting a six month extension of the negotiating period with Norfolk Southern Railway (NS) for the Peavine Rail Line. He said that the City had talked with NS periodically, but recently learned that the NS contact had retired. His supervisor suggested that the City extend the negotiating period again and check back in a few weeks after a replacement is hired.

The City Manager stated that he had spoken to the supervisor of the retired NS contact in late March and told him that the City ideally wanted the right of way donated to the City. The NS contact said he would see what he could do. A few days later, NS sent one of their real estate people to look at the right of way with the City Manager. This NS representative agreed that the right of way is good for little other than a trail or rail line and that he would do what he could to make the City the best deal possible. The City Manager said he urged both people with NS to convince NS to give the City the right of way and neither NS representative indicated that such a request was out of the question.

The City Manager advised that the City's Census participation (response) rates were initially good, but now lagged behind the County, State and National rates. He said that he would like to have City Sanitation personnel deliver a letter to all households in the City, asking people to mail back their Census forms as soon as possible. Mayor Little and City Council Members expressed no objection to this suggestion by the City Manager and recommended that one side of the notice be in English and the other side in Spanish.

The City Manager stated that the City is waiting to hear whether it was funded for the State Energy Grant application submitted in conjunction with the County. This grant was written to relamp most City buildings with more energy efficient lighting.

The City Manager stated that he and Ms. Cotton, along with Council Member Cuthbertson (representing McDowell County Schools) met on March 30 with the consultants working with the Muddy Creek Restoration Partners on plans and a grant application for a greenway and stormwater treatment along the creek behind the Police Department and the School Central Office. The consultants are working on cost estimates to determine if the City could apply an in-kind service match for the grant. The City Manager said the grant is due April 30, so he should have more information at the April 20 Council meeting.

The City Manager stated that staff is awaiting the receipt of comments from DOT for the Downtown Streetscape Plan. Planning and Development Director Heather Cotton reported that she had received verbal approval from DOT for the downtown way finding signage and that written approval would hopefully be received in the near future. She added that she would next seek DOT approval for the interstate/bypass way-finding signage.

The City Manager advised that the City's annual City Open House for the Third Graders has been set for Friday, April 23. Old Fort Elementary will not participate. New Manna Christian School will participate for the first time. The home school children will not participate this year, nor will Marion Christian Academy, although both the home schoolers and Marion Christian Academy may participate next year.

The City Manager advised that complaints had been received about Ronny Turner Construction not completing punch list repairs and patching related to the Wastewater Improvements Project. Needed work includes patching on Finley Road and Cross Street and patching and drainage work on Bungalow Drive. The City Manager stated that staff had been pushing McGill to get the contractor to complete this work for some time. He advised that McGill indicated that the contractor would be in the next two days to complete the punch list work and that staff would check to make sure the work is done.

Council Member Clark stated that Ronny Turner Construction has not completed this project in the manner in which the contract states and in a timely manner. He gave an example of a large cut across Finley Road remaining open and uncovered for several months. Council Member Clark made a motion that if the punch list items are not completed by Thursday, that the City will issue a stop work order and initiate steps to terminate the contract.

The motion died from lack of a second.

Mayor Little stated that he would like this issue placed on the next agenda if the punch list items are not completed this week.

The City Manager stated that Shelby Music would be in on Thursday to install the sound system for the City Council Chambers.

The City Manager stated Planning and Development Director had developed a design for the Farmer's Market sign and Building Inspector Jay Suttles was close to selecting an electrician to complete the needed

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wiring work and light installation at the Farmer's Market. Both are working to complete these projects by the time the Market opens in late May. The City Manager stated that he, Ms. Cotton and Marion Business Association Director had chosen a good place for the donor sign on the far eastern end of the Shelter closest to the railroad tracks. He said that there have also been requests for benches under the Shelter. If there is money left over in the project, benches can be purchased.

The City Manager advised that the Revis Group is making great progress on the new City website, to be followed by consulting work regarding the City channel, Facebook and other communications issues. The City Manager stated that the Revis Group has stated that the website should go live on April 30 and has proposed holding a launch party on or before that date at their office to publicize the new website. Mayor Little and City Council Members expressed no objection to the idea of the launch party being held at the Revis Group office to publicize the new City website.

The City Manager commended Police Chief Mark Brooks for going through all Police Department policies and updating the Department's Policy Manual. He said that Chief Brooks wants to pursue national accreditation of the department and is seeking a grant to assist with this effort. The City Manager further stated that he is hearing many positive comments from the public about Chief Brooks visiting businesses and meeting people in the community.

COUNCIL MEMBER COMMENTS:

Council Member Doggett stated that a section of New Street where City Maintenance ends at the New Manna Church property has issues with speeding. She said that there have been many near misses. Mr. Cliff McLarty stated that he has witnessed a lot of problems at that location as well.

Mayor Clark stated that the Street Committee could look at this request. Council stated no objection to the Street Committee and staff looking at this matter.

Mayor Little stated that he wanted Council to think about an ordinance prohibiting City employees from talking on cell phones while driving a City vehicle. He advised that many cities had adopted similar restrictions.

ADJOURNMENT: Upon a motion by Council Member Cuthbertson, seconded by Council Member Doggett, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.00000730 (24)

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 20, 2010 at 6:00 P.M. in the City Council Chamber located at 194 North Main Street.

***Note**: Due to Mayor Little and Council Member Doggett having another engagement to attend, it was the consensus of Council to start this meeting at 6:00 P.M. in lieu of 7:00 P.M., with the scheduled Public Hearing still held at 7:00 PM as advertised. Notice of the earlier meeting time was provided in accordance with State law.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Cecil Owenby, Council Members A. Everette Clark, Lloyd Cuthbertson, Juanita Doggett and Billy Martin.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, AICP, Planning and Development Director; Mark Brooks, Police Chief; Chris Hollifield, Public Works Director; Gaye Noblitt, Police Lieutenant; Joshua Piercy, Police Corporal; Mike Conley, News Reporter, McDowell News; Steve Irish, News Reporter, The News Bulletin.

GUESTS PRESENT: Chris Revis and Mark Lyons, The Revis Group; Brittany Hollifield and Danylle Cupp Photojournalists from McDowell Technical Community College; Matthew Hebb, 151 Roane Street, Marion, NC.

OPEN MEETING: Mayor Little opened the meeting with a moment of silence.

CONSENT AGENDA: Upon a motion by Council Member Martin, seconded by Mayor Pro Owenby, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – April 6, 2010 City Council Minutes

B. Adopt Resolution of Consideration for Annexation

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 the City Planner and the City Clerk.

This Resolution of Consideration will include these described areas which are contiguous to the City Limits of the City of Marion on the 20th day of April, 2010.

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 AREAS 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 (SR1311) in a Northwesterly direction to a point located 650 feet to the end of Waycaster Road (SR 1319). Thence in a straight line Northerly direction to a point located 650 feet West of the end of Clear Creek Road (SR 1422). Thence following the line 650 feet North of and parallel to Clear Creek Road (SR 1422) in a Easterly direction to a point located 650 feet West of Lake Tahoma Road (N.C. Highway 80. Then following the 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 Tom's Creek Road (SR 1434). Thence following a line 650 feet West of and parallel to Tom's 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 Tom's Creek Road (SR 1434). Then in a straight line in an Easterly direction to the

AA.00000731 (24)

intersection of Cannon Road (SR 1553) and CSXT Railroad. Thence in a straight line in a Southeasterly direction to the intersection of Hankins Road (SR 1502) and Yancey Road (SR 1504). Thence 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. Owners of agricultural land, horticultural land and forestland within the area(s) under consideration for annexation as described in Section 1 above are hereby notified that they may have rights to a delayed effective date of annexation. G.S. 1604A-49 (f1) and (f2) provides that land being taxed at present-use value qualifies for delayed annexation, and land that is eligible for present use value taxation but which has not been in actual production for the time period required by G.S. 105-277.3 may qualify for delayed annexation by making application to the McDowell County Tax Assessor for certification. For qualified tracts, the annexation will not become effective for most purposes until the last day of the month in which the tract or part thereof becomes ineligible for present use value classification under G.S. 105277.4 or no longer meets the requirements of G.S. 160A-49 (f1) and (f2). Until annexation of a tract becomes effective, the tract will not be taxed by the City and will not be entitled to services from the City.

SECTION 3. That a copy of this Resolution shall be filed with the City Clerk.

ADOPTED this the 20th day of April, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Resolution Number: R-10-04-20-1

C. Approve Waiver of Civil Citation Penalty

Ms. Virginia Greene was issued a $10.00 parking citation on April 6, 2010 for parking in a handicapped parking space in the Lowe's Parking Lot without having a handicapped placard visible. Ms. Greene provided evidence to the City Manager that she possesses a handicapped placard and simply failed to display it on April 6. Therefore, Council approved the waiver of the $10.00 penalty for this citation.

D. Adopt Ordinance to Add Habitat Drive to Traffic Schedule:

ORDINANCE
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 3. Section 18-239 is amended by adding the following:

STREET NAME	REGULATION	REG. APPLICATION
HABITAT DRIVE	STOP SIGN	AT CHURCH STREET (CF)
		AT SHORT STREET (CF)

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 20th day of April, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-10-04-20-2

E. Approve Street Closure – Main Street – Going Home Free Will Baptist Church for Car Show:

Council approved the closure of Main Street between Fort and Court Streets on Saturday, May 8 from 4:00 p.m. to 8:00 p.m. for the Run to the Son Annual Car Show to be held by Going Home Free Will Baptist Church.

AA.000000732 (24)

F. Adopt Resolution Authorizing the Sale of City Property on West Yancey Street by Negotiated Offer and Upset Bid and Rejecting Previous Offer to Purchase Said Property Due to the Submission of a Qualifying Upset Bid:

Resolution Authorizing the Sale of Certain Property Owned by the City of Marion on West Yancey Street by Negotiated Offer and Upset Bid and Rejecting a Previous Offer to Purchase Said Property Due to the Submission of a Qualifying Upset Bid

WHEREAS, the City Council of the City of Marion desires to dispose of certain surplus property of the City; and

WHEREAS, N.C.G.S. 160A-269 authorizes a city to convey by negotiated offer and upset bid any real or personal property; and

WHEREAS, on March 17, 2010, Mr. Wynn Jackson submitted a bid in the amount of $2,500 for the purchase of approximately 0.20 acres of property owned by the City of Marion located on West Yancey Street (McDowell County Parcel Identification Number 1701.14-33-9687); and

WHEREAS, the City Council of the City of Marion adopted a resolution on March 23, 2010, in accordance with N.C.G.S. 160A-269, accepting the offer of Mr. Jackson to purchase the property, as described above, for a sum of $2,500, subject to public notice and upset bid; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion received a five percent bid deposit from Mr. Jackson; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion, on March 31, 2010, caused notice of the proposed sale of the property, as described above, to be published in The News Bulletin, a newspaper of general circulation in the City of Marion; and

WHEREAS, on April 7, 2010, Hopewell Road, LLC submitted a bid in the amount of $2,675 for the purchase of the property described above; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the bid submitted by Hopewell Road, LLC is a qualifying upset bid for the purchase of the property described above; and

WHEREAS, the City Council of the City of Marion desires to reject the previous bid of Mr. Jackson and to complete the sale of the property described above to Hopewell Road, LLC, subject to public notice and upset bid.

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

1. The parcel owned by the City of Marion on West Yancey Street (McDowell County Parcel Identification Number 1701.14-33-9687) that is approximately 0.20 acres in size is hereby declared to be surplus to the needs of the City of Marion.

2. The City Council rejects the offer of Mr. Wynn Jackson to purchase the above described property for $2,500, due to the submission of a qualifying upset bid during the required ten day upset bid period after publication of the proposed sale, as provided for in N.C.G.S. 160A-269.

3. The City Clerk shall refund Mr. Jackson the five percent bid deposit that he paid to the City.

4. The City Council accepts the offer of Hopewell Road, LLC to purchase the above described property for $2,675, subject to the upset bid process being followed as required by N.C.G.S. 160A-269.

5. The City Clerk shall notify Hopewell Road, LLC of the acceptance of this offer, receive a five percent bid deposit from the bidder, and cause a notice of this resolution to be published in accordance with G.S. 160A-269. Such notice shall state that prospective bidders have ten days from the date the notice is published to offer an upset bid, pursuant to G.S. 160A-269.

6. Once the upset bid process is completed, in accordance with G.S. 160A-269, the City Manager is designated to dispose of the above described property to the bidder selected by City Council, for a minimum price of $2,675.

Adopted this the 20th day of April, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-10-04-20-2

G. Adopt Resolution Directing Clerk to Investigate a Petition for Annexation – McDowell County Schools/Lukin Street Property:

AA.00000733 (24)

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-31 – MCDOWELL COUNTY SCHOOLS/LUKIN STREET - 2010

WHEREAS, a petition requesting annexation of an area described in said petition was received on April 15, 2010 by the City of Marion; and

WHEREAS, 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 of his investigation.

Adopted this the 20th day of April, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

RESOLUTION NUMBER: R-10-04-20-3

H. Receive Certificate of Sufficiency – McDowell County Schools/Lukin Street Annexation:

CERTIFICATE OF SUFFICIENCY – MCDOWELL CONTY SCHOOLS/LUKIN STREET ANNEXATION – 2010

To the City Council of the City of Marion:

I, J. Robert Boyette, City Clerk, do hereby certify that I have 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 20th day of April, 2010.

(Seal)

J. Robert Boyette, City Clerk

I. Approve Resolution Fixing the Date of Public Hearing on the Question of annexation – McDowell County Schools/Lukin Street Property:

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31 – MCDOWELL COUNTY SCHOOLS – LUKIN STREET - 2010

WHEREAS, a petition requesting annexation of the contiguous 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 contiguous area described herein will be held at City Hall at 7:00 P.M. on Tuesday, May 18, 2010.

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

Tract One

BEING that certain 2.55 acre tract as shown on the recorded plat recorded in Book 4 at page 264, McDowell County Register of Deeds to which reference is hereby made for a full metes and bounds description.

This conveyance is made SUBJECT to the right of way easement shown on recorded plat referred to above.

AA.00000734 (24)

AND BEING a portion of the lands described in that certain Deed dated January 19, 1978 from Grayson W. Davis and wife, Patricia W. Davis to Foothills Industries of McDowell County, Inc., and recorded in the Office of the Register of Deeds for McDowell County, NC in Book 269 at page 494, to which reference is hereby made.

A map showing the above described property is recorded in Plat Book 4, Page 264.

Tract Two

BEGINNING on an iron pin set in the property line common to Arthur Hooper and Foothills Industries of McDowell County, Inc., said iron pin being located North 48 degrees 59 minutes 14 seconds East 237.88 feet from an existing iron pin, the 2nd corner of the Foothills Industries of McDowell County, Inc. property of which this description is a part, and runs thence from said beginning iron pin and with the Hooper line, North 48 degrees 59 minutes 14 seconds East 127.04 feet to an existing angle iron, the 3rd corner of said Foothills Industries of McDowell County, Inc. property; thence with the line of Brown, South 87 degrees 12 minutes 17 seconds East 197.02 feet to an iron pin set in the J. C. Webb line; thence with said Webb line, South 43 degrees 23 minutes 50 seconds East 211.87 feet to an existing iron; thence continuing with said Webb line, South 76 degrees 45 minutes 19 seconds East 15.16 feet to an existing iron pin; thence with the lines of Ramsey and Washburn, South 47 degrees 00 minutes 36 seconds West 248.87 feet to an iron pin set; thence a new line North 47 degrees 15 minutes 38 seconds West 370.88 feet to the BEGINNING. Containing 1.89 acres, description furnished by R.L. Greene.

AND BEING a portion of the lands described in that certain Deed dated January 19, 1978 from Grayson W. Davis and wife, Patricia W. Davis to Foothills Industries of McDowell County, Inc., recorded in the Office of the Register of Deeds for McDowell County, NC in Book 269 at page 494 to which reference is hereby made.

Reference is hereby made of Foothills Industries of McDowell County, Inc. property recorded in Plat Book 4 at page 204, McDowell County Register of Deeds (plat prepared by R. L. Greene, dated July 12, 1984).

Section 3. Notice of the public hearing shall be published once in The News Bulletin, 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 the 20th day of April, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-10-04-20-4

PRESENTATION OF INTERMEDIATE LAW ENFORCEMENT CERTIFICATE TO CORPORAL JOSHUA PIERCY: Chief Brooks presented Police Corporal Joshua Piercy with his Intermediate Law Enforcement Certificate from the North Carolina Department of Justice.

Chief Brooks presented Officer Piercy with his certificate that read as follows:

Department of Justice
Of the State of North Carolina
North Carolina Criminal Justice Education and Training standards Commission
By virtue of the authority vested in the laws of the State and in recognition of the satisfactory completion of the basic training requirements and the demonstrated ability to perform those tasks required of a criminal justice officer, the North Carolina Criminal Justice Education and Training Standards Commission hereby awards to

JOSHUA ANDREW PIERCY
This
Intermediate
Law Enforcement Certificate

Signed this 30th day of March, 2010

_____
Commission Chairman

_____
Director, Criminal Justice
Standards Division

Chief Brooks stated that Corporal Piercy serves on the night shift and has been with the City for about four years.

AA.00000735 (24)

Mayor Little and Council Members thanked Corporal Piercy for a job well done and commended him for his dedication to the City.

PREVIEW OF UNDATED CITY WEBSITE: Mr. Chris Revis and Mr. Mark Lyons of the Revis Group presented Council with a short preview of the City of Marion's new website.

The City Manager added that Planning and Development Director Heather Cotton and other City staff have worked closely with the Revis Group to provide information for this website.

Mr. Lyons stated that the beta site for the new website would be visible by April 30 and the site is scheduled to go live by May 15.
Mayor Little and Council Members made some suggestions on how the website could be improved, but expressed their approval with the general appearance and content of the website.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present for this meeting.

COSIDER ADOPTION OF ORDINANCE TO EXTEND HOURS FOR PARKING IN CITY OFF-STREET PARKING LOTS: The City Manager advised that, as requested by Mr. Matthew Hebb of the Caffeine Underground, he drafted an ordinance to extend the hours of parking in City all-day off-street parking lots, except for the South Garden Street parking lot. The City Manager advised that he had originally proposed that parking be allowed in these parking lots between 6:00 a.m. and 2:00 a.m. The City Manager also reported that he added a provision to the draft ordinance to allow parking at all times for persons residing within two blocks of a parking lot, if such residents display a City parking tag or sticker (we could decide later whether to charge for said tag). The idea of this provision is to further encourage upper floor residential uses in the downtown area.

The City Manager stated that he sent a proposed ordinance to Matthew Hebb and encouraged him to provide comments and/or attend the April 20 Council meeting. Mr. Hebb suggested that, with his coffee shop staying open until 2:00 a.m., his employees would need to be able to park until about 3:00 a.m. Based on these comments, the City Manager said he revised the draft ordinance to allow parking between 6:00 a.m. and 3:00 a.m. He added that it would almost make sense to eliminate the restrictions altogether, but it might be good to leave a few hours when parking is restricted if for no other reason than to make a statement that the City does not want people parking overnight.

Mr. Hebb was present for this discussion. He said he supported the proposed ordinance and agreed that there should be a time when parking is restricted, so as not to encourage overnight parking.

Upon a motion by Mayor Pro Tem Owenby, seconded by Council Member Cuthbertson, Council voted unanimously to adopt the following Ordinance amending the hours of parking for City owned off-street parking lots as follows:

ORDINANCE
AMENDING CHAPTER 18
TRAFFIC
MARION CITY CODE

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

Section 1. That Chapter 18, Traffic, of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Section 2. Chapter 18 is amended by deleting Section 18-258 in its entirety and replacing it with the following:

Sec. 18-258. All-day parking lots.

(a) The parking lots described in subsections (2) through (6) 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 hours of 3:00 a.m. and 6:00 a.m. local time, except for persons residing within two blocks of a particular parking lot, who may park their personal vehicles in the all-day parking lot closest to their residence at any time the lot does not carry restrictions of use in accordance with posted signs if a parking tag or sticker issued by the City is displayed.

(b) The parking lot described in subsection (7) of section 18-256 is hereby designated as an all-day parking lot with restrictions of use at certain times in accordance with posted signs. No person shall park any motor vehicle and leave such vehicle parked in the above described all-day parking lot between the hours of 3:00 a.m. and 6:00 a.m. local time, except for employees of the McDowell County Emergency Medical Services, who may park their personal vehicles in this parking lot while on duty at any time the lot does not carry restrictions of use in accordance with posted signs.

(Code 1982, § 7-1192; Ord. of 9-2-97, § 1; Ord. No. O-01-10-02-2, § 3, 10-2-01; Ord. No. O-06-03-07-3, § 3, 3-7-06; Ord. No. O-06-05-02-2, § 3, 5-2-06)

AA.0000007936 (24)

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 20th day of April, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-10-04-20-3

CITY MANAGER REPORTS: The City Manager gave a brief report on current projects.

The City Manager presented Council with a draft sketch of the historic marker recognizing Roy Williams. The draft showed the proposed wording that had been suggested for the sign. The City Manager related that, per previous Council direction, no City funds would be used for this sign.

Mayor Pro Tem Owenby asked how the City would go about raising the money for the marker. The City Manager suggested that an appeal could be made to the public for funds, once the design and cost of the sign were identified.

Council Member Martin stated that he felt the wording was fine with one minor change.

The City Manager's asked for Council to provide any further edits to the sign design or wording to him as soon as possible, so that the design could be sent to a marker company in order for an estimate to be prepared.

The proposed

ROY WILLIAMS
National championship winning college basketball coach
for University of North Carolina and Member of
Basketball Hall of Fame. Born 1950 in Marion General
Hospital, which stands one block north.

No action was taken on this item.

The City Manager advised that the Catawba River Greenway ground breaking is scheduled for Friday, April 30 at 12:00 Noon on the Greenway site. Mayor Little stated that this is a very exciting moment for the City and that we would like as many Council Members as possible to attend.

Council Member Cuthbertson stated that he would be out of town that day and unable to attend.

The City Manager stated that the Sugar Hill Road/Super Wal Mart commercial development property closing is scheduled to take place on April 26, with construction to follow soon thereafter. Mayor Little related that the deeds have been signed for the property to be included in the development.

The City Manager stated that Planning and Development Director Heather Cotton had completed the sign design for the Farmer's Market donor sign and the sign will soon be made by a sign company. He added that Building Inspector Jay Suttles is working with electricians to wire the shelter and install lighting. Both projects will be completed by the time the market opens in late May.

The City Manager advised that the City had been awaiting the receipt of comments from DOT for the Downtown Streetscape Plan. He stated that DOT District Engineer Doug McNeal had told him the week before that the Plan generally looked good and that DOT would provide feedback on a couple of details. The City Manager added that Mr. McNeal was working to obtain $50,000 in DOT funding for the project and to obtain approval of the resurfacing of Main Street by 2011. The City Manager advised that downtown way finding signage would be installed by the end of June.

The City Manager stated that city crews would be working for the next couple of weeks to complete patching of City streets. As previously reported, the cold weather was very hard on our streets this year. City crews will also work to complete the Eastfield Community Park by summertime.

Mayor Little stated that the patching of State Steeet, where a water line was recently completed, needed to take place. Public Works Director Chris Hollifield stated that the patching is half way complete and will be completed later in the week, as soon as there is dry weather and asphalt is available.

AA.000000737 (24)

Council Member Martin stated that there is an urgent need for patching on sections of Logan Street adjacent to the Community Building Park. The City Manager advised that Logan Street is a DOT street and the need for patching would be communicated immediately to DOT District Engineer Doug McNeal.

The City Manager advised that the State had approved the City's request to allow television towers to remain on Mt. Ida and that a revised deed for the property had been submitted and recorded to allow the tower site to be subdivided from the grant funded tract. This will allow the grant to be closed out. The City will need to pay the State for the appraised value of the land ($20,600), reimbursing them for the grant proceeds for this part of the property. UNC-TV and WLOS will pay for all associated costs with this request.

The City Manager advised that Mr. James Nations of Duke Energy had identified 30 power poles in the City that could be removed, as had been mentioned previously by Council.

Council Member Clark stated that he had spoken with Mr. Steve Swaim of Duke Energy about the many abandoned power poles in the City that needed to be removed, that word got back to Mr. Nations, resulting in these 30 poles being identified for removal. Council Member Clark suggested that the City send a note to Mr. Swain thanking him for his efforts and congratulating him on his upcoming retirement. The City Manager said that he would do so.

The City Manager advised that the Eight Annual City Open House for the Third Graders has been set for Friday, April 23. The event will take place as in past years. Old Fort Elementary will not participate. New Manna Christian School will participate for the first time. The home school children will not participate this year, nor will Marion Christian Academy, although both the home schoolers and Marion Christian Academy may participate next year. Baxter Healthcare will cook lunch and provide food and drinks.

Council Member Clark stated that a lot of cities are now hosting such open house events, but Marion was one of the first cities to do so.

The City Manager stated that he had received notice that the City and County had been selected for a Source Protection Award for the Buck Creek Watershed Plan. He advised that the award would be received in May and could then be formally presented to City Council.

The City Manager advised that he and Planning and Development Director Heather Cotton along with Council Member Cuthbertson (representing McDowell County Schools) met on March 30 with the consultants working with the Muddy Creek Restoration Partners on plans and a grant application for a greenway and stormwater treatment along the creek behind the Police Department and the School Central Office. The consultants are working on cost estimates to determine if the City could apply an in-kind service match for the grant. The City Manager stated that after this meeting, additional discussions were held with Dr. Chris Nevant and McDowell County Schools and both property owners have agreed to donate part of their property to implement the proposed design. The grant application is due April 30 and it may take several months to learn if the project has been funded.

The City Manager presented Council with a copy of a news release regarding the annual Downtown Cleanup on Saturday, April 24. The City Manager stated the City will have volunteers and City staff picking up trash and weed eating that day.

Planning and Development Director Heather Cotton advised of current McDowell Arts Council Association activities, including a Port-a-Pit chicken dinner on May 7.

The City Manager stated that the joint dinner meeting with the County Commissioners was scheduled for Thursday evening, April 29 at 5:45 PM at Countryside Barbeque on Rutherford Road.

COUNCIL MEMBER COMMENTS:

Mayor Pro Tem Owenby stated that he had received complaints about a barking dog on Lincoln Avenue. However, the man who had complained had provided very little information, so not much can be done without more details being provided.

Mayor Little stated that the next E-3 forum will be held on Friday, April 30 at the Depot. Congressman Heath Shuler will speak. Mayor Little said that the starting time will be later than usual at 8:45 a.m., since Congressman Shuler said he must take his son to school that morning.

AA.0000007738 (24)

Mayor Little stated that a Closed Session needs to be held at the May 4 Council meeting to discuss a matter involving the acquisition of real property.

Council Member Cuthbertson stated that he had forwarded information to the City Manager on a possible grant program for a shelter at the Community Building Park Splash Pad, as had been discussed at the previous Council meeting.

Council Member Clark advised that changes may be coming to the City's health insurance as a result of recent Federal health care legislation. The City Manager stated that he is anxiously waiting to receive the City's health insurance rates for 2010-11. He said that the City's claim history for the past 12 months had been very good and the City's Wellness Program continued to be a great attribute for the City.

PUBLIC HEARING – ADOPTION OF ANNEXATION ORDINANCE – DAY'S INN/US 221 SOUTH SATELLITE ANNEXATION: Mayor Little stated that it is now 7:00 PM, as advertised for the Day's Inn/US 221 South Annexation public hearing. Mayor Little opened the Public Hearing.

The City Manager advised that the City had completed the annexation process for the Day's Inn/US 221 South satellite annexation request. A public hearing must be held on the proposed annexation, after which time Council may adopt an ordinance to annex the property, effective June 30, 2010.

There were no citizens present to discuss this annexation request.

Mayor Little closed the Public Hearing.

Upon a motion by Mayor Pro Tem Owenby, seconded by Council Member Cuthbertson, Council voted unanimously to adopt the following Ordinance to extend the Corporate Limits of the City of Marion to include the Day's Inn/US 221 South satellite annexation property:

AN ORDINANCE TO EXTEND
THE CORPORATE LIMITS OF THE
CITY OF MARION, NORTH CAROLINA –
DAY'S INN/SAA INCORPORATED/US 221 SOUTH - 2010

WHEREAS, the City Council has been petitioned under G.S. 160A-58.1 to annex the area described below; and

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

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at City Hall at 7:00 P.M. on Tuesday, April 20, 2010, after due notice by publication on Wednesday, April 7, 2010; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-58.1(b);

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

Section 1. By virtue of the authority granted by G.S. 160A-58.2, the following described territory is hereby annexed and made part of the City of Marion as of June 30, 2010:

BEGINNING on an existing iron pin, said existing iron pin marking the southern margin of the right-of-way for Interstate I-40 said, existing iron pin also being located North 86 degrees 01 minutes 39 seconds West 317.52 feet from a P.K. Nail set in the western margin of the right-of-way for U.S. Highway 221; thence, South 86 degrees 01 minutes 39 seconds East 317.52 feet to a P.K. Nail set in the western margin of the right-of-way for U.S. Highway 221; thence, South 86 degrees 01 minutes 39 seconds East 50.00 feet to a point in the centerline of U.S. Highway 221; thence, following the centerline of U.S. Highway 221, South 04 degrees 00 minutes 19 seconds West 493.86 feet to a point in the centerline of U.S. Highway 221; thence, leaving U.S. Highway 221, South 86 degrees 10 minutes 28 seconds West 50.48 feet to an existing iron pin set in the western margin of the right-of-way for U.S. Highway 221; thence, South 86 degrees 10 minutes 28 seconds West 93.96 feet to an existing iron pin set; thence, North 03 degrees 19 minutes 55 seconds West 140.06 feet to an existing iron pin set; thence, South 87 degrees 43 minutes 16 seconds West 237.69 feet to an existing iron pin set; thence, South 76 degrees 03 minutes 12 seconds west 363.82 feet to an existing iron pin set near a creek; thence, North 15 degrees 08 minutes 24 seconds West 24.96 feet to an existing iron pin set in the margin of the right-of-way of Interstate I-40; thence, following the margin of the right-of-way for Interstate I-40. North 38 degrees 56 minutes 28 seconds East 193.12 feet to a right-of-way monument; thence, North 43 degrees 29 minutes 26 seconds East 226.23 feet to a right-of-way monument, thence, North 46 degrees 13 minutes 58 seconds West 9.71 feet to a right-of-way monument, thence, North 46 degrees 26 minutes 42 seconds East 203.05 feet to an existing iron pin set in the southern margin of the right-of-way for Interstate I-40, said existing iron pin marking the point and place of beginning. Containing 5.61 acres more or less as shown by that certain unrecorded plat of survey dated the 20th of November 2004 and prepared by Surveying Dimensions, Donald R. McEntire, Registered land surveyor, #L-4183.

AND BEING the same land as described in and conveyed by that certain deed which is duly recorded in the office of the Register of Deeds for McDowell County in Deed Book 485 at page 610.

AA.000000739 (24)

Section 2. Upon and after June 30, 2010, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City of Marion. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Marion shall cause to be recorded in the office of the Register of Deeds of McDowell County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the McDowell County Board of Elections, as required by G.S. 163-288.1.

ADOPTED this the 20th day of April, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Approved As To Form:

City Attorney

Ordinance Number: O-09-04-20-1

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Council Member Cuthbertson, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.00000740 (24)

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion held a Special Meeting with the McDowell County Board of Commissioners on Thursday, April 29, 2010 at 5:45 P.M. at Countryside Barbeque located at 2070 Rutherford Road.

BOARD MEMBERS PRESENT: Mayor Steve Little, Mayor Pro Tem Cecil Owenby, Council Members Juanita Doggett and Billy Martin.

Council Members Everette Clark and Lloyd Cuthbertson could not be present for the meeting due to scheduled meetings out of town.

MCDOWELL COUNTY BOARD OF COMMISSIONER MEMBERS PRESENT: Chairman David Walker, Vice Chairman Barry McPeters, Commissioners Michael Lavender and Andy Webb.

Commissioner Dean Buff was not present for the meeting.

OTHERS PRESENT: Bob Boyette, City Manager; Chuck Abernathy, McDowell County Manager; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Karin Conley.

WELCOME/COMMENTS: Mayor Little and Chairman Walker opened the meeting and welcomed those who were present. Mayor Little stated that no business would be conducted tonight, as this was a meeting to allow fellowship between the City Council and Board of Commissioners.

Chairman Walker stated that he appreciated the working relationship between the City and County and what the City did for the community and its citizens every day.

Mayor Little invited everyone present to attend the Catawba River Greenway Phase 1 groundbreaking the next day at 12:00 Noon at the Greenway site off of Highway 70 West.

It was agreed by general consensus that the County would host a similar gathering within the next six months.

ADJOURNMENT: The meeting was adjourned at 6:50 P.M.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.0000000741.(24)

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, May 4, 2010 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Cecil Owenby, Council Members A. Everette Clark, Lloyd Cuthbertson, and Billy Martin.

Council Member Juanita Doggett was not present for this meeting due to being out of town.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Mark Brooks, Police Chief; Chris Hollifield, Public Works Director; Marc Cook, President, Marion Business Association; Freddie Killough, Executive Director, Marion Business Association; Mike Conley, News Reporter, McDowell News; Kaitlyn Evans, News Reporter, The News Bulletin.

GUESTS PRESENT: Tom & Jaime Stone P.O. Box 1516 Marion, NC; Margaret Lawing 220 California Avenue, Marion, NC; Ed Rankin P.O. Box 639 Marion, NC; Lisa Hanlon 1344 Old Highway 10E Marion, NC; Marc Cook 206 North Madison Street, Marion, NC; Jed & Susan Rankin 462 Forest Heights Drive Marion, NC; Beth Ross 74 Rainbow Trout Drive, Marion, NC; Scott Hagaman 50 Deep Woods Drive Marion, NC.

OPEN MEETING: Mayor Little opened the meeting with a moment of silence.

CITIZEN OF THE MONTH – SELECTED BY MAYOR STEPHEN R. LITTLE: Mayor Stephen R. Little selected the Citizen of the Month for April 2010.

Jaime Rankin Stone

Mayor Little stated that Jamie Rankin Stone grew up in Marion and in the First Baptist Church. She was active in the Youth Choir at First Baptist Church, as well as the symphonic band and the marching band at McDowell High School. Mrs. Stone was also a majorette, a member of the National Honor Society and graduated with honors from McDowell High School. She graduated with honors from Western Piedmont Community College with an A.S. degree in Medical Laboratory Technology and later graduated Summa Cum Laude from N.C. State University with a B.S. degree in Health Occupations Education. Ms. Stone is a licensed Clinical Laboratory Scientist with Specialty in Chemistry.

Mayor Little advised that Mrs. Stone's first job was at the Marion General Hospital in the 1970's. She then worked a few years in her father's business, Marion Credit, before moving to Raleigh and working in the chemistry lab at Rex Hospital. Mrs. Stone later worked with St. Joseph's Hospital and then with a company called Becton Dickinson where she traveled over the country installing and repairing lab equipment in clinics and doctor's offices. Health issues forced Ms. Stone to retire early.

Mrs. Stone later responded to an ad in the McDowell News for volunteers for a free medical clinic in March 2009. She fell in love with the clinic work and become the clinic director in April of that year. When this clinic closed, Mrs. Stone put together a Steering Committee to start a new clinic under the leadership of Dr. Scott Hagaman at the First Baptist Church. The Clinic was named the Good Samaritan Clinic, reopened on February 16, 2010 and has been a tremendous success.

Mayor Little stated that Mrs. Stone also enjoys spending time with her family and she and her husband recently bought their dream home on Airport Road.

Council Member Cuthbertson arrived for this meeting at 7:15 PM during the Citizen of the Month presentation.

Mayor Little, Council Members, family and friends all shared kind words about Mrs. Jaime Rankin Stone.

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Owenby, seconded by Council Member Clark, those members of Council present voted to approve the consent agenda as follows:

A. Approval of Minutes – April 20, 2010 Regular City Council Meeting Minutes

B. Approve Budget Ordinance Amendments:

CITY OF MARION, NORTH CAROLINA
2009-2010 BUDGET ORDINANCE
(Third Amendment)

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

AA.000000742 (24)

Section 1. That the Budget Ordinance for the City of Marion, North Carolina for the fiscal year 2009-10 as adopted by the Marion City Council on the 16th day of June, 2009 is hereby amended as follows:

GENERAL FUND

a. General Fund Expenditures, Administration, Account Number 10-420-7400, Capital Outlay is increased from $16,100 to $18,300.

b. General Fund Expenditures, Police, Account Number 10-510-1500, M&R Building is decreased from $17,500 to $13,500.

c. General Fund Expenditures, Police, Account Number 10-510-1600, M&R Equipment is decreased from $19,000 to $15,000.

d. General Fund Expenditures, Police, Account Number 10-510-5100, Ammo & Guns is increased from $10,500 to $13,625.

e. General Fund Expenditures, Police, Account Number 10-510-7400, Capital Outlay is increased from $80,360 to $88,360.

f. General Fund Expenditures, Fire, Account Number 10-530-7400, Capital Outlay is increased from $6,000 to $994,000.

g. General Fund Expenditures, Public Works, Account Number 10-545-7400, Capital Outlay is increased from $-0- to $5,570.

h. General Fund Expenditures, Non Departmental, Account Number 10-660-5500, Wellness Programs is increased from $1,500 to $3,250.

i. General Fund Expenditures, Non Departmental, Account Number 10-660-9000, Transfer to GF Capital Projects is increased from $16,000 to $26,000.

j. General Fund Revenues, Account Number 10-334-1500, Bullet Proof Vest Revenue is increased from $-0- to $2,151.

k. General Fund Revenues, Account Number 10-361-0000, Interest Earned Revenue is decreased from $55,000 to $18,000.

l. General Fund Revenues, Account Number 10-361-1000, Interest – Powell Bill Revenues is increased from $600 to $1,600.

m. General Fund Revenues, Account Number 10-392-5000, USDA Loan Proceeds is increased from $-0- to $860,000.

n. General Fund Revenues, Account Number 10-399-0000, Fund Balance Appropriated is increased from $408,923 to $593,417.

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 4th day of May 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–10–05–04–1

PUBLIC APPEARANCE – MARION BUSINESS ASSOCIATION:

Marion Business Association President Marc Cook appeared before Council and presented the January – March 2010 Quarterly Report of the Marion Business Association, as follows:

Economic Development Report

New Businesses Opened – 2 Angels Thrift Shop, 133 South Main Street
Businesses Closed – Blue Zone, 101 South Street
Business Opportunity Inquiries - 4
Business Loan Inquiries – 6
Business Grant Inquiries – 16
Business Visits - 14
Property Referral Inquiries – 2
Property Owner Contacts w/ Available Buildings - 2
Contacts with interested Commercial Developers – 0
New Businesses Breaking Ground - 2

Other Economic Activity:
E-3 Forum, February 19 with Lt. Governor Walter Dalton. 30-35 attended
E-3 Forum, February 26 with N.C. Commerce Secretary Keith Crisco. 35 attended
Main Street Solutions Grant – Submitted grant April 11 for a potential Downtown Restaurant.

AA.000000743 (24)

Realtor Mike Rabb leased a West Fort building to the State for use as a training facility for the Administrative Office of the Courts in Western North Carolina.
MBA continues to meet with the WNC Rail Committee to promote passenger rail service to Western North Carolina.
MBA continues to maintain listing of commercial properties in the City of Marion.
Partnered with MTCC Small Business Center for REAL class. Had 20 participants finish the entrepreneur class with a completed business plan.
Attended Micro Loan training at NC Rural Center. The MBA is an intake office for Rural Center Micro Loans.

Special Events Report (January – March is planning time for events.)

January 5 – Review & Planning meeting for 2010 New Year's Eve Celebration
January 13 - Hosted 12th Annual Inmate Luncheon for 125 people.
January 26 – 2010 Tailgate Market Producer meeting
March 28 – Easter Egg Hunt with YMCA. The children had a wonderful time and loved Mr. & Mrs. Bunny Rabbit.
Volunteer Hours Committed – 35

Upcoming Events

Saturday, May 1 – Sidewalk Yard Sale – Main Street
Friday, May 7 – E-3 Forum, Author William Lambe
Saturday, May 15 – Community Appreciation Day 1:00 – 4:00 PM, Main Street – Hosted by ERA Realty
Tuesday, May 18, Historic Marion Tailgate Market Opens; 3:00 PM – 6:00 PM
Friday, May 21 – E-3 Forum, Community Agency Report – Looking to the Future
Friday, June 4 - First Friday Concert & Livermush Festival – Main Street, Performance by the Moore Brothers
Tuesday, June 8, 8:00 AM - MBA Annual membership meeting and breakfast.
Saturday, June 26 – Honey Bee Arts Festival – Main Street

Every Thursday Night, 7:00 PM – Free Bluegrass Music Jam @ Depot

Marion Business Association Executive Director Freddie Killough invited Mayor Little and Council Members to attend the next E-3 Forum scheduled for Friday, May 7 at the Depot.
Mayor Little thanked Mr. Cook and Ms. Killough for their presentation and for the hard work of the Marion Business Association.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

PRESENTATION OF BUCK CREEK SOURCE WATER PROTECTION PLAN: Public Works Director Chris Hollifield gave a brief presentation on the Buck Creek Source Water Protection Plan that the City, County, State and other agencies and citizens worked on for the past year. The purpose of the Plan is to improve water quality in the Buck Creek Watershed, the City's main water supply, and to ensure that the City has an adequate quantity of water.

A copy of the plan was presented to each Council Member.

Council Member Clark stated that this is an important document and that Council Members only received the document on Friday. Council Member Clark said that the Plan appeared to be very good, but he wanted to make sure that what the Plan called on the City to do to protect the Watershed was not too much of a burden on the City's staff resources. Mayor Little suggested that approval of this document should be tabled until Council has time to review the document in more detail.

The City Manager stated that Council adoption of the Plan is not needed at the present time and that he agreed it would be a good idea to understand the City's responsibilities. The City Manager advised that the City and County had recently been selected to receive a State Source Water Protection award for this Plan. He advised that many people have worked hard on this project, particularly Public Works Director Chris Hollifield and Water Plant Superintendent Steve Miller.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Owenby, those members of Council present voted to table consideration of the Source Water Protection Plan until the June 1 Council meeting, at which meeting further review of the Plan can take place.

CONSIDER ADOPTION OF ORDINANCE TO INCREASE PROHIBITIONS AGAINST TOBACCO USE IN CITY PARKS AND ON CITY PROPERTY: The City Manager stated that, as discussed during the February 25 Council Planning Session, he had drafted an ordinance to extend prohibitions against tobacco use to areas outside of City buildings, in City parks and under the Farmer's Marker Shelter. The ordinance proposes that tobacco use continue to be prohibited in all City buildings and vehicles, and also prohibited on sidewalks in front of City buildings, within 30 feet of public entrances to City buildings, within 10 feet of non-public entrances to City buildings, within all City parks, under the Farmer's Market Shelter and in other areas designated as no smoking areas and would become effective July 1, 2010. The City Manager stated that, in many of these areas such as City parks and under the Farmer's Market shelter, tobacco use has been prohibited by Council by policy. He added that signs will need to be

AA.000000744 (24)

placed to make people aware of the ordinance. Council Member Cuthbertson said he would check with the McDowell County Schools Tobacco Prevention Program to see if the Program had grant funds that could pay for the signs.

The City Manager stated that the City Attorney looked at the ordinance he had prepared for consistency for State law. The City Manager stated that the City Attorney suggested that a subsection be added to make it clear that violations would not extend to private property.

The City Manager stated that he had also reviewed the draft ordinance with department heads and have heard no comments or proposed changes.

Upon a motion by Council Member Clark, seconded by Council Member Martin, those members of Council present voted to adopt the following Ordinance to extend prohibitions against tobacco use in City parks and on City property, effective July 1, 2010:

ORDINANCE
AMENDING CHAPTER 11
OFFENSES
MARION CITY CODE

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

Section 1. That Chapter 11, Offenses, of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Section 2. Chapter 11 is amended by deleting Section 11-18 in its entirety and replacing it with the following:

Sec. 11-18. Use of tobacco products in city-owned buildings, vehicles, parks and in certain locations around city facilities prohibited.

(a) Smoking or the use of any tobacco product is prohibited in the following locations:

(1) Inside all buildings or structures owned or leased by the City.

(2) In any vehicle owned or leased by the City.

(3) On the following grounds and locations:

(a) On all sidewalks in front of any building or structure owned or leased by the City

(b) Within a thirty foot radius of any public entrance to any building or structure owned or leased by the City

(c) Within a ten foot radius of any non-public entrance to any building or structure owned or leased by the City

(d) Within any park or greenway owned or leased by the City, including but not limited to the Community Building Park, the Community Building Splash Pad, the North Main Street Gazebo Park, the South Main Street Gazebo Park, the West Marion Community Park, the Cross Mill Community Park, the Eastfield Community Park, the Clinchfield Community Park, the Catawba River Greenway and the Historic Depot Courtyard

(e) Under the Historic Marion Tailgate Market Shade Shelter

(f) At any other location designated and posted as a "no smoking area" by the City

(b) It shall be unlawful for anyone to deposit any portion of a cigarette, cigar, smoking device, or any refuse related to smoking on property, sidewalks, streets, alleys and rights-of-way owned, leased or maintained by the City, except in a receptacle designated for that purpose.

(c) It shall be a defense to any violation under this Section that the violation occurred on private property.

Section 3. This ordinance shall become effective on July 1, 2010.

Adopted this the 4th day of May, 2010.

AA.000000745 (24)

Stephen R. Little
Mayor

ATTEST: _____
L. Robert Boyette
City Manager/Clerk

Ordinance Number: O-10-05-04-2

CONSIDER APPROVAL OF SEWER CONNECTION OUTSIDE CITY – POULTRY PROCESSING FACILITY – AG SERVICES DRIVE OFF OF HIGHWAY 226 SOUTH: The City Manager advised that McDowell County had submitted a request for a water and sewer connection for the new poultry processing facility to be constructed on Ag Services Drive off of Highway 226 South. The water connection can be approved by staff; however, Council approval of the sewer connection is needed, given that the property in question is located outside the City Limits.

The City Manager reported that McGill Associates sent a letter advising that the Corpening Creek Wastewater Plant can handle the wastewater flow from this facility, as long as a grease trap proposed for the facility is installed.

The City Manager stated that staff agrees with McGill's opinion that the City can handle the wastewater flow with no problems, as long as the grease trap is installed and maintained properly.

Council Member Clark asked how much water the facility would use.

The City Manager stated that the projected wastewater flow would be 8,000-9,000 gallons per day and that a private pump station would be installed.

Council Member Clark asked who would be inspecting the grease trap and if it would be pumped out on a regular basis. Council Member Clark stated that the reason he asked is because, when Marion Correctional Institution was built, the City had major problems with the pump station, resulting in an expensive lawsuit. The City Manager stated that the County Building Inspector would technically inspect the grease trap, since the facility is outside the City, but that the grease trap would be subject to regular inspections by the City and would have to be pumped out regularly, as required by the City Code. He said that it might be prudent for the City to direct that City staff inspect the grease trap before it is installed to make sure it is sufficient.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Owenby, those members of Council present voted to approve the request of McDowell County for a sewer connection for the poultry processing facility on Ag Services Drive outside the City Limits, on the condition a grease trap is installed and also inspected and approved by the City, and that the grease trap is maintained and pumped out in accordance with the City Code.

CONSIDER ADOPTION OF CITY COUNCIL ETHICS POLICY: The City Manager stated that the North Carolina General Assembly passed legislation in 2009 requiring all local governing boards to adopt an Ethics Policy by the end of 2010. He advised that the City recently received a copy of a Model Ethics Policy drafted by the School of Government.

The City Manager stated that he had taken this Model Ethics Policy and made only some very slight adjustments to create a draft City of Marion Ethics Policy.

Council Member Clark stated that he feels this the Model Ethics Policy is just a set of rules and feels that the City can do a better job to make a true Code of Ethics.

A brief discussion followed.

Upon a motion by Council Member Cuthbertson, seconded by Council Member Clark, those members of Council present voted to table this item and to review the draft Ethics Policy in more detail at the May 25 Council Budget Workshop/Planning Session.

CONSIDER APPROVAL OF SPRING 2010 RESURFACING/PAVING CONTRACT: Public Works Director Chris Hollifield advised that the City recently sought bids for the resurfacing of six streets and the paving of one street, as previously authorized by Council. Only one paving company, Johnson Paving of Marion, responded with a bid. Johnson bid $107,575 for 1.25" paving on the six streets to be resurfaced, 2" paving on Leach Street Extension and the placement of one speed hump next to the Rock Tenn plant on Burgin Street. Mr. Hollifield stated that the City normally goes with 1.25" asphalt for our resurfacing. This work will hopefully take place in May or June.

AA.000000746 (24)

Upon a motion by Council Member Clark, seconded by Council Member Martin, those members of Council present voted to authorize the placement of a speed hump on Burgin Street and award the contract for the Spring 2010 Street Resurfacing and Paving to Johnson Paving in the amount of $107,573, to include 1.25" paving on the six streets to be resurfaced, 2" paving on Leach Street Extension and the placement of one speed hump on Burgin Street.

SCHEDULE BUDGET WORKSHOP: The City Manager stated that he hoped to distribute the proposed 2010-11 City Budget to City Council no later than the May 18 City Council meeting. He said that Council typically holds one budget workshop in late May, usually on the last Tuesday of the month.

The City Manager stated that he would propose that Council schedule a Budget Workshop for Tuesday, May 25, beginning at 6:00 p.m. at City Hall, or on another date if desired by Council. A second Budget Workshop can be scheduled if necessary.

The City Manager advised that Council had already agreed to hold a Pre-Budget Workshop on Monday, May 10 to discuss several budget related issues before the budget proposal is finalized.

It was the consensus of Council to schedule a Budget Workshop/Planning Session on Tuesday, May 25 at 6:00 P.M at City Hall.

ADD ON – RESOLUTION - AUTHORIZING THE SUBMISSION OF GRANT – SUGAR HILL ROAD WATER AND SEWER EXTENTION: The City Manager advised that, after Council packets were prepared, he learned that the City Council needs to adopt a resolution authorizing the submission of a $300,000 Appalachian Regional Commission (ARC) grant application for the Sugar Hill Road Water and Sewer extension.

Upon a motion by Council Member Clark, seconded by Council Member Cuthbertson, those members of Council present voted to adopt the following Resolution authorizing the submission of a $300,000 Appalachian Regional Commission (ARC) grant application for the Sugar Hill Road Water and Sewer extension:

UNITED STATES DEPARTMENT OF AGRICULTURE –
RURAL DEVELOPMENT APPLICATION

RESOLUTION

BE IT RESOLVED, That the City of Marion has authorized the submission of an application to the United States Department of Agriculture, Rural Development office, to administer the Appalachian Regional Commission (ARC) project, which will help fund the construction of water and sewer extensions on Sugar Hill Road to serve a new Wal-Mart Supercenter and provide water and sewer to homes along the route in a distressed Census tract. The grant application amount is $300,000.

ADOPTED by the City Council of the City of Marion this the 4th day of May, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

City Seal

RESOLUTION NUMBER: R-10-05-04-1

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that Administrative Assistant Debi Sherlin found information on a grant program used to fund a shade shelter for a school in Kannapolis, as had been mentioned by Council Member Cuthbertson at the April 20 Council meeting, in relation to a shade shelter for the Community Building Park Splash Pad. He said that the grant period has closed for 2010, but will reopen for 2011 grants in October. Projects are eligible to receive $8,000 grants. The City Manager asked if Council wished to wait and apply for the grant or wanted staff to proceed with the shade shelter. It was the consensus of Council that staff should seek a grant for the shade shelter. If the grant is not funded, the City could construct the shade shelter next Spring.

The City Manager advised that the Eighth Annual City Open House was held on April 23. He said it was a great day with wonderful weather. The City Manager commended Ms. Sherlin, other City staff, volunteers

AA.000000747 (24)

and Baxter Healthcare for their contributions to the day. Mayor Little added that he was able to participate in Open House for the first time and enjoyed the experience of talking to the students.

The City Manager advised that he had asked the DOT District Engineer on April 21 to patch some bad spots on Logan Street behind the Community Building Park and tennis courts, as had been mentioned by Council Member Martin at the April 20 Council meeting. This work has since been done.

The City Manager advised that the City closed on the USDA loan for the fire tower truck on April 30 and have received the truck. Fire Chief Jim Neal and Assistant Fire Chief Ray McDaniel brought the new tower truck and brush truck by City Hall prior to the meeting for Council to see.

The City Manager advised that the closing on the Super Wal Mart commercial development was scheduled to take place on April 26. However, Wal Mart delayed the closing due to a couple of issues that needed to be resolved, including the need for a State stormwater permit. He added that the closing will hopefully soon take place, to be followed by construction.

The City Manager advised that the DOT logo sign request is still pending with DOT officials in Raleigh, but that Senator Queen and Representative Gillespie have offered to introduce legislation regarding this matter if necessary.

The City Manager advised that the Daughters of the Revolution (DAR) have requested to place their logo on a sign placed by the City in four locations, on which several civic clubs currently display their logos.

Council Member Clark made a motion to approve this request and Council Member Cuthbertson seconded it.

Upon further discussion regarding the fact that this approval could set a precedent for other non-profit organizations and that the signs were originally designed for civic club only, Council Member Clark withdrew his motion and Council Member Cuthbertson withdrew his second. The City Manager was directed to instruct the DAR and any other future groups making requests that the signs are limited to civic clubs in McDowell County.

The City Manager stated that he had talked that morning to the Tree Board about Council Member Martin's idea to have people purchase honorary or memorial apple trees to plant in City parks. He said that the Tree Board members liked the idea of planting honorary trees; however, they had concerns about maintenance, spraying and bees as far as apple trees were concerned. The Tree Board suggested that the City set aside\ space for a community garden as long as people or groups would agree to maintain the garden.

The City Manager advised that the City's webcams are functional and that the City's new website will launch on May 17.

COUNCIL MEMBER COMMENTS: Council Member Clark stated that he served on the N.C. League of Municipalities Risk Management Services (RMS) Board of Directors, which oversees three insurance pools, two of which (Worker's Compensation and Health Insurance) the City is a member. He advised that the RMS Board had done everything possible to keep insurance premium rates as low as possible; however, the Health Insurance pool did not have a good year and the premiums of all cities had increased. Council Member Clark said that the City of Marion received the lowest premium increase of any city, at 0.8 percent, due to its excellent claim history and active Wellness Program.

Council Member Clark stated that he feels the City needs to work on completing the Comprehensive Land Use Plan, as he has seen on the RMS Board large claims result from cities not having good plans in place and not following such plans.

CLOSED SESSION TO DISCUSS A MATTER INVOLVING THE ACQUISITION OF REAL PROPERTY UNDER N.C.G.S. 143-318.11(a)(5): Upon a motion by Council Member Martin, seconded by Council Member Clark, those members of Council present voted to go into Closed Session in accordance with N.C.G.S. 143-318.11(a)(5) to discuss a matter involving the acquisition of real property.

REGULAR SESSION: Upon a motion by Council Member Clark, seconded by Council Member Martin, those members of Council present voted to go back into Open Session.

Mayor Little announced that no action was taken during the Closed Session.

ADJOURNMENT: Upon a motion by Council Member Clark, seconded by Council Member Martin, those members of Council present voted to adjourn.

AA.00000748 (24)

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion held a Special Meeting on Monday evening, May 10, 2009 at 6:00 P.M. in the Conference Room located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Steve Little, Mayor Pro Tem Cecil Owenby, Council Members A. Everette Clark, Lloyd Cuthbertson, Juanita Doggett and Billy Martin.

OTHERS PRESENT: Bob Boyette, City Manager; Harriett Thomas, CPA, Finance Director; Chris Hollifield, Public Works Director

OPENING OF MEETING: Mayor Little opened the meeting at City Hall at 6:01 p.m.

RECESS MEETING: Upon a motion by Council Member Martin, seconded by Council Member Cuthbertson, Council voted unanimously to recess the meeting to property proposed as the location of a Clinchfield Community Park off of Branch and Hill Streets at 6:10 p.m.

RECONVENE MEETING: Mayor Little reconvened the meeting at property proposed as the location of a Clinchfield Community Park off of Branch and Hill Streets at 6:10 p.m.

TOUR OF PROPOSED CLINCHFIELD PARK PROPERTY: Public Works Director Chris Hollifield led City Council on a tour of property owned by the City off of Branch and Hill Streets and adjacent property owned by Mr. Frank Boldon that have been proposed for the location of a community park and greenway in the Clinchfield neighborhood. The property extends from Hill Street to Virginia Road. The City Manager advised that the City already owns about four acres and Mr. Boldon is now proposing to donate about six to seven additional acres to the City.

Mr. Hollifield described how grading and drainage will be required on the property.

RECESS MEETING: Upon a motion by Council Member Cuthbertson, seconded by Mayor Pro Tem Owenby, Council voted unanimously at 6:40 p.m. to recess the meeting to City Hall at 6:50 p.m.

RECONVENE MEETING: Mayor Little reconvened the meeting at City Hall at 6:50 p.m.

DISCUSSION OF PROPOSED CLINCHFIELD PARK PROPERTY:
Council held a brief discussion about the proposed Clinchfield Park property. Mayor Little and Council Members stated that they felt that it would be in the City's best interest to accept the offer of Mr. Frank Boldon to donate six to seven acres of property located off of Hill Street to be used in combination with existing adjacent property the City already owns for use as a community park and greenway in the Clinchfield neighborhood.

Council directed the City Manager to place consideration of the acceptance of the property from Mr. Boldon on the May 18 City Council meeting agenda.

PRE-BUDGET WORKSHOP/PLANNING SESSION: The City Manager provided an overview of revenue and expenditure issues related to the 2010-11 City Budget. The City Manager presented several items he planned to recommend to balance the budget, mainly involving expenditure cuts to the General Fund Budget.

AA.00000749 (24)

The City Manager stated that the proposed 2010-11 Budget would be presented to Council by the May 18 Council meeting and that Council had previously agreed to hold a Budget Workshop to review the Budget on Tuesday, May 25 at 6:00 p.m. at City Hall.

The City Council discussed ideas for development of future tax base, including growth and economic development.

The City Manager reported that he would be recommending the purchase of a GIS/Computer Aided Dispatch/GPS Tracking System for the Police Department, mainly to be funded with drug seizure funds the City currently has on hand. These funds can only be used for the purchase of Police equipment. Council agreed by consensus for the City Manager to pursue the purchase of this software and equipment.

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Owenby, Council voted unanimously to adjourn the meeting at 8:30 p.m.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, May 18, 2010 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Cecil Owenby, Council Members A. Everette Clark, Lloyd Cuthbertson, Juanita Doggett and Billy Martin.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, AICP, Planning and Development Director; Scott Spratt, Police Patrol Commander; Chris Hollifield, Public Works Director; Mike Conley, News Reporter, McDowell News; Kaitlyn Evans, News Reporter, The News Bulletin.

GUESTS PRESENT: No guests were present for this meeting.

OPEN MEETING: Mayor Little opened the meeting with a moment of silence.

CONSENT AGENDA: Upon a motion by Council Member Cuthbertson, seconded by Mayor Pro Owenby, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – April 29, 2010 City Council Special Meeting Minutes
May 4, 2010 Regular City Council Meeting Minutes
May 4, 2010 City Council Closed Session Minutes

B . Approve Waiver of Civil Citation Penalty

Council approved the waiver of the $10.00 penalty for a civil citation issued to Mr. Harold Stroud for parking in a handicapped parking space without having his placard displayed. Mr. Stroud provided evidence that he possesses a valid handicapped placard.

AA.000000750 (24)

License Tag # YNT-7660
Ticket # 10-10554
Handicapped Tag # P43726 (Valid)

C . Adopt Resolution Authorizing the Sale of City Property on West Yancey Street by Negotiated Offer and Upset Bid and Rejecting Previous Offer to Purchase Said Property Due to the Submission of a Qualifying Upset Bid

Resolution Authorizing the Sale of Certain Property Owned by the City of Marion on West Yancey Street by Negotiated Offer and Upset Bid and Rejecting a Previous Offer to Purchase Said Property Due to the Submission of a Qualifying Upset Bid

WHEREAS, the City Council of the City of Marion desires to dispose of certain surplus property of the City; and

WHEREAS, N.C.G.S. 160A-269 authorizes a city to convey by negotiated offer and upset bid any real or personal property; and

WHEREAS, on April 7, 2010, Hopewell Road, LLC submitted a bid in the amount of $2,675 for the purchase of approximately 0.20 acres of property owned by the City of Marion located on West Yancey Street (McDowell County Parcel Identification Number 1701.14-33-9687); and

WHEREAS, the City Council of the City of Marion adopted a resolution on April 20, 2010, in accordance with N.C.G.S. 160A-269, accepting the offer of Hopewell Road, LLC to purchase the property, as described above, for a sum of $2,675, subject to public notice and upset bid; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion received a five percent bid deposit from Hopewell Road LLC; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion, on April 28, 2010, caused notice of the proposed sale of the property, as described above, to be published in The News Bulletin, a newspaper of general circulation in the City of Marion; and

WHEREAS, on May 6, 2010, Mr. Wynn Jackson submitted a bid in the amount of $3,000 for the purchase of the property described above; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the bid submitted by Wynn Jackson is a qualifying upset bid for the purchase of the property described above; and

WHEREAS, the City Council of the City of Marion desires to reject the previous bid of Hopewell Road, LLC and to complete the sale of the property described above to Mr. Wynn Jackson, subject to public notice and upset bid.

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

1. The parcel owned by the City of Marion on West Yancey Street (McDowell County Parcel Identification Number 1701.14-33-9687) that is approximately 0.20 acres in size is hereby declared to be surplus to the needs of the City of Marion.

2. The City Council rejects the offer of Hopewell Road, LLC to purchase the above described property for $2,675, due to the submission of a qualifying upset bid during the required ten day upset bid period after publication of the proposed sale, as provided for in N.C.G.S. 160A-269.

3. The City Clerk shall refund Hopewell Road, LLC the five percent bid deposit that he paid to the City.

4. The City Council accepts the offer of Mr. Wynn Jackson to purchase the above described property for $3,000, subject to the upset bid process being followed as required by N.C.G.S. 160A-269.

5. The City Clerk shall notify Mr. Wynn Jackson of the acceptance of this offer, receive a five percent bid deposit from the bidder, and cause a notice of this resolution to be published in accordance with G.S. 160A-269. Such notice shall state that prospective bidders have ten days from the date the notice is published to offer an upset bid, pursuant to G.S. 160A-269.

6. Once the upset bid process is completed, in accordance with G.S. 160A-269, the City Manager is designated to dispose of the above described property to the bidder selected by City Council, for a minimum price of $3,000.

Adopted this the 18th day of May, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-10-05-18-1

AA.00000751 (24)

PUBLIC HEARING – ZONING TEXT AMENDMENT: Mayor Little opened the Public Hearing.

Planning Director Heather Cotton advised that the City of Marion had identified the need to revise the Zoning Ordinance to update the M-1 Industrial Zoning District to include uses that are more representative of current industrial trends. This amendment would also assist the City of Marion and the McDowell County Economic Development Agency (MEDA) in industrial recruitment by affirming a shared commitment and desire to have industries locate in Marion. Ms. Cotton stated that staff has proposed a number of manufacturing and light industrial uses as well as an amendment that would provide flexibility in the code that would allow for administrative interpretation for allowing light industrial land uses not specifically identified within the M-1 Industrial Zoning District.

Ms. Cotton advised that the Planning Board voted unanimously at its meeting on May 6, 2010 to recommend approval of this Zoning Test Amendment.

There were no citizens present to discuss this proposed Zoning Text Amendment.

Council Member Clark stated that the City needs to get the Comprehensive Plan completed as soon as possible. He said that he has attended several meetings as a member of the North Carolina League of Municipalities Risk Management Services Board of Directors and learned that many lawsuits are being filed over zoning issues. Jurisdictions with updated land use plans are in better position to defend such claims.

Mayor Little stated that he has recently seen many lawsuits filed regarding zoning issues as well.

Council Member Clark stated that he supported this proposed and thought it was needed to assist in the recruitment of industry.

The City Manager stated that he appreciated Ms. Cotton's work in preparing this Zoning Text Amendment and making it include many industrial uses that the City hopes to attract.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following Ordinance amending Chapter 21, Zoning, of the City Code to add permitted uses in the M-1 Industrial District.

ORDINANCE
AMENDING CHAPTER 21
ZONING
MARION CITY CODE

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Section 2. That Chapter 21, Zoning, Section 21.21 Definition to add the following:

Sec. 21-21 Definitions

Industry, light A use that involves the manufacturing, production, processing, fabrication, assembly, treatment, repair, research, packaging, warehousing, wholesaling, and distribution of finished products, predominately from previously prepared or refined materials or raw materials that do not require refinement.

Industry, heavy Manufacturing or other enterprises with external effects that pose risks due to the involvement of flammable or explosive material, radioactive material, poisons, pesticides, herbicides, solvents, solid waste, sanitary waste, or other hazardous materials in the manufacturing, storage or other processes of such material that have the potential of creating a hazardous condition or public nuisance.

Section 3. That Chapter 21, Zoning, Section 21.206.2 Permitted Uses within the M-I Industrial Zoning District is amended to add the following:

Sec. 21-206.2. Permitted uses. Within the M-1 Industrial District the following uses are permitted:

(1) Contractor's plants or storage yards.

(2) Commercial recreation conducted entirely within an enclosed building.

(3) Industrial equipment machinery repair and service.

(4) Lumber yards, building materials storage.

(5) Machine shops.

(6) Plumbing shops and their accessory storage yards.

(7) Radio and television stations and masts.

(8) Signs, as regulated by article VII, section 21-131.

(9) Tire recapping shops.

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(10) Trucking terminals.

(a) Wholesale establishments for storage of oil, fuel oil and gasoline.

(b) Temporary retail sales for itinerant merchants as defined in section 10-172 of the Marion City Code provided that the temporary sale last no longer than seven (7) consecutive days and are not held more than once per quarter.

See section 21-86 for parking requirements.

(11) One residential unit to serve as accessory living quarters to a permitted principal use.

(12) Furniture and textile manufacturing

(13) Computer, data processing, data storage, telemarketing, or other similar technology-based use.

(14) Any industrial use deemed by the planning director to be similar in nature to a permitted use listed in this section or any light industrial use that by design and function would not be classified as a heavy industrial use.

21-206.3 Special exceptions. The following uses are permitted as special exceptions as provided for in Article XII, Section 21-303.2 of this Ordinance:

(1) Automobile wrecking, junk and salvage yards provided that:

(A) All motor vehicles stored or kept in such yards shall be so kept that they will not catch and hold water in which mosquitoes may breed and so that they will not constitute a place or places in which rats, mice, or other vermin may be harbored, reared, or propagated.

(B) Because of the tendency for salvage yards to promote the breeding of vermin, such operation shall be permitted no closer than two hundred (200) feet from any established residential zone.

(C) All outdoor storage of salvage and wrecking operations shall be conducted entirely within an enclosed opaque fence, screen, or wall, excepting driveway area, from eight (8) to twelve (12) feet in height. Storage between the road and street and such fence, screen, or wall is expressly prohibited. Any fence, screen, or wall for screening purposes shall be properly painted or otherwise maintained in good condition.

(D) All such yards shall be so maintained as to be in sanitary condition and so as not to be a menace to the public health or safety.

(E) The number of vehicular access driveways permitted on any single street frontage shall be limited to:

1. One driveway where the parcel to be used as a maximum road or street frontage of one hundred (100) feet or less.

2. Two (2) driveways where the road or street frontage exceeds one hundred (100) feet. Driveways used for ingress and egress shall be limited to twenty-five (25) feet in width.

(F) For the purposes this section 21-206.3, an inoperable or junked motor vehicle shall not be deemed to be viewed from a public roadway if it is stored on a site that is the subject of an approved screening plan, as defined herein and approved by the body issuing the permit, or within an enclosed structure which visually conceals the inoperable motor vehicles.

(G) In order to maintain safety for pedestrian and vehicle traffic, vehicles associated with automobile repair shops, automobile sales, tire sales and services, towing and wrecking service businesses may not be parked, displayed, stored or repaired within four feet of the curb or the edge of the road if no curb exists.

(H) On-site traffic areas shall be provided and arranged in such a manner as to provide easily identifiable ingress and egress, adequate customer and employee parking, access for emergency vehicles, and adequate turnarounds such that backward movement onto the public roadways is avoided.

(I) Inoperable motor vehicles shall not be stored in the customer or employee parking spaces required per the Off-Street Parking Requirements set out in Section 21-86.

(J) The provisions contained in Chapter 9, Article III concerning Abandoned, Nuisance or Junked motor vehicles continue to apply.

(K) Automobile graveyards, Automobile wrecking, junkyards and salvage yards must obtain a permit from the Zoning Office.

(L) Those junk yards or automobile graveyards lawfully existing at the time that sub-section (F) through (L) of Section 21-206.3(1) of this Ordinance are adopted shall have five (5) years from the adoption of the Ordinance to come into full compliance with the provisions in Section 21-206.3 (1)(F) through (L).

(2) Manufacturing and processing operations provided, however, that no permit shall be issued except in conformance with Article XII, Section 21-206.3of this Ordinance and further provided that these uses are subject to such conditions as the Board shall require in order to prevent smoke, odor, noise, dust or other efforts that would be detrimental to the health, safety and general welfare of the community.

(A) Where in the opinion of the Board engineering data or other studies are needed to determine the possible adverse effects of a proposed industry on the health, safety, and welfare of the community, the Board may require the applicant to submit such data or other studies prepared by competent engineers or other technical people.

(3) Planned unit developments, in accordance with the requirements in Section 21-255.

(4) Trade lots and/ or Flea Markets located totally within an existing structure.

(5) Commercial recreation conducted in open, partially enclosed or screened facilities.

(6) Any industrial use deemed by the planning director to be similar in nature to any industrial use that by design and function would be classified as a heavy industrial use.

Section 3. This ordinance shall become effective upon its adoption.

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Adopted this the 18th day of May, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/ Clerk

Ordinance Number: O-10-05-18-1

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present for this meeting.

CONSIDER ACCEPTANCE OF ADDITIONAL PROPERTY FOR CLINCHFIELD PARK: The City Manager stated that, last year, the City received a generous donation of four acres of property off of Hill Street from Frank and Debra Boldon. This property was planned as the location of the Clinchfield Community Park. The City Manager stated that, as discussed at the May 10 Council Planning Session, Mr. and Mrs. Boldon are now proposing to donate approximately six to seven more of the remaining 8.65 acres they own adjacent to the City owned property off of Hill Street. This additional property would allow for more room and a flatter area in which to construct the Clinchfield Community Park and adjacent greenway.

The City Manager added that grading and drainage work will be needed and that will likely be the focus of City funding for 2010-11, with the actual park construction likely taking until 2011-12, due to budget limitations.

Public Works Director Chris Hollifield advised that the additional property offers greater flexibility for the park construction as well as ample land for Arbor Day plantings.

Mayor Little stated that Mr. and Mrs. Boldon have been very generous to the City of Marion through the years. He advised that the Boldons funded the beautiful hanging baskets on Main Street and now have given the City the necessary property on which to construct a first class park for the Clinchfield area. Mayor Little stated that the City is thankful for the Boldons' generosity and wishes to express its appreciation to them.

Mayor Little asked if the City has received a letter from the State confirming that the City will not be issued any fines for existing sedimentation and erosion control violations on the property. The City Manager stated that he had asked the N.C. Department of Environment and Natural Resources for a statement in writing that the City will not inherit any fines or be subject to fines if the City accepts the property and follow an agreed upon schedule for clearing the violations. He said that he would follow up and make sure this letter is received.

Upon a Motion by Mayor Pro Tem Owenby, seconded by Council Member Cuthbertson, Council voted unanimously to accept the donation of six to seven acres of property located off of Hill Street from Frank and Debra Boldon, contingent on the N.C. Department of Environment and Natural Resources providing a statement in writing that the City will not inherit any fines or be subject to fines if the City accepts the property and follows an agreed upon schedule for clearing the existing sedimentation and erosion control violations.

REVIEW REQUEST FOR SEWER CONNECTION: The City Manager advised that, as shown in the information presented to Council, Johnny and Kathryn Broome of 569 East Oak Street had submitted a letter requesting to be released from a sewer connection contract they signed on April 5. The Broomes state that City staff did not tell them that the City would not install the private service line on their property between the sewer tap and their house. The City Manager stated that he informed the Broomes that he had never heard of a customer who assumed that the City would install a private service line. The City Manager reported that the Broomes paid $100 down and are requesting that this amount be refunded.

The City Manager stated that the sewer connection had not yet been made. He further noted that he had advised the Broomes that they were not permitted to repair or replace their septic tank. Mrs. Broome said their septic tank only needs to be pumped at the current time.

The City Manager advised that, if Council wishes to release the Broomes from the contract, it might be reasonable to state that the $100 they paid down will be kept as an administrative fee.

Council Member Clark asked if the Broomes septic tank had failed. The City Manager stated that the Broomes say it has not. Council Member Clark said he had no problem with releasing the Broomes from this contract, but said that eventually they will need to go on sewer when their septic tank fails. He said this is a pay me now or pay me later situation.

Upon a motion by Mayor Pro Tem Owenby, seconded by Council Member Clark, Council voted unanimously to release Johnny and Kathryn Broome of 569 East Oak Street from the sewer connection

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contract they signed with the City on April 5 and to refund them the $100 down payment made on this contract.

Mayor Pro Tem Owenby suggested that the contract language include a statement that the work to be done by the City does not include work on the service line on private property.

Council Member Doggett suggested that the contact language also include a statement that the City will keep any down payment that is made in the event the contract is broken prior to the service connection being made.

CITY MANAGER REPORT: The City Manager gave a brief report on current projects.

The City Manager presented an invitation to the final E-3 forum on Friday, May 21, at which community agencies will discuss economic development. The City Manager advised that he would be giving a presentation on behalf of the City.

The City Manager advised that the Catawba River Greenway contractor, Eagle Wood, Inc., from Denver, N.C., has started construction on the Greenway.

The City Manager advised that the City's annual Health Fair for employees was held on Wednesday, May 12, from 10:00 a.m. to 2:00 p.m. at the Depot.

The Health Fair and other wellness initiatives have helped the City receive premium reductions on health insurance in recent years.

Council Member Clark stated that the City of Marion's Wellnesss Program is ahead of most other cities and is really paying off with lower insurance premiums.

The City Manager advised that the new City website went live the evening before. He said that City staff worked with the Revis Group to finalize the new website. The City Manager stated that the launch party for the new website would likely be held the following week at the Revis Group office.

The City Manager advised that city crews have completed their work to construct and equip the new Eastfield Park. Johnson Paving will pave the basketball court and walking track within the next two weeks \ and the City will then plant grass. The Park should be officially open within 30 days.

The City Manager advised that the Muddy Creek Restoration Partners Had submitted a Section 319 grant application to the State for the stormwater treatment/greenway project behind the Police Department, Dr. Nevant's office and the School Central Office on South Main Street. The grant application did not propose any cash match from the City, since the City will be able to count the value of property donations from the three property owners listed above and provide some in-kind services from City crews. The City Manager said that it may be several months before the City receives word if the grant is funded.

The City Manager advised that he attended the meeting of the Vietnam Memorial wall Committee on May 11. The committee plans to bring the Wall That Heals to Marion in mid May 2011. The wall would be placed on the YMCA soccer field.

The City Manager advised that he and Planning and Development Director Heather Cotton met with DOT District Engineer Doug McNeal the week before regarding the Downtown Streetscape Plan. He said that Mr. McNeal advised that the overall plan looks good and that written approval should soon be forthcoming.The City Manager reported that Mr. McNeal will direct a few minor changes to the plan. Mr. McNeal is also working on obtaining $50,000 in DOT funding for the project and obtaining approval for DOT to resurface Main Street by 2011.

The City Manager presented Council with the draft 2010-11 City budget and gave a brief overview of budget highlights, as follows:

- The total recommended budget for all five funds (General Fund, Water and Sewer Fund, Internal Service Fund, General Capital Reserve Fund and Water and Sewer Capital Reserve Fund) is $9,519,019.
- The budget is a 3.61 percent, or $356,368, decrease over the amended 2009-10 City budget.
- The budget decrease is mainly due to the loss of hundreds of thousands of dollars in revenues.
- The budget includes very conservative revenue and expenditure estimates, due to continuing uncertainty about the State and National economy.

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- The 2009-10 City budget was a 9.9 percent, or $1,044,256, decrease over the 2008-09 City budget.

- There is no recommended tax rate increase. This will be the 43rd year in a row that the City of Marion has not increased taxes.

- The City's property tax base is expected to increase by a small amount due to continued modest growth in the City offset partially by reductions in business personal property values.

- The budget calls for a six percent increase in water and sewer rates. This is the fifth year of a five year six percent annual water and sewer rate increase approved by the City Council in 2006.

- The budget provides for funding for several projects, inclucing:

  - Funding for street, sidewalk, curb and drainage projects, $197,719
  - Code enforcement expenses for dilapidated housing demolition, $15,000
  - Purchase of computers for Police Department, $4,500
  - Miscellaneous Fire Department capital needs, $10,000
  - Purchase of two pickup trucks for Street Division, $40,000
  - Sand spreader and snow blade to equip additional vehicle for snow removal for Street Division, $20,000
  - Purchase of 4X4 tractor with blade and bucket for snow removal on sidewalks and other areas for Street Division, $14,000
  - Miscellaneous Street Division equipment, $2,000
  - Purchase of eight dumpsters, $6,500
  - Mini park funding, including work on Clinchfield Community Park, $25,000
  - Purchase of water and sewer pipe, valves and hydrants, $75,000
  - Purchase of underground punch or tamp in Utility Maintenance Division, $3,000
  - Purchase of replacement meter reading vehicle, $20,000
  - Paving work at Water Plant, $10,000
  - Installation of security cameras at Water Plant, $16,000
  - **Replacement of valves at Water Plant, $26,000**
  - Replacement of vehicle at Water Plant, $20,000
  - Rehabilitation of Goodrum Drive and Grayson Street wastewater pump stations, $16,500
  - Cement for Goodrum Drive and Victory Drive wastewater pump stations, $2,500
  - Purchase of equipment at Wastewater Plant, $13,500

- There are other projects planned by the City for completion in 2010-11, but which are included in project budgets instead of the annual budget. These projects include the Wastewater Improvements Project (involving the elimination of the Catawba River Wastewater Treatment Plant, the transfer of wastewater flow from that Plant to the City's larger Corpening Creek Wastewater Treatment Plant and improvements to the Corpening Creek Plant to make the facility a true 3 million gallon per day plant capable of meeting current and future State and Federal regulations), the Sugar Hill Road water and sewer extension to I-40 to serve the Wal Mart Supercenter development and surrounding areas, the Downtown Streetscape Plan implementation and other projects.

The City Manager stated that he appreciates the work City staff has done to offer options for cutting the budget and that he particularly thanks Finance Director Harriett Thomas for her tremendous efforts to put together the budget document and to go through numerous revenue and expenditure options until the budget was sufficiently balanced.

The City Manager noted that City Council had agreed to hold a Budget Workshop/Planning Session on Tuesday, May 25 at 6:00 P.M. at City Hall.

COUNCIL MEMBER COMMENTS:

Council Member Clark asked if the Catawba River Wastewater Treatment Plant was close to being taken off line, as part of the $6.6 million Wastewater Improvements Project.

The City Manager stated that the Catawba River Plant is hopefully within a few days of being taken off line. The contractor is beyond the scheduled completion date, due to weather.

Council Member Cuthbertson asked about property tax collection percentages. The City Manager provided information on tax collection percentages for 2009 and prior years.

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Council Member Cuthbertson commented on the letter to the editor in the McDowell News that day regarding older, unattended children at the splash pad bullying younger children. The City Manager stated that the City had not received any complaints about this matter.

Council Member Cuthbertson asked if there was a policy in place requiring children at the Splash Pad to be supervised by an adult. The City Manager said that signs could be posted to this effect if desired by Council. Mayor Little stated that some things such as this should be common sense and not require the posting of signs. Council took no action to direct the placement of any additional signs at the Splash Pad.

Council Member Cuthbertson asked if the lights were in at the Farmers Market Shelter. The City Manager advised that power has been extended to the Shelter, but the lights are not in yet. The lights will hopefully be installed by next week's Market.

Council Member Cuthbertson stated that the School System is donating at least 25 signs to the City regarding the no tobacco use ordinance recently approved by Council for City parks and around entrances to City buildings.

Mayor Little stated that he was disappointed with the pale color of many of the flowers in the downtown hanging baskets. He said that he thought the City's landscape contractor, Lawrence Moore, had been told the City wanted more color in the baskets.

The City Manager stated that Mr. Moore understood this instruction and had expressed his disappointment in the baskets not having more color. The City Manager stated that City staff would contact Mr. Moore about this matter.

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Council Member Clark, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.00000757 (24)

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion held a Special Meeting on Tuesday evening, May 25, 2009 at 6:00 P.M. in the Conference Room located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Steve Little, Mayor Pro Tem Cecil Owenby, Council Members A. Everette Clark, Juanita Doggett and Billy Martin.

Council Member Lloyd Cuthbertson could not attend this meeting due to a scheduled event out of town.

OTHERS PRESENT: Bob Boyette, City Manager; Harriett Thomas, CPA, Finance Director

BUDGET WORKSHOP/PLANNING SESSION: The City Manager provided an overview of his proposed 2010-11 City budget. The budget was reviewed in detail by the Mayor and City Council and the City Manager presented the City's current financial picture and outlook. The City Manager also presented proposed water and sewer rate increases, a proposed $5 per year motor vehicle license tax for the City, adjustments to the privilege license schedule and increases in building permit and commercial garbage fees. After reviewing available revenues and needed expenditures, it was agreed that a two percent cost of living adjustment for City employees would remain in the 2010-11 budget, given that the City has not given a cost of living increase in two years.

After discussion and review, Council directed no changes to be made to the budget as presented by the City Manager.

The public hearing on the budget and consideration of adoption of the 2009-10 City budget will be held on Tuesday, June 15, 2010 at 7:00 p.m. at City Hall.

The City Council also discussed issues involving a proposed GIS/GPS system for the Police Department, residency requirements for certain City positions, placement of children at play signs, commercial cardboard recycling and the idea of accident and/or fire response fees. The City Council also reviewed and suggested changes to a draft Ethics Policy. No action was taken by City Council regarding any of the items that were discussed.

ADJOURNMENT: Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Owenby, Council voted unanimously to adjourn the meeting.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

AA.00000758 (24)

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 1, 2010 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Cecil Owenby, Council Members A. Everette Clark, Lloyd Cuthbertson, Juanita Doggett and Billy Martin.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Harriett Thomas, CPA, Finance Director; Heather Cotton, AICP, Planning and Development Director; Mark Brooks, Police Chief; Chris Hollifield, Public Works Director; James Harklerode, Police Sergeant; Mike Conley, News Reporter, McDowell News; Kaitlyn Evans, News Reporter, The News Bulletin.

GUESTS PRESENT: Stephanie Harklerode, 165 Buneson Road, Marion, NC; J.R. & Donna Edwards, Marion, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

Council Member Clark noted that this meeting marks Mayor Little's six month anniversary as Mayor.

CONSENT AGENDA: Upon a motion by Council Member Cuthbertson, seconded by Council Member Clark, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – May 10, 2010 City Council Pre-Budget Workshop/Planning Session Minutes
May 18, 2010 Regular City Council Meeting Minutes
May 25, 2010 City Council Budget Workshop/Planning Session Minutes

B . Adopt Resolution Authorizing Submission of N.C. Rural Center Planning Grant Application for Water Plant Renovation Study

AUTHORIZING RESOLUTION
BY THE CITY COUNCIL OF THE CITY OF MARION
Planning Grants Program

WHEREAS, The Appropriation Planning grant funds has authorized the making of grants to aid eligible units of government in financing the cost of planning for construction of wastewater treatment works, wastewater collection systems, and water supply systems, water conservation projects; and

WHEREAS, The CITY OF MARION has need for and intends to plan for the construction or rehabilitation of a publicly-owned treatment works or an alternate wastewater system, for wastewater co9llection systems or for water supply and distribution systems, project described as WATER TERATMENT PLANT EVALUATION & SOURCE ALTERNATIVES; and

WHEREAS, THE CITY OF MARION intends to request grant assistance from the Planning Grants Program for the project:

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

That THE CITY OF MARION will arrange financing for all remaining costs of the project, if approved for a grant.

That THE CITY OF MARION will provide for efficient operation and maintenance of the project on completion of construction thereof.

That BOB BOYETTE, MANAGER, and successors so titled, is hereby authorized to execute and an application on behalf of THE CITY OF MARION with the NCREDC (Rural Center) for a grant to assist in the project described above.

That BOB BOYETTE, MANAGER, and successors so titled, is hereby authorized and directed to furnish such information as the Rural Center may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That THE CITY OF MARION has substantially complied or will substantially comply with all Federal, State, and local lows, rules, regulations, and ordinance applicable to the project and to the grants pertaining thereto.

Adopted this the 1st day of June, 2010 at MARION, North Carolina.

(Signature of Chief Executive Officer)

Stephen R. Little, Mayor

ATTEST:

(Seal)

J. Robert Boyette, City Manager/Clerk

FUNDING SOURCES RESOLUTION
BY THE CITY COUNCIL OF THE CITYOF MARION
Planning Grants Program

WHEREAS, The Appropriation Planning grant funds has authorized the making of grants to aid eligible units of government in financing the cost of planning for construction of wastewater treatment works, wastewater collection systems, and water supply systems, water conservation projects: and

WHEREAS, THE CITY OF MARION has need for and intends to plan for the construction or rehabilitation of a publicly-owned treatment works or an alternate wastewater system, for wastewater collection systems or for water supply and distribution systems, project described as WATER TREATMENT PLANT EVALUATION & SOURCE ALTERNATIVES; and

WHEREAS, THE CITY OF MARION intends to request grant assistance from the Planning Grants Program for the project;

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

That THE CITY OF MARION will commit a cash match of $20,000 to the project, if approved for a grant.

That THE CITY OF MARION will distribute the cash match from its water and sewer fund.

Adopted this the _____ day of _____ 2010 at MARION, North Carolina.

(Signature of Chief Executive Officer)

MAYOR

ATTEST:

Clerk (Seal)

PRESENTATION OF CERTIFICATE TO POLICE SERGEANT JAMIE HARKLERODE – COMPLETION OF TACTICAL TRAINING PROGRAM: Police Chief Mark Brooks stated that Sergeant Jamie Harklerode came before Council a few weeks ago to receive his Advanced Law Enforcement certificate and comes again to receive his certificate for completion of the Tactical Training Program from the North Carolina Department of Justice.

Chief Brooks presented a news release from the North Carolina Justice Academy stating that Sergeant James Harklerode III completed the Tactical Training Certificate Program that read as follows:

The Marion Police Department is proud to announce that Sergeant James Harklerode III recently completed the Tactical Training Certificate Program at the North Carolina Justice Academy.

This certificate program is designed to recognize the achievement of law enforcement professionals who have dedicated themselves to making their communities and neighborhoods safer for the citizens of North Carolina. Program participants must be sworn members of a law enforcement agency and have at least two years of full-time law enforcement experience. Each participant must complete 500 hours of training within five years of acceptance into the program, to include a variety of tactical oriented courses.

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Roger Miller, an instructor/coordinator with the Justice Academy, as well as the program coordinator says, "The program has been well received by proactive law enforcement agencies. Those completing the program have mastered important aspects of tactical training and have achieved a high level of professionalism for themselves and their organizations. The commitment of Sergeant Harklerode to complete this program is a direct example of his dedication to protect the community in which he serves. His effort to stay in the forefront of tactical training is a direct reflection on the commitment of the Marion Police Department to ensure that their officers are prepared to meet the day-to-day dangers faced by law enforcement officers today."

The North Carolina Justice Academy, located in Edneyville and Salemburg, develops and conducts training courses for local and state law enforcement professionals. The Justice Academy provides training programs and technical assistance for law enforcement professionals through the five centers of the Training Division: Tactical & Traffic; Investigations; Legal; Law Enforcement Leadership and Commission/In-service.

The Justice Academy is a division of the North Carolina department of Justice under the administration of Attorney General Roy Cooper.

The certificate read as follows:

The State of North Carolina Department of Justice
The North Carolina Justice Academy
Issues this Certificate thereby certifying that
James R. Harklerode
has completed the prescribed specialized hours in the
Tactical Training Certificate Program
this 1st day of May, 2010

Sergeant Harklerode gave a brief overview of some of the training that he had received during this training.

Mayor Little stated that is an awesome achievement and that this training will allow the City to be better prepared in the event a catastrophic event ever occurs.

Sergeant Harklerode advised that we have to hope for the best but plan for the worst.

Mayor Little and Council Members commended Sergeant Harklerode on this achievement.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present for this meeting.

PRESENTATION OF NORTH CAROLINA SOURCE WATER PROTECTION AWARD FOR BUCK CREEK SOURCE WATER PROTECTION PLAN: Public Works Director Chris Hollifield presented Mayor Little with the North Carolina Source Water Protection Award the City recently received from the State for the Buck Creek Source Water Protection Plan.

Mayor Little read the certificate as follows:

CERTIFICATE OF ACHIEVEMENT
FOR
SOURCE WATER PROTECTION

This certifies that the
City of Marion
having successfully completed a source water
is hereby awarded this certificate of recognition for plan approval
given at Greensboro, North Carolina by
North Carolina Rural Water Association and
North Carolina Department of Environment and Natural Resources

This twelfth day of May, two thousand and ten

Jay Frick	**Daniel Wilson**
NC Source Water Protection	NCRWA Executive
Program Coordinator	Director

The City Manager commended Mr. Hollifield and Water Plant Superintendent Steve Miller for their hard work on this project.

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REVIEW OF BUCK CREEK SOURCE WATER PROTECTION AWARD PLAN: The City Manager reported that Council directed at the May 4 Council meeting that review of the Buck Creek Source Water Protection Plan take place at the June 1 Council meeting.

Public Works Director Chris Hollifield presented a summary he had prepared of the City's responsibilities in implementing the Plan in terms of money and staff time, as follows:

The Major elements generated through the watershed protection process for Buck Creek (BC) and attributed to the City of Marion. The following list is Meant to be a rough approximation of the amount of City of Marion resources required for each element and not a comprehensive list of specific tasks to be accomplished.

Major Elements	Challenges
* Develop water use agreement for Buck Creek ° Involves: City of Marion Lake Tahoma HOA, Agriculture users	Large amount of staff time, willingness of partners to participate, and lack of continuity as agriculture users are somewhat transient- moderate cost
* Control recreational activities around Buck Creek intake	Large amount of staff time, difficult to enforce with little to no jurisdiction, other Than the intake parcel of land, poor track Record in the past – minimum cost
* Educate agriculture users on Contaminants and encourage Pesticide mixing BMP's	Moderate amount of staff time, loss of Dr. Dan Smith, mixing station success based on governmental grants – minimum cost
* Establish a community action group To interact with public concerning SWP education and BMP's	Large amount of staff time, several year long timeframe to this project, willingness of partners/public to participate, long range Management of SWP threats – moderate cost.

The City Manager stated that two items not on the list that are already being worked on is the placement of signs on Highway 70 West by NCDOT marking the watershed area and the ordering of a flow gage to measure how much water is available in Buck Creek.

Mr. Hollifield reported that the State has indicated that if there are any items Council is not comfortable with, the Plan can be revised accordingly.

Mayor Little thanked Mr. Hollifield for all his work.

Council Member Clark commended Mr. Hollifield as well. He asked if the Plan included the Clear Creek and Mackey Creek intakes.

The City Manager stated that the Plan technically included these intakes, but the group was not as concerned about these intakes since they were surrounded by the National Forest.

The City Manager suggested that Council allow staff to work with the State to tweak the language of the Plan as needed.

Upon a motion by Council Member Clark, seconded by Council Member Cuthbertson, Council voted unanimously to adopt the Buck Creek Source Water Protection Plan with the City Manager given authorization to work with the State to make minor modifications to the language of the Plan as needed.

UPDATE ON DOWNTOWN STRETSCAPE/WAY FINDING SIGNAGE IMPLEMENTATION: Planning and Development Director Heather Cotton advised that this item is an update to City Council on the status of implementation of the Downtown Streetscape Project, and a request to implement a new sponsorship program.

Ms. Cotton stated that the City of Marion has worked with the NC DOT over the past several months to work through comments provided by the NC DOT Division 13 office and to obtain approval for the Downtown Streetscape Plan. While street realignment and other design details such as storm drainage and curb radii have taken time to work through, the NCDOT has indicated that they are general support of the streetscape design. City staff had meet with representatives from NC DOT on several occasions and are

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working through several phases to implement the project. These phases are indicated below with a brief description and estimated time for implementation.

- Staff met with NCDOT on May 14th, 2010 to discuss comments and recommended changes to street design and schedule for project implementation.
- Final wayfinding sign documents submitted to NCDOT on May 14th 2010, and approved by NCDOT on May 17, 2010.
- Wayfinding signage footer request for bids closed May 24, 2010. Harris Grading was selected as the low bidder on the project for a total of $13,228.54.
- Wayfinding sign fabrication request for bids advertised May 19th, 2010. Closing date for bids is June 11th, 2010.
- Wayfinding installation later summer 2010.
- Construction documents developed based on NCDOT comments and approval (pending). Estimated schedule for developing construction documents is summer 2010.
- Tree installation, replacing Foster Holly's with Ginkgo Biloba" Autumn Gold" males. Fall 2010.
- Curbing, drainage, and bump-out installation late fall to late spring 2010-2011.
- Additional island landscaping spring 2011.
- NCDOT street resurfacing summer 2011.
- Crosswalk stamping and final pavement striping fall 2011.

Ms. Cotton reported that elements approved in the streetscape plan including hardscape features (benches, bicycle racks, trash receptacles, planters, etc) as well as other amenities such as walking trails were identified in the plan with funding being provided in part or in whole from private sources. One option presented in the plan was a recommendation to implement a sponsorship program. This program would allow citizens, organizations, and businesses to fund a portion of the cost of public bench, tree or other item in the program giving recognition by identifying the donor, or his/her designee(s) in the form of a memorial or honorable recognition on the item being sponsored. Attached is an example of a form and list of items that if the program were approved could be sponsored as part of the streetscape program. As part of establishing this program, Staff would work with the Marion Business Association, the City of Marion Tree Board, and the YMCA on specific items identified in the sponsorship program to establish a proposed fee schedule and guidelines for program implementation.

Ms. Cotton stated that, in addition to the sponsorship program for benches, trees, and other items, the City has been collaborating with various other organizations with similar interests to partner on specific projects. The City of Marion has been fortunate to receive both technical assistance and access to funding that will help pay for unfunded projects associated with the Streetscape Plan. Two of those projects include a defined urban walking trail and the riverwalk trail along Young's Creek.

Ms. Cotton added that the City of Marion has numerous trail projects either under construction or within the planning and design stage. Many of these trails will connect to one another over time creating a comprehensive system of sidewalks, trails, and greenways that will allow people to move throughout the community by bike or on foot. Downtown is no exception. It is a very popular venue for many walkers and joggers and a central hub where are sidewalks and urban trails connect. Those who use city sidewalks live in close proximity to the downtown, and walk in the evenings and mornings as a way to get exercise, socialize with family and friends, and window shop along Main Street. In an effort to attract more of the same, Staff has identified an opportunity to create a standard trail marker that would create a brand for city trails and encourage citizens to engage in healthy activities. The marker is designed so that it can be placed at standard intervals, which would allow people to calculate their distance traveled from one point to another. The YMCA wellness program is currently working on a designated walking trail for downtown in which these medallions could be placed. To help with trail identification, anyone can sponsor a medallion, which will be placed at consecutive intervals along a designated route. These medallions can also be incorporated into the Catawba River Greenway, Peavine Trail, Mt. Ida and other future walking trail projects to brand all of the City's walking trails and promote health and fitness community wide.

Ms. Cotton concluded by stating that the City has also been working with Equinox Environmental through the Muddy Creek Partnership on a stormwater /greenway enhancement project that if funded will be a

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wonderful asset to the community both for its environmental enhancement and as a public amenity for recreation and education. The project would include rain gardens, invasive species removal along the stream bank, dead tree removal, installation of native plants, and walking trail between the Marion Police Department and the McDowell County School Administration building. The project is contingent on grant funding from the EPA Division of Water Quality, which was submitted in April by Equinox Environmental. If awarded, the grant will pay for the construction of the project with the City's local match being equivalent to the value of land donated for the project. This project will be a big step towards creating a walking trail along young's creek as identified in the Streetscape Plan with the added benefit of converting an unsightly creek into an attractive and sustainable amenity. A copy of the proposed master plan is attached for your review.

Council Member Martin commended Ms. Cotton for the work she has done with this plan, stating that she has done a marvelous job.

Council agreed by consensus to endorse the sponsorship plan suggested by Ms. Cotton.

Council Member Doggett suggested that the sponsorship amounts for downtown elements should be made more cost effective. Ms. Cotton stated that she would work to obtain input from the public and the Marion Business Association on an appropriate amount to charge for sponsorship of particular items.

ADOPT REVISIONS TO PRIVILEGE LICENSE ORDINANCE: Finance Director Harriett Thomas appeared before Council and presented Council with revisions to the privilege license ordinance.

Ms. Thomas stated that the new Privilege License Tax Ordinance would increase privilege licenses tax for businesses not restricted by law. For most businesses the tax would increase from $25.00 to $35.00 per year. For merchants, the tax is based on the number of employees; changes have been made as follows:

Currently:		Proposed:	
2 or less employees	$ 25.00	2 or less employees	$ 35.00
3 to 10 employees	35.00	3 to 10 employees	50.00
11 to 20 employees	50.00	11 to 20 employees	100.00
21 to 25 employees	100.00	21 to 25 employees	200.00
26 or more employees	150.00	26 to 50 employees	500.00
50 to 100 employees	1,000.00	101 or more employees	2,500.00

Tax on manufacturers is also based on the number of employees; changes have been made as follows:

Currently:		Proposed:	
15 or less employees	$ 50.00	15 or less employees	$ 75.00
16 to 50 employees	75.00	16 to 50 employees	100.00
51 to 100 employees	100.00	51 to 100 employees	150.00
101 to 200 employees	150.00	101 to 200 employees	200.00
201 to 300 employees	180.00	201 to 300 employees	250.00
301 to 400 employees	200.00	301 to 400 employees	300.00
401 to 500 employees	250.00	401 to 500 employees	350.00

Ms. Thomas stated that, in addition, day care facilities and instruction (dance, music, etc.) are based on the number of children/students and nursing/retirement homes on the number of beds, taxes have been increased proportionately as the number increases. Making these changes would increase the privilege license taxes collected by approximately $10,000 per year.

Ms. Thomas thanked Mayor Little and Council Members and stated she would answer any questions Council might have.

The City Manager stated that the main reason the City looked at the license tax revisions was to create more of a spread between the taxes paid by small and large businesses in the interest of fairness. The biggest impact of the changes will fall on chain stores, not on small locally owned businesses. He added that research by staff showed that large chain stores paid many times more in privilege license taxes in other communities than was proposed with these changes.

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Mayor Pro Tem Owenby stated these changes were reasonable and probably overdue.

Council Member Cuthbertson asked about the impact of the changes on restaurants. The City Manager stated that he could obtain this information.

Upon a motion by Mayor Pro Tem Owenby, seconded by Council Member Doggett, Council voted unanimously to adopt the following Ordinance amending Chapter 10 of the Licenses, Permits and Business Regulations as follows:

CITY OF MARION, NORTH CAROLINA
ORDINANCE AMENDING CHAPTER 10
LICENSES, PERMITS AND BUSINESS REGULATIONS

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

Section 1. That Chapter 10, Licenses, Permits and Business Regulations, of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Section 2. Chapter 10 is amended by deleting Article II, Business License Tax in its entirety and replacing it with the following:

ARTICLE II
BUSINESS LICENSE TAX

DIVISION 1.
GENERAL

Sec. 10-1. Definitions.

When used in this ordinance (unless the context requires a different meaning):

a) "Business" includes each trade, occupation, profession, business and franchise taxed under this ordinance.

b) "Person" includes any individual, trustee, executor, other fiduciary, corporation, unincorporated association, partnership, sole proprietorship, company, firm, or other legal entity.

c) "Seasonal in Nature" a business is seasonal in nature when it is operated within the City for less than six months of the year.

Sec. 10-2. Construction of this ordinance.

This ordinance is enacted for revenue purposes only. Therefore, it should be construed to require payment of the maximum tax permitted under its terms. In addition issuance of a license in accordance with this ordinance does not excuse a licensee from compliance with any other applicable ordinance or statute. This ordinance does not prevent the City from imposing license taxes on additional businesses, from increasing or decreasing the amount of any license tax or from regulating any business taxed.

DIVISION 2.
LEVY

Sec. 10-3. Levy of tax.

An annual privilege license tax is hereby levied on each business conducted within this City listed in the schedule of taxes contained in Section 10-32 of this ordinance in the amounts set forth in those sections.

Sec. 10-4. Who must pay tax.

Each person who conducts a business within this City is subject to this ordinance. A person "conducts business: when he or she engages in one act of business taxed under this ordinance, he or she conducts the business "within the City" if he or she maintains a business location within the City; or if, either personally or through agents, he or she (1) solicits business within the City limits or (2) picks up or delivers goods or services within the City limits.

Sec. 10-5. Period of license; due date.

a) Annual license. Unless the section of this ordinance levying the privilege license tax applicable to a particular business provides otherwise, a license issued in accordance with this ordinance is good for the twelve-month period beginning July 1 and ending June 30. The tax is due on July 1 of each year. However, if a person begins a business after July 1 of a year, the tax for that year is due before the business is begun.

b) Licenses for periods shorter than one year. If the section of this ordinance levying the privilege license tax applicable to a particular business so provides, a license may be issued for a period of one day, one week, or some comparable period of less than a full license year. A person may not commence a business conducted within the City and taxed under such a provision until the privilege license tax due is paid and may not continue such a business beyond the period for which the license is issued.

Sec. 10-6. Proration of tax.

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If a business is begun after January 31 and before July 1, the amount of tax due is half the amount otherwise due. If a business is seasonal in nature and if the amount of tax is not based on gross receipts, the amount of tax due is half the amount otherwise due.

Sec. 10-7. Refunds.

If for any reason a licensee discontinues his or her business during the license year, he or she is not entitled to a refund.

Sec. 10-8. Separate businesses.

A separate license is required and a separate privilege license tax must be paid for each place of business unless two or more places of business under common ownership are contiguous to each other, communicate directly with and open into each other, and are operated as a unit. In addition a separate privilege license tax must be paid for each business taxable under this ordinance conducted by the taxpayer at any one location; however, the tax collector may issue a single license for all taxable business conducted at one location by a single taxpayer.

Sec. 10-9. Exemptions.

a) Generally. Except as otherwise provided in this section or by state law, no person is exempt from the payment of a privilege license tax levied by this ordinance.

b) Charitable organizations. A person who operates a business for a religious, educational, civic, patriotic, charitable, or fraternal purpose, when the entire gross income of the business is used for such a purpose, is exempt from paying any privilege license tax levied by this ordinance.

c) Blind persons and members of the armed forces and merchant marine. Blind persons and persons who serve in the United States armed forces or the merchant marine are exempt from paying any privilege license tax levied by this ordinance to the extent provided by G.S. 105-249 and G.S. 105-249.1.

d) Must obtain license. A person exempt from paying a privilege license tax levied by this ordinance shall nevertheless obtain a license from the tax collector. The license shall state that the licensee is exempt from paying the privilege license tax.

DIVISION 3.
LICENSES

Sec. 10-10. Application.

A person shall apply to the tax collector for each license required by this ordinance no less than thirty days before the date the tax is due. The application, which shall be submitted on forms proved by the tax collector, shall contain:

a) The name of the applicant and whether the applicant is an individual, a partnership, a corporation, or some other entity.

b) The nature of the business.

c) Where the business is conducted.
d) An address where notices and statements may be mailed to as required by this ordinance.
e) Whether the business is regulated by a state occupational licensing board subject to G.S. Chapter 93B, and if so, the serial number of the state license the applicant currently holds.

f) Any other information the tax collector determines to be necessary to compute the amount of the tax due.

Sec. 10-11. Reasons for refusal or revocation of a license.

The tax collector shall refuse to issue a license or shall revoke a license for either of the following reasons:

a) The applicant misrepresents a fact relevant to the amount of tax due or his or her qualifications for a license.

b) The applicant refuses to provide information necessary to compute the amount of tax due.

Sec. 10-12. Unqualified applicants; right to a conference.

After receipt of the completed application, if the tax collector believes that a reason exists for refusing a license under Section 10-11 of this ordinance, the tax collector shall refuse to accept payment of the tax and shall not issue the license. At the applicant's request, the tax collector shall, in accordance with Section 10-21 of this ordinance, give the applicant a written statement of the reason for refusing the license. The applicant may, within ten days after the day the statement is received, request a conference to discuss the refusal. In the request, the applicant shall specify why the application for a license should not be refused. The tax collector shall arrange the conference within a reasonable time.

If the collector refuses to issue a license, the applicant may reapply for a license at any time thereafter. If the reason for which the application was refused no longer exists, and if no other reason exists for refusing to issue a license, the tax collector shall issue the license in compliance with Section 10-13 of this ordinance.

Sec. 10-13. Tax collector to issue license; payment of tax a prerequisite.

After receipt of the complete application, if the tax collector believes that no reason exists for refusal of a license under Section 10-11 of this ordinance, the tax collector shall determine the amount of tax due and notify the applicant of that amount. The tax collector shall not issue a license until the tax is paid.

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Sec. 10-14. Amount of tax disputed.

If disputes arise over the amount the tax collector determines to be due, the applicant may either refuse to pay and request a conference with the tax collector to discuss the determination or pay the amount and request a conference to discuss the right to a refund. If a conference is requested, the tax collector shall arrange it within a reasonable time.

Sec. 10-15. Revocation.

The tax collector shall revoke a license if a reason exists to revoke it as set forth in Section 10-11 of this ordinance. Before revoking a license, the tax collector shall give the licensee written notice of the grounds for revocation, in accordance with Section 10-21 of this ordinance. The licensee may within ten days after the day on which notice is served request a conference with the tax collector in writing. The request shall specify the reasons why the license should not be revoked. The tax collector shall arrange the conference within a reasonable time.

If the licensee fails to request a conference within ten days after the day on which notice is served, the tax collector shall revoke the license. If the licensee requests a conference, the tax collector may not revoke the license until after the conference.

If the tax collector revokes a license, the former licensee may apply for a new license anytime thereafter. If the reason for which the license was revoked no longer exists and if no other reason exists for refusing to issue a license, the tax collector shall issue the license in accordance with Section 10-13 of this ordinance.

Sec. 10-16. Form and contents of license.

A license shall show the name of the person licensed, the place where the business is conducted (if it is to be conducted at one place), the nature of the business licensed, the period for which the license is issued, and the amount of tax paid. In addition, if a machine is licensed, the license shall show the serial number of the machine. The tax collector shall keep a copy of each license issued.

Sec. 10-17. Assignments.

A license may be assigned if (1) a business licensed under this ordinance and carried on at a fixed place is sold as a unit to any person, and (2) the purchase is to carry on the same business at the same place. Such a change shall be reported to the tax collector in accordance with Section 10-18 of this ordinance. Otherwise, each license issued under this ordinance is a personal privilege and is not assignable.

Sec. 10-18. Changes in the business conducted by a licensee during the tax year.

A licensee or an assignee shall report a change in the information contained in the license application to the tax collector within ten days after the change occurs. If information shown on the license itself is affected, the licensee or assignee shall surrender the license to the tax collector when reporting the change.

a) Changes affecting the amount of tax due. If there are no reasons for revoking the license under Section 10-11 of this ordinance and the change results in the imposition of a separate or additional tax, the tax collector shall reissue a license reflecting the change upon payment of the separate or additional tax.

b) Change not affecting the amount of tax due. If there are no reasons for revoking the license under Section 10-11 of this ordinance and the change does not result in an imposition of a separate or additional tax due, the tax collector shall reissue a license reflecting the change upon payment of a fee of $5.00.

c) Change requiring refusal of a license. If there is a reason for revoking the license under Section 10-11 of this ordinance, the tax collector shall refuse to reissue a license and shall instead begin proceedings to revoke the license in accordance with Section 10-15 of this ordinance.

Sec. 10-19. Tax collector to furnish duplicates.

Upon satisfactory proof that a license has been lost or destroyed, the tax collector shall furnish a duplicate for a fee of $5.00.

Sec. 10-20. Record of conferences.

The tax collector shall maintain for three years a record of each conference held in accordance with this Division. The record shall contain the applicant's or licensee's name, the date of the conference and a brief statement of the issues discussed and the result reached. After three years, the tax collector shall dispose of the record in accordance with G.S. 121-5.

Sec. 10-21. Providing notice to an applicant or licensee.

Whenever this ordinance requires the tax collector to give a written statement or notice to an applicant or a licensee, the tax collector may do so in one of three ways:

a) By personally delivering the statement of notice to the applicant or licensee;

b) By mailing the statement or notice by registered or certified mail and returning the receipt requested to the address specified for that purpose in the license application; or

c) By causing the statement or notice to be served on the applicant or licensee in accordance with the procedures for service of process under Rule 4, North Carolina Rules of Civil Procedure.

DIVISION 4.
ENFORCEMENT AND COLLECTION

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Sec. 10-22. Duty to determine whether tax due.

Each person has the duty to determine whether the business he or she conducts is taxed under this ordinance and if so, whether that tax has been paid for the current tax year.

Sec. 10-23. Tax collector to investigate.

If the tax collector has reason to believe that a person is conducting a business in the city in violation of this ordinance, the tax collector shall conduct an investigation to determine the person's tax liability.

Sec. 10-24. Duty to permit inspection.

Each person who conducts business in the city shall permit the tax collector to inspect the business premises during normal business hours to determine the nature of the business conducted there.

Sec. 10-25. Duty to post license.

A licensee shall post the license or licenses conspicuously in the place of business licenses. If the licensee has no regular place of business, the license must be kept where it may be inspected at all times by the proper city officials. If a machine is licensed, the license shall be affixed to the machine. .

Sec. 10-26. Notice of deficiency.

If the tax collector determines that a person has not paid the full amount of tax due under this ordinance, either for the current license year or for a prior license year, the tax collector shall give the person written notice of deficiency, in accordance with Section 10-21 of this ordinance. The notice of deficiency shall specify the total amount of tax due; the section of this ordinance upon which the tax is based; the amount of tax paid; any interest due; the balance owed; the manner and time period in which the person may respond to the notice of the deficiency; and the consequences of failing to respond as specified.

Sec. 10-27. Request for a conference.

The person may, within ten days after the day on which notice is served, request a conference in writing. The request shall specify the person's objections to the notice of deficiency. By way of illustration but not limitation, a person who receives notice of a deficiency may object on the following grounds:

a) That the tax has already been paid;

b) That the tax collector miscalculated the amount of tax due;

c) That the tax collector based his calculation on incorrect or insufficient information concerning the nature of business conducted;

d) That the tax collector based the determination on an erroneous interpretation of a section of this ordinance that establishes a category of business subject to a particular tax.

Sec. 10-28. Deficiency to become final.

If the taxpayer fails to request a conference under Section 10-27 of this ordinance, the deficiency becomes final and the tax collector shall proceed to collect the deficiency.

Sec. 10-29. Conference held.

If the taxpayer requests a conference, the tax collector shall not proceed to collect the deficiency until hearing the taxpayer's objections and determining that the deficiency should become final. The tax collector shall maintain a record of each conference held for three years in accordance with Section 10-27 of this ordinance. The record shall contain the name of the taxpayer, the date of the conference, a brief statement of the issues discussed, and the results of the discussion. After three years, the tax collector shall dispose of the record in compliance with G.S. 121-5.

Sec. 10-30. Collection of deficiency.

a) The tax collector may use any of the following methods to collect a deficiency:
   1) Criminal prosecution in accordance with Section 10-31(a) of this ordinance; or
   2) Equitable relief in accordance with Section 10-31(b) of this ordinance; or
   3) The remedies of levy, sale, attachment and garnishment in accordance with G.S. 160A-207.

b) Any person who continues to conduct a business taxed under this ordinance without payment of the tax is liable for the additional tax of five (5) percent every thirty days as imposed by G.S. 105-109.

Sec. 10-31. Enforcement of ordinance.

a) Criminal Remedies. Conducting business within this City without having paid the privilege license tax imposed by this ordinance, or without a valid license issued in accordance with this ordinance, or without posting a license in compliance with Section 10-25 of this ordinance is a misdemeanor, punishable as provided in G.S.105-109 or 14-4. Each day that a person conducts business in violation of this ordinance is a separate offense. Payment of a fine imposed in criminal proceedings in accordance with this section does not relieve a person of the liability for taxes imposed under this ordinance.

b) Equitable Remedies. In addition to the criminal remedies set forth in subsection (a) of this section and in compliance with G.S. 160A-175(d), the City may seek an injunction against any person who conducts a business in violation of this ordinance.

Sec. 10-32. Schedule of license taxes.

A license tax shall be levied and collected for the privilege of engaging in the businesses on the attached schedule within the municipal limits of the City of Marion, North Carolina.

Section 3. This Ordinance shall become effective on July 1, 2010.

Adopted this the 1st day of June 2010.

Stephen R. Little, Mayor

ATTEST:
J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-10-06-01-1

Schedule of Privilege License Taxes

On the following businesses, the taxes set forth herein shall be levied and collected:

City License Taxes – Prohibited by Law:

Business	General Statute
Alcoholic Beverage Businesses:	
Malt beverages, brewery	105-113.70(d)
Unfortified wines, winery	105-113.70(d)
Fortified wines, winery	105-113.70(d)
Amusements:	
Motion pictures; manufacture, sale, lease, furnishing, and distribution	105-36
Dealers in Various Types of Merchandise:	
Automatic machines	105-102.5
Burglar alarms, dealers	105-51.1
Household appliances, dealers	105-102.5
Office equipment, dealers	
Occupations/Professions Subject to Licensing Boards:	
Accountants, Architects, Attorneys, Chiropodists, Chiropractors, Dentists, Embalmers, Engineers-professional, Healers – professional, Land surveyors, Landscape architects, Massage therapists, Morticians, Ophthalmologists, Opticians, Optometrists, Osteopaths, Photographers, Physicians, Real estate agents, Real estate appraisers, Surgeons, Veterinarians	105-41
Auctioneers	85B-6
Pest control applicators	106-65.40
Utilities:	
Bus companies	105-120.1
Telephone companies	105-120(d)
Trucking companies licensed by the state	20-97(b)
Other Businesses and Occupations:	
Banks	105-102.3
Bondsmen	58-71-190
Cooperative marketing associations	105-102.1
Corporations, domestic and foreign (NC G.S. 105-122 prohibits taxing the "franchise" of corporations, that is, the right to engage in business in the corporate form. It does not prohibit the levy of license taxes on corporations because of the business in which they engage, as for example, a tax on a corporation that operates a motel)	105-122(g)
Insurance companies	105-228.10
Motor fuel, wholesale sale or distribution	105-99
Production credit associations	105-102.1
Savings and loan associations	105-228.24(b)
Soft drinks, manufacture, production, bottling, and/or distribution	105-113.50A
Vending machines, including weighing machines	105-65.1

City License Taxes – Allowed by Law:

ABC Licenses:

AA.000000769 (24)

Each person who obtains a permit from the state Alcoholic Beverage Control (ABC) Commission to sell alcoholic beverages – malt beverages, fortified and unfortified wine – must also purchase a local ABC license to engage in that business. And to obtain the license, the permit holder must pay a tax to the local governments in which the business is conducted. Once the applicant for a license holds the appropriate ABC permit and tenders the correct amount of payment for the tax, issuance of the local government license is mandatory, a tax collector may no withhold issuance of an ABC license because the applicant has failed to comply with a local zoning or other regulatory requirement:

Per year:	
On-premises malt beverage	$ 15.00
Off-premises malt beverage	$ 5.00
On-premises unfortified wine, fortified wine or both	$ 15.00
Off-premises unfortified wine, fortified wine or both	$ 10.00

In addition, tax may be levied on a beer or wine wholesaler located in the City. The wholesaler tax may not be charged to a business located outside the City:

Per year:	
Beer	$ 37.50
Wine	$ 37.50
Both	$ 62.50

Advertising:

a) Engaging in the business of soliciting or contracting for advertisings, or engaged in the business of advertising or agents distributing advertising matter, circulars, and flyers , other than resident merchants, and is not specifically classified and taxes by this Division and is not prohibited by State Statutes:

Per year	$ 35.00

b) Engaging in the business of outdoor advertising by placing, erecting or maintaining one or more outdoor advertising signs or structures of any nature by means of signboards, poster boards, painted bulletins, or other painted matter; or any other outdoor advertising devices, erected up the grounds, wall or roofs of buildings:

Per year	$ 35.00

c) In addition, the person, firm or corporation owning or maintaining signboards, poster boards, painted bulletins, or other outdoor advertisements of any nature shall comply with the City of Marion Ordinance entitled "Off-Premise Advertising". Each signboard, poster board, painted bulletin, or other outdoor advertisement shall have imprinted on the same the name of such person, firm or corporation in sufficient size to be plainly visible and permanently affixed thereto.
d) This shall not apply to newspapers or periodicals published within the City.
e) No person, firm or corporation may operate a motor vehicle or other conveyance equipped with radio, phonograph, loudspeaker or other sound magnifying device to produce sound effects for advertising purposes.
f) Distribution in the City of Marion, sign tacking, posting on poles, trees, buildings, fences, or other structures except licensed billboards is prohibited.

Agricultural, Implements & Machinery:

Engaging in the business of selling agricultural implements and machinery:

Per year	$ 25.00

Amusements – General:

1. Giving, offering, or managing any form of entertainment or amusement for which an admission is charged and that is not otherwise taxed or specifically exempted:

Per year	$ 25.00

2. Circuses and Animal Shows – exhibiting performances, such as a circus or dog show, or any other similar show, exhibition or performance not taxed in other sections:

Per day	$ 25.00

3. Dances and Athletic Contests – giving or managing any dance or athletic contest of any kind that charges an admission in excess of fifty cents:

Per year	$ 25.00

4. Electronic video games and pinball machines - owning or operating machines that play electronic video games or pinball when a coin is deposited in the machine. A person or firm is deemed to be owning or operating an electronic video game machine or pinball machine if he has a machine located at his own place of business or if he places or exhibits machines at business locations other than his own:

Per year – video games	$ 5.00 per machine
Per year – pinball machines	$ 25.00

5. Movie Theaters – operation of a movie theater for compensation. The license tax levied under this section is on each "room" used for screening movies, therefore, movie theatres that operate two, three, or more screening rooms must pay a separate tax for each room. For any movie theater operated three days or less each week, the maximum city tax is half the tax otherwise allowed:

Per year	$200.00

AA 000000770 (24)

6. Outdoor (drive-in) Theatres – operating an outdoor or drive-in theatre for compensation:

Per year	$100.00

7. Music Machines – operating, maintaining, or placing on location any machine or machines that play records or produce music:

Per year	$ 5.00 per machine

8. Pool Tables – operating billiard or pool tables, whether by slot (coin) or otherwise:

Per year	$ 25.00

9. Riding and amusement devices such as Ferris wheels, merry-go-rounds, shooting galleries, skating rinks and swimming pools:

Per year	$ 25.00

10. Traveling theatrical company engaged in giving exhibitions or performances in a tent, hall or other similar place:

Per day	$ 25.00

11. Exemptions and special provisions – G.S. 105-40 exempts from the tax levied by this section the following organizations and activities:
    a) All exhibitions, performances, and entertainments, except as expressly provided as being taxable produced by local talent exclusively, for the benefit of religious, charitable, benevolent, or educational purposes, as long as no compensation is paid to the local talent;
    b) the North Carolina Symphony;
    c) all exhibits, shows, attractions, and amusements operated by a society or association organized under the provisions of G.S. Chapter 106 (agricultural organizations) where a permit has been obtained from the Secretary of Revenue to operate without paying a license tax;
    d) outdoor historical dramas
    e) elementary and secondary school athletic contests, dances, and other amusements;
    f) dances and other amusements promoted and managed by a qualifying corporation that operates a center for the performing and visual arts if the dance or other amusement is held at the center;
    g) a person exempt from NC income tax who operates a teen center;
    h) arts festivals held by a person exempt from NC income tax provide the following conditions are met (1) the person holds no more than two arts festivals a year, (2) each of the arts festivals lasts no more than seven days, (3) the community festival involves a variety of exhibitions and activities, the majority of which are held outdoors and are open to the public.

Antique Dealers:
Engaged in the business of selling or dealing, either in a permanent or itinerant location, in what is commonly known as antiques:

Per year	$ 35.00

Art Dealers:
Engaged in the business of selling art goods:

Permanent – per year	$ 35.00
Itinerant – per year	$100.00

Asphalt or Asphalt Supplies – Dealers, Sellers or Distributors:
Engaged in the business of selling, dealing or distributing asphalt or asphalt supplies:

Per year	$ 50.00

Provided, however, where a "building materials" tax is paid, this tax shall not be collected.

Athletic Events and Contests:
See Amusements Section

Athletic Supplies and Sporting Goods:
Engaging in selling or distributing athletic supplies or sporting goods, or fishing tackle:

Per year	$ 35.00

Automobile Dealers:
Engaging in the business of buying, selling, distributing, servicing, storing, or exchanging motor vehicles, trailers, semi trailers, tires, tools, batteries, electrical equipment, lubricants or automotive equipment, radios designed for exclusive use in automobiles, and supplies:

Permanent – per year	$ 25.00
Itinerant, seasonal or temporary temporary	$300.00

Premises on which cars are stored or sold, if owned or operated by a licensed dealer under the same name, shall no be considered a separate place of business when this business is conducted within the corporate limits of any city in which the licensed business is conducted.

Automobile Rentals:

AA.000000771 (24)

See Rental Service Section.

Automobile Repairs and Service Stations:
Engaging in the business of servicing, storing, painting, repairing, welding, or upholstering motor vehicles, trailers, and semi trailers; or retail selling or delivering of any tires, tools, batteries, electrical equipment, automotive accessories, radios designed for exclusive use in automobiles, supplies, motor fuels, lubricants, or any such commodities.

Per year	$ 12.50

Automotive Retail and Wholesale Supply Dealers:
Engaging in the business of buying, selling, distributing, exchanging, or delivering automotive accessories, including radios designed for exclusive use in automobiles, parts, tires, tools, batteries, or other automotive equipment or supplies, or any such commodities at retail or wholesale.

Per year	$ 37.50

Provided, any person engaged in the business in the section and having no located place of business, but selling to retail dealers by use of some form of vehicle, shall pay a license tax for each vehicle used in carrying on such business:

Per year	$ 37.50 per vehicle

Automotive Washing and Waxing:
Engaging in the business of washing and/or waxing of automobiles:

Per year	$ 50.00

Automotive Wrecker / Towing Service:
Engaging in the business of operating an automotive wrecker / towing service:

Per year	$ 50.00

Bakery Products – Manufacturing, Selling and Delivery:
Engaging in the business of operating a bakery or preparing or manufacturing breads, cakes, crackers or doughnuts, offering such products for sale at wholesale or delivery of bakery products within the City:

Per year	$ 35.00

Provided, however, that this tax shall no apply to merchants selling bakery products, bread, cakes, crackers or doughnuts as a part of their regular merchandise unless a separate bakery department is in the same building. In addition, the tax shall not be collected from restaurants on which the restaurant tax has been paid.

Barber Shops, Beauty Shops and Manicurists:
Engaging in the business of conducting a barber shop or engaged in the business of cosmetology for each barber, manicurist, beautician or beauty shop operator:

Per year	$ 2.50 per chair or Manicurist

Beer:
See ABC License Section

Bicycle Dealer and Repair:
Engaging in the business of selling or repairing bicycles:

Per year – selling	$ 25.00
Per year – repairing	$ 25.00

Billiard and/or Pool Tables:
See Amusements Section.

Boats and Boat Supplies:
Engaging in the business of selling boats or boat supplies:

Per year	$ 35.00

Book Stores and Stationers
Engaging in the business of selling books and stationary items:

Per year	$ 35.00

Bowling Alleys:
Engaging in the business of operating a bowling alley:

Per year	$ 10.00 per lane

Building Materials:
Engaging in the business of selling lumber and/or other building materials, includes glass, paints and cabinet makers:

Per year	$ 35.00

Every firm, person or corporation located outside the City limits but which deliver products or services inside the City to customers procured in the regular course of
business unless the business is covered by some other license tax levied herein.

AA.000000772 (24)

Per year $ 35.00

Cafes and Cafeterias:
See Restaurant section

Campgrounds, Trailer Parks and Tent Camping Areas:
Engaging in the business of operating a for profit campground, trailer park, tent-camping area, or similar place and advertising or soliciting transient patronage. It is irrelevant whether rental to patrons is on a daily, weekly, biweekly, or monthly basis:

Per year $ 12.50

Candy Manufacturing:
Engaging in the business of manufacturing candy or other confectioneries:

Per year $ 35.00

Carpet and Rug Cleaning:
Engaging in the business of cleaning carpets and rugs:

Per year $ 35.00

Caterers:
Engaging in the business of catering:

Per year $ 35.00

Cement – Ready Mixed:
See Building Materials section.

Christmas Trees:
See Peddler Section.

Chain Stores and/or Branch Stores:
Engaging in the business of operating or maintaining in this state, under the same management, supervision or ownership, with two or more stores, or mercantile

establishments where goods, wares or merchandise are sold or offered for sale, or
from which such are sold or distributed at wholesale or retail, or controlling by lease, either as lessor or lessee or by contract, the manner in which any such store or stores are operated, or the varieties, character, or brands of merchandise which are sold therein.

Per year $ 50.00

Excluded from the tax are those stores that are operated on a franchise basis where the varieties of goods sold are controlled by contract, but the ownership of each store is separate. Moreover, the store that is designated the principal office of the chain is not subject to the tax levied by this section.
A store is still a chain store within the meaning of this section, even though the various stores in the chain are operated under separate charters of incorporation, if there is common ownership of a majority of stock in such separately incorporated companies. In like manner the section applies to any group of stores a majority interest in which is owned by an individual or partnership.

Check-Cashing Businesses:
See Loan Agencies, Pawnbrokers, and Check-Cashing Businesses.

Cigar, Cigarette and Tobacco Retailers and Wholesalers:
Engaging in the business of selling, either as a retailer or as a jobber, cigars, cigarettes, chewing tobacco, smoking tobacco, snuff, or any other tobacco product:

Per year $ 35.00

This tax shall not apply to the sale of any tobacco products through a vending machine.

Circuses:
See Amusements section.

Cleaner, Renovator:
Engaging in the business of cleaning of premises, septic tanks and similar items:

Per year $ 35.00

Clothing Merchants:
See Merchants section.

Clothing Rental:
Engaging in the business of clothing rental:

Per year $ 35.00

Coin Dealers:

AA.000000773 (24)

Engaging in the business of a coin dealer:

Per year	$ 35.00

Collection Agencies:
Engaging in the business of operating a collecting agency, defined as collecting for a profit, claims, accounts, bills, notes, or other money obligations for others:

Per year	$ 50.00

Contractors:
Engaging in the business of offering or bidding for a fixed price, commission, fee, or wage to construct any building, highway, street, sidewalk, bridge, culvert, sewer or water system, drainage or dredging system, electric or stem railway, reservoir or dam, hydraulic or power plant, transmission line, tower, dcck, wharf, excavation, grading, or other improvement or structure:

Per year	$ 10.00

Dances:
See Amusements section.

Dance Studios:
See Instruction section.

Day Care Facility:
Engaging in the business of operating a day care facility including day care facilities operated by churches or other non-profit organizations:

Less than 30 children	$ 50.00
30-49 children	120.00
50-99 children	200.00
100-149 children	400.00
150-200 children	600.00
More than 200 children	800.00

Delicatessen:
See Restaurant section

Delivery Companies:
Parcel or delivery companies shall pay a license tax where autos or trucks are used. Provided, however, that the person or firm delivering the packages or other items charge for such services.

Per year	$ 35.00

Dental Laboratory:
Engaging in the business of operating a dental laboratory that manufactures dentures:

Per year	$ 35.00

Department Stores:
Engaging in the business of a department store:

Per year	$ 35.00

Directories:
Engaging in the business of compiling, selling or delivering directories of any type, including "City Directories":

Per year	$ 35.00

Drive-In Theatres:
See Amusements section.

Dry Cleaners:
Engaging in the business of a dry cleaning or pressing business:

Per year (solicits only inside City)	$ 50.00 per location
Per year (solicits outside City)	100.00 per location

Drug Store:
See Merchants section.

Electrical Equipment, Fixtures or Supplies:
Engaging in the business of selling or distributing any electrical equipment, supplies or fixtures at retail where the principal business is selling such supplies:

Per year	$ 35.00

Engaging in the business of selling or distributing any electrical equipment, supplies or fixtures at retail where the principal business is not selling such supplies:

Per year	$ 20.00

AA.000000774 (24)

Electricians:
See Plumbers, Heating Contractors and Electricians.

Elevators and Automatic Sprinkler Systems:
Engaging in the business of selling and installing elevators or sprinkler systems, provided the principle office or branch office is location within the City limits:

Per year	$100.00

Engaging in the business of repairing or servicing elevators or sprinkler systems, provided the principle office or branch office is location within the City limits:

Per year	$ 35.00

This tax shall not be collected if a license has been obtained under the Plumbers, Heating Contractors and Electricians.

Employment Agents:
Engaging in the business of soliciting, hiring, or contracting with laborers for employment out of state or engaging in the business of securing employment for a person or persons and charging a fee, commission, or other compensation:

Per year	$ 100.00

An employment agency is liable for the tax regardless of whether the person who seeks employment or his employer pays the fee.

Exempt from the tax levied by this section: federal, state and local government agencies; agencies whose sole business is procuring employees for work in the production and harvesting of farm crops within North Carolina; and nonprofit registries for registered and licensed practical nurses.

Engravers and Lithographers:
Engaging in the business of an engraver or lithographer:

Per year	$ 35.00

Exhibitions and Exhibits:
Engaging in the business of operating an exhibition or exhibit not otherwise taxed herein:

Per year	$ 35.00

Fabric Shops:
Engaging in the business of operating a fabric shop:

Per year	$ 35.00

Farm Machinery:
Engaging in the business of selling or offering for sale, at retail or wholesale farm equipment:

Per year	$ 35.00

Feed Stores:
Engaging in the business of operating a feed store at retail or wholesale:

Per year	$ 35.00

Fertilizer Dealers and Manufacturers:
Engaging in the business of selling or offering fertilizer for sale or engaging in the business of manufacturing fertilizer:

Per year – dealers	$ 35.00
Per year – manufacturers	250.00

Firearms and Other Weapons Dealers:
Engaging in the business of selling or offering firearms for sale:

Per year	$ 50.00

Dealers in antique firearms and weapons of mass death and destruction, as those terms defined in G.S. 14-409-11 and G.S. 14-288.8, are exempt. Also, persons who make occasional sales, purchases, or exchanges for the enhancement of a personal collection of firearms are exempt.

Engaging in the business of selling of offering for sale bowie knives, dirks, daggers, leaded canes, iron or metallic knuckles, or similar weapons:

Per year	$ 200.00

Flea Markets:
Engaging in the business of operating a permanent outdoor place of business or the enclosed area of a mall, shopping center or other area where space is rented to others for the purpose of selling goods:

Per year – Operator	$ 200.00
Per year – Vendor	35.00

Floor Finishers:
Engaging in the business of finishing floors:

Per year $ 35.00

Florist:
Engaging in the business of a florist or offering arrangements of fresh or artificial flowers for sale:

Per year $ 35.00

Fortune Tellers:
Engaging in the business of telling or pretending to tell fortunes, practicing the art of palmistry, clairvoyance, and other crafts of a similar kind for a reward:

Per year $ 250.00

Frame Shops:
Engaging in the business of operating a framing shop:

Per year $ 35.00

Fruits and Produce Stand:
Engaging in the business of maintaining a permanent place of business for the purpose of selling fruit, vegetables, or produce, whose principal business is selling such items:

Per year $ 35.00

Engaging in the business of who offers for sale fruit, vegetables or produce, whose principle business is not selling such items:

Per year $ 10.00

Funeral Homes:
See Undertaker section.

Furniture Stores:
Engaging in the business of selling or offering for sale furniture at wholesale or retail:

Per year $ 35.00

Garages:
See Automobile Repairs and Service Stations section.

Gasoline, Benzene, Grease and lubricating Oil Dealers:
Engaging in the business of selling, illuminating or lubricating oil or greases, benzene, naphtha, gasoline or other similar products.

Per year $ 35.00

Gifts and Souvenir Shop:
Engaging in the business of offering for sale gifts or souvenirs:

Per year $ 35.00

Glass – Wholesale and Retail:
Engaging in the business of offering for sales, either wholesale or retail, glass:

Per year $ 35.00

Golf Courses and Driving Ranges:
Engaging in the business of operating a golf course, driving range or miniature golf course:

Per year $ 35.00

Groceries:
Engaging in the business of offering for sale groceries or similar items:

Per year $ 35.00

Gravestones:
See Monuments or Tombstones Section.

Greenhouses:
See Nurseries Section.

Guard and Patrol Services:
Engaging in the business of offering guard and/or patrol services:

Per year $ 35.00

Gun Dealers:
See Firearms and Other Dealers Section.

AA.00000776 (24)

Hair Dressers:
See Barber or Beauty Shop Sections.

Hardware Dealers:
Engaging in the business of operating a hardware store:

Per year	$ 35.00

Health Spas, Weight Watchers, Physical Fitness and Like Businesses:
Engaging in the business of operating a health spa, Weight Watchers, physical fitness centers or like businesses:

Per year	$ 35.00

Heating Contractors:
See Plumbers, Heating Contractors and Electricians.

Hobby and Craft Shops:
Engaging in the business of operating a hobby and/or craft shop:

Per year	$ 35.00

Horse and Mule Dealers:
Engaging in the business of buying for the purpose of resale, either at wholesale or retail, horses and mules:

Per year	$ 35.00

Hotels and Motels:
Engaging in the business of operating a hotel, motel, bed and breakfast, boarding house our similar place advertising in any manner or soliciting for transient patronage:

Per year per room	$ 1.00
Minimum per year	$ 25.00

The principal test in deciding whether this section applies is the use of such places for temporary abode by transient patrons. It is immaterial whether a particular room is occupied by a permanent guest or whether it is rented on a daily, weekly or monthly basis.

In computing the number of rooms, the lobby, the clubroom, the office, the dining room, the kitchen, and the rooms occupied by the owner or lessee of the business for his private use or the use of his family shall no be counted.

Any tax on the sale of food is separate from and in addition to the tax levied under this section.

Ice Cream Manufacturers and Sellers:
Engaging in the business of manufacturing or selling ice cream, the words "ice cream" shall apply to ice cream, frozen custards, sherbets, water ices, yogurts, or similar frozen products.

Manufacturers using equipment of the continuous freezer type, the tax is $ .37 per gallon capacity based on the rated capacity in gallons per hour, with a minimum tax of $12.50 per freezer; if the equipment is not of the continuous freezer type, the tax is $1.25 per gallon capacity, with a minimum tax of $12.50 per freezer; if the freezer is not a standard freezer with a rated capacity, the tax is $50.00.

Manufacturers using counter freezer equipment and selling at retail only:

Per year	$ 2.50

Trucks or other vehicles selling or delivering ice cream on which the tax has not been paid as outline above:

Per year, per truck	$ 35.00

Retail sellers of ice cream purchased from a manufacture or distributor who has not paid a license tax as imposed by this section:

Per year	$ 2.50

Interior Decorator:
Engaging in the business of interior decorating or wallpaper hanging:

Per year	$ 35.00

Instruction:
Engaging in the business of offering music, voice, fine arts, dance, gymnastics, swimming, tennis or similar instruction:

Per year:	
3 to 5 students	$ 35.00
6 to 9 students	$ 50.00
10 or more students	$ 100.00

Insulating Companies:
Engaging in the business of offering for sale and laying insulation:

AA.000000777 (24)

Per year $ 35.00

Itinerant Merchant:
Engaging in the business of itinerant merchant defined as "a merchant, other than a merchant with an established retail store in the City, who transports an inventory of goods to a building, vacant lot, or other location and who, at that location, displays the goods for sale and sells the goods at retail or offers the goods for sale at retail. A merchant who sells goods, other than farm products, in a City for less than six consecutive months is considered an itinerant merchant unless he stopped selling goods in the City because of his death or disablement, the insolvency of his business, or destruction of his inventory by fire or other catastrophe."

Per year $ 100.00

Janitorial Service, Window and House Cleaners and Similar Operations:
Engaging in the business of operating a janitorial services, window and/or house cleaning service:

Per year $ 35.00

Jewelers and Watch Shops:
Engaging in the business of operating a jewelry store or shop, selling plated and silverware:

Per year $ 35.00

Engaging in the business of operating a jewelry department selling plated or silverware or what is commonly know as costume or ornamental jewelry and not engaged principally in the sale of such items:

Per year $ 20.00

A tax shall not be collected for the jewelry or watch repair if a jeweler's license has been obtained.

Junk Dealers:
Engaging in the business of buying or selling what is commonly known as junk, including scrap metals, waste paper, or waste material of any nature:

Per year $ 100.00

This tax applies whether or not an established place of business is maintained.

Kennels and Pet Shops:
Engaging in the business of buying, selling or offering for sale dogs or other pets:

Per year $ 35.00

Boarding dogs or animals for a fee:

Per year $ 35.00

Operating a dog or animal obedience school:

Per year $ 35.00

Grooming of animals:

Per year $ 35.00

Knitting Mills:
Engaging in the business of operating a knitting mill:

Per year $ 35.00

Knives:
See Firearms and Other Dealers Section.

Lawn and Garden Center:
See Nursery and Garden Center and/or Lawn and Garden Center Section.

Laundries:
Engaging in the business of operating a laundry, including wet-or-damp-wash laundries and businesses know as launderettes, laundermats and similar types of businesses; or engaging in the business of supplying or renting clean linen or towels or wearing apparel:

Per year (solicits only inside County) $ 50.00 per location
Per year (solicits outside County) 100.00 per location

Loan Agencies, Pawnbrokers, and Check-Cashing Businesses:
Engaging in the business of making loans or lending money, accepting liens on or contracts of assignment of salaries, wages, or any part thereof, or other security or evidence of debt for repayment of such loans in installment payment or otherwise; and maintaining in connection with such activity any office or established place for the conduct, negotiation, or transaction of such business, or advertising or soliciting such business in any manner;

AA.000000778 (24)

Per year	$ 100.00

Tax levied by this section does not apply to banks, industrial banks, the negotiation of loans on real estate, credit unions, trust companies, and savings and loan associations.

Engaging in the business of a pawnbroker, as regulated by Chapter 91A of the General Statutes:

Per year	$ 100.00

Engaging in the business of check cashing, as regulated under Division 22 of Chapter 53 of the General Statutes:

Per year	$ 100.00

Locksmiths:
Engaging in the business of a locksmith:

Per year	$ 35.00

Lumber Brokers;
Engaging in the business of a lumber broker:

Per year	$ 35.00

Machine Shops:
Engaging in the business of a machine shop:

Per year	$ 35.00

Mail Order:
Engaging in the business of operating a business where items are ordered and then shipped by US mail or a parcel service:

Per year	$ 35.00

Manufacturing Companies:
Engaging in the business of a manufacturing company:

Per year:	
15 or less employees	$ 75.00
16 to 50 employees	100.00
51 to 100 employees	150.00
101 to 200 employees	200.00
201 to 300 employees	250.00
301 to 400 employees	300.00
401 to 500 employees	350.00

For companies with employees over 500, add an additional $25.00 per one hundred employees.

Meats:
Engaging in the business of offering meats for sale:

Per year, retail	$ 35.00
Per year, wholesale	35.00
Per year, packing house	200.00

Merchant:
Engaging in a business which could be termed as merchant, either as wholesale or retail:

2 or less employees	$ 35.00
3 to 10 employees	50.00
11 to 20 employees	100.00
21 to 25 employees	200.00
26 to 50 employees	500.00
50 to 100 employees	1,000.00
101 or more employees	2,500.00

This section shall include "goodwill" type stores.

Miscellaneous Activities, Not Otherwise Taxed:
Engaging in miscellaneous activities not otherwise taxed herein:

Per day	$ 10.00
Per week	20.00
Per year	35.00

Monuments or Tombstones:
Engaging in the business of erecting, manufacturing, jobbing, selling, or offering for sale monuments, marble tablets, gravestones or Divisions of the like:

Per year	$ 35.00

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Solicitors, in addition to above, an additional tax shall be paid by each person soliciting sales of monuments or gravestones:

Per year	$ 20.00

Motels:
See Hotels and Motels section.

Movie Theatres:
See Amusements section.

Motorcycle Dealers:
See Automobile Dealers.

Motor Vehicle Dealers:
See Automobile Dealers.

Movers or Transfer Companies:
Engaging in the business of a mover or transfer company:

Per year	$ 35.00

Music Machines:
Engaging in the business of operating, maintaining, or placing on location, any machine which plays records or produces music:

Per year, per machine	$ 5.00

License should be attached to the machine so they can be easily seen for enforcement purposes.

Musical Instruments and Equipment:
Engaging in the business of selling or offering for sales, pianos, organs, other musical instruments, stereo equipment and accessories, television sets and accessories, and repair parts:

Per year	$ 5.00

Newsstands and/or Magazines:
Engaging in the business of operating a newsstand for newspapers or magazines:

Per year	$ 35.00

Nursery and Garden Center and/or Lawn and Garden Center:
Engaging in the business of operating nursery, garden center or lawn and garden center or selling or displaying for the purpose of advertisement for sale of nursery products:

Per year	$ 35.00

Nursing Homes, Convalescent Homes and/or Retirement Homes:
Engaging in the business of operating a nursing, convalescent or retirement home:

Per year, 10 beds or less	$ 50.00
Per year, 10 beds or more	100.00

Office Supply – Retail or Wholesale:
Engaging in the business of offering for sale office supplies at retail or wholesale:

Per year	$ 35.00

Patent Rights and Formulas:
Engaging in the business of selling a patent right or formula:

Per year	$ 35.00

Parking Lots:
Engaging in the business of operating a parking lot and/or parking place used for public parking for a profit:

Per year	$ 35.00

Pawn Brokers:
See Loan Agencies, Pawnbrokers, and Check-Cashing Businesses.

Peddler:
Engaging in the business of a peddler, defined as "a person who travels from place to place with an inventory of goods, who sells the goods at retail or offers the goods for sale at retail, and who delivers the identical goods he carries with him."

Per year, farm products only	$ 25.00
Per year, peddler on foot	10.00
Per year, peddler with vehicle	25.00

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Exempt from this tax are: sellers of farm, nursery products, crafts or other goods they produced; nonprofit charitable, educational, religious, scientific or civic organizations; sellers of printed material, food for fuel, ice, seafood, meat, poultry, livestock, eggs, dairy products, bread, cakes or pies; licensed automobile dealers; peddlers who maintain a fixed permanent location from which they make at least 90% of their sales; and peddlers who comply with G.S. 25A-38 (consumer credit sales at residences with right to cancel) or G.S. 14-401.13 (off-premises sales of consumer goods or services of $25 or more).

Perfumes, Toilet Divisions and Cosmetics:
Engaging in the business of selling perfume, cologne, bath Divisions, cosmetics and other similar Divisions:

Per year, principle business	$ 35.00
Per year, not principle business	20.00

Photographic Equipment and Supplies:
Engaging in the business of dealing in photographic equipment or supplies:

Per year, principle business	$ 35.00
Per year, not principle business	20.00

Pinball Machines:
See Amusements Section.

Plumbers, Heating Contractors and Electricians:
Engaging in the business of a plumber, heating contractor or electrician, installing plumbing fixtures, piping or equipment, steam or gas fitter, hot-air heating systems, electrical equipment, or offering to perform such services.

Per year	$ 50.00

With respect to electricians and electrical contractors, this license covers the installation of electrical equipment, fixtures and wiring in or on the consumer's premises, or on the "customer's side" of the point of delivery of electric service, but it does not cover the installation of service to transmission or distribution lines or work on the "distributor's side" of the point of delivery of electric service.

With respect to plumbers and plumbing contractors, al license procured under this section covers plumbing work and plumbing installation in buildings and on the premises where the building are situated and up to the connection with the sewer or water mains, but it does not cove r the construction of or work on the water and sewer systems or mains.

Pool Tables:
See Amusements Section.

Printing Establishments or Plants:
Engaging in the business of operating a printing establishment or plant:

Per year	$ 35.00

Refreshment Trucks, Snack Bars and Concession Stands:
Engaging in the business of operating a refreshment truck, offering for sale soft drinks, snacks and similar items:

Per year	$ 35.00

Restaurants:
Engaging in the business of operating a restaurant, café, cafeteria, hotel with dining service, drugstore or other place where prepared food is sold:

Per year, 4 or less seats	$ 25.00
Per year, 5 or more seats	85.00

Cafes or cafeterias in industrial plants that are maintained for the convenience of employees and are nonprofit are exempt from the tax. Food items sold through vending machines are not taxable under this section.

Refuse Haulers:
Engaging in the business of collecting refuse or garbage for a profit:

Per year	$ 35.00

Rental Service:
Engaging in the business of operating a rental business of any type, such as clothing, equipment, furniture or automobiles:

Per year	$ 35.00

Riding Devices:
See Amusements Section.

Repair Shop:
Engaging in the business of operating a repair shop not otherwise specified within:

Per year, 3 or less employees	$ 35.00
Per year, 4 or more employees	50.00
Per day, Itinerant	25.00

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Salesmen:
See Itinerant Merchant and Peddler Sections.

Salvage Dealers:
Engaging in the business of buying, selling and/or dealing in bankrupt stocks, factory job lots and second hand materials of all kinds:

Per year	$ 35.00

Sand, Stone and Gravel Dealers:
Engaging in the business of selling or delivering into the City, sand, stone and/or gravel:

Per year	$ 35.00

Security Dealers:
Engaging in the business of in the business of dealing in securities; buying, selling or brokering stocks or bonds; or maintaining a stock or bond house:

Per year	$ 100.00

Seeds and Plants:
Engaging in the business of selling or distributing at wholesale or retail bulk and packaged farm and garden seeds, plants, bulb roots, etc.:

Per year	$ 35.00

Service Station:
See Automobile Repairs and Service Stations Section.

Sewing and Alteration:
Engaging in the business of making and selling garments, curtain, or similar items and/or repair or mending to such Divisions:

Per year	$ 35.00

Shoe Repairs:
Engaging in the business of repairing shoes:

Per year, 1 person	$ 35.00
Per year, 2 persons	$ 50.00

Signs:
See Advertising Section.

Skating Rinks:
See Amusement Section.

Snack Bars:
See Refreshment Trucks, Snack Bars and Concession Stands Section.

Storage Warehouses:
Engaging in the business of operating a storage service:

Per year	$ 35.00

Sundries:
Engaging in the business of selling sandwiches in drugstores or other stands or places not licensed and taxed at a restaurant under G.S. 105-62; operating, maintaining, or placing on location fewer than five of the following types of dispensers or machines: cigarette or other tobacco, soft drinks, food or other merchandise, or weighing machines; retailing soft drinks; or retailing or jobbing cigarettes or other tobacco products:

Per year	$ 4.00

Under this provision a single tax is levied on each location at which any one or more of the listed activities is undertaken.

Swimming Pools:
See Amusements Section.

Taxi Cabs:
Engaging in the business of operating taxi cabs:

Per year, per vehicle	$ 15.00

Theatres and Shows:
See Amusements Section.

Tile Setter:

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Engaging in the business of setting tiles:

Per year	$ 35.00

Tobacco Warehouses:
Engaging in the business of operating a warehouse for the sale of leaf tobacco upon commission:

Per year, per warehouse	$ 50.00

Tombstones:
See Monuments or Tombstones Section.

Toys:
Engaging in the business of selling toys:

Per year, principle business	$ 35.00
Per year, not principle business	$ 20.00

Trailer Parks:
See Campgrounds, Trailer Parks and Tent Camping Areas.

Travel Bureaus / Agencies:
Engaging in the business of conduction a travel or transportation bureau or agency:

Per year	$ 35.00

Tree Trimmers:
Engaging in the business of trimming trees:

Per year	$ 35.00

Trophy Shops:
Engaging in the business of operating a trophy shop:

Per year	$ 35.00

U - Drive It Companies:
See Rental Service Section.

Upholstery Shops:
Engaging in the business of operating an upholstery shop or repair shop for furniture or automobile upholstery:

Per year	$ 35.00

Undertakers and Coffin Retailers:
Engaging in the business of burying the dead or the retail sale of coffins:

Per year	$ 50.00

Video Games:
See Amusements Section

Video Rental:
Engaging in the business of operating a video rental store or rental of video games:

Per year	$ 25.00

Weapons Dealers:
See Firearms and Other Weapons Dealers Section.

Welders:
Engaging in the business of welding:

Per year	$ 35.00

Wine Sales:
See ABC License Section.

PRESENTATION OF VEHICLE POLICY – POLICE CHIEF MARK BROOKS: Police Chief Mark Brooks appeared before Council and stated that, when he was conducting his research on the Marion Police Department prior to his beginning work with the City, he requested information from the Police Department employees regarding various issues within the department. One issue that was mentioned repeatedly was the lack of a 'Take Home Vehicle' policy. Chief Brooks stated that Police Department employees were seeing several officers from other departments (some from other counties) who live in the Marion area bringing their police vehicles home. Departments that have Take Home Vehicle policies were attracting some of Marion's officers (or applicants) to consider those agencies over Marion and this was also a factor in department morale.

In order to address this issue, Chief Brooks stated that he had written a Take Home Vehicle policy that he believes would be very well received from the City's officers and benefit the City. This policy would begin

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with officers who live within the City or the City's one mile extraterritorial police jurisdiction and, as vehicles are available, extend to other officers. Chief Brook reported that marked police units within the jurisdiction produce what he considers to be two primary benefits for the City—the deterrence effect of having a marked police unit within a community and the opportunity for the officer to quickly respond to emergencies.

In order to make a few vehicles available for this, Chief Brooks stated that he had shuffled some little-used vehicles around in order to make vehicles available for officer use. By utilizing already owned vehicles and holding onto a couple of the department's older vehicles, this transition can occur as efficiently as possible. Chief Brooks stated that Council should also keep in mind that vehicles that are maintained by one officer are kept in better condition and the life of the vehicle is extended by several years, as opposed to vehicles that are being driven constantly by one officer after another.

Chief Brooks presented council with a copy of his proposed policy and asked for Council's blessing in implementing it.

Council Member Martin stated that Chief Brooks had made an excellent presentation and that he supported this idea.

A discussion followed.

Upon a motion by Council Member Martin, seconded by Council Member Clark, Council voted unanimously to approve the following Take Home Vehicle Policy, with authorization given to make minor modifications as necessary:

POLICE DEPARTMENT TAKE HOME VEHICLE POLICY

I. POLICY STATEMENT

It is the policy of the Marion Police Department to provide take-home vehicles to personnel to increase police presence in our community and improve public safety. By increasing the visibility of marked police cruisers and availability of off-duty personnel, the department can provide a safer environment where our citizens and guests live and work.

II. PROCEDURES

A. The following personnel are eligible, subject to availability, for the take-home vehicle program:

1. Chief of Police and Division Lieutenants;
2. Residential Police Officers—Officers who live within the corporate limits of the City of Marion or within the extra-territorial jurisdiction as defined in *NCGS 160A-286;
3. Officers who reside outside the area referenced in #2 (with a six mile limit) when vehicles are available;
4. Personnel who are subject to on-call duty—Investigators Criminal/Narcotic) ;
5. Other specialized positions approved by the Chief of Police.

III. AUTHORIZATION FOR USE

Personnel who are issued take-home vehicles under this program are authorized to drive their vehicle to and from work and for other authorized departmental business.

IV. RESPONSIBILITIES OF PERSONNEL

A. Officers issued take-home vehicles are to keep their vehicle secured at all times.

B. Officers shall not modify vehicle equipment or accessories without the approval of the Division Lieutenant.

C. Officers assigned take-home vehicles are responsible for ensuring preventive maintenance and repairs are performed on the vehicle in a timely manner. Officers are also responsible for the upkeep and cleanliness of their assigned vehicle.

D. While officers are utilizing a take-home vehicle, they are subject to being dispatched to emergency calls involving exigent circumstances. At no time will an off-duty officer respond to a call for service without an on-duty unit responding to assist.

E. If an off-duty officer is in the general proximity of an emergency call for service, they should respond appropriately and assist as needed.

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F. Failure to abide by these responsibilities may result in loss of the privilege of being issued a vehicle for Take-Home use.

*** 160A-286. Extraterritorial jurisdiction of policemen.**

In addition to their authority within the corporate limits, city policemen shall have all the powers invested in law-enforcement officers by statute or common law within one mile of the corporate limits of the city, and on all property owned by or leased to the city wherever located.

Any officer pursuing an offender outside the corporate limits or extraterritorial jurisdiction of the city shall be entitled to all of the privileges, immunities, and benefits to which he would be entitled if acting within the city, including coverage under the workers' compensation laws. (1971, c. 698, s. 1; c. 896, s. 4; 1973, c. 426, s. 46; c. 1286, s. 24; 1991, c. 636, s. 3.)

ADOPT DEMOLITION ORDINANCES: The City Manager advised that staff recommends the adoption of ordinances to authorize staff to proceed with demolition of an old mobile home owned by Betty Keeter at 201 Morehead Road and a dilapidated commercial building owned by Eugene Holland and Anthony Austin at 1890 North Main Street. The City Manager stated that staff has gone through the demolition process for these structures and, to date, no action has been taken by the property owner on Morehead Road. The City Manager stated that the North Main Street property owners were in the process of demolishing their structure.

The City Manager stated that, upon Council action, staff would proceed with asbestos inspection and removal and demolition of these structures, before the end of the 2009-10 Fiscal Year, if action has not been taken by the property owner to demolish the structures.

Upon a motion by Council Member Clark, seconded by Council Member Cuthbertson, Council voted unanimously to adopt the following Ordinance authorizing staff to proceed with the demolition process at 201 Morehead Road as follows:

CITY OF MARION
AN ORDINANCE CONCERNING
PARTICULAR UNINHABITABLE DWELLINGS
AND/OR HAZARDOUS ABANDONED STRUCTURES

WHEREAS, on the 21st day of January, 2003, the City of Marion enacted an Ordinance pursuant to and in compliance with Part 6, Article 19, Chapter 160A of the North Carolina General Statutes, which provides for the repair, closure or demolition of dwellings that have been found to be unfit for human habitation and abandoned structures which have been found to be a health or safety hazard; and

WHEREAS, pursuant to and in compliance with the said Ordinance a certain dwelling(s)/structures(s) located on property described at 201 Morehead Road, having Parcel Identification Number 1711.09-05-1666 and as more fully described in Exhibit A was found to be unfit for human habitation or hazardous; and

WHEREAS, the owners(s) of the above-described property is as follows: Betty Keeter; and

WHEREAS, on the 17 day of May 2010, the public officer designated in the above-referenced Ordinance issued an order to the owners of the property described above which required the owner(s) to obtain a permit to demolish by May 27, 2010 (a copy of the order is attached hereto as Exhibit B); and

WHEREAS, the owners have failed to comply with the above-stated order.

NOW, THEREFORE, the City of Marion, by action of the City Council, **HEREBY ORDAINS** the following:

Section 1. That the public officer designated in the above-referenced Ordinance is hereby ordered to proceed to effectuate the above-referenced Ordinance and Part 6, Article 19, Chapter 160A of the North Carolina General Statutes by taking such action as is necessary to carry out the repair, removal or demolition of the dwelling or structure as indicated in the attached order; and

Section 2: That the public officer shall comply with all applicable provisions and procedures contained within the Ordinance and Part 6, Article 19, Chapter 160A of the North Carolina General Statutes.

ADOPTED THIS the 1st day of June, 2010

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: 10-06-01-2

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following Ordinance authorizing staff to proceed with the demolition process at 1890 North Main Street as follows:

CITY OF MARION
AN ORDINANCE
CONCERNING PARTICULAR UNINHABITABLE DWELLINGS
AND/OR HAZARDOUS ABANDONED STRUCTURES

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WHEREAS, on the 21st day of January, 2003, the City of Marion enacted an Ordinance pursuant to and in compliance with Part 6, Article 19, Chapter 160A of the North Carolina General Statutes, which provides for the repair, closure or demolition of dwellings that have been found to be unfit for human habitation and abandoned structures which have been found to be a health or safety hazard; and

WHEREAS, pursuant to and in compliance with the said Ordinance a certain dwelling(s)/structures(s) located on property described at 1890 N. Main St. having the Parcel Identification Number 1702.03-04-4707, and as more fully described in Exhibit A was found to be unfit for human habitation or hazardous; and

WHEREAS, the owners(s) of the above-described property is as follows: Max Eugene Holland; and Anthony Austin.

WHEREAS, on the 17 day of May, 2010, the public officer designated in the above-referenced Ordinance issued an order to the owners of the property described above which required the owner(s) to obtain a permit to demolish by the 27th day of May, 2010 (a copy of the order is attached hereto as Exhibit B); and

WHEREAS, the owners have failed to comply with the above-stated order.

NOW, THEREFORE, the City of Marion, by action of the City Council, **HEREBY ORDAINS** the following:

Section 1. That the public officer designated in the above-referenced Ordinance is hereby ordered to proceed to effectuate the above-referenced Ordinance and Part 6, Article 19, Chapter 160A of the North Carolina General Statutes by taking such action as is necessary to carry out the repair, removal or demolition of the dwelling or structure as indicated in the attached order; and

Section 2: That the public officer shall comply with all applicable provisions and procedures contained within the Ordinance and Part 6, Article 19, Chapter 160A of the North Carolina General Statutes.

ADOPTED THIS the 1st day of June, 2010

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: 10-06-01-3

The City Manager noted that staff had also prepared an ordinance to initiate the condemnation process for the former Kelly Automotive building at 138 North Main Street. This building was damaged by fire a few months ago. The City Manager advised that staff had worked with the property owner for some time to urge that the structure be repaired or demolished, but had recently learned that the property had been purchased by Mr. Tom Cline. It was the consensus of Council to defer action for the Cline property for a few weeks to allow Mr. Cline time to take action on his own. If no action is taken, then the ordinance to initiate the condemnation process will be brought back before Council at a future meeting.

CONSIDER ADOPTION OF CITY COUNCIL EITHICS POLICY:

The City Manger advised that, at the May 25 Council Budget Workshop/Planning Session, Council proposed changes to the Model Ethics Policy prepared by the School of Government, mainly involving the elimination of Section 1, Legal Responsibilities. The City Manager presented the revised policy, including the changes directed by Council.

Mayor Pro Tem Owenby noted that local elected officials have to take the ethics training and adopt ethics policies, but the General Assembly members adopting such laws in Raleigh do not.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following City of Marion Ethics Policy:

CODE OF ETHICS
CITY OF MARION, NORTH CAROLINA
PREAMBLE

WHEREAS, the Constitution of North Carolina, Article 1, Section 35, reminds us that a "frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty," and

WHEREAS, a spirit of honesty and forthrightness is reflected in North Carolina's state motto, Esse quam videri, "To be rather than to seem," and

WHEREAS, Section 160A-86 of the North Carolina General Statutes requires local governing boards to adopt a code of ethics, and

WHEREAS, as public officials we are charged with upholding the trust of the citizens of this City, and with obeying the law.

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NOW THEREFORE, in recognition of our blessings and obligations as citizens of the State of North Carolina and as public officials representing the citizens of the City of Marion, and acting pursuant to the requirements of Section 160A-86 of the North Carolina General Statutes, we the City Council of the City of Marion do hereby adopt the following General Principles and Code of Ethics to guide the City Council in its lawful decision-making.

GENERAL PRINCIPLES UNDERLYING THE CODE OF ETHICS

- The stability and proper operation of democratic representative government depend upon public confidence in the integrity of the government and upon responsible exercise of the trust conferred by the people upon their elected officials.
- Governmental decision and policy must be made and implemented through proper channels and processes of the governmental structure.
- Council members must be able to act in a manner that maintains their integrity and independence, yet is responsive to the interests and needs of those they represent.
- Council members must always remain aware that at various times they play different roles:
  - As advocates, who strive to advance the legitimate needs of their citizens
  - As legislators, who balance the public interest and private rights in considering and enacting ordinances, orders, and resolutions
  - As decision-makers, who arrive at fair and impartial quasi-judicial and administrative determinations.
- Council members must know how to distinguish among these roles, to determine when each role is appropriate, and to act accordingly.
- Council members must be aware of their obligation to conform their behavior to standards of ethical conduct that warrant the trust of their constituents. Each official must find within his or her own conscience the touchstone by which to determine what conduct is appropriate.

CODE OF ETHICS

The purpose of this Code of Ethics is to establish guidelines for ethical standards of conduct for the City Council and to help determine what conduct is appropriate in particular cases. It should not be considered a substitute for the law or for a Council member's best judgment. Throughout this Code, the term "Council member" is used to refer to City elected officials. The term "Council member" in all instances includes the Mayor and Council members of the City of Marion.

Section 1. Council members should act with integrity and independence from improper influence as they exercise the duties of their offices. Characteristics and behaviors consistent with this standard include the following:

- Adhering firmly to a code of sound values
- Behaving consistently and with respect toward everyone with whom they interact
- Exhibiting trustworthiness
- Living as if they are on duty as elected officials regardless of where they are or what their doing
- Using their best independent judgment to pursue the common good as they see it, presenting their opinions to all in a reasonable, forthright, consistent manner
- Remaining incorruptible, self-governing, and unaffected by improper influence while at the same time being able to consider the opinions and ideas of others
- Disclosing contacts and information about issues that they receive outside of public meetings and refraining from seeking or receiving information about quasi-judicial matters outside of the quasi-judicial proceedings themselves
- Treating other Council members and the public with respect and honoring the options of others even when the Council members disagree with those opinions
- Not reaching conclusions on issues until all sides have been heard
- Showing respect for their offices and not behaving in ways that reflect badly on those offices
- Recognizing that they are part of a larger group and acting accordingly
- Recognizing that individual Council members are not generally allowed to act on behalf of the Council but may only do so if the Council specifically authorizes it, and that the Council must take official action as a body

Section 2. Council members should avoid impropriety in the exercise of their official duties. Their official actions should be above reproach. Although opinions may vary about what behavior is inappropriate, this Council will consider impropriety in terms of whether a reasonable person who is aware of all the relevant

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facts and circumstances surrounding the Council member's action would conclude that the action was inappropriate.

If a Council member believes that his or her actions, while legal and ethical, may be misunderstood, the member should seek the advice of the City Attorney and should consider publicly disclosing the facts of the situation and the steps taken to resolve it (such as consulting with the attorney).

Section 3. Council members should faithfully perform the duties of their offices. They should act as the especially responsible citizens whom others can trust and respect. They should set a good example for others in the community, keeping in mind that trust and respect must continually be earned.

Council members should faithfully attend and prepare for meetings. They should carefully analyze all credible information properly submitted to them, mindful of the need not to engage in communications outside the meeting in quasi-judicial matters. They should demand full accountability from those over whom the Council has authority.

Council members should be willing to bear their fair share of the Council's workload. To the extent appropriate, they should be willing to put the Council's interest ahead of their own.

Section 4. Council members should conduct the affairs of the Council in an open and public manner. They should comply with all applicable laws governing open meetings and public records, recognizing that doing so is an important way to be worthy of the public's trust. They should remember when they meet that they are conducting the public's business. They should also remember that local government records belong to the public and not to Council members or their employees.

In order to ensure strict compliance with the laws concerning openness, Council members should make clear that an environment of transparency and candor is to be maintained at all times in the governmental unit. They should prohibit unjustified delay in fulfilling public records requests. They should take deliberate steps to make certain that any closed sessions held by the Council are lawfully conducted and that such sessions do not stray from the purposes for which they are called.

Adopted by the City Council of the City of Marion this the 1st day of June, 2010.

Stephen R. Little
Mayor

ATTEST:

J. Robert Boyette
City Manager/Clerk

Policy Number: O-10-06-01-1

CITY MANAGER REPORTS: The City Manager gave a brief report on current projects.

The City Manager advised that the Livermush Festival will take place on Main Street on Friday, June 4. There will be music and activities, as usual. Hunter's Livermush will again be the main sponsor for this event and will cook and provide Livermush free of charge. There will also be Livermush Festival t-shirts for sale.

The City Manager advised that DOT had informed him in mid May that they will upgrade the traffic signals at Fort and Logan Streets and install pedestrian crossing signals, as requested by the City, First Baptist Church and the First Baptist Church Children's Center. City staff are also in the process of installing a handicapped ramp on the southwestern corner of this intersection. The other three corners are already handicapped accessible.

The City Manager advised that since he had not heard back from DOT about the request for them to help the City with the petition for a rule change to expand allowances for DOT logo signs on the US 221 Bypass, he had asked Senator Queen and Representative Gillespie to introduce legislation on the City's behalf on this matter. With the General Assembly session likely being very short this year, it may not be possible to introduce such legislation this year. Representative Gillespie spoke to a DOT contact in Raleigh on May 25 who said that DOT will not assist the City with the petition to change the rules regarding the DOT logo signs. The City Manager presented Council with a copy of the petition for rule change that he had put together in accordance with State law.

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Planning and Development Director Heather Cotton reported that the City and County have been funded for a State Energy Grant to relamp most City and County buildings. This project will save the City thousands of dollars in energy costs per year.

The City Manager advised that, as of Thursday, the Catawba River Wastewater Plant has been taken off line\ and all wastewater flow from that plant is being pumped to the Corpening Creek Wastewater Plant. Laughlin Sutton Construction continues work on the Corpening Creek Plant improvements. This construction will last through late summer.

COUNCIL MEMBER COMMENTS:

Council Member Clark stated that, at the last Council Planning Session, a discussion was held regarding liability issues involving Children at Play signs. He said he mentioned this sign to the North Carolina League of Municipalities Risk Management Services and was told that the League recommends that the signs be placed, as long as the signs contain the word "caution."

Council Member Cuthbertson reported a street light out at the intersection of Broad and Willow Streets and also on Railroad Streets. The City Manager stated that these street lights would be reported to Duke Energy.

Council Member Cuthbertson stated that he recently went to a meeting at Isothermal Planning and Development Commission and spoke to a Council Member in Spindale who told him that the Town of Spindale had 80 employees a few years ago and, due to budget cuts, now has less than 40 employees. He noted other drastic measures being taken by Spindale to cut its budget.

Mayor Little stated that next Tuesday morning is the Marion Business Association Business Annual Meeting/Breakfast. He encouraged Council members to attend.

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Council Member Doggett, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.000000789 (24)

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 15, 2010 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Cecil Owenby, Council Members Everette Clark, Lloyd Cuthbertson, Juanita Doggett and Billy Martin.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Harriett Thomas, CPA, Finance Director; Heather Cotton, AICP, Planning and Development Director; Mark Brooks, Police Chief; Mike Conley, News Reporter, McDowell News; James & Gwen Evans, News Reporters, The News Bulletin.

GUESTS PRESENT: Allen Azazian and Alesia Swepson Ferguson, 80 West Grayson Street, Marion, NC; Paula Swepson, 220 West Grayson Street, Marion, NC; Elizabeth Berry, 4688 Mt. Olive Church Road, Morganton, NC.

CITIZEN OF THE MONTH FOR JUNE AND JULY - SELECTED BY COUNCIL MEMBER MARTIN:
Council Member Billy Martin presented the Citizen of the Month for June and July.

ALESIA SWEPSON FERGUSON

Council Member Martin stated that Ms. Alesia Swepson Ferguson is a native of Marion and a graduate of McDowell High School, Class of 1978. She is married to Allen Ferguson and they have three children and three grandchildren.

Ms. Ferguson has worked for Baxter Healthcare for thirty years and is a member of the Mount Moriah Missionary Baptist Church. Her passion is missionary work in the community, visiting the sick and shut-ins and always offering an encouraging word to all.

Ms. Ferguson has went gone through some trying time recently, with her son being in a serious motor vehicle accident, and Ms. Ferguson being diagnosed with cancer, which is now in remission. She has kept her spirits up, been undaunted by all the obstacles and misfortunes and recently answered a call to the ministry.

Mayor Little, Council Members, family and friends all shared kind words about Ms. Freguson.

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Owenby, seconded by Council Member Clark, Council voted unanimously to approve
the Consent Agenda as follows:

A. Approval of Minutes – June 1, 2010 Regular City Council Meeting Minutes

B. Approval of Budget Ordinance Amendments

CITY OF MARION, NORTH CAROLINA
2009-2010 BUDGET ORDINANCE
(Fourth Amendment)

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

Section 1. That the Budget Ordinance for the City of Marion, North Carolina for the fiscal year 2009-10 as adopted by the Marion City Council on the 16th day of June, 2009 is hereby amended as follows:

GENERAL FUND

a. General Fund Expenditures, Administration, Account Number 10-420-7400, Capital Outlay is increased from $18,300 to $20,800.

b. General Fund Expenditures, Police, Account Number 10-510-7400, Capital Outlay is increased from $88,360 to $123,090.

c. General Fund Expenditures, Fire, Account Number 10-530-0600, Insurance is increased from $36,485 to $45,600.

d. General Fund Expenditures, Powell Bill, Account Number 10-570-4500, Contracted Services is increased from $146,666 to $219,000.

e. General Fund Expenditures, Non-Departmental, Account Number 10-660-9000, Transfer to Capital Projects is increased from $26,000 to $112,000.

f. General Fund Revenues, Account Number 10-334-1500, Bullet Proof Vest Grant is increased from $2,151 to $3,761.

AA.000000790 (24)

g. General Fund Revenues, Account Number 10-335-0300, Mountain Glory Revenue is increased from $20,000 to $21,468.

h. General Fund Revenues, Account Number 10-341-0500, Refunds /Reimbursements is increased from $1,200 to $3,800.

i. General Fund Revenues, Account Number 10-342-1300, National Night Out Revenue is increased from $1,700 to $2,700.

j. General Fund Revenues, Account Number 10-344-4000, County Contribution - Recycling is increased from $2,250 to $4,500.

k. General Fund Revenues, Account Number 10-365-1000, Restricted Contributions is increased from $-0- to $2,700.

l. General Fund Revenues, Account Number 10-390-0000, Cemetery Revenue is increased from $7,600 to $11,927.

m. General Fund Revenues, Account Number 10-392-2500, Storm Damage Reimbursement - FEMA is increased from $-0- to $14,562.

n. General Fund Revenues, Account Number 10-399-0000, Fund Balance Appropriated is increased from $593,417 to $767,579.

GENERAL FUND CAPITAL PROJECTS FUND

a. General Fund Capital Project Fund Expenditures, Account Number 11-510-0200, NCSTEP - Branding, is decreased from $144,000 to $134,000.

b. General Fund Capital Project Fund Expenditures, Account Number 11-510-0500, NCSTEP – Art Center, is increased from $10,000 to $20,000.

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 15th day of June 2010.

Stephen R. Little, Mayor

ATTEST:
J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–10–06–15–6

C. Approve Personnel Policy Amendment

City of Marion
Personnel Policy Amendment

The Personnel Policy of the City of Marion, as adopted on February 21, 2006, is hereby amended as follows:

Section 1. That Article VI, Work Conditions and Expectations, Section 18. Residency is amended by deleting Section 18 in its entirety and replacing it with the following:

Section 18. Residency

The City Manager is required to maintain residence in the City Limits of Marion. The City Council may grant the City Manager a reasonable period of time after his or her initial appointment to establish residency in the City.

The following positions are designated as emergency response sensitive positions and are encouraged to maintain a principal residence within the City Limits of Marion:

Fire Chief
Police Chief
Public Works Director

Persons in these positions wishing to reside outside the City Limits may request a waiver from this requirement. The City Manager may grant a waiver from this requirement, if the ability to respond to emergency situations is not hampered; however, such positions should reside no more than six (6) miles from the primary City Limits, which does not include satellite annexation areas.

An employee falling under this requirement who plans to change residence must give prior notice to the City Manager.

Section 2. This amendment shall become shall become effective upon its adoption.

AA.000000791 (24)

Adopted this the 15th day of June 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Policy Number: P-10-06-15-1

D. Adopt Resolution Directing Clerk to Investigate a Petition for Annexation – McDowell County Schools – Lukin Street Property

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-58.1 – MCDOWELL COUNTY SCHOOLS – LUKIN STREET - 2010

WHEREAS, a petition requesting annexation of an area described in said petition was received on April 15, 2010 by the City of Marion; and

WHEREAS, 160A-58.2 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 of his investigation.

Adopted this the 15th day of June, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-10-06-15-1

E. Receive Certificate of Sufficiency – McDowell County Schools – Lukin Street Property

CERTIFICATE OF SUFICIENCY – MCDOWELL COUNTY SCHOOLS – LUKIN STREET PROEPRTY – 2010

To the City of Council of the City of Marion:

I, J. Robert Boyette, City Clerk, do hereby certify that I have 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-58.1.

In witness whereof, I have hereunto set my hand and affixed the seal of the City of Marion this the 15th day of June, 2010.

(Seal)

J. Robert Boyette, City Clerk

F. Approve Resolution Fixing the Date of Public Hearing on the Question of Annexation – McDowell County Schools – Lukin Street Property:

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-58.1 – MCDOWELL COUNTY SCHOOLS – LUKIN STREET - 2010

WHEREAS, a petition requesting annexation of the non-contiguous 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

AA.00000792 (24)

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 non-contiguous area described herein will be held at City Hall at 7:00 P.M. on Tuesday, July 20, 2010.

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

Tract One

BEING that certain 2.55 acre tract as shown on the recorded plat recorded in Book 4 at page 264, McDowell County Register of Deeds to which reference is hereby made for a full metes and bounds description.

This conveyance is made SUBJECT to the right of way easement shown on recorded plat referred to above.

AND BEING a portion of the lands described in that certain Deed dated January 19, 1978 from Grayson W. Davis and wife, Patricia W. Davis to Foothills Industries of McDowell County, Inc., and recorded in the Office of the Register of Deeds for McDowell County, NC in Book 269 at page 494, to which reference is hereby made.

A map showing the above described property is recorded in Plat Book 4, Page 264.

Tract Two

BEGINNING on an iron pin set in the property line common to Arthur Hooper and Foothills Industries of McDowell County, Inc., said iron pin being located North 48 degrees 59 minutes 14 seconds East 237.88 feet from an existing iron pin, the 2nd corner of the Foothills Industries of McDowell County, Inc. property of which this description is a part, and runs thence from said beginning iron pin and with the Hooper line, North 48 degrees 59 minutes 14 seconds East 127.04 feet to an existing angle iron, the 3rd corner of said Foothills Industries of McDowell County, Inc. property; thence with the line of Brown, South 87 degrees 12 minutes 17 seconds East 197.02 feet to an iron pin set in the J. C. Webb line; thence with said Webb line, South 43 degrees 23 minutes 50 seconds East 211.87 feet to an existing iron; thence continuing with said Webb line, South 76 degrees 45 minutes 19 seconds East 15.16 feet to an existing iron pin; thence with the lines of Ramsey and Washburn, South 47 degrees 00 minutes 36 seconds West 248.87 feet to an iron pin set; thence a new line North 47 degrees 15 minutes 38 seconds West 370.88 feet to the BEGINNING. Containing 1.89 acres, description furnished by R.L. Greene.

AND BEING a portion of the lands described in that certain Deed dated January 19, 1978 from Grayson W. Davis and wife, Patricia W. Davis to Foothills Industries of McDowell County, Inc., recorded in the Office of the Register of Deeds for McDowell County, NC in Book 269 at page 494 to which reference is hereby made.

Reference is hereby made of Foothills Industries of McDowell County, Inc. property recorded in Plat Book 4 at page 204, McDowell County Register of Deeds (plat prepared by R. L. Greene, dated July 12, 1984).

Section 3. Notice of the public hearing shall be published once in The News Bulletin, 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 the 15th day of June, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-10-06-15-2

G. Adopt Resolution of Intent to Annex City Owned Property off of Sugar Hill Road:

RESOLUTION STATING THE INTENT OF THE CITY OF MARION TO ANNEX PROPERTY OWNED BY THE CITY WHICH IS CONTIGUOUS TO THE EXISTING MUNICIPAL BOUNDARIES

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

Section 1. It is the intent of the City Council, pursuant to G.S. 160A-31, to annex the property described in Section 2, which is owned by the City of Marion.

Section 2. The legal description of the property is as follows:

First Tract:

BEGINNING on an iron stake, Mrs. Snyder's and Burgin's corner in the old Wiseman line (now Bailey's), said stake being Marion Buckner's beginning corner, and runs west (var. 5 degrees) with said old line 167 feet to an iron stake; then South 3-30 West 93 feet to

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an iron stake; then South 78-15 East 77 feet to an iron stake in Buckner's outside line; then North 48 East with said line 137 feet to the **BEGINNING**. Containing one-third (1/3) acre, more or less. Surveyed by M.V. Snypes on December 10, 1946.

Second Tract:

BEGINNING on an iron stake, Buckner's Southeast corner, said stake located South 78 West 5 feet and 2 inches from a Spanish oak pointer and runs South 42 East with the old line 140 ½ feet to a stake on the East bank of the old Nix Creek Road; then North 86 degrees 15 minutes West with the road 191 ½ feet to an iron stake on the Northeast bank of said road, Buckner's Southwest corner; then North 44 degrees, 45 minutes East with Buckner's line 137 feet to the **BEGINNING**. Containing ¼ acre, more or less.

AND BEING THE SAME IDENTICAL PROPERTY described in the Deed from Tuie R. Boone to Billy L. Brown and wife, Ruth B. Brown, and recorded in McDowell County, North Carolina 194 at Page 562.

Section 3. The property described in Section 2 is contiguous to the current municipal boundaries.

Section 4. A public hearing on the question of annexation of the property will be held at Marion City Hall, located at 194 North Main Street in Marion, on Tuesday, July 20, 2010, at 7:00 p.m.

Section 5. Notice of the public hearing shall be published once in the News Bulletin, 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 the 15th day of June, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Resolution Number: R-10-06-15-3

H. Adopt Resolution Authorizing the Sale of City Property on West Yancey Street by Negotiated Offer and Upset Bid and Rejecting Previous Offer to Purchase Said Property Due to the Submission of a Qualifying Upset Bid:

Resolution Authorizing the Sale of Certain Property Owned by the City of Marion on West Yancey Street by Negotiated Offer and Upset Bid and Rejecting a Previous Offer to Purchase Said Property Due to the Submission of a Qualifying Upset Bid

WHEREAS, the City Council of the City of Marion desires to dispose of certain surplus property of the City; and

WHEREAS, N.C.G.S. 160A-269 authorizes a city to convey by negotiated offer and upset bid any real or personal property; and

WHEREAS, on May 6, 2010, Mr. Wynn Jackson submitted a bid in the amount of $3,000 for the purchase of approximately 0.20 acres of property owned by the City of Marion located on West Yancey Street (McDowell County Parcel Identification Number 1701.14-33-9687); and

WHEREAS, the City Council of the City of Marion adopted a resolution on May 18, 2010, in accordance with N.C.G.S. 160A-269, accepting the offer of Mr. Wynn Jackson to purchase the property, as described above, for a sum of $3,000, subject to public notice and upset bid; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion received a five percent bid deposit from Mr. Wynn Jackson, LLC; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion, on May 26, 2010, caused notice of the proposed sale of the property, as described above, to be published in The News Bulletin, a newspaper of general circulation in the City of Marion; and

WHEREAS, on June 4, 2010, Hopewell Road, LLC submitted a bid in the amount of $3,200 for the purchase of the property described above; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the bid submitted by Hopewell Road, LLC is a qualifying upset bid for the purchase of the property described above; and

WHEREAS, the City Council of the City of Marion desires to reject the previous bid of Mr. Wynn Jackson and to complete the sale of the property described above to Hopewell Road, LLC, subject to public notice and upset bid.

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

1. The parcel owned by the City of Marion on West Yancey Street (McDowell County Parcel Identification Number 1701.14-33-9687) that is approximately 0.20 acres in size is hereby declared to be surplus to the needs of the City of Marion.

2. The City Council rejects the offer of Mr. Wynn Jackson to purchase the above described property for $3,000, due to the submission of a qualifying upset bid during the required ten day upset bid period after publication of the proposed sale, as provided for in N.C.G.S. 160A-269.

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3. The City Clerk shall refund Mr. Wynn Jackson the five percent bid deposit that he paid to the City.

4. The City Council accepts the offer of Hopewell Road, LLC to purchase the above described property for $3,200, subject to the upset bid process being followed as required by N.C.G.S. 160A-269.

5. The City Clerk shall notify Hopewell Road, LLC of the acceptance of this offer, receive a five percent bid deposit from the bidder, and cause a notice of this resolution to be published in accordance with G.S. 160A-269. Such notice shall state that prospective bidders have ten days from the date the notice is published to offer an upset bid, pursuant to G.S. 160A-269.

6. Once the upset bid process is completed, in accordance with G.S. 160A-269, the City Manager is designated to dispose of the above described property to the bidder selected by City Council, for a minimum price of $3,200.

Adopted this the 15th day of June, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-10-06-15-4

I. Approve Capital Project Ordinance – Catawba River Greenway Phase 2:

CITY OF MARION, NORTH CAROLINA
GENERAL FUND CAPITAL PROJECTS FUND ORDINANCE –
CATAWBA RIVER GREENWAY PROJECT - PHASE II

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

Section 1. That the Budget Ordinance for the City of Marion, North Carolina for the fiscal year 2009-10 as adopted by the Marion City Council on the 16th day of June 2009 is hereby amended as follows to include the expenditures associated with General Fund Capital Projects by adopting the following General Fund Capital Projects Fund Ordinance:

GENERAL FUND CAPITAL PROJECTS FUND

a. General Fund Capital Projects Fund Expenditures, Catawba River Greenway Project, Greenway Building Costs, Account Number 11-505-0000, is increased from $-0- to $261,000.

b. General Fund Capital Projects Fund Expenditures, Catawba River Greenway Project, Greenway Engineering Costs, Account Number 11-505-0300, is increased from $-0- to $39,000.

c. General Fund Capital Projects Fund Revenues, Catawba River Greenway Project, Transfer from General Fund – Greenway, Account Number 11-381-0200, is increased from $-0- to $300,000.

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 15th day of June 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–10–06–15–7

PUBLIC HEARING – ADOPTION OF 2010-11 BUDGET ORDINANCE: Mayor Little opened the public hearing.

The City Manager gave a brief overview of the recommended 2010-11 City budget, as follows:

- The total recommended budget for all five funds (General Fund, Water and Sewer Fund, Internal Service Fund, General Capital Reserve Fund and Water and Sewer Capital Reserve Fund) is $9,519,019.
- The budget is a 3.61 percent, or $356,368, decrease over the amended 2009-10 City budget.
- The budget decrease is mainly due to the loss of hundreds of thousands of dollars in revenues.
- The budget includes very conservative revenue and expenditure estimates, due to continuing uncertainty about the State and National economy.

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- The 2009-10 City budget was a 9.9 percent, or $1,044,256, decrease over the 2008-09 City budget.
- There is no recommended tax rate increase. This will be the 43rd year in a row that the City of Marion has not increased taxes.
- The City's property tax base is expected to increase by a small amount due to continued modest growth in the City offset partially by reductions in business personal property values.
- The budget calls for a six percent increase in water and sewer rates. This is the fifth year of a five year six percent annual water and sewer rate increase approved by the City Council in 2006.
- The budget provides for funding for several projects, including:
    - Funding for street, sidewalk, curb and drainage projects, $197,719
    - Code enforcement expenses for dilapidated housing demolition, $15,000
    - Purchase of computers for Police Department, $4,500
    - Miscellaneous Fire Department capital needs, $10,000
    - Purchase of two pickup trucks for Street Division, $40,000
    - Sand spreader and snow blade to equip additional vehicle for snow removal for Street Division, $20,000
    - Purchase of 4X4 tractor with blade and bucket for snow removal on sidewalks and other areas for Street Division, $14,000
    - Miscellaneous Street Division equipment, $2,000
    - Purchase of eight dumpsters, $6,500
    - Mini park funding, including work on Clinchfield Community Park, $25,000
    - Purchase of water and sewer pipe, valves and hydrants, $75,000
    - Purchase of underground punch or tamp in Utility Maintenance Division, $3,000
    - Purchase of replacement meter reading vehicle, $20,000
    - Paving work at Water Plant, $10,000
    - Installation of security cameras at Water Plant, $16,000
    - Replacement of valves at Water Plant, $26,000
    - Replacement of vehicle at Water Plant, $20,000
    - Rehabilitation of Goodrum Drive and Grayson Street wastewater pump stations, $16,500
    - Cement for Goodrum Drive and Victory Drive wastewater pump stations, $2,500
    - Purchase of equipment at Wastewater Plant, $13,500

There were no citizens present to discuss this item.

Mayor Little closed the Public Hearing.

Mayor Pro Tem Owenby stated that he wanted to personally thank the City staff who worked so hard on this budget.

Mayor Little thanked the City Manager and staff as well and stated that he was so glad to see the City be able to fund a modest salary increase for City employees.

Upon a motion by Mayor Pro Tem Owenby, seconded by Council Member Cuthbertson, Council voted unanimously to adopt the following ordinance adopting the 2010-11 Budget:

BUDGET ORDINANCE

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

Section 1. The following amounts are hereby appropriated in the General Fund for the operation of the City Government and its activities for the fiscal year beginning July 1, 2010 and ending June 30, 2011 in accordance with the chart of accounts heretofore established by the City:

Administration	$ 404,971	Planning and Development
209,321		
Police	1,714,826	
Fire	444,408	
Public Works Administration	87,640	
Fleet Maintenance	59,901	
Street	790,002	
Powell Bill	233,719	
Sanitation	518,553	
Recreation	99,800	
Cemetery	23,500	
Non-Departmental	560,780	
Total	**$ 5,147,421**	

Section 2. It is estimated that the following revenues will be available in the General Fund for the fiscal year beginning July 1, 2010 and ending June 30, 2011:

Prior Year's Taxes	$ 50,000

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Vehicle Tax-Collected by County	147,700
City Vehicle License	15,000
Current Taxes	1,698,306
Tax Penalties & Interest	25,000
Privilege License Sales	36,000
Peddler's Permit	100
Interest Earned	20,000
Powell Bill Interest Earned	1,500
Rents and Concessions	35,000
Misc. Revenues	1,050
Drink Commissions	1,500
Bad Check Fees	150
P/D Ser Copies Fingerprints	750
Refunds/ Reimbursements	1,200
Utilities Franchise Tax	500,000
Beer/Wine Revenue	34,600
Powell Bill Allocation	183,719
Sales Tax Distribution	1,024,000
ABC Revenues	75,000
ABC Officer Revenues	6,000
Court Costs, Fees & Charges	3,000
Parking Violations	5,000
County Fire Protection	300,000
National Night Out Contributions	1,700
State Fire Protection Reimbursement	2,700
Recycling Bin Deposit	200
Cemetery	6,000
DOT Reimbursement Grass Mowing	2,500
Garbage Fees	153,800
Zoning Income - Inspection Fees	26,000
Sale of Garbage/Leaf/Recycling Bags	500
Cable TV Revenues	80,000
Sales of Surplus Equipment	11,000
McDowell County Schools	23,166
Hold Harmless Revenue	61,000
Wellness Grant	1,750
Mountain Glory Revenues	20,000
County Recycling Contribution	3,750
Solid Waste Disposal Tax	4,800
Dispatching Fees – Water and Sewer	5,300
GIS Mapping Fees – Water and Sewer	2,905
Powell Bill Fund Balance	50,000
Fund Balance	525,775
TOTAL	$5,147,421

Section 3. The following amounts are hereby appropriated in the Capital Reserve Fund – General for the fiscal year beginning July 1, 2010 and ending June 30, 2011:

Reserve for Future Appropriations	$ 526,296
TOTAL	**$ 526,296**

Section 4. It is estimated that the following revenues will be available in the Capital Reserve Fund – General for the fiscal year beginning July 1, 2010 and ending June 30, 2011:

Fund Balance Appropriated	$ 496,796
Parking Lot Repayment	12,500
Interest on Investments	17,000
TOTAL	**$ 526,296**

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, 2010 and ending on June 30, 2011 in accordance with the accounts heretofore approved for the City:

Utility Line Operation	$ 1,346,160
Water Filter Plant	627,395
Waste Treatment Plant	1,012,604
Non-Departmental	339,019
TOTAL	**$ 3,325,178**

Section 6. It is estimated that the following revenues will be available in the Water / Sewer Fund for the fiscal year beginning July 1, 2010 and ending June 30, 2011:

Fund Balance	$ 181,366
Interest Earned	8,000
Miscellaneous Income	310
Bad Check Fees	1,000
Time Payment Interest	1,000
Fire Protection Taps	1,000
Transfer Fee	1,400

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Reimbursement – Septic	10,000	Reimbursement - Pump Stations
	1,500	
Reimbursement – Pretreatment	2,600	
Owner Temporary Sales	250	
Water Sales	1,008,000	
Cut on Fees/Late Penalties	67,000	
Sewer Service	584,000	
Water Taps	60,000	
Sewer Taps	20,000	
Delinquent Accounts Collected	500	
Tank Truck Charges	1,000	
Water Service Charge	896,000	
Sewer Service Charge	466,000	County Reimbursement – 221N
14,252		
TOTAL	**$ 3,325,178**	

Section 7. The following amounts are hereby appropriated in the Capital Reserve Fund – Water/Sewer for the fiscal year beginning July 1, 2010 and ending June 30, 2011:

Reserve for Future Appropriations:	$ 243,175
TOTAL	**$ 243,175**

Section 8. It is estimated that the following revenues will be available in the Capital Reserve Fund – Water/Sewer for the fiscal year beginning July 1, 2010 and ending June 30, 2011:

Fund Balance Appropriated	$ 240,675
Interest on Investments	2,500
TOTAL	**$ 243,175**

Section 9. The following amounts are hereby appropriated in the Internal Service Fund for the fiscal year beginning July 1, 2010 and ending June 30, 2011:

Inventory (Supplies)	$ 180,000
Warehouse and Purchasing Operations	96,949
TOTAL	**$ 276,979**

Section 10. It is estimated that the following revenues will be available in the Internal Service Fund for the fiscal year beginning July 1, 2010 and ending June 30, 2011:

Purchase by Other Funds	$ 215,000
Fund Balance Appropriated	61,949
TOTAL	**$ 276,979**

Section 11. There is hereby levied a tax at the rate of fifty-one ($ .51) per one hundred ($100) valuation of property as listed for taxes as of January 1, 2010 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 $348,101,840 and estimated rate of collection of
96%.

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 15th day of June, 2010

Stephen R. Little, Mayor

ATTEST:

AA.00000798 (24)

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–10–06–15–1

Council Member Clark stated that he to wanted to echo what Mayor Pro Tem Owenby had said and was thankful for all the years the City has had financial stability.

Mayor Little stated that there had not been a tax increase by this Board since before the City Manager was born.

The City Manager stated that he appreciated all the department heads for what they did to help with this year's budget, especially Ms. Harriett Thomas, who worked hard to prepare the budget document and to be patient in producing numerous versions of the proposed budget.

APPROVE SIDEWALK ENCROACHMENT – PLACEMENT OF TABLE AND CHAIRS - CAFFIEND UNDERGROUND – WEST HENDERSON STREET: The City Manager advised that, as indicated on the information presented to Council, the Caffiend Underground at 24 West Henderson Street has submitted a release and agreement for a sidewalk encroachment to allow table and chairs to be placed on the West Henderson Street sidewalk next to their business. Council approval of this request is required under the City Code before a food service establishment may place table and chairs on the sidewalk. A rough site plan was presented to Council for their information.

The City Manager stated that this agreement contains a hold harmless release and is the same as previously approved for other downtown food service establishments. Staff has determined that there is sufficient room to allow the placement of the table and chairs and still provide for safe pedestrian movement along the sidewalk. The City Manager recommended approval of the request.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to approve the request by the Caffiend Underground at 24 West Henderson Street for a sidewalk encroachment to allow table and chairs to be placed on the West Henderson Street sidewalk next to their business, contingent upon the business owner signing the release and agreement printed below.

STATE OF NORTH CAROLINA
RELEASE AND AGREEMENT
COUNTY OF McDOWELL

THIS RELEASE is executed and entered into this the _____ day of_____, 20____. By_____
(hereinafter referred to as "undersigned").

1. It is further acknowledged by the undersigned that use of streets, sidewalks, and other public places located within the municipal limits of the City of Marion is subject to regulation by the City.

2. It is further acknowledged that Section 15-134 of Marion City Code prohibits the placing of any items on the public sidewalk unless the merchant wishing to do so first provides the City Manager with a signed notarized statement accepting total and complete responsibility for any accidents or other problems relating to the items placed on the sidewalk in front of their business.

3. Pursuant to section 15-134 of Marion City Code, the undersigned hereby request permission to place items on the sidewalk directly in front of the following business:_____

   Specific items to be placed on the sidewalk: _____

   Beginning and ending dates and times for such items to remain on sidewalk:_____

   Other Conditions: _____

   _____

4. Undersigned hereby agrees to indemnify the City and to hold the City harmless from any and all claims, damages, or liability to any person whatsoever, (including attorneys fees, costs of court and any other expenses) which may arise from or in any way related to, the placement of the items described above on the sidewalk. Should any such claim be made against the City, the undersigned agrees to assume the cost of defending such claim, and to reimburse the City for any expenses it incurs in the defense such claim. Undersigned agrees to maintain sufficient liability insurance coverage to enable it to comply with the provisions of this Release and Agreement.

   Undersigned maintains liability insurance on the premises in questions with:_____
   and agrees to forward a copy of this Release and Agreement to its Insurer.

5. Undersigned stipulates that, by the promises and representations contained herein, it has induced the City to allow it to place the items referred to above on the public sidewalk. Undersigned acknowledges that such permission may at any time be immediately withdrawn if undersigned is found to be in violation of any part of Section 15-134 of the Marion City Code, or if, in the sole discretion of the City, the items placed on the sidewalk, or the activities associated with them, are considered an unreasonable hazard or violation of law. Undersigned hereby releases the City from any and all liability either associated with the City's exercise of its discretion in making such determination, or in any other way arising from the placement or presence of the items referred to above on the sidewalk, or from any activities associated in any way with such items.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present for this meeting.

AA.000000799 (24)

APPROVAL OF WATER AND SEWER RATE AND TAP FEE ORDINANCE: The City Manager presented Council with copy of the Water and Sewer Rate and Tap Fee Ordinance that provides for a six percent rate increase in all service categories, to be effective with the August 1, 2010 billing (reflecting July usage). This is the fifth year of a five year six percent rate increase instituted by Council in 2006.

Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Owenby, Council voted unanimously to adopt the following Ordinance establishing water and sewer rates as follows:

ORDINANCE

ESTABLISHING WATER/SEWER RATES, CONNECTION FEES, COST RECOVERY CHARGES AND OTHER MISCELLANEOUS CHARGES

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

Section 1. That new water/sewer rates, connection (tap fees) fees, cost recovery charges and other miscellaneous charges are hereby established as follows:

	INSIDE CITY	OUTSIDE CITY
Water Rates:	**$2.13 per 1,000 Gallons, plus $12.06 Service Charge per month**	**$5.34 per 1,000 Gallons, plus $30.13 Service Charge per month**
Minimum Rate for 2,000 gallons or less	**$13.41**	**$33.54**
Master Meter Rate	**$2.13 per 1,000 Gallons, plus $9.62 Service Charge per month**	**$5.34 per 1,000 Gallons, plus $24.05 Service Charge per month**
Master Meter Minimum Rate for 2,000 gallons Or less (per unit served)	**$10.96**	**$27.39**

	INSIDE CITY	OUTSIDE CITY
Sewer Rates:	**$2.13 per 1,000 Gallons, plus $12.06 Service Charge per month**	**$5.34 per 1,000 Gallons, plus $30.13 Service Charge per month**
Minimum Rate for 2,000 gallons or less	**$13.41**	**$33.54**
Master Meter Rate	**$2.13 per 1,000 Gallons, plus $9.62 Service Charge per month**	**$5.34 per 1,000 Gallons, plus $24.05 Service Charge per month**
Master Meter Minimum Rate for 2,000 gallons Or less (per unit served)	**$10.96**	**$27.39**

	INSIDE CITY	OUTSIDE CITY
Metered Sewer Rates for Private Wells	**$3.08 per 1,000 Gallons, plus $12.06 Service Charge per**	**$7.70 per 1,000 Gallons, plus $30.13 Service Charge per**

AA.000000800 (24)

month month

Important Notices:

All sewer charges are based on water meter readings, unless a sewer metering device approved by the City has been installed.

When more than one unit is served by a Master Meter, such as a mobile home park, shopping center or apartment complex, the monthly service charge is $10.96 for water and $10.96 for sewer in the City, and $27.39 for water and $27.39 for sewer outside the City, whether said units are occupied or not.

A residence using a private well, with no water meter, shall pay a flat rate of $33.54 per month per residential unit for sewer service, if located outside the City Limits. If the residence using a private well, with no water meter, is located inside the City Limits, a flat rate of $13.41 per month per residential unit shall be charged for sewer service.

WATER SERVICE CONNECTION FEES (TAP FEES) AND COST RECOVERY CHARGES (CRC):

WATER METER SIZE	INSIDE CITY TAP FEE	INSIDE CITY CRC CHARGE	OUTSIDE CITY TAP FEE	OUTSIDE CITY CRC CHARGE
¾"	$ 540	$ 540	$ 1,350	$ 1,350
1"	630	1,620	1,575	4,050
1 ½"	1,260	3,240	3,150	8,100
2"	1,440	6,480	3,600	16,200
3"	3,060	12,960	7,650	32,400
4"	3,690	22,500	9,225	56,250
6"	5,940	54,000	14,850	135,000
8"	8,100	67,500	20,250	168,750
10"	10,800	90,000	27,000	225,000
12"	14,400	112,500	36,000	281,250

Tap Fees (Domestic Water Service):

The Charge listed for a ¾" domestic water service includes the cost of a back-flow preventor required by the City.

The charge to add a ¾" back-flow preventor to an existing domestic service is as follows:

INSIDE CITY	OUTSIDE CITY
$ 10.00	$ 20.00

CHARGES FOR CONNECTIONS FOR FIRE PROTECTION/SPRINKLER LINES IN RESIDENTIAL AND/OR COMMERCIAL DEVELOPMENTS

SIZE SERVICE	INSIDE CITY	OUTSIDE CITY
2" SERVICE	$ 1,100	$ 2,750
3" SERVICE	2,800	7,000
4" SERVICE	3,200	8,000
6" SERVICE	4,400	11,000
8" SERVICE	6,000	15,000
10" SERVICE	8,200	20,500
12" SERVICE	11,600	29,000

CHARGES FOR CONNECTIONS FOR FIRE PROTECTION/SPRINKLER LINES IN RESIDENTIAL AND/OR COMMERCIAL DEVELOPMENTS-continued:

All connections to the city water system shall be equipped with a proper check-valve and/or back-flow preventor approved by the city public works director or city engineer prior to installation. It shall be the responsibility of the owner to have the approved check-valve or back-flow preventor installed. In addition, the owner of all properties connected to the city water system and using water for other than domestic services, shall submit a letter to the city water department on or before the first day of July each year certifying that the check-valve and/or back-flow preventor has been checked and is operating properly.

SEWER SERVICE CONNECTION FEES (TAP FEES) AND COST RECOVERY CHARGES (CRC):

WATER METER SIZE	INSIDE CITY TAP FEE	INSIDE CITY CRC CHARGE	OUTSIDE CITY TAP FEE	OUTSIDE CITY CRC CHARGE
¾"	$ 1,080	$ 360	$ 2,700	$ 900
1"	1,170	1,080	2,925	2,700
1 ½"	1,260	2,160	3,150	5,400
2"	1,350	3,600	3,375	9,000
3"	1,440	7,200	3,600	18,000
4"	1,530	10,800	3,825	27,000
6"	1,620	22,500	4,050	56,250

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8"	1,710	36,090	4,275	90,225
10"	1,800	51,840	4,500	129,600
12"	1,890	69,840	4,725	174,600

	INSIDE CITY	OUTSIDE CITY
RELOCATE WATER/ SEWER CONNECTION, (OWNERS REQUEST)	AT COST	COST PLUS 10%
INCREASE METER SIZE	DIFFERENCE IN TAP FEE AND COST RECOVERY CHARGES FOR WATER/SEWER	DIFFERENCE IN TAP FEE AND COST RECOVERY CHARGES FOR WATER/SEWER

DEPOSIT AND/OR PREPAYMENT FOR NEW ACCOUNTS:

RESIDENTIAL ACCOUNTS

	INSIDE CITY	OUTSIDE CITY
WATER DEPOSIT	$ 30.00	$ 60.00
SEWER DEPOSIT	$ 30.00	$ 60.00

In cases where an existing residential water and/or sewer customer has been a water and/or sewer customer of the city of Marion for a period of no less than five consecutive years, and has made no late payments in the previous twelve months, and moves to another location on the city's water and/or sewer system, the following procedure shall apply:

Any increase in the deposit required to be paid to bring the customer's deposit up to the current level listed above may be paid in three equal installments, to be added to the customer's first three water and/or sewer bills in the new location. If the customer fails to make any of the required payments, their service may be cut off pursuant to city policy.

COMMERCIAL, INDUSTRIAL AND MASTER METER ACCOUNTS

The water and/or sewer deposit for commercial, industrial, and master meter accounts shall be an amount equal to the average monthly charge for water and/or sewer service, but not less than the residential deposits. The initial deposits for commercial, industrial and master meter accounts shall be as follows:

INSIDE CITY

	WATER	SEWER	WATER AND SEWER
FAST FOOD/PIZZA RESTAURANTS	$100.00	$100.00	$ 200.00
OTHER RESTAURANTS (WITH SEATING)	$150.00	$150.00	$ 300.00
GROCERY STORES	$150.00	$150.00	$ 300.00
APARTMENT COMPLEXES (MASTER METER)	$150.00	$150.00	$ 300.00
CAR WASHES	$150.00	$150.00	$ 300.00
LAUNDRIES	$200.00	$200.00	$ 400.00

COMMERCIAL, INDUSTRIAL AND MASTER METER ACCOUNTS-continued:

INSIDE CITY

	WATER	SEWER	WATER AND SEWER
NURSING/FAMILY CARE HOMES	$200.00	$200.00	$ 400.00
INDUSTRY (50 OR MORE EMPLOYEES)	$500.00	$500.00	$1,000.00
INDUSTRY (LESS THAN 50 EMPLOYEES)	$200.00	$200.00	$ 400.00
OTHER MASTER METER ACCOUNTS	$100.00	$100.00	$ 200.00
GENERAL BUSINESS	$ 50.00	$ 50.00	$ 100.00

OUTSIDE CITY

	WATER	SEWER	WATER AND SEWER
FAST FOOD/PIZZA RESTAURANTS	$ 200.00	$ 200.00	$ 400.00

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OTHER RESTAURANTS (WITH SEATING)	$ 300.00	$ 300.00	$ 600.00
GROCERY STORES	$ 300.00	$ 300.00	$ 600.00
APARTMENT COMPLEXES (MASTER METER)	$ 300.00	$ 300.00	$ 600.00
CAR WASHES	$ 300.00	$ 300.00	$ 600.00
LAUNDRIES	$ 400.00	$ 400.00	$ 800.00
NURSING/FAMILY CARE HOMES	$ 400.00	$ 400.00	$ 800.00
INDUSTRY (50 OR MORE EMPLOYEES)	$1,000.00	$1,000.00	$2,000.00
INDUSTRY (LESS THAN 50 EMPLOYEES)	$ 400.00	$ 400.00	$ 800.00
OTHER MASTER METER ACCOUNTS	$ 200.00	$ 200.00	$ 400.00
GENERAL BUSINESS	$ 100.00	$ 100.00	$ 200.00

COMMERCIAL, INDUSTRIAL AND MASTER METER ACCOUNTS-continued:

The city manager shall determine the appropriate deposit for any commercial, industrial or master meter customer not listed in the preceding schedule. At the end of six months of service, the city will determine the average use by averaging the three highest months. The customer will be billed for any additional amount for the proper deposit. If the amount is not received in thirty days, the utility bill will be increased each month for twelve consecutive months until the proper deposit has been received. If the average monthly deposit is lower than the amount the city has received from the initial deposit, the city will credit the water account of the customer for the amount of the difference in the initial deposit and the average monthly bill.

OTHER MISCELLANEOUS CHARGES

	INSIDE CITY	OUTSIDE CITY
FIRST LATE PENALTY	$ 5.00	$ 5.00
SECOND LATE PENALTY:		
1 - 3 OCCURANCES	$ 15.00	$ 15.00
4 OR MORE CCURANCES	$ 25.00	$ 25.00
RECONNECT SERVICE AFTER DISCONNECTION	$ 25.00	$ 25.00
RECONNECT SERVICE SUMMER/SEASONAL RESIDENT	$ 15.00	$ 37.50
TEMPORARY SERVICE (SEVEN OR LESS DAYS)	$ 15.00 PLUS ACTUAL WATER USAGE	$ 37.50 PLUS ACTUAL WATER USAGE
TRANSFER EXISTING ACCOUNT TO NEW ADDRESS	UPGRADE TO PROPER DEPOSIT (IF DEPOSIT IS ADEQUATE) CHARGE $ 15.00 TRANSFER FEE	
METER TAMPERING:		
1ST OFFENSE	$ 100.00	$ 100.00
2ND OFFENSE	$ 200.00	$ 200.00
3RD OFFENSE	$ 500.00	$ 500.00

OTHER MISCELLANEOUS CHARGES-continued:

	INSIDE CITY	OUTSIDE CITY
RETURNED CHECK SERVICE CHARGE	$ 25.00 OR 10% OF CHECK, WHICHEVER IS GREATER	$ 25.00 OR 10% OF CHECK, WHICHEVER IS GREATER
BANK DRAFT CUSTOMER – CHARGE FOR CLOSED ACCOUNT	$ 25.00	$ 25.00
CUSTOMERS REQUEST TO CHECK WATER METER FOR ACCURACY		

AA.000000803 (24)

¾" AND 1" METERS	**$ 25.00**	**$ 25.00**
LARGER METERS	**AT COST**	**AT COST**
DETERMINATION OF FLOW AND SERVICE CAPABILITIES	**AT COST**	**AT COST**
WATER TESTING: PRIVATE WELLS - BACTERIAL ONLY	**$ 50.00**	**$ 50.00**

Section 2. The Ordinance adopted on September 1st, 2009 is rescinded upon the effective date of this Ordinance.

Section 3. All other ordinances, in conflict with this ordinance, are rescinded upon the effective date of this ordinance.

Section 4. This Ordinance shall become effective July 1, 2010.

ADOPTED this the15th day of June 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-10-06-15-2

APPROVAL OF COMMERCIAL GARBAGE/RECYCLING RATE ORDINANCES: Finance Director Harriett Thomas advised that staff is proposing an increase in commercial garbage and recycling fees of six percent, said increase to take effect July 1, 2010. This increase keeps this service self sustaining and would provide additional revenue for the City.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Owenby, Council voted unanimously to adopt the following Ordinance establishing Commercial Garbage and Recycling rates:

ORDINANCE

COMMERCIAL GARBAGE / RECYCLING COLLECTION RATES

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

Section 1. That new rates for Commercial Garbage / Recycling Collections are hereby established as follows:

Plan "A"
Industrial / Commercial Dumpsters

Pickups per Week	Monthly Charge
1	$ 125
2	302
3	482
4	660
5	840

Pickups per Month	Monthly Charge
1	$ 35
2	60
3	88

Plan "B"
Apartment Complexes

Pickups per Week	Monthly Charge
1	$ 9 (minimum charge)
2	70
3	131
4	191
5	255

Plan "C"
Commercial Can Services (3 – 35 gallon cans)

Pickups per Week	Monthly Charge
1	$ 16 (minimum charge)

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Plan "D"
Commercial Recycling Services (see description in contract)

Flat Monthly Charge $ 16

Section 2. The Ordinance adopted on June 17th 2008 is rescinded upon the effective date of this Ordinance.

Section 3. All other ordinances, in conflict with this Ordinance, are rescinded upon the effective date of this Ordinance.

Section 4. This Ordinance shall become effective July 1, 2010.

Adopted this the 15th day of June 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–10–06–15–3

CONSIDER ADOPTION OF MOTOR VEHICLE TAX ORDINANCE: The City Manager advised that the ordinance presented to Council would provide for an annual tax of $5 per vehicle as previously discussed by Council. This tax would be listed on the annual tax bill and be effective July 1, 2010. The City Manager stated that many other cities currently levy such a tax.

Mayor Pro Tem Owenby and Council Member Clark noted that the City had such a tax many years ago.

Upon a motion by Mayor Pro Tem Owenby, seconded by Council Member Martin, Council voted unanimously to adopt the following Ordinance establishing a motor vehicle tax in the City of Marion:

ORDINANCE
AMENDING CHAPTER 18
TRAFFIC
MARION CITY CODE

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

Section 1. That Chapter 18, Traffic, of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Section 2. Chapter 18 is amended by adding Article VII, Tax on Motor Vehicles, as follows:

ARTICLE VII.

TAX ON MOTOR VEHICLES

Sec. 18-266. Privilege tax.
(a) *Imposed; scope.* Each self propelled motor vehicle licensed by the state which is resident within the city on January first of each year shall be subject to an annual privilege tax of $5.00. The tax shall be imposed for the fiscal year beginning on July first following the January first date on which the motor vehicle becomes resident in the city. For purposes of determining whether the vehicle is "resident" within the city, the provisions of the Machinery Act (G.S. § 105-304 and ch. 105, art. 22A) shall be applicable, and any such motor vehicle which, under the Machinery Act, would be taxable for ad valorem property taxes shall be subject to the tax imposed in this section.
(b) *Administration; enforcement.* The county tax assessor is authorized to issue the tax bills for the tax imposed herein and shall collect the tax imposed herein. The county tax assessor shall have the powers of listing, assessing; discovery, collection, levy, attachment, garnishment, release and rebate authorized under the Machinery Act, to the same extent as such powers and authorities are available for the listing, assessing and collection of ad valorem taxes under the Machinery Act.
(c) *Effective date.* The privilege tax imposed by this section shall be effective for the ensuing 2010-2011 fiscal year and for all fiscal years thereafter.

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 15th day of June, 2010.

Stephen R. Little
Mayor

ATTEST:

J. Robert Boyette

City Manager/Clerk

Ordinance Number: O-10-06-15-4

ADOPT PLANNING AND DEVELOPMENT FEE SCHEDULE ORDINANCE: Planning and Development Director Heather Cotton advised that an evaluation of building permit fees and other department fees was conducted to determine how the City of Marion's fee schedule compared to other jurisdictions within the region including City of Morganton, Town of Black Mountain, Burke County, and McDowell County. The department also evaluated two systems for calculating permit fees including the City's current system and the International Code Council (ICC) Building Valuation System. Currently, Burke County and the Town of Black Mountain utilize the ICC Building Valuation System while City of Marion, City of Morganton, and McDowell County use a system based on a model that multiplies total square feet by type of construction (see ordinance). A comparison of permit fees is provided below based on the two formulas commonly used to calculate permit fees. These fees include a large mercantile (retail) development, medium size office building, and a single-family residential development.

Ms. Cotton stated that calculations are based on the two formulas.

FORMULA ONE:

City of Marion Existing and Proposed Formula:

Fee rate by building type/construction type (as identified in ordinance) x square feet = building permit fee

FORMULA TWO:

ICC Formula:

Department Budget multiplied by *the percentage of dept budget supported by previous year building fee revenue* divided by *total annual construction value* = Permit Fee Multiplier

City of Marion Building Permit Fee Multiplier Based on 2009-2010 Figures Equals:

$212,986 multiplied by 0.11(11%) divided by $1,999,516 = 0.012

Building Permit Fee Formula:

Total Square Feet x *Square Foot Construction Cost* x *Permit Fee Multiplier* (0.012)

Example of Multipliers Used In Other Areas:

ICC System if based on City of Marion permit fee multiplier: 0.012

Burke County current permit fee multiplier = 0.004

Town of Black Mountain permit fee multiplier = 0.008

Table of Permit Fees By Jurisdiction:

	Large Mercantile Commercial Retail (100,000 sq. ft.)	Mid-Size Business Office (10,000 sq. ft.)	Single-Family Residential (1200 sq. ft.)
McDowell County .	$2240	$440	$105
Marion's Existing Rates	$11,466	$2,631	$335
Marion's Proposed Rates	$26,070	$3,581	$335
Morganton	$26,070	$3,581	$481
Burke County	$34,800	$4,816	$532
Black Mtn	$72,336	$9,817	$634
ICC System	$95,700	$13,498	$1497

Benefits and Other Factors to Consider:

As shown above, the ICC permit fee multiplier is based on the department's budget and revenues, and results in a substantial increase in building permit fees across all types of construction. If Marion were to convert to the ICC formula, Staff would recommend establishing a value similar to surrounding jurisdictions so that fees would be consistent those prescribed regionally, or select an arbitrary value that is more representative of current or proposed permit fees under the City of Marion's existing and/or proposed system.

A second factor to consider is the cost of construction. Under the current system, the City of Marion does not factor in cost of construction due to the range of values and lack of consistency among building types. The only way to resolve this issue is to establish a cost of construction value that is adopted by ordinance (i.e. the cost of construction shall be calculated based on the International Code Council Cost of Construction Table as may be amended). Adopting such language will eliminate the ability for arbitrary values to be estimated by the applicant, and the range of values that could be calculated for the exact same construction.

Third factor to consider is that under the Marion, McDowell, and Morganton model permit fees are not only based on new construction, but also broken down by type of construction (e.g. electrical, mechanical, plumbing, etc). Therefore, there would not be one standard permit fee for all construction types, but a fee based on type of work being preformed.

Ms. Cotton stated that, after evaluating each system, staff is recommending that the department continue to use its current system for calculating building permit fees, and in doing so increase current rates for all commercial/non-residential development approximately fifty percent and maintain existing rates for all residential development as shown above. With the exception of residential rates, changes to the current commercial will be the same as the City of Morganton's building permit rates established in 2008.

A discussion followed.

Mayor Little stated that this fee comparison is an eye opener. He said that, even with the increase, the City's permit fees would still be considerably less than what is charged in Black Mountain and Asheville.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following Ordinance establishing fees for the Planning and Development Department:

AN ORDINANCE ESTABLISHING FEES FOR THE PLANNING AND DEVELOPMENT DEPARTMENT

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

SECTION 1. CERTIFICATE OF OCCUPANCY/COMPLIANCE. The City of Marion shall charge a $60.00 fee for a certificate of occupancy (C.O.) for a change of use for a building, land, or structure in the City of Marion if a building permit is required. The fee for the certificate of occupancy can be credited to the building permit. This fee includes Zoning and Building Code review as well as an initial and final inspection.

SECTION 2. SIGN PERMITS. This section shall apply to all signs regulated pursuant of Section 706 *Signs, billboards and other advertising structures* of Chapter 21 *Zoning* of the Code of the City of Marion.

On Premise Signs. The permit fee for an on-premise sign that is twenty-four (24) square feet or less that does not require a footing and/or an electrical inspection shall be $30.00 plus $1.00 for each additional square foot over 24 square feet. An on-premise sign that is twenty-four (24) square feet or less that does require a footing and/or an electrical inspection shall be $60.00 plus $1.00 for each additional square foot over 24 square feet. The fee for a temporary two (2) week spectacular sign or directional sign permit and all other thirty (30) day temporary sign permits shall be $20.00. No fee shall be charged for a temporary sign permit for non-profit organizations with offices or locations within the City Limits.

Off-Premise Signs. The initial fee for an off-premise sign permit shall be $250.00 plus $1.00 for each additional square foot over one hundred square feet. The fee shall include footing and/or an electrical inspection. An annual renewal fee shall be charged for all off-premise advertising signs. Failure to renew an off-premise sign shall result in a revocation of permit. The annual off-premise sign fee will be as follows:

OFF-PREMISE SIGN FEE SCHEDULE	
Sign Face	**Annual Renewal Fee**
0-100 square feet	$125.00
101-200 square feet	$125.00 + $0.25 per square foot
201-300 square feet	$125.00 + $0.50 per square foot

SECTION 3. FEES FOR APPLICATION TO THE BOARD OF ADJUSTMENT, PLANNING COMMISSION AND CITY COUNCIL. A fee of $200.00 will be charged for each application processed through the Planning and Inspections Department that requires action by the Board of Adjustment, Planning Commission and/or City Council excluding cell tower applications and subdivision review applications. This fee includes administrative processing, staff analysis, advertising, and public notice.

SECTION 4. CELL TOWERS. A Cell tower permit application fee shall be $2,500.

SECTION 5. SUBDIVISION REVIEW. The following fees shall apply to subdivision review applications.

SUBDIVISION REVIEW FEE SCHEDULE	
Review Process	**Application Fee**
Sketch Plan/Preliminary Plat	$100.00
Minor Subdivision Plat	$50.00
Major Subdivision Plat	$150.00 + $2.00 per lot

No Infrastructure	
Major Subdivision Plat Infrastructure	$200 + $2.00 per lot

SECTION 6. GIS MAPS. The following fees shall apply for the production of a city map.

GIS MAP PRODUCTION FEES			
Size	**Black and White**	**Color**	**Aerial**
8.5" x 11"	$2.00	$4.00	$6.00
11" x 17"	$6.00	$8.00	$14.00
17" x 22"	$8.00	$10.00	$20.00
22" x 34"	$12.00	$16.00	-------
34" x 44"	$16.00	$24.00	-------

SECTION 7. COPIES OF CITY CODE AND ORDINANCES. The following fees shall apply for requested copies of the Zoning Regulations, Subdivision Regulations, and all other sections of the Code and Ordinances:

DOCUMENT REPRODUCTION FEES	
Document	**Fee**
City Code Chapter 21 Zoning	$15.00
City Code Chapter 16 Subdivision	$10.00
Sections of Code & Ordinances	$0.20 per page
City Code on CD	$5.00

SECTION 8. BUILDING PERMITS. Building permit fees for all new buildings and additions to existing buildings constructed in the City of Marion will be based on the total number of square feet in the building, addition or structure by using the permit chart below. There will be a minimum fee of $100.00 per trade for commercial and $60.00 for residential. Dwelling units in a multi-family structure are calculated individually. Building permit fees includes plan review for zoning compliance.

Building permit fees shall be determined by using the following formula:
A x B = Fee
A= Total gross building floor area
B= Fee per square foot (see fee table below)

SECTION 9. HOMEOWNERS RECOVERY FUND: The City shall charge all licensed general contractors a $10.00 fee for the construction and/or alteration of a single-family residential dwelling unit, including townhouses and condominiums. The fee will be collected for each dwelling unit and will be in addition to the City's regular building permit. The City will forward $4.00 of each fee collected to the North Carolina Licensing Board for General Contractors. (G.S. 87-15.6)

SECTION 10. RENOVATION TO EXISTING BUILDINGS. Renovation and/or alteration permits will be required for renovation to existing buildings, and for enclosing porches or carports, installing or removing structural supports. Building permit fees will be based on the Permit Chart with a minimum fee per trade of $100.00 for commercial and $60.00 for residential.

Building permit fees shall be determined by using the following formula:
A x B x 0.20 = Fee
A= Total gross building floor area
B= Fee per square foot (see fee table below)

SECTION 11. ELECTRICAL INSPECTIONS. Fees for electrical inspections shall be determined by the Permit Chart.

SECTION 12. PLUMBING INSPECTIONS. Fees for plumbing inspections shall be determined by the Permit Chart.

SECTION 13. MECHANICAL INSPECTIONS. Fees for mechanical inspections shall be determined by the Permit Chart.

PERMIT CHART:

BUILDING PERMIT FEE SCHEDULE							
SIZE	**BUILDING**	**ELECTRIC**	**PLUMBING**	**HEATING**	**A/C**	**INSUL.**	**TOTAL**
Assembly							
0-10,000sf	0.14025	0.0759	0.06435	0.01155	0.033	0.033	0.35805
10,001-50,000sf	0.12375	0.05445	0.00429	0.02475	0.02475	0.02475	0.25674
Above 50,000sf	0.10725	0.0429	0.033	0.0165	0.0165	0.0165	0.23265
Business							
0-10,000sf	0.14025	0.0759	0.05775	0.0495	0.0495	0.033	0.4059
10,001-50,000sf	0.1287	0.066	0.0495	0.0429	0.0363	0.02475	0.34815
Above 50,000sf	0.11715	0.0495	0.0462	0.03795	0.03795	0.0165	0.30525
Educational							
0-10,000sf	0.14025	0.06435	0.06435	0.02475	0.02475	0.033	0.35145

10,001-50,000sf	0.10725	0.0429	0.0429	0.0165	0.0165	0.02475	0.2508
Above 50,000sf	0.09735	0.03795	0.03795	0.01155	0.01155	0.0165	0.21285
Factory/Industrial							
0-10,000sf	0.1287	0.0495	0.033	0.033	0.033	0.02475	0.30195
10,001-50,000sf	0.10725	0.033	0.02475	0.0165	0.0165	0.02145	0.21945
Above 50,000sf	0.099	0.02145	0.0165	0.01155	0.01155	0.0165	0.17655
Hazardous							
0-5,000sf	0.0825	0.04125	0.0165	0.0165	0.0165	0.033	0.20625
5,001 &: Above	0.06435	0.033	0.0132	0.0132	0.0132	0.02145	0.1584
Institution							
0-10,000sf	0.2904	0.099	0.1188	0.06435	0.06435	0.033	0.6699
10,001-50,000sf	0.22605	0.07425	0.07095	0.0429	0.0429	0.02145	0.4785
Above 50,000sf	0.18315	0.06435	0.0429	0.033	0.033	0.0165	0.3729
Mercantile							
0-10,000sf	0.1518	0.0429	0.0429	0.0495	0.0495	0.033	0.3696
10,001-50,000sf	0.14355	0.03795	0.033	0.033	0.033	0.02475	0.30525
Above 50,000sf	0.12375	0.0363	0.02805	0.02805	0.02805	0.0165	0.2607
Storage							
0-10,000sf	0.09735	0.033	0.02475	0.02475	0.02475	0.0165	0.2211
10,001-50,000sf	0.08745	0.0165	0.0165	0.0165	0.0165	0.00825	0.1617
Above 50,000sf	0.0759	0.00825	0.00825	0.00825	0.00825	0.0066	0.1155
Residential							
All Units	0.10094	0.0504	0.0504	0.03234	0.03234	0.01288	0.27944

SECTION 14. MANUFACTURED HOMES. The permit fee for a manufactured home shall be $150.00. The mobile home permit will include all trades. Modular home fees shall not be considered a manufactured home.

SECTION 15. MISCELLANEOUS INSPECTIONS. Fees for miscellaneous inspections will be as follows:

MISCELLANEOUS INSPECTION PERMITS	
Inspection Type	**Fee**
Fuel Storage Tank	$60.00
Swimming Pools	$60.00
Insulation	$60.00
Demolition	$60.00
Other Required Inspection	$60.00
Return Inspection	$60.00

Section 16. WORK WITHOUT PERMIT. The City of Marion shall charge a penalty double the standard permit fee for all activities requiring a zoning or building permit and/or inspection.

Section 17. This ordinance shall become effective July 1, 2010.

Adopted this 15th day of June 2010.

Stephen R. Little
Mayor

ATTEST:
J. Robert Boyette
City Manager/ Clerk

Ordinance Number: O-10-06-15-8

ADOPT 2010-11 CITY FEE SCHEDULE: The City Manager presented Council with the proposed 2010-11 City Fee Schedule, which mostly contains fees already adopted by Council.

The City Manager noted one new fee, a $50 fee for well testing. The City Manager stated that realtors and homeowners had requested a local alternative for testing private wells. People wishing to have their wells tested must currently send samples off to private labs or drive samples to Forest City.

Mayor Pro Tem Owenby asked if the Health Department does not do this type of testing. Council Member Clark stated that the Health Department will not do this kind of testing. He added that the City performing this testing will be a good service to realtors as well as property owners in the County.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following fee and rate schedule to be effective July 1, 2010.

City of Marion

Fee and Rate Schedule – Effective July 1, 2010

AA.000000809 (24)

I. Water and Sewer Rate Rates
II. Business Privilege License
III. Planning and Inspections Fee Ordinance
IV. Copy Charges
V. Community Building and Community Building Basement Rental Rates
VI. Depot Building Rental Rates
VII. Oak Grove Cemetery / Mausoleum / Columbarium Charges
VIII. Septic Hauler Charges
IX. Leaf and Trash Bag Sales
X. Fire Department Water Sales
XI. Weed and Grass / Junked Vehicle / Solid Waste Ordinance Violations
XII. Parking / Ordinance Violations / Fingerprinting Charges
XIII. Solid Waste Collection Charges

City of Marion
Fee and Rate Schedule – Effective July 1, 2010

I. Water and Sewer Rates

	INSIDE CITY	OUTSIDE CITY
Water Rates:	$2.13 per 1,000 Gallons, plus $12.06 Service Charge per month	$5.34 per 1,000 Gallons, plus $30.13 Service Charge per month
Minimum Rate for 2,000 gallons or less	$13.41	$33.54
Master Meter Rate	$2.13 per 1,000 Gallons, plus $9.62Service Charge per month	$5.34 per 1,000 Gallons, plus $24.05 Service Charge per month
Master Meter Minimum Rate for 2,000 gallons Or less (per unit served)	$10.96	$27.39

	INSIDE CITY	OUTSIDE CITY
Sewer Rates:	$2.13 per 1,000 Gallons, plus $12.06 Service Charge per month	$5.34 per 1,000 Gallons, plus $30.13 Service Charge per month
Minimum Rate for 2,000 gallons or less	$13.41	$33.54
Master Meter Rate	$2.13 per 1,000 Gallons, plus $9.62 Service Charge per month	$5.34 per 1,000 Gallons, plus $24.05 Service Charge per month
Master Meter Minimum Rate for 2,000 gallons Or less (per unit served)	$10.96	$27.39
	INSIDE CITY	OUTSIDE CITY
Metered Sewer Rates for Private Wells	$3.08 per 1,000 Gallons, plus $12.06 Service Charge per month	$7.70 per 1,000 Gallons, plus $30.13 Service Charge per month

Important Notices:

All sewer charges are based on water meter readings; unless a sewer metering device approved by the City has been installed.

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When more than one unit is served by a master meter, such as a mobile home park, shopping center or apartment complex, the monthly minimum charge is $10.96 for water and $10.96 for sewer in the City, and $27.39 for water and $27.39 for sewer outside the City, whether said units are occupied or not.

A residence using a private well, with no water meter, shall pay a flat rate of $33.54 per month per residential unit for sewer service, if located outside the City Limits. If the residence using a private well, with no water meter, is located inside the City Limits, a flat rate of $13.41 per month per residential unit shall be charged for sewer service.

Customers with approved irrigation taps shall not be charged for sewer service, as long as said irrigation system is not connected in any part to the City sewer system.

WATER SERVICE CONNECTION FEES (TAP FEES) AND COST RECOVERY CHARGES (CRC):

WATER METER SIZE	INSIDE CITY TAP FEE	INSIDE CITY CRC CHARGE	OUTSIDE CITY TAP FEE	OUTSIDE CITY CRC CHARGE
¾"	$ 540	$ 540	$ 1,350	$ 1,350
1"	630	1,620	1,575	4,050
1 ½"	1,260	3,240	3,150	8,100
2"	1,440	6,480	3,600	16,200
3"	3,060	12,960	7,650	32,400
4"	3,690	22,500	9,225	56,250
6"	5,940	54,000	14,850	135,000
8"	8,100	67,500	20,250	168,750
10"	10,800	90,000	27,000	225,000
12"	14,400	112,500	36,000	281,250

Tap Fees (Domestic Water Service):

The charge listed for a ¾" domestic water service includes the cost of a back-flow preventor required by the City.

The charges listed above shall apply to taps purchased for irrigation purposes.

The charge to add a ¾" back-flow preventor to an existing domestic service is as follows:

INSIDE CITY	OUTSIDE CITY
$ 10.00	$ 25.00

CHARGES FOR CONNECTIONS FOR FIRE PROTECTION/SPRINKLER LINES IN RESIDENTIAL AND/OR COMMERCIAL DEVELOPMENTS.

SIZE SERVICE	INSIDE CITY	OUTSIDE CITY
2" SERVICE	$ 1,100	$ 2,750
3" SERVICE	2,800	7,000
4" SERVICE	3,200	8,000
6" SERVICE	4,400	11,000
8" SERVICE	6,000	15,000
10" SERVICE	8,200	20,500
12" SERVICE	11,600	29,000

All connections to the City water system shall be equipped with a proper check-valve and/or back-flow preventor approved by the City public works director/ City engineer prior to installation. It shall be the responsibility of the owner to have the approved check-valve or back-flow preventor installed. In addition, the owner of all properties connected to the City water system and using water for other than domestic services shall submit a letter to the City water department on or before the first day of July each year certifying that the check-valve and/or back-flow preventor has been checked and is operating properly.

SEWER SERVICE CONNECTION FEES (TAP FEES) AND COST RECOVERY CHARGES (CRC):

WATER METER SIZE	INSIDE CITY TAP FEE	INSIDE CITY CRC CHARGE	OUTSIDE CITY TAP FEE	OUTSIDE CITY CRC CHARGE
¾"	$ 1,080	$ 360	$ 2,700	$ 900
1"	1,170	1,080	2,925	2,700
1 ½"	1,260	2,160	3,150	5,400
2"	1,350	3,600	3,375	9,000
3"	1,440	7,200	3,600	18,000
4"	1,530	10,800	3,825	27,000
6"	1,620	22,500	4,050	56,250

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8"	1,710	36,090	4,275	90,225
10"	1,800	51,840	4,500	129,600
12"	1,890	69,840	4,725	174,600

	INSIDE CITY	OUTSIDE CITY
RELOCATE WATER/ SEWER CONNECTION, (OWNERS REQUEST)	AT COST	COST PLUS 10%
INCREASE METER SIZE	DIFFERENCE IN TAP FEE AND COST RECOVERY CHARGES FOR WATER/SEWER	DIFFERENCE IN TAP FEE AND COST RECOVERY CHARGES FOR WATER/SEWER

DEPOSIT AND/OR PREPAYMENT FOR NEW ACCOUNTS:

RESIDENTIAL ACCOUNTS

	INSIDE CITY	OUTSIDE CITY
WATER DEPOSIT	$ 30.00	$ 60.00
SEWER DEPOSIT	$ 30.00	$ 60.00

In cases where an existing residential water and/or sewer customer has been a water and/or sewer customer of the City of Marion for a period of no less than five consecutive years, and has made no late payments in the previous twelve months, and moves to another location on the City's water and/or sewer system, the following procedure shall apply:
Any increase in the deposit required to be paid to bring the customer's deposit up to the current level listed above may be paid in three equal installments, to be added to the customer's first three water and/or sewer bills in the new location. If the customer fails to make any of the required payments, their service may be cut off pursuant to City policy.

In cases where an existing institutional water and/or sewer customer with multiple (more than one) existing meters or services has been a water and/or sewer customer of the City of Marion for a period of no less than 20 consecutive years, and has made no late payments in the previous twelve months, and installs or acquires an additional meter or service, no additional deposits shall be charged for said additional meter or service, beyond what the customer has already paid to the City.

COMMERCIAL, INDUSTRIAL AND MASTER METER ACCOUNTS

The water and/or sewer deposit for commercial, industrial, and master meter accounts shall be an amount equal to the average monthly charge for water and/or sewer service, but not less than the residential deposits. The initial deposits for commercial, industrial and master meter accounts shall be as follows:

INSIDE CITY

	WATER	SEWER	WATER AND SEWER
FAST FOOD/PIZZA RESTAURANTS	$100.00	$100.00	$ 200.00
OTHER RESTAURANTS (WITH SEATING)	$150.00	$150.00	$ 300.00
GROCERY STORES	$150.00	$150.00	$ 300.00
APARTMENT COMPLEXES (MASTER METER)	$150.00	$150.00	$ 300.00
CAR WASHES	$150.00	$150.00	$ 300.00
LAUNDRIES	$200.00	$200.00	$ 400.00
NURSING/FAMILY CARE HOMES	$200.00	$200.00	$ 400.00
INDUSTRY (50 OR MORE EMPLOYEES)	$500.00	$500.00	$1,000.00
INDUSTRY (LESS THAN 50 EMPLOYEES)	$200.00	$200.00	$ 400.00
OTHER MASTER METER ACCOUNTS	$100.00	$100.00	$ 200.00

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OUTSIDE CITY

	WATER	SEWER	WATER AND SEWER
FAST FOOD/PIZZA RESTAURANTS	$ 200.00	$ 200.00	$ 400.00
OTHER RESTAURANTS (WITH SEATING)	$ 300.00	$ 300.00	$ 600.00
GROCERY STORES	$ 300.00	$ 300.00	$ 600.00
APARTMENT COMPLEXES (MASTER METER)	$ 300.00	$ 300.00	$ 600.00
CAR WASHES	$ 300.00	$ 300.00	$ 600.00
LAUNDRIES	$ 400.00	$ 400.00	$ 800.00
NURSING/FAMILY CARE HOMES	$ 400.00	$ 400.00	$ 800.00
INDUSTRY (50 OR MORE EMPLOYEES)	$1,000.00	$1,000.00	$2,000.00
INDUSTRY (LESS THAN 50 EMPLOYEES)	$ 400.00	$ 400.00	$ 800.00
OTHER MASTER METER ACCOUNTS	$ 200.00	$ 200.00	$ 400.00
GENERAL BUSINESS	$ 100.00	$ 100.00	$ 200.00

The City Manager shall determine the appropriate deposit for any commercial, industrial or master meter customer not listed in the preceding schedule. At the end of six months of service, the City will determine the average use by averaging the three highest months. The customer will be billed for any additional amount for the proper deposit. If the amount is not received in thirty days, the utility bill will be increased each month for twelve consecutive months until the proper deposit has been received. If the average monthly deposit is lower than the amount the City has received from the initial deposit, the City will credit the water account of the customer for the amount of the difference in the initial deposit and the average monthly bill.

OTHER MISCELLANEOUS CHARGES

	INSIDE CITY	OUTSIDE CITY
FIRST LATE PENALTY	$ 15.00	$ 15.00
SECOND LATE PENALTY:		
1 - 3 OCCURRENCES	$ 15.00	$ 15.00
4 OR MORE	$ 25.00	$ 25.00
RECONNECT SERVICE AFTER DISCONNECTION	$ 25.00	$ 25.00
RECONNECT SERVICE SUMMER/SEASONAL RESIDENT	$ 15.00	$ 37.50
TEMPORARY SERVICE (SEVEN OR LESS DAYS)	$ 15.00 PLUS ACTUAL WATER USAGE	$ 37.50 PLUS ACTUAL WATER USAGE
TRANSFER EXISTING ACCOUNT TO NEW ADDRESS	UPGRADE TO PROPER DEPOSIT (IF DEPOSIT IS INADEQUATE) & CHARGE $15.00 TRANSFER FEE	
METER TAMPERING:		
1ST OFFENSE	$ 100.00	$ 100.00
2ND OFFENSE	$ 200.00	$ 200.00
3RD AND SUBSEQUENT OFFENSES	$ 500.00	$ 500.00
RETURN CHECK SERVICE CHARGE	$ 25.00 OR 10% OF CHECK, WHICHEVER IS GREATER	$ 25.00 OR 10% OF CHECK, WHICHEVER IS GREATER
BANK DRAFT CUSTOMER – CHARGE FOR CLOSED ACCOUNT	$ 25.00	$ 25.00
CUSTOMERS REQUEST TO CHECK WATER METER FOR ACCURACY ¾" AND 1" METERS	$ 25.00	$ 25.00

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LARGER METERS	**AT COST**	**AT COST**
DETERMINATION OF FLOW AND SERVICE CAPABILITIES	**AT COST**	**AT COST**
WATER TESTING: PRIVATE WELLS- BACTERIAL ONLY	**$ 50.00**	**$ 50.00**

II. Business Privilege License

Please contact City Hall for rates for your particular business.

Planning, Building and Fire Inspection Fees:

AN ORDINANCE ESTABLISHING FEES FOR THE PLANNING AND INSPECTIONS DEPARTMENT AND FIRE INSPECTIONS

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

SECTION 1. CERTIFICATE OF OCCUPANCY/COMPLIANCE. The City of Marion shall charge a $60.00 fee for a certificate of occupancy/compliance (C.O.) for a change of use for a building, land, or structure in the City of Marion if a building permit is required. The fee for the certificate of occupancy can be credited to the building permit. This fee includes Zoning and Building Code review as well as an initial and final inspection. The City of Marion shall charge a $30.00 fee fro a zoning compliance permit that does not require a building permit.

Mobile Food Vendor Permit. The City of Marion shall charge an annual $100.00 administrative permit fee for the operation of one (1) mobile food vendor unit in the City of Marion, each additional mobile food vending unit and/or location shall be $50.00.

SECTION 2. SIGN PERMITS. This section shall apply to all signs regulated pursuant of Section 706 *Signs, billboards and other advertising structures* of Appendix A *Zoning* of the Code of the City of Marion.

On Premise Signs. The permit fee for an on-premise sign that is twenty-four (24) square feet or less that does not require a footing and/or an electrical inspection shall be $30.00 plus $1.00 for each additional square foot over 24 square feet. An on-premise sign that is twenty-four (24) square feet or less that does require a footing and/or an electrical inspection shall be $60.00 plus $1.00 for each additional square foot over 24 square feet. The fee for a temporary two (2) week spectacular sign or directional sign permit and all other thirty (30) day temporary sign permits shall be $20.00. No fee shall be charged for a temporary sign permit for non-profit organizations with offices or locations within the City Limits.

Off-Premise Signs. The initial fee for an off-premise sign permit shall be $250.00 plus $1.00 for each additional square foot over one hundred square feet. The fee shall include footing and/or an electrical inspection. An annual renewal fee shall be charged for all off-premise advertising signs. Failure to renew an off-premise sign shall result in a revocation of permit. The annual off-premise sign fee will be as follows:

OFF-PREMISE SIGN FEE SCHEDULE	
Sign Face	**Annual Renewal Fee**
0-100 square feet	$125.00
101-200 square feet	$125.00 + $0.25 per square foot
201-300 square feet	$125.00 + $0.50 per square foot

SECTION 3. FEES FOR APPLICATION TO THE BOARD OF ADJUSTMENT, PLANNING BOARD AND CITY COUNCIL. A fee of $200.00 will be charged for each application processed through the Planning and Inspections Department that requires action by the Board of Adjustment, Planning Board and/or City Council excluding cell tower applications and subdivision review applications. This fee includes administrative processing, staff analysis, advertising, and public notice.

SECTION 4. CELL TOWERS. A Cell tower permit application fee shall be $2,500.

SECTION 5. SUBDIVISION REVIEW. The following fees shall apply to subdivision review applications.

SUBDIVISION REVIEW FEE SCHEDULE	
Review Process	**Application Fee**
Sketch Plan/Preliminary Plat	$100.00
Minor Subdivision Plat	$50.00
Major Subdivision Plat No Infrastructure	$150.00 + $2.00 per lot
Major Subdivision Plat Infrastructure	$200 + $2.00 per lot

SECTION 6. GIS MAPS. The following fees shall apply for the production of a City map.

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GIS MAP PRODUCTION FEES			
Size	**Black and White**	**Color**	**Aerial**
8.5" x 11"	$2.00	$4.00	$6.00
11" x 17"	$6.00	$8.00	$14.00
17" x 22"	$8.00	$10.00	$20.00
22" x 34"	$12.00	$16.00	--------
34" x 44"	$16.00	$24.00	--------

SECTION 7. COPIES OF CITY CODE AND ORDINANCES. The following fees shall apply for requested copies of the Zoning Regulations, Subdivision Regulations, and all other sections of the Code and Ordinances:

DOCUMENT REPRODUCTION FEES	
Document	**Fee**
City Code Appendix A Zoning	$15.00
City Code Chapter 16 Subdivision	$10.00
Sections of Code & Ordinances	$0.05 per page
City Code on CD	$5.00

SECTION 8. BUILDING PERMITS. Building permit fees for all new buildings and additions to existing buildings constructed in the City of Marion will be based on the total number of square feet in the building, addition or structure by using the permit chart below. There will be a minimum fee of $100.00 per trade for commercial and $60.00 for residential. Dwelling units in a multi-family structure are calculated individually. Building permit fees includes plan review for zoning compliance.

Building permit fees shall be determined by using the following formula:

A x B = Fee
A = Total gross building floor area
B = Fee per square foot (see fee table below)

SECTION 9. HOMEOWNERS RECOVERY FUND: The City shall charge all licensed general contractors a $10.00 fee for the construction and/or alteration of a single-family residential dwelling unit, including townhouses and condominiums. The fee will be collected for each dwelling unit and will be in addition to the City's regular building permit. The City will forward $4.00 of each fee collected to the North Carolina Licensing Board for General Contractors. (G.S. 87-15.6)

SECTION 10. RENOVATION TO EXISTING BUILDINGS. Renovation and/or alteration permits will be required for renovation to existing buildings, and for enclosing porches or carports, installing or removing structural supports. Building permit fees will be based on the Permit Chart with a minimum fee per trade of $100.00 for commercial and $60.00 for residential.

Building permit fees shall be determined by using the following formula:

A x B x 0.20 = Fee
A = Total gross building floor area
B = Fee per square foot (see fee table below)

SECTION 11. ELECTRICAL INSPECTIONS. Fees for electrical inspections shall be determined by the Permit Chart.

SECTION 12. PLUMBING INSPECTIONS. Fees for plumbing inspections shall be determined by the Permit Chart.

SECTION 13. MECHANICAL INSPECTIONS. Fees for mechanical inspections shall be determined by the Permit Chart.

PERMIT CHART:

BUILDING PERMIT FEE SCHEDULE							
SIZE	**BUILDING**	**ELECTRIC**	**PLUMBING**	**HEATING**	**A/C**	**INSUL.**	**TOTAL**
Assembly							
0-10,000sf	0.14025	0.0759	0.06435	0.01155	0.033	0.033	0.35805
10,001-50,000sf	0.12375	0.05445	0.00429	0.02475	0.02475	0.02475	0.25674
Above 50,000sf	0.10725	0.0429	0.033	0.0165	0.0165	0.0165	0.23265
Business							
0-10,000sf	0.14025	0.0759	0.05775	0.0495	0.0495	0.033	0.4059
10,001-50,000sf	0.1287	0.066	0.0495	0.0429	0.0363	0.02475	0.34815
Above 50,000sf	0.11715	0.0495	0.0462	0.03795	0.03795	0.0165	0.30525
Educational							
0-10,000sf	0.14025	0.06435	0.06435	0.02475	0.02475	0.033	0.35145
10,001-50,000sf	0.10725	0.0429	0.0429	0.0165	0.0165	0.02475	0.2508
Above 50,000sf	0.09735	0.03795	0.03795	0.01155	0.01155	0.0165	0.21285
Factory/Industrial							
0-10,000sf	0.1287	0.0495	0.033	0.033	0.033	0.02475	0.30195
10,001-50,000sf	0.10725	0.033	0.02475	0.0165	0.0165	0.02145	0.21945

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Above 50,000sf	0.099	0.02145	0.0165	0.01155	0.01155	0.0165	0.17655
Hazardous							
0-5,000sf	0.0825	0.04125	0.0165	0.0165	0.0165	0.033	0.20625
5,001 &: Above	0.06435	0.033	0.0132	0.0132	0.0132	0.02145	0.1584
Institution							
0-10,000sf	0.2904	0.099	0.1188	0.06435	0.06435	0.033	0.6699
10,001-50,000sf	0.22605	0.07425	0.07095	0.0429	0.0429	0.02145	0.4785
Above 50,000sf	0.18315	0.06435	0.0429	0.033	0.033	0.0165	0.3729
Mercantile							
0-10,000sf	0.1518	0.0429	0.0429	0.0495	0.0495	0.033	0.3696
10,001-50,000sf	0.14355	0.03795	0.033	0.033	0.033	0.02475	0.30525
Above 50,000sf	0.12375	0.0363	0.02805	0.02805	0.02805	0.0165	0.2607
Storage							
0-10,000sf	0.09735	0.033	0.02475	0.02475	0.02475	0.0165	0.2211
10,001-50,000sf	0.08745	0.0165	0.0165	0.0165	0.0165	0.00825	0.1617
Above 50,000sf	0.0759	0.00825	0.00825	0.00825	0.00825	0.0066	0.1155
Residential							
All Units	0.10094	0.0504	0.0504	0.03234	0.03234	0.01288	0.27944

SECTION 14. MANUFACTURED HOMES. The permit fee for a manufactured home shall be $150.00. The mobile home permit will include all trade. Modular home fees shall not be considered a manufactured home.

SECTION 15. MISCELLANEOUS INSPECTIONS. Fees for miscellaneous inspections will be as follows:

MISCELLANEOUS INSPECTION PERMITS	
Inspection Type	**Fee**
Fuel Storage Tank	$60.00
Swimming Pools	$60.00
Insulation	$60.00
Demolition	$60.00
Other Required Inspection	$60.00
Return Inspection	$60.00

Section 16. WORK WITHOUT PERMIT. The City of Marion shall charge a penalty double the standard permit fee for all activities requiring a zoning or building permit and/or inspection.

IV. Copy Charges : $.05 per copy

V. Community Building and Community Building Basement Rental Rates:

A VALID CREDIT CARD GUARANTEE IS REQUIRED FOR ALL FACILITY RENTALS UNLESS SPECIFICALLY EXEMPTED.

PER DAY, PER EVENT CHARGE:
MAIN OR STREET LEVEL:
KITCHEN AND ASSEMBLY ROOM $200.00
BASEMENT WITH KITCHEN $125.00

DEPOSIT FOR EACH USE: $200.00
(DEPOSITS MUST BE MADE AT LEAST 30 DAYS
IN ADVANCE OF EVENT TO AVOID CANCELLATION)

CIVIC CLUBS AND NOT-FOR-PROFIT ORGANIZATIONS AUTHORIZED BY THE CITY COUNCIL TO USE THE BUILDING ON A REGULAR SCHEDULE AND AT SPECIAL RATE:
PER DAY, PER EVENT CHARGE $30.00
NO DEPOSIT IS REQUIRED.

GIRL SCOUT ROOM:
PER DAY, PER EVENT CHARGE $40.00
A CASH DEPOSIT OF $25.00 IS REQUIRED FOR
EACH USE. DEPOSITS MUST BE MADE AT LEAST 30 DAYS
IN ADVANCE OF EVENT TO AVOID CANCELLATION

Depot Building Rental Rates:

PER DAY, PER EVENT CHARGE:
ASSEMBLY ROOM, KITCHEN AND
COURTYARD $200.00

DEPOSIT FOR EACH USE: $200.00
(DEPOSITS MUST BE MADE AT LEAST 30 DAYS
IN ADVANCE OF EVENT TO AVOID CANCELLATION)

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

PER DAY, PER EVENT CHARGE	$30.00

NO DEPOSIT IS REQUIRED.

VII. Oak Grove Cemetery / Columbarium Charges:

OPENING AND CLOSING OF MAUSOLEUM -	$200.00
OPENING AND CLOSING OF COLUMBARIUM-	$100.00
SALE OF OLD MAUSOLEUM VAULTS:	$1,000-$1,500
SALE OF NEW MAUSOLEUM VAULTS:	$1,500-$2,000
SALE OF COLUMBARIUM NICHES:	$750.00

PLAQUES FOR MAUSOLEUM VAULTS AND COLUMBARIUM NICHE:
ACTUAL COST PLUS 10%

VIII. Septic Hauler Charges:

$15.00 per load and $.02 cents per gallon

IX. Leaf and Trash Bag Sales:

Leaf and Trash Bag Sales $1.25 per roll of four bags

X. Fire Department Water Sales:

For Railroad, DOT and Persons or Firms contracting for DOT:
$10.00 plus $.02 per gallon charge for all pickups at fire station
$20.00 plus $ .02 per gallon charge for all pickups from hydrants

For all other persons:
$10.00 plus $ .05 per gallon charge for pickups at fire station
$20.00 plus $ .05 pre gallon charge for pickups at hydrants

XI. Weed and Grass/Junked Vehicle/Solid Waste Ordinance Violations:

Actual Cost per Violation

XII. Parking / Ordinance Violations / Fingerprinting Charges:

Parking Violations - $10.00 with an additional $25.00 charge if not paid within seven days and an additional charge of $15.00 if not paid within 30 days resulting in a total charge of $50.00.

Other Ordinance Violations	$50.00 per occurrence
Fingerprinting Charge	$10.00

Background Checks:

Taxicab Operators/Drivers	$25.00
Pool Rooms/Game Rooms	$25.00
Tattoo Parlors	$25.00

XIII. Solid Waste Collections:

Special Collections:

Items Loaded without the use of a backhoe:

AA.00000817 (24)

1-5 items	$15.00
6-10 items	$25.00
Over 10 items	To be determined by the Sanitation Supervisor

If backhoe is required:

1-5 items	$35.00
6-10 items	$45.00
Over 10 items	To be determined by the Sanitation Supervisor

Commercial Solid Waste Collection:

Plan "A" - Industrial/Commercial Dumpsters

Number of Pick-Ups Per Week	Monthly Charge
1	$ 125.00
2	$ 302.00
3	$ 482.00
4	$ 660.00
5	$ 840.00

Number of Pick-Ups Per Month	Monthly Charge
1	$ 35.00
2	$ 60.00
3	$ 88.00

Plan "B" - Apartment Complexes, Townhouse/Condominium Developments, Mobile Home Parks

Number of Pick-Ups Per Week	Monthly Charge
1 (minimum charge)	$ 9.00 (minimum charge)
2	$ 70.00
3	$ 131.00
4	$ 191.00
5	$ 255.00

Plan "C" - Commercial Can Service

Number of Pick-Ups Per Week	Monthly Charge
1 (minimum charge) (3 – 35 gallon cans)	$ 16.00 (minimum charge)

Plan "D" – Commercial Recycling Service (see description in contract)

Monthly charge:	$ 16.00

CONSIDER ADOPTION OF ORDINANCE TO ELIMINATE CITY RESIDENCY REQUIREMENT FOR CERTAIN CITY POSITIONS: The City Manager advised that, as discussed at the May 25 Council Budget Workshop/Planning Session, he had drafted an ordinance to eliminate City residency requirements for the Police Chief and Fire Chief positions. The City Manager stated that he could find no residency requirement for the Public Works Director position in the City Code. The City Manager would continue to have a City residency requirement under the City Code.

The City Manager stated that, as authorized earlier in the agenda, there will be Personnel Policy provisions that govern residency restrictions for the Police Chief, Fire Chief and Public Works Director positions.

Upon a motion by Mayor Pro Tem Owenby, seconded by Council Member Martin, Council voted unanimously to adopt the following ordinance amending Chapter 7, Fire Prevention and Protection, and Chapter 14, Police, of the Marion City Code:

ORDINANCE
AMENDING CHAPTER 7
FIRE PREVENTION AND PROTECTION
AND CHAPTER 14
POLICE

AA.000000818 (24)

MARION CITY CODE

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

Section 1. That Chapter 7, Fire Prevention and Protection, of the Code of Ordinances, City of Marion, North Carolina, is amended by deleting Section 7-2(b) in its entirety.

Section 2. That Chapter 14, Police, of the Code of Ordinances, City of Marion, North Carolina, is amended by deleting Section 14-28 in its entirety.

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 15th day of June, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-10-06-15-5

CONSIDER REAPPOINTMENTS TO CITY ADVISORY BOARDS: The City Manager stated that, as shown in information presented to Council, there are several terms on City advisory boards that will expire on June 30. On the Planning Board/Board of Adjustment/Historic Preservation Commission, the terms of Glenys Gilbert and Gary Walker as Regular Members and Joan Keuper and Connie Martin as Alternate Members will expire. Ms. Gilbert is no longer able to attend meetings on a regular basis, so staff recommends moving Marc Cook from an Alternate Member slot to a Regular Member position, with a term to expire on June 30, 2013.

The City Manager reported that Ms. Keuper had informed Ms. Heather Cotton that she intends to move to Buncombe County in the near future, so she does not wish to be reappointed. He added that Ms. Martin is willing to be reappointed as an alternate member and that contact had not yet been made with Mr. Walker to determine if he is willing to be reappointed as a Regular Member.

The City Manager advised that the term of Robert Ayers on the ABC Board will expire on June 30. Mr. Ayers is willing to be reappointed and is recommended for a new term to expire on June 30, 2013.

The City Manager stated that the terms of Pat Brown and Phil Tate on the Tree Board will expire on June 30. Ms. Brown does not wish to be reappointed, stating that she feels it is time to give someone else a chance to serve. Consideration could be given to reappointing Mr. Tate, who is willing to be reappointed.

The City Manager presented Council with a copy of the current Advisory Board member list for reference and consideration.

Upon a motion by Council Member Cuthbertson, seconded by Council Member Martin, Council voted unanimously to appoint Marc Cook and reappoint Gary Walker as Regular Members of the Planning Board/ Board of Adjustment/Historic Preservation Commission, to reappoint Connie Martin as an Alternate Member of the Planning Board/ Board of Adjustment/Historic Preservation Commission and to appoint Glenys Gilbert as an Alternate Member of the Planning Board/Board of Adjustment/Historic Preservation, said terms to end June 30, 2013.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to reappoint Mr. Robert Ayers to another three year term on the ABC Board, said term to end June 30, 2013.

Council agreed to consider other advisory board appointments at future meetings.

ADD-ON ITEM – WAY FINDING SIGNAGE CONTRACT: Planning and Development Director Heather Cotton advised that bids had recently been sought for wayfinding signs to be placed in the downtown area. Five bids were received. The low bid came from a company called ADCON from Fort Collins, Colorado, in the amount of $85,625. This company has worked in many states. Ms. Cotton gave a brief overview of the proposed signs.

The City Manager stated that the wayfinding signs are an NC STEP Project, so it is vital that the City complete this phase of the Downtown Streetscape Plan by September 30, in order to receive the City's full share of NC STEP funds. The City Manager projected that the City will have about $62,672 in NC STEP funds to put toward the wayfinding signs, which is $22,672 higher than the $40,000 in NC STEP funds the City originally projected would be

AA.00000819 (24)

available for this project. Unfortunately, the wayfinding signs came in $24,525 higher than the original $61,100 estimate. In addition, the footers for the signs will cost an additional $13,228.

The City Manager advised that before making a recommendation about the wayfinding signs, he thought it was important to re-evaluate the entire Downtown Streetscape Plan project budget. The original projected costs and revised costs were presented to Council. The City Manager stated that he does not know if the contract prices for the construction, painting and equipment items will change at this point, so these items are still shown at their original projected cost.

Downtown Streetscape Plan Budget

Phase One:

	Original Projected Cost	Revised Projected Cost	Increase/ Decrease
Curbs, Bumpouts, Landscaping	$118,305	$118,305	$ 0
Wayfinding Signage	61,100	85,625	+ 24,525
Wayfinding Footers	0	13,228	+ 13,228
Site Amenities (benches, trash Receptacles, etc.)	15,482	15,482	0
Pavement Enhancement	45,399	45,399	0

	Original Projected Cost	Revised Projected Cost	Increase/ Decrease
Painting, Restriping, Pavement Symbols	14,507	14,507	0
Contingency	42,960	42,960	0
Subtotal, Phase One	297,753	335,506	+ 37,753
Phase Two:			
Logan and Garden Street Crosswalks	57,314	57,314	0
Logan and Garden Street Curbs, Bumpouts, Landscaping	42,001	42,001	0
Contingency	19,863	19,863	0
Subtotal, Phase Two	119,178	119,178	0
Total, Phases One Two	416,931	454,684	+ 37,753
Cost Reductions/Off-Setting Revenues:			
NC STEP Grant	(40,000)	(62,672)	- 22,672
Use of Topsoil from City Property	(33,950)	(33,950)	0
Donations	(0)	(10,000)	- 10,000
NCDOT Funding	(0)	(50,000)	- 50,000
Net Total, Phase	**$342,981**	**$298,062**	**- 44,919**

The City Manager advised that despite the wayfinding signs coming in $37,753 more than was originally projected, available revenues from NC STEP grant funds ($22,672), donations ($10,000) and NCDOT funding ($50,000) are projected to be $82,672 higher than originally projected, resulting in a net effect of the total Downtown Streetscape Plan costs decreasing by $44,919.

The City Manager advised that the Downtown Streetscape Plan budget figures shown above are subject to change as contract prices are received for additional components of the project and as NCDOT funds and donations are received. He added that if prices for additional components of the Downtown Streetscape Plan come in higher than expected or if NCDOT funds or donations do not come in as projected, parts of the overall Plan can be cut or revised.

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Therefore, in light of the fact that it is crucial that the City spend NC STEP funds by September 30, and since the revised projected Downtown Streetscape Plan budget looks encouraging at the present time, the City Manager recommended that Council award a contract for the purchase of the wayfinding signs to ADCON in the amount of $85,625.

Council Member Doggett asked if City Staff could install the signs or will this work have to be contracted. The City Manager advised that the City can install the signs.

Council Member Clark asked if the City could pick the low bids for each type of sign and therefore save money. Ms. Cotton advised that the bidders likely conditioned their bid on receiving a contract for the entire wayfinding signage package.

Upon a motion by Council Member Cuthbertson, seconded by Council Member Martin, Council voted unanimously to approve the contract for the purchase of downtown wayfinding signs to ADCON in the amount of $85,625.

Mayor Little stated that the installation of the wayfinding signage will be a great asset to the City.

CITY MANAGER COMMENTS: The City Manager advised that the City had closed out the Mt. Ida PARTF and LWCF grants, which will allow the City to receive the final ten percent of the $247,500 grants.

The City Manager advised that the Livermush Festival took place on Main Street on Friday, June 4. There were music and activities, as usual. Hunter's Livermush was the main sponsor for this event again and cooked and provided livermush free of charge. There was a record crowd and Hunter's sold out after giving away 600 livermush sandwiches. Coverage of the event was provided by WLOS. The event turned out to be very successful.

The City Manager advised that the closing on the Super Wal Mart development property on Sugar Hill Road took place on June 7. He said that City staff and himself attended a preconstruction conference for the development on June 8. The City Manager stated that work will begin on the water and sewer extension as soon as the developer signs an annexation petition. The grading on the site will begin very soon, with the construction of the Super Wal Mart building and the retail shops starting in January and being scheduled for completion in September 2011.

The City Manager advised that the Tuesday afternoon Farmer's Market opened on May 18 and will run each week through October 26. A Saturday morning market will run from mid to late June through August. The donor sign was installed at the Farmer's Marker Shelter in early June and the lights will be installed in the very near future.

The City Manager advised that as reported at the June 1 Council meeting, he sent a petition to DOT, asking for a rule change to expand allowances for DOT logo signs on the US 221 Bypass. The City Manager also asked Senator Queen and Representative Gillespie to introduce legislation on the City's behalf on this matter. Senator Queen's office called on June 8 and said that Senator Queen was requesting a meeting with DOT about this issue.

The City Manager stated that work is nearly complete on the Eastfield Community Park and asked Council if it wished to have an official dedication of the park. Council agreed by consensus that a dedication should be scheduled for a Saturday morning around 10:00 a.m. after grass is established at the Park. Mayor Little stated that the opening of the Park is a signifiicant achievement for the City and for the Eastfield Community.

The City Manager advised that repairs are scheduled to be made on the Water Plant basins, which will require the Water Plant to be off-line. To conserve water, the City Manager stated that it will be necessary to close the Splash Pad at the Community Building. Signs have been posted concerning this closing at the Splash Pad and a news release has been sent to the media, posted on the City website and sent to day care centers.

The City Manager advised that the last few years Council has had an annual Advisory Board/Volunteer Appreciation Dinner for all City Volunteers and asked if Council wants to have one this year. It was the consensus of Council to have this dinner on a Thursday evening in August.

COUNCIL MEMBER COMMENTS:

Mayor Little commended Chief Brooks on a ceremony he had at the Police Department the day before for a new officer being administered the oath of office. He stated that this was a very dignified and moving ceremony, appropriate for the occasion.

Council Member Clark asked that the Police Department look for yard sale signs posted on poles.

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ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Council Member Clark, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, 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, July 20, 2010 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Cecil Owenby, Council Members Everette Clark, Lloyd Cuthbertson, Juanita Doggett and Billy Martin.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Mark Brooks, Police Chief; Chris Hollifield, Public Works Director; Jim Neal, Fire Chief; Mike Conley, News Reporter, McDowell News; Kaitlyn Evans, News Reporter, The News Bulletin.

GUESTS PRESENT:. Mr. & Mrs. Mike Baldwin 129 AF Simmons Road, Burnsville, NC, 28714.

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Owenby, seconded by Council Member Martin, Council voted unanimously to approve the Consent Agenda as follows:

A. Approval of Minutes – June 15, 2010 Regular City Council Meeting Minutes

B. Approve Waiver of Civil Citations

Waive $10.00 Penalty – Citation issued on June 16 – Handicapped Parking Placard not displayed – Coy & Mary Ann Bartlett.

Waive $50.00 Penalty – Citations issued on July 9 – Improperly written citations for Joshua Thomas Gardner, Brooke Hensley, Phillip Johnson, Victoria Elaine Macafranca, H. Russell Neighbors III and Erica Jayne Wallace for loitering in Peeble's parking lot.

C . Receive Report of Disposal of City Property

Council received the following report listing the sale of various items of personal property owned by the City over the past six months:

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Asset ID	Inventory ID	Short Desc	Start Bid	Sold Amount	Num Bids	Auction End Date	Qty	Units	Commission	Net
26	355	1992 Ford Ranger	$ 50.00	$ 606.00	17	12/1/2009 14:30	1	Each	$ 45.45	$ 560.55
29	MinoltaDi181	Minolta Di181Copier	50.00	52.00	2	3/24/2010 13:30	1	Each	5.00	47.00
30	Office Lot	Printers and Office Equipment	5.00	122.00	22	3/24/2010 14:00	1	Each	9.15	112.85
31	Heaters	Space Heaters	5.00	21.00	7	3/24/2010 14:30	1	Lot	5.00	16.00
22	FireEx Lot 1	Fire Extinguishers	5.00	8.00	5	11/3/2009 15:30	1	Lot	5.00	3.00
23	FireEx Lot 2	Fire Extinguishers	5.00	8.00	5	11/3/2009 15:00	1	Lot	5.00	3.00
24	FireEx Lot 3	Fire Extinguishers	5.00	9.00	5	11/3/2009 14:30	1	Lot	5.00	4.00
25	FireEx Lot 4	Fire Extinguishers	5.00	8.00	5	11/3/2009 14:00	1	Lot	5.00	3.00
21	Desks	Desks and Chairs	5.00	14.00	5	10/27/2009 14:30	1	Lot	5.00	9.00
28	Phones	NEC Phone System	5.00	6.00	2	1/4/2010 14:30	1	Lot	5.00	1.00
32	391	1992 Ford F150	100.00	1,305.00	51	4/13/2010 14:30	1	Each	97.88	1,207.12
Totals				$ 2,159.00					$ 192.48	$1,966.52

D. Adopt Resolution Authorizing the Sale of City Property on West Yancey Street by Negotiated Offer and Upset Bid Rejecting Previous Offer to Purchase Said Property Due to the Submission of a Qualifying Upset Bid:

Resolution Authorizing the Sale of Certain Property Owned by the City of Marion on West Yancey Street by Negotiated Offer and Upset Bid and Rejecting a Previous Offer to Purchase Said Property Due to the Submission of a Qualifying Upset Bid

WHEREAS, the City Council of the City of Marion desires to dispose of certain surplus property of the City; and

WHEREAS, N.C.G.S. 160A-269 authorizes a city to convey by negotiated offer and upset bid any real or personal property; and

WHEREAS, on June 4, 2010, Hopewell Road, LLC submitted a bid in the amount of $3,200 for the purchase of approximately 0.20 acres of property owned by the City of Marion located on West Yancey Street (McDowell County Parcel Identification Number 1701.14-33-9687); and

WHEREAS, the City Council of the City of Marion adopted a resolution on June 15, 2010, in accordance with N.C.G.S. 160A-269, accepting the offer of Hopewell Road, LLC to purchase the property, as described above, for a sum of $3,200, subject to public notice and upset bid; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion received a five percent bid deposit from Hopewell Road, LLC; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion, on June 23, 2010, caused notice of the proposed sale of the property, as described above, to be published in The News Bulletin, a newspaper of general circulation in the City of Marion; and

WHEREAS, on July 2, 2010, Mr. Wynn Jackson submitted a bid in the amount of $3,600 for the purchase of the property described above; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the bid submitted by Mr. Wynn Jackson is a qualifying upset bid for the purchase of the property described above; and

WHEREAS, the City Council of the City of Marion desires to reject the previous bid of Hopewell Road, LLC and to complete the sale of the property described above to Mr. Wynn Jackson, subject to public notice and upset bid.

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

1. The parcel owned by the City of Marion on West Yancey Street (McDowell County Parcel Identification Number 1701.14-33-9687) that is approximately 0.20 acres in size is hereby declared to be surplus to the needs of the City of Marion.

2. The City Council rejects the offer of Hopewell Road, LLC to purchase the above described property for $3,200, due to the submission of a qualifying upset bid during the required ten day upset bid period after publication of the proposed sale, as provided for in N.C.G.S. 160A-269.

3. The City Clerk shall refund Hopewell Road, LLC the five percent bid deposit that he paid to the City.

4. The City Council accepts the offer of Mr. Wynn Jackson to purchase the above described property for $3,600, subject to the upset bid process being followed as required by N.C.G.S. 160A-269.

5. The City Clerk shall notify Mr. Wynn Jackson of the acceptance of this offer, receive a five percent bid deposit from the bidder, and cause a notice of this resolution to be published in accordance with G.S. 160A-269.

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Such notice shall state that prospective bidders have ten days from the date the notice is published to offer an upset bid, pursuant to G.S. 160A-269.

6. Once the upset bid process is completed, in accordance with G.S. 160A-269, the City Manager is designated to dispose of the above described property to the bidder selected by City Council, for a minimum price of $3,600.

Adopted this the 20th day of July, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-10-07-20-2

E. Approve 2009-10 Fiscal Year Tax Adjustments

Council approved the following list of 2009-10 Fiscal Year tax adjustments, as recommended by Tax Collector Claudia Hill in accordance with State law:

7/01/10 14:56:21 — City of Marion — Adjustments Report — Page: 1 — TX5030

Date	Cust#	Customer name	Year	Description	RealTax	PerProp	MuniTax	LateList	Interest	Total
7/02/09	43610	GUERRERO CAMILO S &	2008	POSTMARKED JUNE 30, 2009	0.00	0.00	0.00	0.00	2.53-	2.53-
7/06/09	21506	SWIFT GALEY SOCIETY	2008	BANKRUPTCY.	0.00	0.00	0.00	0.00	558.89-	558.89-
7/06/09	39157	GALEY & LORD INDUSTR	2008	BANKRUPTCY	0.00	0.00	0.00	0.00	791.89-	791.89-
7/06/09	2365386	CONLEY MABLE MARIE	1989	OVER 10 YEARS, UNCOLLECTABL	0.00	63.25-	0.00	0.00	75.75-	119.00-
7/06/09	2365386	CONLEY MABLE MARIE	1990	OVER 10 YEARS, UNCOLLECTABL	0.00	32.86-	0.00	0.00	56.16-	89.02-
7/06/09	2365386	CONLEY MABLE MARIE	1991	OVER 10 YEARS, UNCOLLECTABL	0.00	28.56-	0.00	0.00	44.67-	73.23-
7/06/09	2365386	CONLEY MABLE MARIE	1992	OVER 10 YEARS, UNCOLLECTABL	0.00	19.24-	0.00	0.00	30.10-	50.04-
7/06/09	5342086	LONG WM E SR & HARRI	1998	OVER 10 YEARS, UNCOLLECTABL	0.00	0.00	0.00	0.00	99.79-	99.79-
7/16/09	19129	BUTLER JAMES ALLEN B	1995	OVER 10 YEARS, UNCOLLECTABL	140.03-	0.00	0.00	0.00	174.90-	314.93-
7/20/09	25686	DUFF TONEY	1990	OVER 10 YEARS, UNCOLLECTABL	0.00	0.00	0.00	0.00	24.79-	24.79-
7/20/09	3177086	FENDER DIXIE	1994	OVER 10 YEARS, UNCOLLECTABL	73.51-	0.00	0.00	0.00	100.42-	173.93-
7/21/09	11368186	STATE OF NORTH CAROL	1991	OVER 10 YEARS, UNCOLLECTABL	73.04-	0.00	0.00	0.00	118.46-	191.50-
7/24/09	26769	LEASE FINANCE GROUP	2002	BUSINESS SOLD TO CIT @ 2676	0.00	49.38-	0.00	4.24-	33.07-	87.39-
7/24/09	32991	FOOTHILLS TIRE & SER	2003	UNCOLLECTABLE, BUSINESS CLO	0.00	66.50-	0.00	0.00	34.33-	100.83-
7/24/09	32991	FOOTHILLS TIRE & SER	2004	UNCOLLECTABLE, BUSINESS CLO	0.00	60.80-	0.00	0.00	26.06-	86.86-
8/17/09	40168	WHITSON DEANNE	2008	HOUSE BURNT IN JULY 2007	72.78-	0.00	0.00	0.00	5.31-	78.09-
8/18/09	33394	MARVELLA LIMITED PAR	2009	OUTSIDE CITY, LAURELWOOD CO	358.89-	0.00	0.00	0.00	0.00	358.89-
8/19/09	10773	CABLE GEORGE WILLIAM	1992	OVER 10 YEARS, UNCOLLECTABL	0.00	118.18-	0.00	0.00	179.47-	297.65-
8/19/09	47014	MARTIN WILLIAM J.& R	2009	PROPERTY TRANSFERRED IN ERR	166.62-	0.00	0.00	0.00	0.00	166.62-
8/21/09	8482086	WHITE GARLAND R (DEC	2009	OUTSIDE CITY,PER ZONING	143.77-	0.00	0.00	0.00	0.00	143.77-
8/27/09	34400	GOODMAN MARY BARTON	2009	OUTSIDE, 148 LESSIE MORRIS	206.24-	29.81-	0.00	0.00	0.00	236.05-
8/31/09	47228	DUNCAN CLAY dba	2009	MOVED OUTSIDE CITY DEC 2008	0.00	94.37-	0.00	0.00	0.00	94.37-
8/31/09	2390086	CONNER INEZ & JUDY C	2009	HOUSE BURNED IN 2007. $14.8	75.89-	0.00	0.00	0.00	0.00	75.89-
9/01/09	16783286	GRINDSTAFF DAWN VAND	2009	OUTSIDE CITY - PEACHTREE ST	0.00	28.36-	0.00	0.00	0.00	28.36-
10/05/09	2112586	CARSON VERNON E & MA	2008	POST MARKED AUGUST 28, 2009	0.00	0.00	0.00	0.00	1.29-	1.29-
11/20/09	4386086	HOLLIFIELD GLADYS	2009	APTS OUTSIDE CITY LIMITS	910.25-	0.00	0.00	0.00	0.00	910.25-
11/30/09	4143086	HENSLEY LOUISE dba	1997	OVER 10 YEARS, UNCOLLECTABL	0.00	0.00	0.00	0.00	223.24-	223.24-
12/02/09	3480586	GASKILL M JAMES JR D	1995	OVER 10 YEARS, UNCOLLECTABL	0.00	146.04-	0.00	0.00	186.62-	332.66-
12/29/09	46714	HOLLIFIELD JAMES FLE	2009	OVER BILLED VALUE OF 52,570	268.11-	0.00	0.00	0.00	0.00	268.11-
12/29/09	46714	HOLLIFIELD JAMES FLE	2009	PROP SPLIT;3 NEW PARCELS NO	543.92-	0.00	0.00	0.00	0.00	543.92-
1/05/10	11509	DE LAGE LANDEN OPERA	1997	OVER 10 YEARS, UNCOLLECTABL	0.00	42.54-	0.00	0.00	46.61-	89.15-
1/21/10	8329086	BLANTON PANSY AKA WA	2009	OUTSIDE CITY LIMITS PER ZON	51.97-	7.65-	0.00	0.00	1.19-	60.81-
2/03/10	4282086	HOLLIFIELD PEARL M	1999	OVER 10 YEARS, UNCOLLECTABL	20.02-	0.00	0.00	0.00	20.55-	40.57-
2/17/10	7754086	STEPHENS F H LIFE ES	1996	UNCOLLECTABLE, OVER 10 YEAR	150.66-	0.00	0.00	0.00	21.47-	172.13-
2/17/10	7754086	STEPHENS F H LIFE ES	1997	UNCOLLECTABLE, OVER 10 YEAR	195.97-	0.00	0.00	0.00	149.98-	345.95-
2/19/10	16548	LANS WILLARD	2009	REFUND APPLIED TO CURRENT Y	0.00	0.00	0.00	0.00	22.95-	22.95-
4/01/10	4143086	HENSLEY LOUISE dba	1998	UNCOLLECTABLE, OVER 10 YEAR	0.00	0.00	0.00	0.00	212.46-	212.46-
4/05/10	11548	O'BUCKLEY MICHAEL J	2009	BALANCE LESS THAN $1.00	0.00	0.46-	0.00	0.00	0.00	0.46-
4/07/10	37159	HENSON MARGIE	2009	BALANCE LESS THAN $1.00	0.76-	0.00	0.00	0.00	0.05-	0.81-
4/09/10	49053	JUGIS PETER J.,BISHO	2009	TAX EXEMPTED PER KEITH RENF	1,046.42-	0.00	0.00	0.00	44.48-	1,090.90-
4/27/10	2111086	CARSON TENCH & ANNET	1997	UNCOLLECTABLE, OVER 10 YEAR	0.00	0.00	0.00	0.00	207.04-	207.04-
6/17/10	24595	RANDOLPH LOIS STEPHE	1998	OVER 10 YEARS, UNCOLLECTABL	0.00	0.00	0.00	0.00	207.31-	207.31-
					4,498.85-	0.00			3,701.83-	
		Net Total Adjustments				768.70-		4.94-		8,974.32-

PUBLIC HEARING – ADOPTION OF ANNEXTION ORDINANCE – MCDOWELL SCHOOLS/LUKIN STREET ANNEXATION: The City Manager advised that the City had completed the annexation process for the requested satellite annexation of the 4.47 acre McDowell County Schools/Lukin Street property. A Public Hearing is now required on this

AA.000000824 (24)

request, after which time Council could approve an ordinance to annex the property effective July 31, 2010.

Mayor Little opened the Public Hearing.

Council Member Cuthbertson stated that the Alternative Education Center property included in this request is in serious need of City water and sewer service prior to the school year beginning in August. The City Manager advised that the School System is underway with the water and sewer extension to this property.

There were no citizens present to discuss this annexation.

Mayor Little closed the Public Hearing.

Upon a motion by Mayor Pro Tem Owenby, seconded by Council Member Cuthbertson, Council voted unanimously to adopt the following ordinance to extend the Corporate Limits to include the McDowell County Schools property on Lukin Street, effective July 31, 2010:

AN ORDINANCE TO EXTEND
THE CORPORATE LIMITS OF THE
CITY OF MARION, NORTH CAROLINA –
MCDOWELL COUNTY SCHOOLS/LUKIN STREET PROPERTY - 2010

WHEREAS, the City Council has been petitioned under G.S. 160A-58.1 to annex the area described below; and

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

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at City Hall at 7:00 P.M. on Tuesday, July 20, 2010, after due notice by publication on Wednesday, July 7, 2010; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-58.1(b);

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

Section 1. By virtue of the authority granted by G.S. 160A-58.2, the following described territory is hereby annexed and made part of the City of Marion as of July 31, 2010:

Tract One

BEING that certain 2.55 acre tract as shown on the recorded plat recorded in Book 4 at page 264, McDowell County Register of Deeds to which reference is hereby made for a full metes and bounds description.

This conveyance is made SUBJECT to the right of way easement shown on recorded plat referred to above.

AND BEING a portion of the lands described in that certain Deed dated January 19, 1978 from Grayson W. Davis and wife, Patricia W. Davis to Foothills Industries of McDowell County, Inc., and recorded in the Office of the Register of Deeds for McDowell County, NC in Book 269 at page 494, to which reference is hereby made.

A map showing the above described property is recorded in Plat Book 4, Page 264.

Tract Two

BEGINNING on an iron pin set in the property line common to Arthur Hooper and Foothills Industries of McDowell County, Inc., said iron pin being located North 48 degrees 59 minutes 14 seconds East 237.88 feet from an existing iron pin, the 2nd corner of the Foothills Industries of McDowell County, Inc. property of which this description is a part, and runs thence from said beginning iron pin and with the Hooper line, North 48 degrees 59 minutes 14 seconds East 127.04 feet to an existing angle iron, the 3rd corner of said Foothills Industries of McDowell County, Inc. property; thence with the line of Brown, South 87 degrees 12 minutes 17 seconds East

AA.000000825 (24)

197.02 feet to an iron pin set in the J. C. Webb line; thence with said Webb line, South 43 degrees 23 minutes 50 seconds East 211.87 feet to an existing iron; thence continuing with said Webb line, South 76 degrees 45 minutes 19 seconds East 15.16 feet to an existing iron pin; thence with the lines of Ramsey and Washburn, South 47 degrees 00 minutes 36 seconds West 248.87 feet to an iron pin set; thence a new line North 47 degrees 15 minutes 38 seconds West 370.88 feet to the BEGINNING. Containing 1.89 acres, description furnished by R.L. Greene.

AND BEING a portion of the lands described in that certain Deed dated January 19, 1978 from Grayson W. Davis and wife, Patricia W. Davis to Foothills Industries of McDowell County, Inc., recorded in the Office of the Register of Deeds for McDowell County, NC in Book 269 at page 494 to which reference is hereby made.

Reference is hereby made of Foothills Industries of McDowell County, Inc. property recorded in Plat Book 4 at page 204, McDowell County Register of Deeds (plat prepared by R. L. Greene, dated July 12, 1984).

Section 2. Upon and after July 31, 2010, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City of Marion. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Marion shall cause to be recorded in the office of the Register of Deeds of McDowell County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the McDowell County Board of Elections, as required by G.S. 163-288.1.

ADOPTED this the 20th day of July, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Approved As To Form:

City Attorney

Ordinance Number: O-10-07-20-1

PUBLIC HEARING - ADOPTION OF ANNEXATION ORDINANCE - – CITY OWNED PROPERTY OFF OF SUGAR HILL ROAD: The City Manager advised that the City has completed the annexation process for the annexation of the 0.52 acre City property located off of Sugar Hill Road adjacent to the McDowell County Schools/Lukin Street property. The City property is contiguous to the current City Limits. A Public Hearing is now required on this request, after which time Council could approve an ordinance to annex the property effective July 31, 2010.

Mayor Little opened the Public Hearing.

There were no citizens present to discuss this item.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Doggett, seconded by Council Member Cuthbertson, Council voted unanimously to adopt the following ordinance to extend the Corporate Limits to include the City owned property off of Sugar Hill Road, effective July 31, 2010:

AN ORDINANCE TO EXTEND
THE CORPORATE LIMITS OF THE
CITY OF MARION, NORTH CAROLINA –
CITY OWNED PROPERTY OFF OF SUGAR HILL ROAD - 2010

WHEREAS, the City Council has adopted a resolution under G.S. 160A-31 stating its intent to annex the area described below; and

AA.000000826 (24)

WHEREAS, a public hearing on the question of this annexation was held at City Hall at 7:00 P.M. on Tuesday, July 20, 2010, after due notice by publication on Wednesday, July 7, 2010; and

WHEREAS, the City Council finds that the proposed annexation meets the requirements of G.S. 160A-31;

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

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the City of Marion as of July 31, 2010:

First Tract:

BEGINNING on an iron stake, Mrs. Snyder's and Burgin's corner in the old Wiseman line (now Bailey's), said stake being Marion Buckner's beginning corner, and runs west (var. 5 degrees) with said old line 167 feet to an iron stake; then South 3-30 West 93 feet to an iron stake; then South 78-15 East 77 feet to an iron stake in Buckner's outside line; then North 48 East with said line 137 feet to the BEGINNING. Containing one-third (1/3) acre, more or less. Surveyed by M.V. Snypes on December 10, 1946.

Second Tract:

BEGINNING on an iron stake, Buckner's Southeast corner, said stake located South 78 West 5 feet and 2 inches from a Spanish oak pointer and runs South 42 East with the old line 140 ½ feet to a stake on the East bank of the old Nix Creek Road; then North 86 degrees 15 minutes West with the road 191 ½ feet to an iron stake on the Northeast bank of said road, Buckner's Southwest corner; then North 44 degrees, 45 minutes East with Buckner's line 137 feet to the BEGINNING. Containing ¼ acre, more or less.

AND BEING THE SAME IDENTICAL PROPERTY described in the Deed from Tuie R. Boone to Billy L. Brown and wife, Ruth B. Brown, and recorded in McDowell County, North Carolina 194 at Page 562.

Section 23. The Mayor of the City of Marion shall cause to be recorded in the office of the Register of Deeds of McDowell County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the McDowell County Board of Elections, as required by G.S. 163-288.1.

ADOPTED this the 20th day of July, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Approved As To Form:

City Attorney

Ordinance Number: O-10-07-20-2

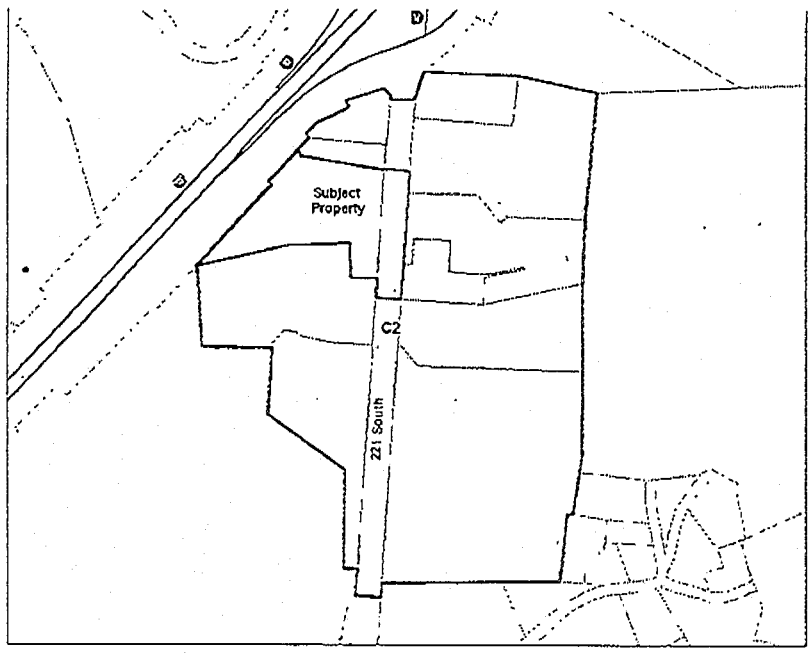
PUBLIC HEARING – ZONING MAP AMENDMENT – ASSIGN ZONING TO DAY'S INN/US 221 SOUTH ANNEXATION AREA:

Mayor Little opened the Public Hearing.

The City Manager advised that on April 20, 2010, City Council adopted Ordinance No. O-10-04-20-1extending the corporate limits of Marion to include the Days Inn Annexation Area. The annexation became effective on June 30, 2010.

The purpose of this ordinance is to assign appropriate zoning designations to the annexation area that are most compatible with the existing uses within the area and to provide a mechanism to regulate such uses. Based on Marion City Code, the Day's Inn Annexation Area is most compatible with Section 21-205, *C-2 General Business* zoning district. The C-2 General Business Zoning District is established as a district where the principal use of land is for

AA.000000827 (24)



commercial purposes. The Day's Inn annexation area consists of two lots with an existing hotel consisting, which is surrounded by compatible commercial uses.

The City Manager advised that the Planning Board voted unanimously at their meeting on July 1, 2010 to recommend that C-2 zoning be assigned to this area.

There were no citizens present to discuss this item.

Mayor Little closed the public hearing

Mayor Pro Tem Owenby asked if the Day's Inn wanted to come into the City. The City Manager stated that the Day's Inn had requested annexation.

Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Owenby, Council voted unanimously to adopt the following Ordinance to assign C-2 General Business District zoning to the US 221 South/Day's Inn Property.

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
ASSIGN ZONING TO DAYS INN ANNEXATION

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to include Days Inn Annexation Territory, as adopted by City Council on April 20, 2010 Ordinance Number O-10-04-20-1, zoning the area as C-2 General Business Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing July 1, 2010.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective July 20, 2010.

Adopted this the 20th day of July 2010.

Stephen R. Little
Mayor

ATTEST:

AA.0000000828 (24)

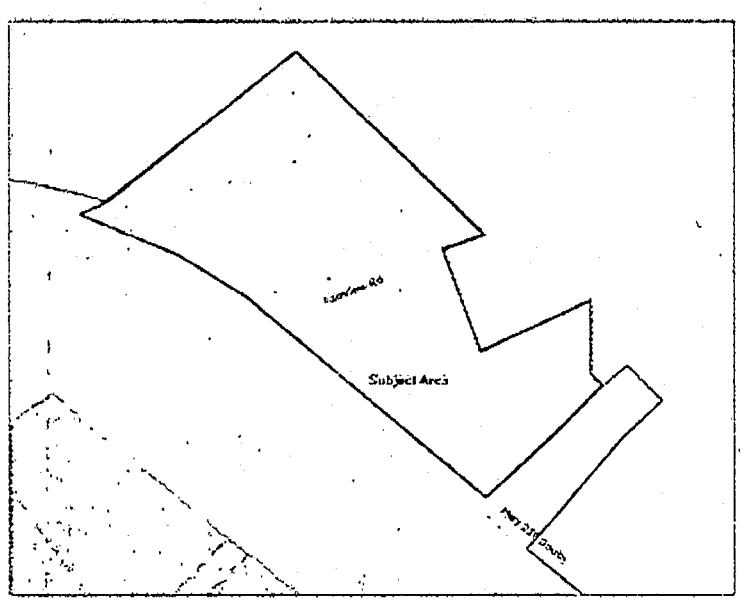
J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-10-07-20-3

PUBLIC HEARING - ZONING MAP AMENDMENT - ASSIGN ZONING TO HIGHWAY 226 SOUTH/FAIRVIEW ROAD ANNEXATION AREA: Mayor Little opened the Public Hearing.

The City Manager advised that Council adopted Ordinance Nos. O-09-06-02-2 and O-09-10-20-2 extending the corporate limits of Marion to include two annexation areas including the Justice, McCoyle, and Young properties. The Justice/McCoyle annexation (O-09-10-20-2) became effective on December 31, 2009, and the Young annexation (O-09-06-02) became effective on June 30, 2010.

The purpose of this ordinance is to assign appropriate zoning designations to the annexation areas that are most compatible with the existing uses within the area and to provide a mechanism to regulate such uses. Based on Marion City Code, the subject area is most compatible with Section 21-205, *C-2 General Business* zoning district. The C-2 General Business Zoning District is established as a district where the principal use of land is for commercial purposes. The annexation areas consists of six lots with an existing commercial uses, which are compatible with other land uses in the area.



The City Manager advised that the Planning Board voted unanimously at their meeting on July 1, 2010 to recommend that C-2 zoning be assigned to this area.

There were no citizens present to discuss this item.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Cuthbertson, seconded by Council Member Martin, Council voted unanimously to amend the *Official Zoning District Map* to assign the C-2 General Business Zoning District to the Highway 226 South/Fairview Road Annexation Areas as follows:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
ASSIGN ZONING TO HWY 226 SOUTH/FAIRVIEW RD ANNEXATION

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to include 226 South/Fairview Road Territory, as adopted by City Council Ordinance Numbers O-09-06-02-2 and O-09-10-20-2, zoning the area as C-2 General Business Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing July 1, 2010.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective July 20, 2010.

Adopted this the 20th day of July 2010.

Stephen R. Little
Mayor

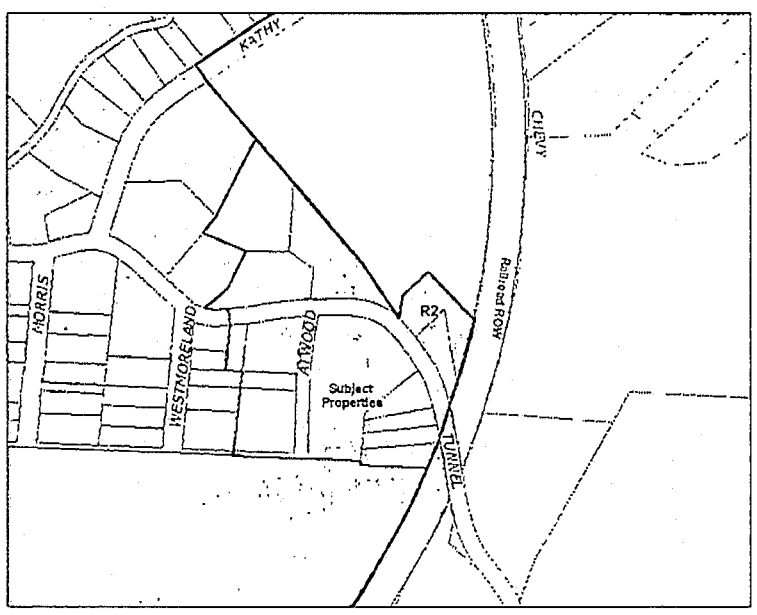
ATTEST:

J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-10-07-20-4

PUBLIC HEARING – ZONING TEXT AMENDMENT – ASSIGN MAP AMENDMENT – ASSIGN ZONING TO EASTFIELD PHASE 6 ANNEXATION AREA: Mayor Little opened the Public Hearing.

The City Manager advised that the purpose of this ordinance is to assign appropriate zoning designations to the annexation area that are most compatible with the existing uses within the area and to provide a mechanism to regulate such uses. Based on Marion City Code, the Eastfield Phase VI Annexation Area is most compatible with Section 21-202, *R-2 General Residential* zoning district. The R-2 General Residential District is established as a district where the principal use of land is for residential purposes. The Eastfield Phase VI area is approximately 6.95 acres in size consisting of 14 lots, which are used for a mixture of residential land uses.



The City Manager advised that the Planning Board voted unanimously at their meeting on July 1, 2010 to recommend that R-2 zoning be assigned to this area.

There were no other persons present to discuss this item.

Mayor Little closed the Public Hearing.

AA.000000830 (24)

Upon a motion by Mayor Pro Tem Owenby, seconded by Council Member Cuthbertson, Council voted unanimously to adopt the following Ordinance amending the Official Zoning District Map to assign the R-2 General Residential Zoning District to the Eastfield Phase 6 Annexation Area:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
EASTFIELD PHASE VI

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to include Eastfield Phase VI Annexation Territory, as adopted by City Council on April 6, 2010 Ordinance Number O-10-04-06-1, zoning the area as R-2 General Residential Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing July 1, 2010.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective July 20, 2010.

Adopted this the 20th day of July 2010.

Stephen R. Little
Mayor

ATTEST:

J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-10-07-20-5

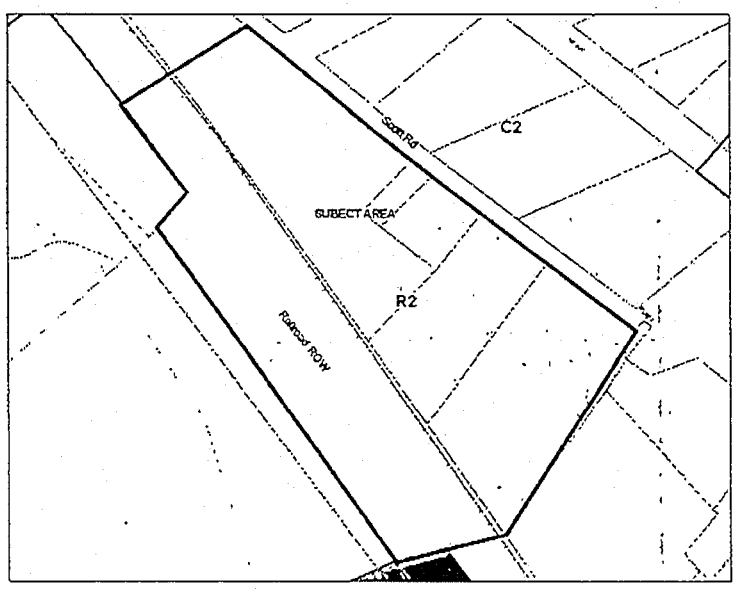
PUBLIC HEARING – ZONING MAP AMENDMETN – ASSIGN ZONING TO SCOTT ROAD ANNEXATION AREA: Mayor Little opened the Public Hearing.

The City Manager advised that on April 6, 2010, City Council adopted Ordinance No. O-10-04-06-2 extending the corporate limits of Marion to include the Scott Road Annexation Area. The annexation became effective on June 30, 2010.

The purpose of this ordinance is to assign appropriate zoning designations to the annexation area that are most compatible with the existing uses within the area and to provide a mechanism to regulate such uses. Based on Marion City Code, the Scott Road Annexation Area is most compatible with Section 21-202, *R-2 General Residential* zoning district. The R-2 General Residential Zoning District is established as a district where the principal use of land is for

residential purposes. The Scott Road area is approximately 5.51 acres in size consisting of 5 lots, which are used for residential purpose..

The



at their

City Manager advised that the Planning Board voted unanimously meeting on July 1, 2010 to recommend that R-2 zoning be assigned to this area.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Owenby, council voted to amend the *Official Zoning District Map* to assign the R-2 General Residential Zoning District to the Scott Road Annexation Area:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
ASSIGN ZONING TO SCOTT RD

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to include Scott Rd Annexation Territory, as adopted by City Council on April 6, 2010 Ordinance Number O-10-04-06-2, zoning the area as R-2 General Residential Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing July 1, 2010.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective July 20, 2010.

Adopted this the 20th day of July 2010.

Stephen R. Little
Mayor

ATTEST:

AA.00000832 (24)

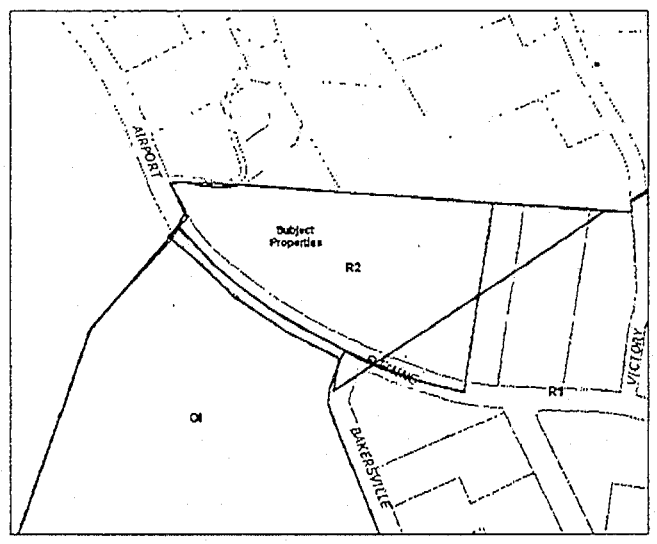
J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-10-07-20-6

PUBLIC HEARING – ZONING MAP AMENDMENT – ASSIGN ZONING TO AIRPORT ROAD ANNEXION AREA: Mayor Little opened the Public Hearing.

The City Manager advised that on June 2, 2009, City Council adopted Ordinance No. O-09-06-02-1 extending the corporate limits of Marion to include the Airport Road Annexation Area. The annexation became effective on June 30, 2010.

The purpose of this ordinance is to assign appropriate zoning designations to the annexation area that is most compatible with the existing uses within the area and to provide a mechanism to regulate such uses. Based on Marion City Code, the Airport Road Annexation Area is most compatible with Section 21-202, *R-2 General Residential* zoning district and R-1 Single-Family Residential. The R-2 General Residential Zoning District is proposed for one parcel, an area of approximately three acres, where the principal use of land is for multifamily residential purposes. The R-1 zoning is recommend for a small portion of the two parcels where a majority of land and associated land uses were already within the city limits prior to the Airport Road annexation. The Airport Road annexation extended the city limits to include those smaller portions of land, and this ordinance would extend the existing zoning R-1 classification for each parcel.



The City Manager advised that the Planning Board voted unanimously at their meeting on July 1, 2010 to recommend that R-2 zoning be assigned to the apartments on Airport Road and that the R-1 zoning be assigned to the remainder of this area.

Mayor Little closed the public hearing.

Upon a motion by Council Member Cuthbertson, seconded by Council Member Doggett, Council voted unanimously to adopt the following ordinance amending the *Official Zoning District Map* to assign the R-2 General Residential Zoning District and R-1 Single-Family Residential to the Airport Road Annexation Area:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
ASSIGN ZONING TO AIRPORT RD ANNEXATION

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to include Airport Rd Annexation Territory, as adopted by City Council on June 2, 2009 Ordinance Number O-09-06-02-1, zoning the area as R-2 General Residential Zoning District and R-1 Single-Family Residential.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing July 1, 2010.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective July 20, 2010.

Adopted this the 20th day of July 2010.

Stephen R. Little
Mayor

ATTEST:

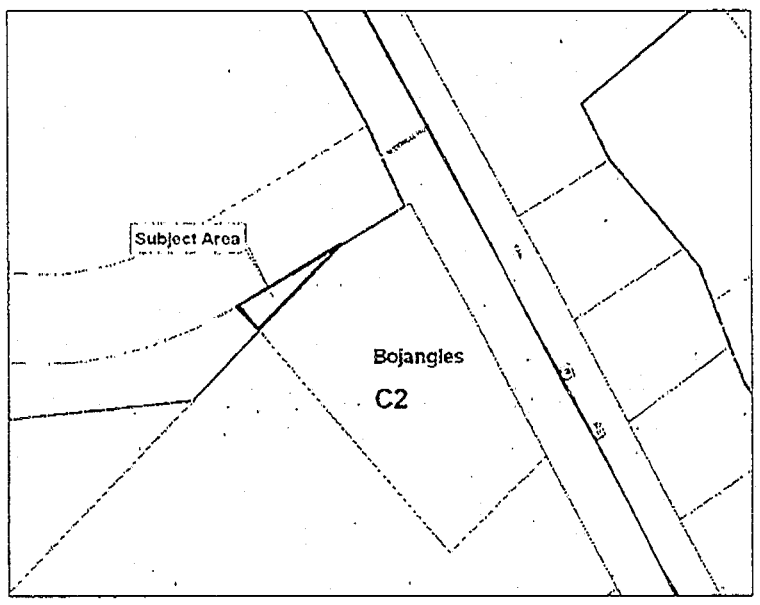
J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-10-07-20-7

PUBLIC HEARING =- ZONING MAP AMENDMENT – ASSIGN ZONING TO GREAT MEADOWS/MCDOWELL HIGH SCHOOL ROAD ANNEXATION AREA: Mayor Little opened the Public Hearing.

The City Manager advised that on February 16, 2010, City Council adopted Ordinance No. O-10-02-16-2 extending the corporate limits of Marion to include the Great Meadows/ McDowell High School Road Annexation Area. The annexation became effective on February 28, 2010.

The purpose of this ordinance is to assign appropriate zoning designations to the annexation area that are most compatible with the existing uses within the area and to provide a mechanism to regulate such uses. Based on Marion City Code, the Great Meadows/McDowell High School Road Annexation Area is most compatible with Section 21-205, *C-2 General Business* zoning district. The C-2 General Business Zoning District is established as a district where the principal use of land is for commercial purposes. The Great Meadows/McDowell High School Road annexation area consists of a very small area of land that was not within the City Limits. This area was subdivided from a larger tract of land and recombined with another piece of land located within the City Limits for the purposes of providing secondary access to a new commercial development.



The City Manager advised that the Planning Board voted unanimously at their meeting on July 1, 2010 to recommend that C-2 zoning be assigned to this area.

There were no citizens present to discuss this issue.

AA.000000834 (24)

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Owenby, Council voted unanimously to adopt the following ordinance amending the *Official Zoning District Map* to assign the C-2 General Business Zoning District to the Great Meadows/McDowell High School Road Annexation Area:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
ASSIGN ZONING TO MCDOWELL HIGH DRIVE ANNEXATION

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to include McDowell High Drive Territory, as adopted by City Council on February 16, 2010 Ordinance Number O-10-02-16-1, zoning the area as C-2 General Business Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing July 1, 2010.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective July 20, 2010.

Adopted this the 20th day of July 2010.

Stephen R. Little
Mayor

ATTEST:

J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-10-07-20-8

PUBLIC HEARING – ZONING TEXT AMENDMENT: Mayor Little opened the Public Hearing.

The City Manager advised that Staff had proposed this Zoning Text Amendment to revise the sign ordinance based on multiple requests for providing greater flexibility in the placement of "A-Frame" signs within the DO Downtown Overlay District. The amendment would allow for "A-Frame" signs to be located no less than two and half feet from the curb to avoid obstructing access in and out of parked vehicles and no greater than five feet from the curb to avoid obstructing the sidewalk and limiting pedestrian movement. This ordinance does not change the existing location next to the building which would allow business owners to place "A-Frame"

AA.000000835 (24)

signs within three feet of the building. In addition to location, the ordinance adds additional design requirements for materials and finishes of "A-Frame" signs.

The City Manager stated that the Planning Board reviewed Staff's changes, and held further discussion regarding the size of A-Frame Signs. Several Planning Board Members noted that it appeared several A-Frame Signs in the downtown exceeded the current size permitted within the code and made recommendation to increase the size of the signs from four square feet (4 sq. ft.) to "no greater than three feet wide and six feet in height". The proposed changes are all underlined in the attached ordinance.

There were no citizens present to discuss this item.

Mayor Little closed the public hearing.

Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Owenby, Council voted unanimously to adopt the following Ordinance amending the Zoning Ordinance as follows:

ORDINANCE
AMENDING CHAPTER 21
ZONING
MARION CITY CODE

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Sec.21-131(9) *Permanent signs.* This subsection shall govern regulations for signs permanently installed on a site and which are required to obtain a sign permit in accordance with subsection 21-7.6(2) of this chapter.

(3) In the DO, Downtown Overlay District, commercially zoned properties, free-standing portable signs are permitted subject to the following requirements:

(A) Only permitted in the downtown overlay district.

(B) Placement shall be within three (3) feet of the building or no less than two and half (2 ½) feet from the edge of curb and no greater than five (5) feet from the curb to avoid both vehicular and pedestrian obstruction.

(C) Inside during off (closed) hours.

(D) No more than one (1) per entrance.

(E) No greater than three feet (3) wide and six (6) feet in height.

(F) Only used to list specials or menus.

(G) Sign shall be constructed of durable materials to withstand normal weather conditions. Unfinished and/or untreated plywood or other material unsuitable for outdoor conditions shall be prohibited.

(H) Signs shall be constructed utilizing colors and materials that compliment the downtown business décor and give the appearance of being commercially constructed. Spray-painted messages shall be prohibited.

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 20th day of July 2010.

Stephen R. Little
Mayor

ATTEST:

J. Robert Boyette

AA.00000836 (24)

City Manager/ Clerk

Ordinance Number: O-10-07-20-9

PUBLIC APPEARANCE – MICHAEL BALDWIN, USPTA TENNIS PROFESSIONAL:
Mr. Michael Baldwin, a USPTA Tennis Professional at Little Switzerland, appeared before Council to request permission to teach tennis lessons and possibly organize tennis tournaments at the Community Building Tennis Courts. He stated that he thought that Marion had some of the finest tennis courts of any small town he had seen. Mr. Baldwin advised that he had discussed his proposal with the City Manager, who suggested he make this presentation to City Council.

Mr. Baldwin stated that he is a tennis professional and currently gives tennis lessons at the Switzerland Inn, in Little Switzerland and volunteers for Mt. Heritage High School in Burnsville.

Mr. Baldwin stated that he is a great grandfather; however, he is in good health and is looking for permission to enter into an agreement by taking baby steps to see if people in Marion would be interested in tennis lessons.

Mr. Baldwin stated that he would like to create the beginning steps of a quality program that would allow others to come in and continue to promote tennis as a means to improve fitness in the community. He said that tennis has been good to him and he would like to give back some of what he has learned by sharing tennis with citizens of Marion. Mr. Baldwin advised that he would not do anything to monopolize the time and/or the courts at the Marion Community Building and would like to pursue a teaching concept for all ages with Council's permission.

Mr. Baldwin's proposal requested that he be allowed to teach tennis lessons and organize tennis tournaments, on a schedule agreed upon with the City. He suggested that he keep the revenue derived from the lessons, but give back to the City by providing free advice to the City regarding the tennis courts and giving free adult and/or children's tennis clinics periodically.

Mayor Pro Tem Owenby asked Mr. Baldwin if he would give the City free advice regarding the maintenance of and needed improvements to the tennis courts, as stated in the proposal. Mr. Baldwin stated that he would.

Council Member Clark stated that he has served as a City elected official for almost 39 years and knows a lot of the background regarding the tennis courts. He said he would like to the see the City pursue an agreement with Mr. Baldwin, but cautioned Council to be careful to make sure the courts are not monopolized and remain available to the public. Council Member Clark added that the tennis courts were built and maintained with tax dollars and need to be available to the public.

He advised that the City had problems years ago with persons teaching lessons at the tennis courts, keeping all the money for themselves and the City not knowing anything about it.

The City Manger presented Council with the section of Chapter 12 of the City Code that pertains to the tennis courts. Section 12-27 prohibits any money making activities, lessons for a fee or tournaments on the tennis courts without the approval of the City Council.

The City Manager stated that he had checked with other cities and presented Council with information showing that several cities have entered into contracts with tennis professionals. Some of these contracts involve the City receiving a flat fee or percentage of the revenues the professional receives.

Council Member Clark stated that the tennis lessons should be offered to everyone and that no one should ever be charged a fee to use the courts.

AA.000000837 (24)

Council Member Martin stated that he did not want people wanting to learn tennis to be turned away due to lack of money.

Mr. Baldwin stated that he does not need to do this to put food on the table, but would want to charge a reasonable amount for lessons. This is a seasonal activity and that he actually goes to Florida during the winter. This would be for the good of the community and would encourage physical activity for all ages.

Council Member Cuthbertson stated that his son went to a tennis academy to improve his tennis game and played in high school. He said that the tennis courts are not used nearly as much as they were 20 or more years ago.

Council Member Doggett stated that she played tennis in college and would like to see the courts used more. She added that the promotion of tennis fit in with the City's cooperation with the YMCA to complete a Community Healthy Living Index assessment and to promote health and fitness in general.

Mayor Little stated that he was impressed with Mr. Baldwin's proposal and would like to see it pursued.

The City Manager stated that Mr. Baldwin's offer to conduct free clinics could potentially alleviate concerns that people might be unable to receive tennis lessons due to lack of resources. He suggested that, if Council wished to pursue this idea, Council authorize him to work with Mr. Baldwin on a draft agreement that could then be brought back to Council for review and consideration.

Council Member Martin made a motion to authorize the City Manager to negotiate an agreement with Mr. Baldwin and bring it back to Council for review at a later date. Council Member Clark seconded the motion. Council voted unanimously to approve the motion.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

APPROVE 2009-10 FISCAL YEAR TAX SETTLEMENT: The City Manager advised that, under State Law, at the end of each Fiscal Year, Council must review and approve the year end Property Tax Settlement.

The City Manager presented the 2009-10 Fiscal Year Property Tax Settlement, as prepared by Tax Collector Claudia Hill, for Council's review and approval.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to approve the 2009-10 Fiscal Year Property Tax Settlement as follows:

2009 TAX SETTLEMENT

July 1, 2009 - June 30, 2010

CHARGES		CREDITS	
Real Property	$ 1,471,282.81	Tax Revenue	$ 1,711,993.67
Less Exemption	(38,207.56)	Less 1% Discount	(6,598.07)
Personal Prop.	254,393.22	Less Refunds - Principal	(376.57)

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Utilities	59,698.51
Discoveries	36,885.20
Total Tax	**$1,784,052.18**
Late Listing	1,249.88
Interest & Penalties	4,911.7
TOTAL	**$1,790,213.63**

Late Listing	783.91
Interest & Penalties	4,842.90
Total Revenue	**$ 1,710,645.84**

ADJUSTMENTS

1% Discount	6,598.07
Tax Releases - Principal	3,933.49
Tax Releases - Late List	0.00
Tax Releases - Interest	68.67
Tax Refunds - Principal	376.57
Uncollected Late List	465.97
Uncollected - Real	57,799.29
Uncollected - Personal	10,325.73
TOTAL	**$1,790,213.63**

APPROVE ORDER OF COLLECTION FOR 2010 PROPERTY TAXES: The City Manager advised that , under State Law, after the prior year property tax adjustments and tax settlement have been approved by Council, action is needed to order the collection of the current year taxes before the tax bills can be mailed.

The City Manager advised that the City anticipates mailing property tax bills by the middle of August, if not sooner.

Upon a motion by Mayor Pro Tem Owenby, seconded by Council Member Cuthbertson, Council voted unanimously the order of collection for 2010 property taxes as follows:

ORDER OF COLLECTION OF TAXES

STATE OF NORTH CAROLINA
CITY OF MARION

To the Tax Collector of the City of Marion:

You are hereby authorized, empowered and commanded to collect the taxes set forth in the tax records for the year 2010 filed in the office of the Tax Collector and in the tax receipts herewith delivered to you, in the amounts and from the taxpayers likewise therein set forth. Such taxes are hereby declared to be a first lien upon all real property of the respective taxpayers in the City of Marion, and this order shall be a full and sufficient authority to direct, require, and enable you to levy on and sell any real or personal property of such taxpayers, for and on account thereof, in accordance with law.

Witness my hand, and official seal, this 20th day of July, 2010.

(Seal)
Stephen R. Little
Mayor
City of Marion

ATTEST:

AA.00000839 (24)

J. Robert Boyette
City Manager/Clerk
City of Marion

ADOPT RESOLUTION TO APPROVE WATER SHORTAGE RESPONSE PLAN: Public Works Director Chris Hollifield presented Council with a summarized version of the Water Shortage Response Plan. He advised that the State required public water systems to have such plans in place, or else be forced to use the State's default plan.

The City Manager advised that Mr. Hollifield had done a good job giving flexibility to the City in setting the five levels of water shortages and not requiring the City to move to a higher, stricter level of water shortage unless absolutely necessary due to local conditions.

Council Member Clark asked if research had been done over the last thirty years regarding water availability at Mackey Creek.

Mr. Hollified stated that he had reviewed several years of data, but not going back as far as 30 years.

Council Member Clark thanked Mr. Hollifield for all the work he had done in developing this plan and making it as reasonable as the State would allow.

Upon a motion by Council Member Clark, seconded by Council Member Cuthbertson, Council voted unanimously to adopt the following Resolution approving the City Water Shortage Response Plan as follows:

CITY OF MARION
RESOLUTION
APPROVING WATER SHORTAGE RESPONSE PLAN

WHEREAS, North Carolina General Statute 143-355 (1) requires that each system that provides public water services or plans to provide such services shall, either individually or together with other systems, prepare and submit a Water Shortage Response Plan; and

WHEREAS, as required by the statute and in the interest of sound local planning, a Water Shortage Response Plan for the City of Marion has been developed and submitted to the City Council for approval, and

WHEREAS, the City Council finds that the Water Shortage Response Plan is in accordance with the provisions of North Carolina General Statute 143-355 (1) and that it will provide appropriate guidance for the future management of water supplies for the City of Marion, as well as useful information to the Department of Environment and Natural Resources for the development of a state water supply plan as required by statute.

NOW, THERFORE, BE IT RESOLVED by the City Council of the City of Marion that the Water Shortage Response Plan entitled, Water Shortage Response Plan dated March 29, 2010 is hereby approved and shall be submitted to the Department of Environment and Natural Resources, Division of Water Resources; and

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

Adopted by the City Council of the City of Marion this the 20th day of July, 2010.

AA.00000840 (24)

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

RESOLUTION NUMBER: R-10-07-20-1

Water Shortage Response Plan
Marion, North Carolina
2010

The procedures herein are written to reduce potable water demand and supplement existing drinking water supplies whenever existing water supply sources are inadequate to meet current demands for potable water.

I. Authorization

The Marion City Manager shall enact the following water shortage response provisions whenever the trigger conditions outlined in Section IV are met. In his absence, the WFP Chief of Operations will assume this role.
Mr. Robert Boyette
Marion City Manager
(828) 652-3551
Email: bboyette@mairionnc.org

Mr. Steven Miller
Marion WFP Chief of Operations
Phone: (828) 652-2428
E-mail: smiller@marionnc.org

II. Notification

The following notification methods will be used to inform water system employees and customers of a water shortage declaration: employee e-mail announcements, notices at municipal buildings, notices in water bills. Required water shortage response measures will be communicated through *The McDowell News*, PSA announcements on local radio and cable stations and on the City's website (http://www.marionnc.org) Declaration of emergency water restrictions or water rationing will be communicated to all customers by telephone through use of reverse 911.

III. Levels of Response

Five levels of water shortage response are outlined in the table below. The five levels of water shortage response are: voluntary reductions, mandatory reductions I and II, emergency reductions and water rationing. A detailed description of each response level and corresponding water reduction measures follow below.

Stage	Response	Description
1	Voluntary Reductions	Water users are encouraged to reduce their water use and improve water use efficiency; however, no penalties apply for noncompliance. Water supply conditions indicate a potential for shortage.
2	Mandatory Reductions I	Water users must abide required water use reduction and efficiency measures; penalties apply for noncompliance. Water supply conditions are significantly lower than the seasonal norm and water shortage conditions are expected to persist.
3	Mandatory Reductions II	Same as in Stage 2
4	Emergency	Water supply conditions are substantially diminished and

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	Reductions	pose an imminent threat to human health or environmental integrity.
5	Water Rationing	Water supply conditions are substantially diminished and remaining supplies must be allocated to preserve human health and environmental integrity.

In Stage 1, Voluntary Reductions, all water users will be asked to reduce their normal water use by 5%. Customer education and outreach programs will encourage water conservation and efficiency measures including: irrigating landscapes a maximum of one inch per week; preventing water waste, runoff and watering impervious surfaces; watering plants deeply to encourage root growth; washing only full loads in clothes and dishwashers; using spring-loaded nozzles on garden hoses; and identifying and repairing all water leaks.

In Stage 2, Mandatory Reductions I, all customers are expected to reduce their water use by 10% in comparison to their previous month's water bill. In addition to continuing to encourage all voluntary reduction actions, the following restrictions apply: irrigation is limited to a half inch per week between 8PM and 8AM; outdoor use of drinking water for washing impervious surfaces is prohibited; and all testing and training purposes requiring drinking water (e.g. fire protection) will be limited.

In Stage 3, Mandatory Reductions II, customers must continue actions from all previous stages and further reduce water use by 20% compared to their previous month's water bill. All non-essential uses of drinking water are banned and garden and landscape irrigation must be reduced to the minimum amount necessary for survival. Additionally, in Stage 3, a drought surcharge of 1.5 times the normal water rate may apply.

In Stage 4, Emergency Reductions, customers must continue all actions from previous stages and further reduce their water use by 25% compared to their previous month's water bill. A ban on all use of drinking water except to protect public health and safety is implemented and drought surcharges may increase to 2 times the normal water rate.

The goal of Stage 5, Water Rationing, is to provide drinking water to protect public health (e.g. residences, residential health care facilities and correctional facilities). In Stage 5, all customers are only permitted to use water at the minimum required for public health protection. Firefighting is the only allowable outdoor water use and pickup locations for distributing potable water will be announced according to Marion's Emergency Response Plan. Drought surcharges may increase to 5 times the normal water rate.

IV. Triggers

The City of Marion's water sources are three creeks Mackey, Buck and Clear. The following measurements trigger entry into corresponding water restriction stages, when Clear Creek is offline and the Buck Creek intake is operating at 1.3 million gallon capacity.

Stage	Creek Operating Conditions
1	Length of the weir wetted area has been reduced by 50% for 3 consecutive days
2	Length of the weir wetted area has been reduced by 75% for 3 consecutive days
3	Length of the weir wetted area has been reduced by 85% on any day
4	Mackey Creek flow is coming fully into the trough and no longer in both the trough and over the weir and Stage 3 conditions exist
5	Mackey Creek flow is stopped and Stage 3 conditions exist

Return to Normal

When water shortage conditions have abated and the situation is returning to normal, water conservation measures employed during each phase should be decreased in reverse order of implementation. Permanent measures directed toward long-term monitoring and conservation should be implemented or continued so that the community will be in a better position to prevent shortages and respond to recurring water shortage conditions.

V. Enforcement

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The provisions of the water shortage response plan will be enforced by City of Marion City Manager, or his or her designee. Violators may be reported to the City's dedicated water conservation hotline, (828)652-3551. Citations are assessed according to the following schedule depending on the number of prior violations and current level of water shortage.

Water Shortage Level	First Violation	Second Violation	Third Violation
Voluntary Reductions	N/A	N/A	N/A
Mandatory Reductions (Stages 2 and 3)	Warning	$250	Discontinuation of Service
Emergency Reductions	$250	Discontinuation of Service	Discontinuation of Service
Water Rationing	$500	Discontinuation of Service	Discontinuation of Service

Drought surcharge rates are effective in Stages 3, 4 and 5.

VI. Public Comment

Customers will have multiple opportunities to comment on the provisions of the water shortage response plan. First, a draft plan will be will be available at City Hall for customers to view. Notice of the draft plan will be published in *The News Bulletin of McDowell County* as well as on the City of Marion's website. All subsequent revisions to the draft plan will be published at least 30 days prior to an adoption vote by Marion's City Council.

VII. Variance Protocols

Applications for water use variance requests are available from the Utility Department at City Hall. All applications must be submitted to the Utility Department for review by the City Manager or his or her designee. A decision to approve or deny individual variance requests will be determined within two weeks of submittal after careful consideration of the following criteria: impact on water demand, expected duration, alternative source options, social and economic importance, purpose (i.e. necessary use of drinking water) and the prevention of structural damage.

VIII. Effectiveness

The effectiveness of the Marion water shortage response plan will be determined by comparing the stated water conservation goals with observed water use reduction data. Other factors to be considered include frequency of plan activation, any problem periods without activation, total number of violation citations, desired reductions attained and evaluation of demand reductions compared to the previous year's seasonal data.

IX. Revision

The water shortage response plan will be reviewed and revised as needed to adapt to new circumstances affecting water supply and demand, following implementation of emergency restrictions, and at a minimum of every five years in conjunction with the updating of our Local Water Supply Plan. Further, a water shortage response planning work group will review procedures following each emergency or rationing stage to recommend any necessary improvements to the plan to Marion's City Council. The City of Marion City Manager is responsible for initiating all subsequent revisions.

DISCUSS ADVISORY BOARD APPOINTMENTS: The City Manager advised that Ms. Glenys Gilbert had accepted Council's appointment as an Alternate Member of the Planning Board/Board of Adjustment/Historic Preservation Commission. He said that the City currently has five Alternate Planning Board Members: Ms. Gilbert, Connie Martin, John Morrow, Virginia Williams and Rex Wood. The City Manager advised that the City could use another active Alternate Member.

The City Manager further reported that Mr. Gary Walker submitted a letter giving his resignation from the Planning Board/Board of Adjustment/Historic Preservation Commission. Gary's resignation now leaves the City with four Regular Planning Board Members, plus the Alternate

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Member. Therefore, it is vital that a Regular Member and an Alternate Member be appointed as soon as possible. The City Manager stated that the Planning Board recommended on July 1 that John Morrow be moved from an Alternate Member slot to a Regular Member.

Mayor Little suggested that Ms. Jane Brown be contacted regarding serving as an Alternate Member on the Planning Board. Mayor Little also stated that he would recommend Mr. Gary Arnold to serve as an Alternate Member.

Council Member Doggett suggested that Ms. Becky Cross be contacted to see if she would serve as an Alternate Member of the Planning Board.

The City Manager was directed to contact the three people listed above to determine their willingness to serve as an Alternate Member of the Planning Board and to bring this information back to Council at a future meeting so that appointments could be made.

After discussion, Council discussed offering the Regular Member slot on the Planning board first to current Alternate Member Virginia Williams, based on her tenure as an Alternate Member, and then to current Alternate Member John Morrow, if Ms. Williams is not willing to serve as a Regular Member. This information will be brought back to Council at a future meeting so that appointments can be made.

The City Manager advised that there is still one open slot on the Tree Board. The next Tree Board meeting will be in August, at which time the Tree Board could discuss possible names to serve on the Tree Board. The Tree Board recommendation will be presented to Council at a later date.

The City Manager advised that the McDowell County Department of Social Services has requested that a City elected official be appointed as a municipal representative to the McDowell County Partnership for Children and Families Board. The City Manager stated that he understands that Council members have served on this Board in the past.

Mayor Little asked Council Members to consider serving on the McDowell County Partnership for Children and Families Board.

CONSIDER APPROVAL OF CITY FLEXIBLE BENEFITS PLAN:

The City Manager advised that, in order to reduce medical insurance premiums for the City, the City increase the annual insurance deductible from $500/$1,000 to $750/$1,500 and the annual total out of pocket from $2,000/$4,000 to $2,500/$5,000. This change saves the City approximately $15 per employee per month or a total of approximately $16,900 per year.

The City Manager stated that staff explored ways to save employees money and found one way is to establish a Flexible Spending Account (FSA). This is an account where prior to January 1 of each year an employee estimates out-of-pocket medical expenses. The City then deducts this amount (pre-tax) evenly over the 26 bi-weekly payrolls and remits it to a third party administrator. The employee receives a debit card to be used at the pharmacy or medical provider to pay the out-of-pocket medical expenses up to the amount estimated. If the employee does not use the full amount or leaves employment, the remaining amount is forfeited. If the employee uses all of the estimated funds before year-end, then leaves employment during the year, there is a risk of the City having to pay the short-fall. However, at no time will the employee be allowed to spend more than the estimate for the year. The employee saves taxes as this medical expense is being paid with pre-tax dollars and the City saves money by reducing the taxable FICA wages. The City saves $7.65 for every $100 the employee puts in this pre-tax account. The employee saves this same amount plus income taxes (amount depends on their tax bracket). There is also an option for employees paying daycare expenses for dependents to pretax those payments.

AA.00000844 (24)

The City Manager stated that, since a third party administrator is required, the City would incur costs for this service. He advised that the City received quotes from two vendors providing this service. Based on an employee participation of 33% (31 employees), the City's cost would be:

Vendor	1st Year	Thereafter
Paychex	$3,361	$2,166
AFLAC	$2,606	$2,256

The City Manager advised that the costs would increase with more employee participation, but FICA tax savings would also increase. Both vendors would provide employee training at no additional costs. The City already has a relationship with the local AFLAC representative and although the on-going cost is slightly more, start up cost is substantially less. The City Manager stated that he and Finance Director Harriett Thomas would therefore recommend , should Council chose to offer this program to the employees, to contract with AFLAC for the third party administrative services.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to approve the Flexible Spending Plan as presented and to select AFLAC as the City's third party administrator for this program.

DISCUSS REQUEST FOR SEWER EXTENSION: Director of Public Works Chris Hollifield advised that he had received a phone call from Ms. Joy Shuford and that she is requesting that sewer service be extended to a single family dwelling and two 8 unit apartment buildings on Padgett Drive off of Highway 70 West in the Pleasant Gardens Community. Mr. Hollifield stated that Padgett Drive is located almost directly across from Mitch Gillespie's car wash next to the PG Fire Department. A sewer extension of about 400-500 feet would be required, but the City would pick up 19 units on sewer, plus some not currently on water.

Mr. Hollifield advised that construction costs were estimated to be $50,000-$60,000, but that the City would immediately received $16,200 in connection fees for the properties for which service is requested, plus potential additional connection fees from additional properties. In addition, the monthly revenues from water and sewer sales from the properties for which service is requested will result in a 3.7 year payback for the City for this extension. This payback could be reduced if additional properties go on City water and sewer.

Mr. Hollifield stated that Ms. Shuford is in a hurry, because her septic system is failing.

The City Manager advised that Ms. Padgett understands the connections fees that will be required and that he will meet with her to make sure she knows that the monthly water and sewer bill may run as much as $70 per unit per month.

Council Member Clark asked if the water and sewer lines going to Ms. Padgett's house were large enough to serve other properties. Mr. Hollifield stated that the lines will be of adequate size to allow for service to additional properties.

Upon a motion by Council Member Clark, seconded by Council Member Cuthbertson, Council voted unanimously to approve the request by Ms. Joy Shuford for a sewer extension to serve properties at 40, 77 and 109 Padgett Drive, subject to Ms. Shuford committing to pay the connection fees for these properties prior to construction commencing.

CITY MANAGER COMMENTS: The City Manager advised that N.C. Secretary of Transportation Eugene Conti sent a letter, acknowledging receipt of the City's request for a State rule change to expand allowances of DOT logo signs to signalized intersections adjacent to

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controlled access highways. Secretary Conti's letter advises that the rule change request will be reviewed by DOT staff.

The City Manager advised that Senator Hagan had sent a letter, stating her opposition to Federally mandated collective bargaining. The City had previously received such a letter from Senator Burr. Some cities have adopted resolutions regarding the collective bargaining, but the City Manager stated that he did not know if the adoption of a resolution would be of any use, since both North Carolina Senators were already in opposition to mandated collective bargaining.

Mayor Little stated that he would agree that senators from other states probably did not care what the City of Marion, North Carolina thought about mandated collective bargaining.

Council Member Clark stated that he just attended a Small Cities Council Meeting and that every small city is opposed to mandated collective bargaining.

The City Manager advised that work has been completed on the Eastfield Community Park, except for hydroseeding. Due to the hot weather, the City will wait until August to hydroseed. This may delay the official opening of the park and the dedication, although the park is now open for use by the public.

The City Manager advised that the City's contracted street paver has completed the resurfacing of four streets, along with paving of Leach Street Extension in the Eastfield Community. Two streets still need to be resurfaced, along with the installation of a speed hump next to Rock Tenn on Burgin Street, as directed by Council.

The City Manager advised that the School System is working on the water and sewer connection to the Alternative Education Center property on Lukin Street.

The City Manager advised that the Tuesday afternoon Farmer's Market opened on May 18 and will run each week through October 26. The Tuesday market reached its capacity with vendors by late June. The Saturday morning market opened in late June and will run through August. The Market continues to do very well.

The City Manager advised that the fundraising is underway for the Roy Williams historic marker. So far, the City has received pledges and donations totaling of $1,675. The City needs to raise about $2,700 for this project.

The City Manager advised that the construction of Phase 1 of the Catawba River Greenway is ahead of schedule. As of early July, the contractor had put stone down on the path, seeded the sides of the trail and was working on the small boardwalk/bridge needed, as well as the fishing pier. The work is projected to be completed by September.

The City Manager stated that the Phillips family has agreed to donate the property for Phase 2 of the Greenway, which will allow the Greenway to be extended under the US 221 Bypass to the McDowell House property. The City Manager stated that staff, without objection, will request a waiver from the N.C. Parks and Recreation Trust Fund to allow the City to accept this property prior to applying for State grants in January.

The City Manager advised that the lease with Great Meadows for the canoe launch and wilderness area on Highway 221 North Business across the river from Legendary Ford took effect on July 1. The McDowell Trails Association will work on constructing the canoe launch, using inmate work crews once they become available again in the next few months.

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The City Manager advised that the Phillips family continues to be a great friend to the City of Marion.

The City Manager advised that, on July 6, City crews began work on the project to add a turn lane and flexible delineators at the Fleming Avenue entrance into Marion Elementary School.

The City Manager reported that DOT was underway with the requested construction of a sidewalk on West Henderson Street between Wilhemenia Street and Horton's Store. DOT has also recently paved the dirt portion of Forest Park Drive in the Eastfield community, as requested by the City.

Council Member Clark stated that the sidewalk on Robert Street near Fleming Avenue has a problem with standing water. Last winter, City crews had to work on the sidewalks to remove ice. He suggested that this situation needs to be corrected. The City Manager stated that staff would look at options to correct this problem.

The City Manager advised that DOT has given the City the go-ahead to proceed with preparing final construction drawings for the Downtown Streetscape Plan. The City hopes to begin construction this fall and that DOT will provide $50,000 in funding and resurface Main Street in the project area in 2011, after which time the decorative crosswalks can be installed.

The City Manager advised that the State did not approve the requested grant for the greenway and stormwater treatment project behind the Police Department, Nevant and McDowell County Schools property on South Main Street.

The City Manager reported that complaints have been received regarding a sight distance issue on Rutherford Road at the Morning Dew Coffee Shop. The City Manager suggested that the Street Committee look at the location. Council agreed by consensus to authorize the Street Committee to look at this location.

Mayor Little noted that there is a bush in front of Moondoggy's Restaurant on North Main Street that is blocking the sight distance from the Harvest driveway. The City Manager stated that staff would look at the location and ask the owner of Moondoggy's to trim the landscaping that is blocking the sight distance.

COUNCIL MEMBER COMMENTS:

Mayor Little invited Council to attend the administration of the Oath of Office for a new Police Officer at the Police Department at 10:00 a.m. on Thursday. The City Manager stated that he would get the specific information to Council in case they wish to attend.

Council Member Doggett thanked the Public Works department for their recent effort to repair a sinkhole on North Garden Street in front of her home.

Mayor Pro Tem Owenby advised that there is still a sizable pothole on North Garden Street between New Street and Fleming Avenue. The City Manager advised that City crews would take care of patching this location.

Council Member Cuthbertson reported a street light out at Willow and Broad Street. He said that Duke Energy responded to a previous call to repair this light, but failed to fix the problem. The City Manager stated that this light will be reported again to Duke Energy.

Council Member Cuthbertson stated that he had received a complaint regarding a dilapidated house on Circle Street in the Clinchfield area.

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Council Member Martin advised that he had observed a dilapidated house next to the West Marion Community Park.

The City Manager stated that he would report these two houses to staff so that they can be added to the City's dilapidated housing priority list for action this year.

Mayor Little stated that the pavement at the Garden Street railroad crossing had broken that day, most likely due to the torrential rainfall received in Marion. Public Works Director Chris Hollifield stated that he would report this problem to Norfolk Southern Railroad, since the City was not permitted to repair asphalt at the crossing.

Council Member Martin reminded Council that no decision had been made regarding the person who had previously offered to him to buy apple trees to be planted in the community parks. He said that this same person also suggested that the City consider putting water fountains in the community parks.

Council Member Cuthbertson stated that the Tree Board did not feel that apple trees would be a good idea due to bees.

Council Member Clark suggested that the City plant some apple trees in the West Marion park and see what happens. It was the consensus of Council to authorize the City to receive the donation of apple trees to plant in the West Marion Park on a trial basis.

Mayor Little stated that he did not think that the placement of water fountains in the parks would be a good idea, because they would inevitably be vandalized. Council gave no direction to authorize the placement of water fountains in community parks.

Council Member Doggett stated that the dog walkers appreciate the bags on Main Street and would like to see hand sanitizer dispensers placed along Main Street. Council took no action to authorize the placement of hand sanitizer dispensers along Main Street.

Council Member Clark asked that a letter be sent from the City thanking Duke Energy for their recent replacement of outdated equipment on fern Avenue, which should greatly improve power reliability in the Fern and Fleming Avenue. Council Member Martin asked that the City also thank Duke Energy for their recent response to a power outage on Holly Hill Drive. The City Manager stated that he would draft a letter to Duke Energy, thanking them for the replacement of the equipment and for response to the power outage.

Council Member Clark gave a brief report on a National League of Cities Small Cities Council meeting that he had recently attended in Athens, Tennessee.

Mayor Little stated that he appreciated the time and energy Council Member Clark puts into attending these meetings and represent the City of Marion.

Mayor Little stated that he would be absent for the first Council meeting in August.

ADJOURNMENT: Upon a motion by Mayor Pro Tem Owenby, seconded by Council Member Cuthbertson, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

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STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, August 3, 2010 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Pro Tem Cecil Owenby, Council Members A. Everette Clark, Lloyd Cuthbertson, Juanita Doggett and Billy Martin.

Mayor Little was not present for this meeting due to being out of the country.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Mark Brooks, Police Chief; Chris Hollifield, Public Works Director; Mike Conley, News Reporter, McDowell News; Kaitlyn Evans, News Reporter, The News Bulletin.

GUESTS PRESENT: Darren Waugh, President, Marion Business Association; Freddie Killough, Executive Director, Marion Business Association, Jeannie Davis, 151 Ridge Road, Marion NC; Reverend Ray Davis, 151 Ridge Road, Marion NC; Katherine Brooks, Shelby, NC.

OPEN MEETING: Mayor Pro Tem Owenby opened the meeting with a moment of silence.

CITIZEN OF THE MONTH – SELECTED BY COUNCIL MEMBER CLARK: Council Member Everette Clark selected the Citizen of the Month for August 2010.

REVEREND RAY DAVIS

City Council Member Everette Clark stated that it was a privilege to present Reverend Ray Davis as his Citizen of the Month.

Rev. Davis grew up in Cleveland County and has lived in Marion for the past twenty-five years. He is married to Jeannie Davis and they have four children and four grand children.

When Rev. Davis first came to Marion, he was the Pastor of Pleasant Hill United Methodist Church. He has now been the Pastor at Clinchfield United Methodist Church for the past seventeen years. He started with eight members and now has around 200 members. That in its self speaks volumes for Rev. Davis. Pastors do not typically stay that long at one church unless things are going really well.

Rev. Davis holds five services a week at his church. There is one on each Sunday morning. Then he holds a service on Sunday, Tuesday, Wednesday and Thursday evenings.

Clinchfield United Methodist Church also offers various other programs such as Meals that Heals, a Soup Kitchen, and three other food programs that include a back pack program which fed 285 children with the assistance of another church in Nebo a hot meal one weekend. They provide snacks for eighteen classes in the McDowell County School System.

Rev. Davis and other volunteers of his church assist the battered women's shelter, the McDowell Pregnancy Care Center, give leftover food to the homeless shelter and much more. Last month, the Church gave away twenty seven thousand pounds of food.

Council Member Clark stated that when he asked Rev. Davis to be his citizen of the month, Rev. Davis stated that he does not need to be recognized, adding that it is the people who volunteer to assist him with all these ministries that need honored

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Clinchfield United Methodist Church has been nominated for the Governor's Volunteer Award for their service to the community.

Council Member Clark stated that Rev. Davis and his church members are all setting examples for the community.

Rev. Davis gave an overview of some of the programs his church conducts and thanked all those who have assisted him.

Mayor Pro Tem Owenby and Council Members all shared kind words about Rev. Ray Davis.

CONSENT AGENDA: Upon a motion by Council Member Clark, seconded by Council Member Cuthbertson, Council voted unanimously to approve the consent agenda as follows:

A . Approval of Minutes – July 20, 2010 Regular City Council Meeting Minutes

B . Adopt Resolution of Intent

A RESOLUTION STATING THE INTENT OF THE CITY COUNCIL OF MARION TO CONSIDERANNEXATION OF THE AREA DESCRIBED HEREIN AND FIXING THE DATE OF A PUBLIC INFORMATIONAL MEETING AND A PUBLIC HEARING ON THE QUESTION OF ANNEXATION – SUGAR HILL ROAD AREA – 2010-11

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

Section 1. It is the intent of the City Council of the City of Marion to consider annexation of the following described territory pursuant to Chapter 160A, Article 4A, Part 3 of the General Statutes of North Carolina:

BEGINNING at a point on the boundary of Lot 0375, Block 18 on the McDowell County Tax Map 1700.05, said point also being the current boundary of Marion Corporate Limits thence following the eastern boundary of said Lot 0375 and the Marion Corporate Limits in a southwesterly direction approximately 1027 feet to a point, thence 100 feet in a easterly direction to a point, said point being a southern boundary of said Lot 0375, Marion Corporate Limits, and the northern boundary of Steppe Street (SR 1269); thence crossing Steppe Street (SR 1269) in a southerly direction 60 feet to a point on the southern boundary of Steppe Street (SR 1269), said point also being a point on the northern boundary of Lot 7042, Block 07 on the McDowell County Tax Map 1700.09; thence following the boundary of said Lot 7042 in a southeasterly direction 331.26, thence in a southwesterly direction 209.64, thence in a northwesterly direction 121.64 to a point, said point being on the southwestern boundary of said Lot 7042 and the southeastern point of Lot 5960, Block 06 on the McDowell County Tax Map 1700.09; thence following the boundary of said Lot 5960 in a southwesterly direction 250.19 feet, thence following the boundary of said Lot 5960 in a northwesterly direction 165.55 feet to a point, said point being on the southwestern boundary of said Lot 5960, and the southeastern point of lot 3894, Block 06 of the McDowell County Tax Map 1700.09; thence following the boundary of said lot 3894 in a southwesterly direction 118.17 feet to a point, said point being the southern point of said lot 3894, and a point on the northern boundary of Meadow Lane (SR 1271); thence crossing Meadow Lane (SR 1271) in a southwesterly direction 60 feet to a point on the southern boundary of Meadow Lane (SR 1271), said point also being a point on the northern boundary of Lot 2652 Block 06 on the McDowell County Tax Map 1700.09; thence following the boundary of said Lot 2652 in a southeasterly direction 100.41 feet, thence in a southwesterly direction approximately 381.83 feet to a point, said point being the southern point of said lot 2652 and the eastern point of lot 0465 Block 06 on the McDowell County Tax Map 1700.09; thence following the boundary of said lot 0465 in a southeasterly direction approximately 94.23 feet, thence in a southwesterly direction approximately 29.76 feet; thence in a southeasterly direction 178.12 feet to a point; said point being the southeastern point of said lot 0465 and the northern point of Lot 2097, Block 06 on the McDowell County Tax Map 1700.09, thence following the boundary of said Lot 2097 in a southeasterly direction 238.13 feet, thence in a southwesterly direction 218.27 feet, thence in a southeasterly direction 334.81 feet, thence in a westerly direction 360.26 feet to a point, said point being the southwestern point of said lot 2097 and the southeastern point of Lot 8087 Block 05 on the McDowell County Tax Map 1700.09; thence following the boundary of said Lot 8087 in a westerly direction 59.24 feet to a point, said point being the southwestern point of said Lot 8087 and the southeastern point of Lot 5823, Block 95 on the McDowell County Tax Map 0790.12; thence following the boundary of said Lot 5823 181.37 feet, thence in a northwesterly

direction 496.54 feet to a point, said point being the western point of said Lot 5823, and a point on the eastern boundary of Sugar Hill Road (SR 1001) and the northern point of Mill Road (SR 1189); thence crossing Mill Road (SR 1189) in a southwesterly direction 40 feet to a point on the southern boundary of Mill Road (SR 1189), said point also being a point on the eastern boundary of Sugar Hill Road (SR 1001), thence following the eastern boundary of Sugar Hill Road (SR 1001) in a southerly direction 1524.35 feet to a point on the eastern boundary of Sugar Hill Road (SR 1001), said point also being the northwestern point of Lot 9430, Block 84 on the McDowell County Tax Map 0790.04; thence following the boundary of said Lot 9430 in a easterly direction 245.44 feet, thence in a southeasterly direction 69.17 feet, thence in a southerly direction 448.97 feet, thence in a southeasterly direction, 165.52 feet, thence in a northwesterly direction 507.63 feet to a point, said point being the southwestern point of said lot 9430 and a point on the eastern boundary of Sugar Hill Road (SR 1001); thence crossing Sugar Hill Road (SR 1001) in a northwesterly direction approximately 326.09 feet to a point on the western boundary of Sugar Hill Road (SR 1001), said point also being a point on the southeastern boundary of Lot 2578, Block 84 on the McDowell County Tax Map 0790-04; thence following the boundary of said Lot 2578 in a southwesterly direction 402.91 feet to a point, said point being the southern point of said Lot 2578 and the eastern point of Lot 0336, Block 84 on the McDowell County Tax Map 0790-04; thence following the boundary of said Lot 0336 426.96 feet to a point, said point being a southern point of lot 0336 and the eastern point of Lot 7147, Block 74 on the McDowell County Tax Map 0790-04; thence following the boundary of said Lot 7147 in a southwesterly direction 319.58 feet, thence in a northeasterly direction 288.76 feet, thence in a easterly direction 43.35 feet, thence in a northwesterly direction 39.24 feet, thence in a northeasterly direction approximately 41.55 feet to a point, said point being the northern point of said Lot 7147, and the southwestern point of Lot 0336, Block 74 on the McDowell County Tax Map 0790-04; thence following the boundary of said lot 0336 in a northeasterly direction 306.86 feet, thence in a northwesterly direction 43.07 feet, thence in a northeasterly direction 56.4 feet, thence in a northwesterly direction 245.4 feet, thence in a northeasterly direction 152.04 feet, thence in a southeasterly direction 307.2 feet to a point, said point being a northeastern point of said Lot 0336 and the northwestern point of Lot 2578, Block 84 on the McDowell County Tax Map 0790-04; thence following the northern boundary of said Lot 2578 in a easterly direction 383.04 feet to a point, said point being the northeastern point of said Lot 2578 and a point on the western boundary of Condrey Road (SR 1190); thence crossing Condrey Road (SR 1190) in a easterly direction 60 feet to a point on the eastern boundary of Condrey Road (SR 1190), said point also being a point on the western boundary of Lot 7617, Block 84 on the McDowell County Tax Map 0790-04; thence following the eastern boundary of Condrey Road (SR 1190) in a generally northern direction 1,466.48 feet to a point, said point being on the northern boundary of said Lot 1829 and a point on the southern boundary of Condrey Road (SR 1190); thence crossing Condrey Road (SR 1190) in a northerly direction 60 feet to a point on the northern boundary of Condrey Road (SR 1190), said point also being a point on the southern boundary of Lot 2160, Block 96 on the McDowell County tax map 0790-12; thence following the boundary of said Lot 2160 in a northerly direction 192.63 feet, thence in an easterly direction 441.01 feet to a point, said point being the northeastern point of said Lot 2160 and the western boundary of Sugar Hill Road (SR 1001), thence following the western boundary of Sugar Hill Road (SR 1001) in a northeasterly direction 224.47 feet to a point, said point being on the western boundary of Sugar Hill Road (SR 1001) and the southern boundary of Veterans Drive (SR 1191); thence crossing Veterans Drive (SR 1191) in a northeasterly direction 60 feet to a point on the northern boundary of Veterans Drive (SR 1191), said point also being the southern point of Lot 7572, Block 96 on the McDowell County Tax Map 0790-12; thence following the boundary of said Lot 7572 in a northwesterly direction 138.53 feet, thence in a northeasterly direction 119.98 feet to a point, said point being the northern point of said lot 7572 and the western point of Lot 8671, Block 96 on the McDowell County Tax Map 0790-12; thence following the boundary of said lot in a northeasterly direction 101.64 feet to a point, said point being the northern point of said Lot 8671 and the western point of Lot 9740, Block 96 on the McDowell County Tax Map 0790-12; thence following the boundary of said Lot 9740 in a northeasterly direction 100.15 feet to a point, said point being the northern point of said Lot 9740 and the western point of Lot 0778, Block 96 on the McDowell County Tax Map 0790-12; thence following the boundary of said Lot 0778 in a northeasterly direction 126.03 feet to a point, said point being the northern point of said Lot 0778 and the southwestern point of Lot 8057, Block 06 on the McDowell County Tax Map 1700-09; thence following the boundary of said Lot 8057 in a northeasterly direction approximately 18.62 feet, thence in a northwesterly direction 103.49 feet, thence in a westerly direction 118.13 feet, thence in a northerly direction 184.68 feet, thence in a northeasterly direction 125.59 feet, thence in a easterly direction 139.82 feet to a point, said point being the northeastern point of said Lot 8057 and the northwestern point of Lot 2038, Block 97 on the McDowell County Tax Map 0790-12; thence following the northern boundary of said Lot 2038 in a easterly direction 292.15 feet to a point, said point being the northeastern point of said Lot 2038 and the northwestern point of Lot 4156, Block 07 on the McDowell County Tax Map 1700-09; thence following the northern boundary of said Lot 4156 in a easterly direction 228.05 feet to a point, said point being on the northern boundary of said Lot 4156 and the southwestern point of Lot 5325, Block 07 on the McDowell County Tax Map 1700-09; thence following the boundary of said Lot 5325 in a northwesterly direction 246.15 feet, thence in a northeasterly direction 75.31 feet to a point, said point being the northern point of said Lot 5325 and the northwestern point of Lot 6430, Block 07 on the McDowell County Tax Map 1700-05; thence following the boundary of said Lot 6430 in a northeasterly direction 96.72 feet to a point, said point being the northern point of said Lot 6430 and the western point of Lot 7500, Block 07 on the McDowell County Tax Map 1700-05: thence following the boundary of said Lot 7500 in a northeasterly direction

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149.89 feet to a point, said point being on the northern boundary of said Lot 7500 and a point on the southern boundary of Ben Street (SR 1185); thence crossing Ben Street (SR 1185) in a northwesterly direction 30 feet to a point on the northern boundary of Ben Street (SR 1185), said point also being the southern point of Lot 6776, Block 07 on the McDowell County Tax Map 1700-05; thence following the boundary of said Lot 6776 in a northwesterly direction 205.5 feet to a point, said point being the western point of said Lot 6776 and being on the southeastern boundary of Lot 3923, Block 07 on the McDowell County Tax Map 1700-05; thence following the boundary of said Lot 3923 in a southwesterly direction 237.97 feet, thence in a southeasterly direction 102.01 feet, thence in a westerly direction 215.53 feet, thence in a northwesterly direction 418.1 feet, thence in a westerly direction 135.03 feet, thence in a northerly direction 144.54 feet, thence in a easterly direction approximately 297.23 feet, thence in a northeasterly direction 148.89 feet to a point, said point being on the northern boundary of said Lot 3923 and the southwestern point of Lot 4264, Block 08 on the McDowell County Tax Map 1700-05; thence following the boundary of said Lot 4264 in a northeasterly direction 157.76 feet to a point, said point being the northern point of said Lot 4264 and the southern boundary of Lukin Street (SR 1191), thence crossing Lukin Street (SR 1191) in a northerly direction 30 feet to a point on the northern boundary of Lukin Street (SR 1191), thence following the northern boundary of Lukin Street (SR 1191) in a southeasterly direction 153.51 feet to a point, said point being on the northern boundary of Lukin Street (SR 1191), and the western point of Lot 6220, Block 08 on the McDowell County Tax Map 1700-05; thence following the boundary of said Lot 6220 and the western boundaries of Lots 6277, 7332, 7398, 8464 and 9521, Block 08 on McDowell County Tax Map 1700-05 in a northeasterly direction 507.58 feet to a point, said point also being on the boundary of the Marion Corporate Limits, thence following the boundary of the Marion Corporate Limits and the eastern boundary of said Lot 9521 in a southerly direction 124.25 feet to a point, said point being on the eastern boundary of said Lot 9521 and on the western boundary of Lot 0737, Block 08 on the McDowell County Tax Map 1700-05; said point also being Marion Corporate Limits, thence following the current boundary of the Marion Corporate Limits in a straight easterly direction 248.14 feet, thence in a straight westerly direction 318.34 feet to a point, said point being the eastern point of said Lot 1039 and on western boundary of Sugar Hill Road (SR 1001), thence crossing Sugar Hill Road (SR 1001) in a southeasterly direction 60 feet to the point of BEGINNING.

Section 2. A public informational meeting on the question of annexing the above described territory will be held at City Hall at 7:00 P.M. on September 20, 2010, at which time plans for extending services to said territory will be explained and all residents and property owners in said territory and all residents of the City of Marion will be given an opportunity to ask questions and receive answers regarding the proposed annexation.

Section 3. A public hearing on the question of annexing the above described territory will be held at City Hall at 7:00 P.M. on October 19, 2010, at which time plans for extending services to said territory will be explained and all residents and property owners in said territory and all residents of the City of Marion will be given an opportunity to be heard.

Section 4. A report of plans for extending services to the above described territory shall be made available for public inspection at the office of the City Clerk at least thirty (30) days prior to the date of the public informational meeting. The statement of financial impact contained in the report shall be delivered to the McDowell County Board of Commissioners at least thirty (30) days prior to the date of the public informational meeting.

Section 5. A legible map of the area to be annexed and a list of persons holding freehold interests in property in the area to be annexed who have been identified shall be posted in the office of the City Clerk at least thirty (30) days prior to the date of the public informational meeting.

Section 6. Notice of the public informational meeting and public hearing shall be given by publication and by first class mail, as required by G.S. 160A-49.

ADOPTED the 3rd day of August, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, Clerk

RESOLUTION NUMBER: R-10-08-03-1

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PRESENTATION OF YEAR-END REPORT – MARION BUSINESS ASSOCIATION:
Darren Waugh, President of the Marion Business Association (MBA) presented the following report on MBA activities for 2009-10.

July 2009 - June 2010
Annual Report to Marion Business Association Membership

Economic Development Report

New Businesses Opened - 13
Businesses Closed - 6
Business Opportunity Inquiries - 7
Business Loan Inquiries – 22
Business Grant Inquiries – 17
Business Visits – 41
Property Referral Inquiries – 7
Property Owner Contacts w/ available buildings - 4
Contacts with interested Commercial Developers – 3
New Businesses Breaking Ground – 2
Façade Grant Inquires – 2
Façade Grants Awarded – 1 (MBA also donated $5,000.00 façade grant funds to complete Shade Shelter)

Other Economic Activity
WiFi activated in Downtown Business District
6 Successful E-3 Forums
Marion Small Business Grants – Awarded 13 grants to businesses located in City. Funded from NC STEP Funds. Grant Expo held August 11 at Depot.
Small Business Roundtable with grant recipients. Very good meetings.
Partnered with MTCC Small Biz Center for REAL class. Had 40 participants finish the entrepreneur class with a completed business plan.
Attended Micro Loan training at NC Rural Center. The MBA is an intake office for Rural Center Micro Loans.
Historic Marion Tailgate Market opened May 18.
Pursuing funding to create Revolving Loan Program.
MBA continues to meet with the WNC Rail Committee to promote passenger rail service to WNC.
MBA continues to maintain listing of commercial properties in the City of Marion.

Special Events Report
July 4th – Great crowd, great event. Very well attended!!
August 1 – Sidewalk Yard Sale
August 7 – First Friday Concert
September 6 – Labor Day Concert @ Depot
October 10 - 26th Annual Mountain Glory Festival – Profit - $7,500.00+
November 22, Christmas Parade – Low turn-out due to rain
December 3, Melodies on Main – Great turn-out
December 22, Merchant Drawing, 23 businesses participated. Created lots of excitement.
December 31, New Year's Eve Celebration – Marion Rotary did a great job. MBA/City gave support services. Several hundred people attended.
January – March is event planning time.
March 28 – Easter Egg Hunt with YMCA. The children had a wonderful time and loved Mr. & Mrs. Bunny Rabbit.
May 1 – Sidewalk Yard Sale – Over 35 vendors. Great Day!!!
June 4 – 4th Livermush Festival – Best Ever!!!!
Volunteer Hours Committed – 544

Business for Breakfast
Small Business Networking & Burning Questions Answered for:
Great Customer Service,
Marketing, Networking, Merchendising,
Hiring for Success, etc.
Great Customer Service - 7:30 AM-9:00 AM
Friday, August 6, 2010 @ Marion Depot
All Small Businesses are Welcome! For more information call - 652-2215
Marion Business Association and MTCC Small Business Center
Future Breakfast for Business Dates
Friday, October 1, 2010
Friday, December 3, 2010
Friday, February 4, 2011
2010 Friday, April 1, 2011
Friday, June 3, 2011

Council Member Cuthbertson stated that the turn out for the New Year's Eve event was probably well over 1,000 people.

Council Member Cuthbertson also stated that he would like to see the MBA do more to promote improvements to rear facades in the downtown area, particularly those between Main Street and the Farmer's Market.

Council Member Clark asked if any thought had been given for a group to embark on a market study of needed businesses and active recruiting of such businesses located in other cities. MBA Executive Director Freddie Killough advised that a market study had been completed and that a more active recruiting program could be considered by the MBA's new Economic Development Committee.

The City Manager stated that the City appreciates the Marion Business Association staff, Board and volunteers for all they do for the City and that the MBA now has a rotating board that is bringing a lot of new faces to the organization and to events.

Mayor Pro Tem Owenby thanked Mr. Waugh for his report.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present for this meeting.

APPROVE ORDINANCE – TRAFFIC SCHEDULE ADDITIONS:
The City Manager presented Council with an ordinance, advising that it reflects various additions to the Traffic Schedule, including a stop sign on Atwood Drive at Tunnel Road in an area annexed June 30, 2010 and a stop sign on Leach Street Extension (newly accepted for maintenance and paved by the City) at Yancey Street. The ordinance also has the affect of naming the newly paved street Leach Street Extension, which it was previously named many years ago prior to being re-addressed as Yancey Street.

Upon a motion by Council Member Clark, seconded by Council Member Cuthbertson, Council voted unanimously to adopt the following Ordinance amending Section 18 of the Traffic Schedule:

ORDINANCE
AMENDING SECTION 18
TRAFFIC SCHEDULE
MARION CITY CODE

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

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Section 1. That the Traffic Schedule of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Section 2. Section 18-239 is amended by adding the following:

STREET NAME	REGULATION	REG. APPLICATION
ATWOOD DRIVE	STOP SIGN	AT TUNNEL ROAD
LEACH STREET EXTENSION	STOP SIGN	AT YANCEY STREET

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 3rd day of August, 2010.

Stephen R. Little
Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-10-08-03-1

CITY MANAGER REPORTS: The City Manager gave a brief report on current projects.

The City Manager stated that National Night Out was taking place on Main Street that evening and commended Police Chief Mark Brooks and the Police Department for putting on the best National Night Out event yet.

Chief Brooks stated that Police Corporal Kellie Duncan had done a great job planning and coordinating National Night Out. Chief Brooks stated that Marion's event is bigger than the ones he participated in while serving in Shelby.

The City Manager noted that City property tax bills will be mailed on or before August 15, which is about normal for the City.

The City Manager stated that the City's contracted street paver completed the resurfacing of six streets, along with paving of Leach Street Extension in the Eastfield Community and the installation of a speed hump on Burgin Street next to Rock Tenn, as directed by Council.

The City Manager advised that DOT had informed him in Late July that they had no major comments regarding the Downtown Streetscape Plan. The City is now getting construction drawings prepared so the City can bid out the project. If all goes well, DOT will provide the City with at least $50,000 in funding for the project and then resurface Main Street by 2011. The City hopes to complete the installation of landscaping and construction of the bumpouts this fall. The decorative crosswalks would then be installed after DOT resurfaces Main Street in 2011.

The City's contracted sign vendor is currently making the way finding signs. The City obtained an extension of the $200,000 NC STEP Grant from June 30 to September 30, which should allow time to complete the project.

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The City Manager advised that Marion will be a stop on the Cycle NC bicycle route from Biltmore Estate to the coast. Marion will be the second stop and host riders the evening of Sunday, September 26. The YMCA has agreed to allow the riders to camp on their soccer field. The City is working with the MBA, MEDA, County, TDA and Chamber to provide for some musical entertainment and it appears that the School System will provided buses to take riders to restaurants and the downtown area this weekend. It is expected that several hundred people or more will come into the community, resulting in a significant economic boost.

The City Manager advised that the annual Advisory Board/Volunteer Dinner has been scheduled for Thursday, August 12, at 6:00 p.m. at the Community Building. Countryside Barbeque will cater the meal. The City Manager stated that Council should feel free to bring a guest.

The City Manager advised that the Street Committee needs to meet regarding a sight distance issue and a drainage issue. Council agreed by consensus to refer these matters to the Street Committee for review and a recommendation if necessary.

The City Manager advised that Duke Energy informed him after 5:00 PM that afternoon that there is a planed power outage scheduled to take place at 2:00 AM for approximately thirty minutes. Duke wanted to have the power outage at 9:00 PM, but he informed Duke that the outage needed to take place much later in the evening.

COUNCIL MEMBER COMMENTS:

Council Member Doggett commended the Public Works Department for the great work performed in building a retaining wall on Fleming Avenue, as part of the project to widen the street to three lanes at the Marion Elementary School entrance..

Council Member Cuthbertson stated that the streetlight at Willow and Broad Streets was finally repaired by Duke Energy, after being reported to Duke by the City twice.

Council Member Martin stated that the beautiful retaining wall on Railroad Street is being defaced due to persons mowing and blowing grass onto sidewalk and into the wall itself making it unsightly. The City Manager stated that staff would contact the adjacent property owner and ask him, per City ordinances, not to blow grass onto the sidewalk and retaining wall.

ADJOURNMENT: Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

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STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, August 17, 2010 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Cecil Owenby, Council Members A. Everette Clark, Lloyd Cuthbertson, Juanita Doggett and Billy Martin.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Harriett Thomas, CPA, Finance Director; Heather Cotton, AICP, Planning and Development Director; Mark Brooks, Police Chief; Chris Hollifield, Public Works Director; Angie Fineberg, Police Officer; Randy Seay, Police Officer; Mike Conley, News Reporter, McDowell News; Kaitly Evans, News Reporter, The News Bulletin.

GUESTS PRESENT: Will Seaman, Boy Scout Troop 805; Nnekka Robinson 46 Poplar Drive, SW Marion, NC; Frank Dean 375 South Garden Street, Marion, NC; Bennie Proctor 3 Old Greenlee Road, Marion, NC;
Bill Hendley 1476 Roby Conley Road, Marion, NC; Smithson Mills 34 W. Oakview Road, Asheville, NC 28806; Chris Revis, Revis Group, Marion, NC.

OPEN MEETING: Mayor Little opened the meeting with a moment of silence.

CONSENT AGENDA: Upon a motion by Council Member Cuthbertson, seconded by Mayor Pro Tem Owenby, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – August 3, 2010 Regular City Council Meeting Minutes

B. Approve Annexation Report and Plan of Services
CITY OF MARION – SUGAR HILL ROAD ANNEXATION AREA - 2010 – ANNEXATION REPORT AND PLAN OF SERVICES

TABLE OF CONTENTS

INTRODUCTION TO ANNEXATION

DESCRIPTION OF PROPOSED ANNEXATION

SECTION I. SUMMARY OF REPORT

SECTION II. BOUNDARY DESCRIPTION

SECTION III. STATEMENT SHOWING THAT AREA PROPOSED FOR ANNEXATION MEET THE LEGISLATIVE STANDARDS OF G.S. 160A-36

SECTION IV. STATEMENT SETTING FORTH PLANS FOR EXTENDING CITY SERVICES TO THE AREA PROPOSED TO BE ANNEXED AND METHODS OF FINANCING THESE SERVICES

SECTION V. ESTIMATED REVENUES

SECTION VI. REVENUES AND COST ESTIMATES

EXHIBITS

EXHIBIT A. GENERAL LOCATION/BOUNDARY MAP

EXHIBIT B. EXISTING LAND USE

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EXHIBIT C. WATER LINES

EXHIBIT D. SEWER LINES

EXHIBIT E. STREET LIGHTS

INTRODUCTION TO ANNEXATION

North Carolina's Constitution (Art. VII, Sec. 1) directs the General Assembly to "...provide for the organization and government and the fixing of boundaries..." In response to this charge the General Assembly has provided three general law procedures to effect municipal annexations. Those procedures embody the principle that land development for urban purposes should be within an incorporated municipality.

Annexation is the procedure whereby the corporate limits of a municipality are extended to encompass additional land, which, in most cases, is "urban in character." In addition to providing urban services to people that need them, annexation is a tool to implement policies and plans adopted by the community. Annexation is one method of achieving the community's growth objective, which is balanced and directed growth. Annexation is also a method of strengthening the tax base of a municipality, which will allow the locality to provide an adequate level of services to its citizens.

The City of Marion has four (4) methods available to it for annexation; these are: (1) action by the General Assembly, (2) annexation of contiguous areas upon petition of all owners of real property by G.S. Chapter 160-A, Article 4A, Part 1 (G.S. 160A-31 and G.S. 160A-31.1, (3) annexation of non-contiguous (satellite) areas upon petition of all owners of real property by G.S. Chapter 160A, Article 4A, Part 4 (G.S. 160A-58 through G.S. 160A-58.8 and (4) by authority granted to municipalities under 5,000 population by G.S. Chapter 160A, Article 4A, Part 2 (G.S. 160A-33 through G.S. 160A-42).

Action by General Assembly. The General Assembly may at any time enlarge the boundaries of a municipality by special act. This method is especially useful in annexing territory that cannot be annexed under one of the general law procedures because of some local condition. It is thus an important method even though not often used.

Annexation of Contiguous Areas upon Petition of All Owners of Real Property. The governing body of any municipality may annex by ordinance any areas contiguous to its boundaries upon presentation to the governing board of a petition signed by the owners of all real property located within such area. (G.S. 160A-31 and 160A-31.1)

This procedure, first enacted in 1947 in a more restricted form, involves a public hearing and a finding that the petition and the area to be annexed meet the statutory requirements. The procedure is most often used to annex small areas, new subdivisions, and tracts with only a few property owners. Of all methods, this is the most frequently used.

Annexation of Non-Contiguous (Satellite) Areas Upon Petition of All Owners of Real Property. Upon petition signed by all owners of real property in the area, the governing body of a qualified municipality may annex by ordinance certain "satellite" areas whose boundaries do not at any point touch its primary corporate limits. The primary corporate limits consist of the boundaries of a municipality as defined in its charter and as enlarged by annexation of contiguous territory according to applicable laws or diminished by exclusion of contiguous territory of the General Assembly. (G.S. 160-58 through G.S. 160A-58.8)

Before July 1, 1974, the effective date of the general satellite annexation statute, eleven cities had secured satellite annexation authority by special acts, starting with Raleigh in 1967. The satellite procedure, although not often used, is typically employed when owners of satellite property want municipal services or regulations for their property – usually retail establishments, new subdivisions, and occasionally industry.

Annexation of Areas meeting Statutory Standards. On the recommendation of the Municipal Government Study Commission (created by the 1957 General Assembly) the 1959 General Assembly enacted a new and comprehensive municipal annexation statute. The statute defines "developed for urban purposes" and provides that such an area that is contiguous to a municipality's boundaries may be annexed by ordinance if the municipality can provide the area with services on the same basis that it provides services within its existing boundaries. Reports must be prepared that (1) show that urban development in the area proposed for annexation meets the statutory standards and (2) detail the municipality's plans for extending and financing services to the area upon annexation. A special examination of the proposed annexation's effect on any rural fire department must be made. Under some circumstances, arrangements to contract with these departments for services, to assist in meeting their financing needs, or to employ their personnel must be offered. The

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statute requires extensive notice to affected property owners and a public hearing. After following these steps and finding that all the statutory standards and requirements have been met, the municipal governing board may effect an annexation by ordinance. The statute includes extensive safeguards to assure that citizens in the areas that are annexed receive municipal services as planned. There is no requirement for a petition or a referendum, either within the area proposed for annexation or within the existing municipality. These annexations, based on statutory standards, are subject to the following requirements.

Standards the Area Must Meet Under G.S. 160A-36:

(1) Contiguity. The area must be contiguous to the existing municipal boundary. "Contiguous area" means any area which, at the time the annexation procedures are initiated, either abuts directly on the municipal boundary or is separated from the municipal boundary by a street pr street right-of-way, a creek or river, the right-of- way of a railroad or other public service corporation, or lands owned by the municipality, another political subdivision or the State. (G.S. 160A-41(1).

If the entire territory of a county water and sewer district created under G.S. 162A-86(b1) is being annexed, the annexation shall also include any non-contiguous pieces of the district so long as the largest part of the district is contiguous.

(2) One-Eighth Common Boundary. At least one-eighth (12.5%) of the total external boundary of the area must coincide with the municipal boundary.

(3) Unincorporated. No part of the area may be within another incorporated municipality.

(4) Developed to Urban Standards. The area must be "developed for urban purposes" under G.S. 160A-36(c) as of the time of the approval of the annexation report. That means the area must meet one of the tests set forth in (A) through (C) below. Note that areas of streets and street right-of-way may not be used to determine total acreage in making these calculations:

(A) Use + Subdivision Test. The area is developed such that it meets both of the following tests:

(1) Use Test. At least sixty percent (60%) of the total number of lots and tracts are used for residential, commercial, industrial, Institutional or governmental purposes; and

(2) Subdivision Test. The area is subdivided into lots and tracts such that at least sixty percent (60%) of the total acreage, not counting the acreage used at the time of annexation for commercial, industrial, governmental or institutional purposes, consists of lots and tracts three acres or less in size.

OR

Nonresidential Urban Areas. The area is developed such that at the time of the approval of the annexation report, all tracts in the area are used for commercial, industrial, governmental, or institutional purposes.

OR

(C) Water/Sewer District. The annexation area is the entire area of any county water and sewer district created under G.S. 162A-86(b1), so long as the municipality contracts with the district to operate the sewer system and the contract provides that the area is developed for urban purposes. The area of an abolished water and sewer district is still considered a water and sewer district even after its abolition under G.S. 162A-87.2(b).

(5) Boundaries. Recorded property lines and streets must be used in setting the boundaries of the annexation area. Some or all of the boundary of a county water and sewer district may be used when the entire district not already within corporate limits of a municipality is being annexed.

ADVANTAGES OF ANNEXATION

Many of the property owners in the area proposed for annexation may feel that annexation offers no advantages for them. This assessment is only superficial, as the following advantages will prove:

Water and Sewer – Areas unserved by Marion's water and sewer system will be served within a reasonable time after annexation. These services are needed to protect the health and safety of the residents. Customers already served by City water and/or sewer will enjoy a 60 percent decrease in water and sewer rates.

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Police Protection – Police protection would be provided by the Marion Police Department on a 24-hour basis. City police protection involves more frequent patrols and a more rapid response rate when emergencies arise. The McDowell County Sheriff's Department now provides protection to unincorporated areas of McDowell County.

Fire Protection – Usually a change in fire insurance ratings occurs when an area is annexed into the city limits. The City now has a Class 5 rating while areas outside the municipality have a Class 9 rating.

Some insurance companies will give a reduction in rates once the property has been annexed into the city limits and the class rating has been changed; however, the practice of a reduction in rates is not uniform among insurance companies.

Streetlights – Areas annexed by the City of Marion will be provided with streetlights, which help prevent crime and accidents.

Solid Waste Collection and Disposal – Marion will provide for the collection and disposal of solid waste (garbage and trash) for all newly annexed areas. The property owners now must dispose of their solid waste themselves or contract for this service from a private contractor.

Streets – The City of Marion will maintain all streets which meet City requirements except those which are continually maintained by the North Carolina Department of Transportation.

Right to Vote – Residents in the areas annexed by the City of Marion will be able to vote in City elections and hold City office.

Tax Exemption – Real and personal property taxes are an allowable exemption on both the State and Federal income tax forms.

Annexation will offer some advantages to the City of Marion also. These advantages are as follows:

Increased Revenues – The property tax levy would provide the largest source of new revenue from newly annexed areas. Revenues from water and sewer services would provide funds for general operation of those services.

Such revenues as utility franchise taxes, sales taxes, beer and wine taxes and Powell Bill funds are collected by the State and returned to the municipalities.

The distribution of franchise taxes to the municipalities is based on the gross receipts from sales. Powell Bill funds are based on a combination of local street mileage and population.

Increased Tax Base – The new values of real and personal property will increase the appraised tax valuation for Marion. This will increase the City's debt limit and enable it to expand its borrowing capability, as well as its services and facilities.

Increased Population – The increased population will enhance Marion's desirability as a site for new commercial and industrial expansion and support new levels of community service. An increase in population quite often results in an increase in State and Federal funding.

SECTION I

SUMMARY OF REPORT

Pursuant to the authority vested in the City Council of the City of Marion by Part 2, Article 4A, Chapter 160-A of the General Statutes of North Carolina, a Resolution of Intent to consider annexation of the areas covered by this report was adopted by the City Council at a regular meeting held on August 3, 2010. A notice of the public informational meeting to be held on September 20, 2010 and the public hearing to be held on October 19, 2010 on the question of annexation is being published in accordance with legal requirements and the Resolution of Intent.

A municipality exercising its authority to annex shall make plans for the extension of services to the area proposed to be annexed and shall, prior to the public hearing provided for in G.S. 160A-35, prepare a report setting forth such plans to provide services to such areas. The report shall include:

Annexation Report and Services Plan
G.S. 160A-35

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G.S. 160A-35 requires a detailed annexation report and services plan. The report must include the following information:

1. A map or maps of the municipality and the adjacent territory to show:

   A. The present and proposed boundaries.

   B. The present major trunk water mains and sewer interceptors and outfalls and any proposed extensions of water mains and sewer outfalls to serve the area to be annexed. The map must bear the seal of a registered professional engineer.

2. A statement showing that the area meets the standards of G.S. 160A-36.

3. A statement setting forth the plans for extending to the annexation area such major services performed within the municipality. The plan must specifically provide for:

   A. Police protection, fire protection, solid waste collections, street maintenance and street lighting services on substantially the same basis and in the same manner as provided in the rest of the municipality as of the effective date of the annexation. If a water distribution system is not available in the area to be annexed, the plans must provide for reasonably effective fire protection until such time as water lines are made available under existing municipal extension policies. A contract with a rural fire department is an acceptable method of providing fire protection, and a contract with a private solid waste collection firm is an acceptable method of providing solid waste collection services.

   B. Extension of major trunk water mains and sewer outfall lines so that property owners in the area will be able to secure public water and sewer service according to the municipal policies in effect for extending such services to individual lots or subdivisions. If requested in writing by any owner of an occupied dwelling unit or an operating commercial or industrial property no later than five (5) days after the public hearing, the report and plans must be amended, at the time of adoption of the ordinance to provide for the extension of water and sewer lines to the property or a point on a public street or road right-of-way adjacent to the property, in accordance with the current financial policies of the municipality for making such extensions. Where extension of water and sewer is necessary, the plans must set out a timetable for completion of construction as soon as possible but not more than two (2) years after the effective date of annexation. In areas where the installation of sewer is not economically feasible due to the unique topography of the area, the city must provide septic system maintenance and repair service until such time as sewer service is provided to properties similarly situated.

4. A statement of the method under which the municipality plans to finance extension of services to the annexed area.

5. A statement of the impact of the annexation on any rural fire department providing service in the area to be annexed and a statement of the impact of the annexation on fire protection and fire insurance rates in the area to be annexed, if the area is in an insurance district, a rural fire protection district or a county fire protection service district. The rural fire department is required to make available to the municipality within thirty (30) days following the municipality's written request, information within its possession or control necessary for preparation of the impact statement, including but not limited to operational, financial and budgetary information. If the rural fire department fails to respond within forty-five (45) days following receipt of a written request, it forfeits its rights to negotiate a contract to provide fire protection under G.S. 160A-37.1 or receive a proportionate share of debt payments under G.S. 160A-37.2. The city must include in its written request reference to the section containing the requirements [G.S. 160A-35(4)] or no forfeiture will occur.

6. A statement showing how the proposed annexation will affect the city's finances and services, including city revenue change estimates. This statement must also be delivered to the clerk of the county board of commissioners at least thirty (30) days before the date of the public information meeting.

This report has been prepared by the City of Marion in compliance with the foregoing requirements and is available for public inspection at the office of the City Clerk.

SECTION II

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BOUNDARY DESCRIPTION

SUGAR HILL ROAD AREA

BEGINNING at a point on the boundary of Lot 0375, Block 18 on the McDowell County Tax Map 1700.05, said point also being the current boundary of Marion Corporate Limits thence following the eastern boundary of said Lot 0375 and the Marion Corporate Limits in a southwesterly direction approximately 1027 feet to a point, thence 100 feet in a easterly direction to a point, said point being a southern boundary of said Lot 0375, Marion Corporate Limits, and the northern boundary of Steppe Street (SR 1269); thence crossing Steppe Street (SR 1269) in a southerly direction 60 feet to a point on the southern boundary of Steppe Street (SR 1269), said point also being a point on the northern boundary of Lot 7042, Block 07 on the McDowell County Tax Map 1700.09; thence following the boundary of said Lot 7042 in a southeasterly direction 331.26, thence in a southwesterly direction 209.64, thence in a northwesterly direction 121.64 to a point, said point being on the southwestern boundary of said Lot 7042 and the southeastern point of Lot 5960, Block 06 on the McDowell County Tax Map 1700.09; thence following the boundary of said Lot 5960 in a southwesterly direction 250.19 feet, thence following the boundary of said Lot 5960 in a northwesterly direction 165.55 feet to a point, said point being on the southwestern boundary of said Lot 5960, and the southeastern point of lot 3894, Block 06 of the McDowell County Tax Map 1700.09; thence following the boundary of said lot 3894 in a southwesterly direction 118.17 feet to a point, said point being the southern point of said lot 3894, and a point on the northern boundary of Meadow Lane (SR 1271); thence crossing Meadow Lane (SR 1271) in a southwesterly direction 60 feet to a point on the southern boundary of Meadow Lane (SR 1271), said point also being a point on the northern boundary of Lot 2652 Block 06 on the McDowell County Tax Map 1700.09; thence following the boundary of said Lot 2652 in a southeasterly direction 100.41 feet, thence in a southwesterly direction approximately 381.83 feet to a point, said point being the southern point of said lot 2652 and the eastern point of lot 0465 Block 06 on the McDowell County Tax Map 1700.09; thence following the boundary of said lot 0465 in a southeasterly direction approximately 94.23 feet, thence in a southwesterly direction approximately 29.76 feet; thence in a southeasterly direction 178.12 feet to a point; said point being the southeastern point of said lot 0465 and the northern point of Lot 2097, Block 06 on the McDowell County Tax Map 1700.09, thence following the boundary of said Lot 2097 in a southeasterly direction 238.13 feet, thence in a southwesterly direction 218.27 feet, thence in a southeasterly direction 334.81 feet, thence in a westerly direction 360.26 feet to a point, said point being the southwestern point of said lot 2097 and the southeastern point of Lot 8087 Block 05 on the McDowell County Tax Map 1700.09; thence following the boundary of said Lot 8087 in a westerly direction 59.24 feet to a point, said point being the southwestern point of said Lot 8087 and the southeastern point of Lot 5823, Block 95 on the McDowell County Tax Map 0790.12; thence following the boundary of said Lot 5823 181.37 feet, thence in a northwesterly direction 496.54 feet to a point, said point being the western point of said Lot 5823, and a point on the eastern boundary of Sugar Hill Road (SR 1001) and the northern point of Mill Road (SR 1189); thence crossing Mill Road (SR 1189) in a southwesterly direction 40 feet to a point on the southern boundary of Mill Road (SR 1189), said point also being a point on the eastern boundary of Sugar Hill Road (SR 1001), thence following the eastern boundary of Sugar Hill Road (SR 1001) in a southerly direction 1524.35 feet to a point on the eastern boundary of Sugar Hill Road (SR 1001), said point also being the northwestern point of Lot 9430, Block 84 on the McDowell County Tax Map 0790.04; thence following the boundary of said Lot 9430 in a easterly direction 245.44 feet, thence in a southeasterly direction 69.17 feet, thence in a southerly direction 448.97 feet, thence in a southeasterly direction, 165.52 feet, thence in a northwesterly direction 507.63 feet to a point, said point being the southwestern point of said lot 9430 and a point on the eastern boundary of Sugar Hill Road (SR 1001); thence crossing Sugar Hill Road (SR 1001) in a northwesterly direction approximately 326.09 feet to a point on the western boundary of Sugar Hill Road (SR 1001), said point also being a point on the southeastern boundary of Lot 2578, Block 84 on the McDowell County Tax Map 0790-04; thence following the boundary of said Lot 2578 in a southwesterly direction 402.91 feet to a point, said point being the southern point of said Lot 2578 and the eastern point of Lot 0336, Block 84 on the McDowell County Tax Map 0790-04; thence following the boundary of said Lot 0336 426.96 feet to a point, said point being a southern point of lot 0336 and the eastern point of Lot 7147, Block 74 on the McDowell County Tax Map 0790-04; thence following the boundary of said Lot 7147 in a southwesterly direction 319.58 feet, thence in a northeasterly direction 288.76 feet, thence in a easterly direction 43.35 feet, thence in a northwesterly direction 39.24 feet, thence in a northeasterly direction approximately 41.55 feet to a point, said point being the northern point of said Lot 7147, and the southwestern point of Lot 0336, Block 74 on the McDowell County Tax Map 0790-04; thence following the boundary of said lot 0336 in a northeasterly direction 306.86 feet, thence in a northwesterly direction 43.07 feet, thence in a northeasterly direction 56.4 feet, thence in a northwesterly direction 245.4 feet, thence in a northeasterly direction 152.04 feet, thence in a southeasterly direction 307.2 feet to a point, said point being a northeastern point of said Lot 0336 and the northwestern point of Lot 2578, Block 84 on the McDowell County Tax Map 0790-04; thence following the northern boundary of said Lot 2578 in a easterly direction 383.04 feet to a point, said point being the northeastern point of said Lot 2578 and a point on the western boundary of Condrey Road (SR 1190); thence crossing Condrey Road (SR 1190) in a easterly direction 60 feet to a point on the eastern boundary of Condrey Road (SR 1190), said point also being a point on the western boundary of Lot 7617, Block 84 on the McDowell County Tax Map 0790-04; thence following the eastern boundary of Condrey Road (SR 1190) in a generally northern

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direction 1,466.48 feet to a point, said point being on the northern boundary of said Lot 1829 and a point on the southern boundary of Condrey Road (SR 1190); thence crossing Condrey Road (SR 1190) in a northerly direction 60 feet to a point on the northern boundary of Condrey Road (SR 1190), said point also being a point on the southern boundary of Lot 2160, Block 96 on the McDowell County tax map 0790-12; thence following the boundary of said Lot 2160 in a northerly direction 192.63 feet, thence in an easterly direction 441.01 feet to a point, said point being the northeastern point of said Lot 2160 and the western boundary of Sugar Hill Road (SR 1001); thence following the western boundary of Sugar Hill Road (SR 1001) in a northeasterly direction 224.47 feet to a point, said point being on the western boundary of Sugar Hill Road (SR 1001) and the southern boundary of Veterans Drive (SR 1191); thence crossing Veterans Drive (SR 1191) in a northeasterly direction 60 feet to a point on the northern boundary of Veterans Drive (SR 1191), said point also being the southern point of Lot 7572, Block 96 on the McDowell County Tax Map 0790-12; thence following the boundary of said Lot 7572 in a northwesterly direction 138.53 feet, thence in a northeasterly direction 119.98 feet to a point, said point being the northern point of said lot 7572 and the western point of Lot 8671, Block 96 on the McDowell County Tax Map 0790-12; thence following the boundary of said lot in a northeasterly direction 101.64 feet to a point, said point being the northern point of said Lot 8671 and the western point of Lot 9740, Block 96 on the McDowell County Tax Map 0790-12; thence following the boundary of said Lot 9740 in a northeasterly direction 100.15 feet to a point, said point being the northern point of said Lot 9740 and the western point of Lot 0778, Block 96 on the McDowell County Tax Map 0790-12; thence following the boundary of said Lot 0778 in a northeasterly direction 126.03 feet to a point, said point being the northern point of said Lot 0778 and the southwestern point of Lot 8057, Block 06 on the McDowell County Tax Map 1700-09; thence following the boundary of said Lot 8057 in a northeasterly direction approximately 18.62 feet, thence in a northwesterly direction 103.49 feet, thence in a westerly direction 118.13 feet, thence in a northerly direction 184.68 feet, thence in a northeasterly direction 125.59 feet, thence in a easterly direction 139.82 feet to a point, said point being the northeastern point of said Lot 8057 and the northwestern point of Lot 2038, Block 97 on the McDowell County Tax Map 0790-12; thence following the northern boundary of said Lot 2038 in a easterly direction 292.15 feet to a point, said point being the northeastern point of said Lot 2038 and the northwestern point of Lot 4156, Block 07 on the McDowell County Tax Map 1700-09; thence following the northern boundary of said Lot 4156 in a easterly direction 228.05 feet to a point, said point being on the northern boundary of said Lot 4156 and the southwestern point of Lot 5325, Block 07 on the McDowell County Tax Map 1700-09; thence following the boundary of said Lot 5325 in a northwesterly direction 246.15 feet, thence in a northeasterly direction 75.31 feet to a point, said point being the northern point of said Lot 5325 and the northwestern point of Lot 6430, Block 07 on the McDowell County Tax Map 1700-05; thence following the boundary of said Lot 6430 in a northeasterly direction 96.72 feet to a point, said point being the northern point of said Lot 6430 and the western point of Lot 7500, Block 07 on the McDowell County Tax Map 1700-05: thence following the boundary of said Lot 7500 in a northeasterly direction 149.89 feet to a point, said point being on the northern boundary of said Lot 7500 and a point on the southern boundary of Ben Street (SR 1185); thence crossing Ben Street (SR 1185) in a northwesterly direction 30 feet to a point on the northern boundary of Ben Street (SR 1185), said point also being the southern point of Lot 6776, Block 07 on the McDowell County Tax Map 1700-05; thence following the boundary of said Lot 6776 in a northwesterly direction 205.5 feet to a point, said point being the western point of said Lot 6776 and being on the southeastern boundary of Lot 3923, Block 07 on the McDowell County Tax Map 1700-05; thence following the boundary of said Lot 3923 in a southwesterly direction 237.97 feet, thence in a southeasterly direction 102.01 feet, thence in a westerly direction 215.53 feet, thence in a northwesterly direction 418.1 feet, thence in a westerly direction 135.03 feet, thence in a northerly direction 144.54 feet, thence in a easterly direction approximately 297.23 feet, thence in a northeasterly direction 148.89 feet to a point, said point being on the northern boundary of said Lot 3923 and the southwestern point of Lot 4264, Block 08 on the McDowell County Tax Map 1700-05; thence following the boundary of said Lot 4264 in a northeasterly direction 157.76 feet to a point, said point being the northern point of said Lot 4264 and the southern boundary of Lukin Street (SR 1191), thence crossing Lukin Street (SR 1191) in a northerly direction 30 feet to a point on the northern boundary of Lukin Street (SR 1191), thence following the northern boundary of Lukin Street (SR 1191) in a southeasterly direction 153.51 feet to a point, said point being on the northern boundary of Lukin Street (SR 1191), and the western point of Lot 6220, Block 08 on the McDowell County Tax Map 1700-05; thence following the boundary of said Lot 6220 and the western boundaries of Lots 6277, 7332, 7398, 8464 and 9521, Block 08 on McDowell County Tax Map 1700-05 in a northeasterly direction 507.58 feet to a point, said point also being on the boundary of the Marion Corporate Limits, thence following the boundary of the Marion Corporate Limits and the eastern boundary of said Lot 9521 in a southerly direction 124.25 feet to a point, said point being on the eastern boundary of said Lot 9521 and on the western boundary of Lot 0737, Block 08 on the McDowell County Tax Map 1700-05; said point also being Marion Corporate Limits, thence following the current boundary of the Marion Corporate Limits in a straight easterly direction 248.14 feet, thence in a straight westerly direction 318.34 feet to a point, said point being the eastern point of said Lot 1039 and on western boundary of Sugar Hill Road (SR 1001), thence crossing Sugar Hill Road (SR 1001) in a southeasterly direction 60 feet to the point of BEGINNING.

SECTION III

STATEMENT SHOWING THAT THE AREAS PROPOSED TO BE ANNEXED MEETS THE LEGISLATIVE STANDARDS PRESCRIBED BY G. S. 160A-36

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SUGAR HILL ROAD AREA

The proposed annexation area meets the general standards of G. S. 160A-36 as follows:

The area is adjacent and contiguous, as defined by G. S. 160A-41(1) as of the 3rd day of August, 2010, the date upon which this annexation proceeding was begun, and shown on the map included herein marked Exhibit A.

The aggregate external boundary line of the area to be annexed is 19,675.80 feet, of which 2,662.70 feet (or 13.53%), coincides with the City boundary, as shown on the map included herein marked Exhibit A. Therefore, at least one eighth (or 12.5%) of the said external boundary coincides with the City boundary.

No part of the area to be annexed is included within the boundary of another incorporated municipality (See Exhibit B).

The area to be annexed is developed for urban purposes in that 90.48% of the total number of lots and tracts in said area are used for residential, commercial, industrial, institutional or governmental purposes as is shown below. 85.90% of the total of residential and vacant acreage consists of lots and tracts three (3) acres or less in size.

Total number of lots and tracts	63
Number of lots and tracts used for:	
Residential	41
Commercial	16
Industrial	0
Institutional	0
Governmental	0
Vacant	6
Total	63
Percentage of lots and tracts developed for urban purposes	90.48%
Total Residential and Vacant Acreage	40.22
Total Residential and Vacant Acreage in lots and tracts three (3) acres or less	34.55
Percentage of Residential and Vacant Acreage in lots and tracts three (3) acres or less	85.90%

SECTION IV

STATEMENT SETTING FORTH PLANS FOR EXTENDING CITY SERVICES TO THE AREA PROPOSED TO BE ANNEXED AND METHODS OF FINANCING THESE SERVICES

City services will be provided to the areas proposed for annexation upon the effective date of annexation in accordance with the General Statutes of North Carolina as follows:

SUGAR HILL ROAD AREA

POLICE PROTECTION

The Marion Police Department presently provides police services for all areas of the City of Marion including preventative and directed patrol, criminal response and investigation, traffic enforcement and other services such as funeral escorts, alarm response, vacation home checks, and animals running at-large. The full-time force is composed of the Chief of Police, 23 other sworn officers, 4 telecommunication officers and 1 ordinance enforcement officer. At least 1 telecommunication officer and 4 sworn officers are scheduled on duty at all times. All telephone calls are automatically tape-

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recorded. The telecommunication officer has direct communications capability with all City police cars as well as the McDowell County Sheriff's Office, McDowell County Rescue Squad, North Carolina Highway Patrol dispatch, City of Marion Public Works, and all law enforcement agencies in "Region C." The department is connected to the North Carolina Division of Criminal Information (DCI), which provides the department access to motor vehicle, boat, and airplane registration information, driver's license information, stolen property and wanted or missing persons. Network access is also available to the National Crime Information Center (NCIC), Interpol and out of state and Canada motor vehicle information.

Response time to the proposed area of annexation is zero (0) to ten (10) minutes, if a patrol vehicle is readily available. Every effort will be made to patrol the streets in this area once or more each 24 hours.

Most of this area is already being patrolled by the Police Department. Additional patrol street mileage for the proposed annexation area is approximately 0.65 miles. Assuming the area is patrolled a minimum of two (2) times a day, a 0.65 mile patrol route would require approximately 949 traveled miles per year. An estimate of 500 miles would be required to handle calls for this area. The patrol vehicles average ten (10) miles to a gallon of gas and $.09 per mile in maintenance cost.

Using the figures above, the estimated additional expenses to provide police services to the proposed area of annexation would be $428.90 per year ($298.49 for gas and $130.41 for maintenance.) The funding for this additional expense will come from anticipated revenues in the area and be budgeted in the City's General Fund.

No additional personnel will be required to provide service to this area.

The total annual cost to provide police protection to this area is estimated to be $428.90.

The City will ensure that on the effective date of annexation police protection will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

FIRE PROTECTION

The City of Marion is served by the fire department located at the intersection of West Court Street and Logan Street. The fire department is currently protecting an area ranging up to six miles from the station including the area to be annexed. Equipment from this station can respond to the area proposed for annexation in 3 to 5 minutes depending on traffic conditions. The route to this area is easily accessible to firefighting equipment.

The fire department has three diesel-powered pumpers - a 1,000 GPM (gallons per minute) pumper that carries 750 gallons of water, a 1,250 GPM pumper/tanker that carries 1000 gallons of water and a 1500 GPM pumper/tanker that carries 1000 gallons of water. The department has a 102' diesel-powered aerial platform with a 2000 GPM pump. The department also has two four-wheel drive brush units, an equipment van, a four wheel drive pickup truck and the Chief's car. In addition there is a 1000 GPM reserve pumper that carries 500 gallon of water.

There are six paid firefighters and at least one is on duty at all times. The duty firefighter and 29 volunteers are dispatched by the 911 County Emergency Operations Center. All firefighters have pagers and many have portable hand held radios. The fire department also maintains a fire inspections department that handles fire safety inspections of businesses and industries in the city. The fire department is also involved in the field of fire education.

Because of the proximity of the area to be annexed to the station, and because the area is located within the Marion Area Fire District which is already being served by this department, no additional personnel or equipment will be needed. There will be no additional cost as this area is already included in the present operating budget.

The annexation area is located in the Marion Area Fire District. The amount of Service District Tax paid by McDowell County to the City will be reduced by approximately $2,481.84 per year due to the annexation of this area. No other county volunteer fire departments will be affected as a result of the annexation of this area.

There should be no change in property insurance rating for part of the area to be annexed, since the northern part of the area is already close to areas served by existing City water lines and fire hydrants and property owners in part of the area to be annexed should already be receiving the insurance rating in effect

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for the city. In most of the area to be annexed, where properties are not as close to areas served by City water lines and fire hydrants, property owners may see substantial insurance savings due to the City having a Class 5 insurance rating instead of much of the area to be annexed having a Class 9 rating. However, because of the difference in policies of insurance companies, individual property owners should check with their insurance representative to determine what effect, it any, annexation will have on their insurance rates.

The City will ensure that on the effective date of annexation fire protection will be provided in the area annexed on substantially the same basis and in the same manner as provided by the Marion Fire Department in the rest of the City.

WATER AND SEWER SERVICE

Within the proposed annexation area, there are no customers currently on City water or sewer service. Once the area is annexed, the loss in revenues due to water and sewer rates being decreased by 60 percent is therefore estimated to be approximately $0.00 annually.

Water lines are currently being installed in the area to be annexed along a section of Sugar Hill Road and on Lukin Street. A water extension of approximately 6,640 feet will be needed along Sugar Hill Road, Condrey Road and to serve the Sugar Hill Road Business Park. An extension of approximately 735 feet will be needed on Overlook Drive and Cypress Road will be needed on Cypress Road. The estimated cost of the water extensions are $667,255.

Sewer lines are currently being installed in the area to be annexed along a section of Sugar Hill Road and on Lukin Street. A sewer extension of approximately 12,240 feet (5,720 feet of gravity sewer and 6,520 feet of force main sewer) will be needed along Sugar Hill Road, Condrey Road and to serve the Sugar Hill Business Park. An extension of approximately 780 feet will be needed on Overlook Drive and Cypress Road. The estimated cost of the sewer extensions are $1,991,300.

Water and sewer improvements will be completed in accordance with the time schedule in the General Statutes and provided within two (2) years of the effective date of the annexation.

Funds for water and sewer service will come from North Carolina Rural Center and Appalachian Regional Commission grants, funds provided by the City of Marion and McDowell County and anticipated revenues in the area. The cost of the Overlook Drive and Cypress Road water and sewer extensions will be budgeted in the City's Water and Sewer Fund and the costs of the Sugar Hill Road water and sewer extension will be budgeted as a Capital Project.

Exhibits C and D show the location of existing and proposed water and sewer lines.

STREET MAINTENANCE

All of the streets in the area proposed for annexation are paved, with the exception of Overlook Drive and Cypress Road, which are private dirt roads. All streets in the annexation area are maintained by the State of North Carolina or are private streets. It is proposed that the State of North Carolina will continue maintenance on the public streets in the area and that privately maintained streets will remain private.

The City will ensure that on the effective date of annexation street maintenance service will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

STREETLIGHTS

To provide streetlights in the area proposed for annexation, the City will follow the current policy of a streetlight on every other pole in a residential or commercial area.

Exhibit E shows the location of the existing and proposed lights. Upon annexation, the City will work closely with Duke Energy to determine the best location for the lights.

The City will have approximately 15 streetlights installed in the area proposed for annexation. Duke Energy will install the streetlights. The City will be charged approximately $9.89 per month per streetlight.

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The estimated cost for providing streetlights to the area proposed for annexation will be $1,780.20 annually.

The funds to provide streetlights in the annexation area will come from anticipated revenues in this area and be budgeted in the City's General Fund.

The City will ensure that on the effective date of annexation streetlights will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

SOLID WASTE COLLECTION AND RECYCLING

Present City policy provides for solid waste collection and recycling collection once a week at each residence in the city.

For residential collection, the City is currently using a solid waste packer unit and three pickup trucks. Each truck is equipped with a 4 cubic yard capacity for the collection of solid waste. The trucks collect solid waste from residences before unloading into the packer unit. There are approximately 2,600 residential units within the current City Limits. Each truck will average collecting solid waste from approximately 220 residences in a six to seven hour period. There are 42 residential units in the area proposed for annexation. A curbside recycling truck will be used to provide recycling pickup at each residence once each week.

No additional employees or equipment will be required to provide solid waste collection service to this area. It is estimated that $1,500.00 will cover annual fuel cost. An additional $450.00 is estimated for vehicle maintenance for a total annual cost of $1,950.00 to provide solid waste and recyclable collections to the residential units. One time costs, involving $612.36 for the purchase of recycling bins, will also be needed to serve the area to be annexed. Solid waste collection and recycling collection service is currently provided in the city by City of Marion personnel and equipment and will also be provided to the area to be annexed by City of Marion personnel and equipment. These funds for this service will come from revenues collected in this area and budgeted in the City's General Fund.

The City will attempt to contact any solid waste firm servicing the annexation area as required, or which has stated its interest in contracting with the City. If required by the General Statutes, the City will offer to contract with the solid waste firms or will pay such firms for their monetary loss in compliance with the General Statutes.

The City will ensure that on the effective date of annexation solid waste collection service will be provided in the area annexed on substantially the same basis and in the same manner as provided in the rest of the City.

SECTION V

ESTIMATED REVENUES

SUGAR HILL ROAD AREA

PROPERTY TAXES

Based on tax listings at the beginning of January 2010, it is estimated that the proposed annexation will bring in the following tax revenues based on the current City tax rate of $.51 per $100.00 of property value.

Current Taxable Value	$4,136,400.00
Estimated Property Taxes	21,095.64

WATER AND SEWER REVENUES

No structures in the area to be annexed are currently being billed for City sewer service. The annexation of this area will result in water and sewer rates being reduced by 60 percent, resulting in a savings for residents and property owners and a revenue loss for the City of an estimated $0.00 per year.

OTHER REVENUES

Because of changes in distribution formulas from year to year estimates on the following revenues may fluctuate. These estimates are based on formulas and information received from the North Carolina Department of

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Commerce (Division of Community Assistance), North Carolina Department of Transportation, North Carolina Department of Revenue, Isothermal Planning and Development Commission, North Carolina Office of Budget and Management and Duke Energy.

Local Sales Tax	$ 10,963.24
Powell Bill Revenue	1,693.72
Utility Franchise Tax	2,052.00
Beer and Wine Tax	413.17

POPULATION INCREASE

The City's current population is based on the 2000 Census and annual population certifications from the State of North Carolina. Annexation of this area will increase the population by approximately 92 people for a population of 7,612.

SECTION VI

REVENUES AND COST ESTIMATES

SUGAR HILL ROAD AREA

ESTIMATED ANNUAL REVENUES		
Property Tax		$ 21,095.64
Local Sales Tax		10,963.24
Powell Bill		1,693.72
Utility Franchise Tax		2,052.00
Beer and Wine Tax		413.17
Total Estimated Annual Revenues		$ 36,217.77
ESTIMATED ANNUAL EXPENDITURES		
Police Department		$ 428.90
Fire Department		0.00
Street Department		0.00
Streetlights		1,780.20
Solid Waste/Recycling		1,950.00
Total Estimated Annual Expenditures		$ 4,159.10
ESTIMATED LOSS IN REVENUE		
Fire Service District Tax		$ 2,481.84
Water and Sewer Revenues		0.00
Total Estimated Revenue Loss		$ 2,481.84
ESTIMATED ONE-TIME EXPENDITURES		
Sewer Extension		$ 1,991,300.00
Water Extension		667,255.00
Recycling Containers		612.36
Total One-Time Expenditures	$2,659,167.30	

EXHIBIT A
GENERAL LOCATION MAPS

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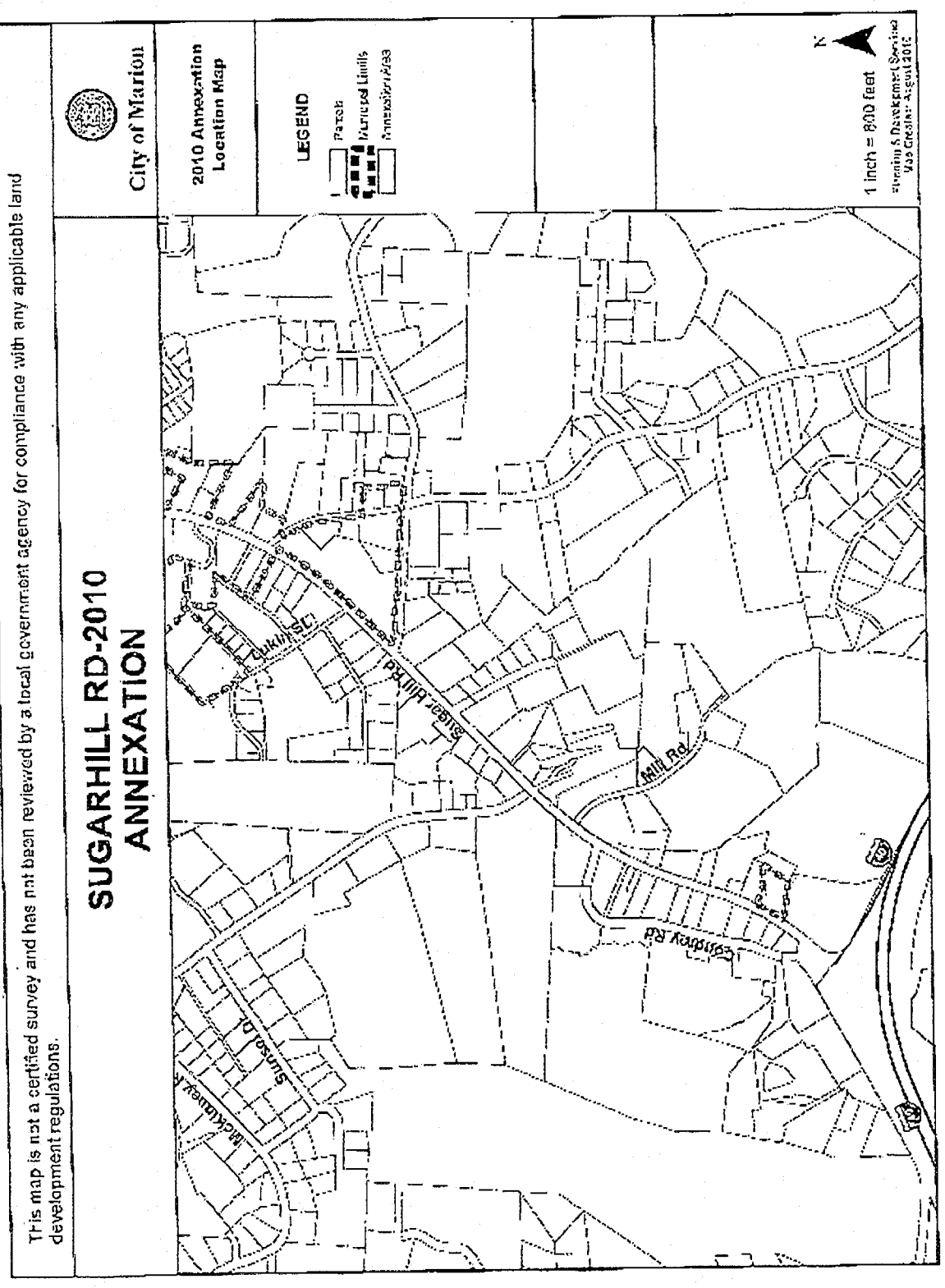


EXHIBIT B
EXISTING LAND USE MAPS

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This map is not a certified survey and has not been reviewed by a local government agency for compliance with any applicable land development regulations.

SUGARHILL RD-2010 ANNEXATION



City of Marion

2010 Annexation Location Map

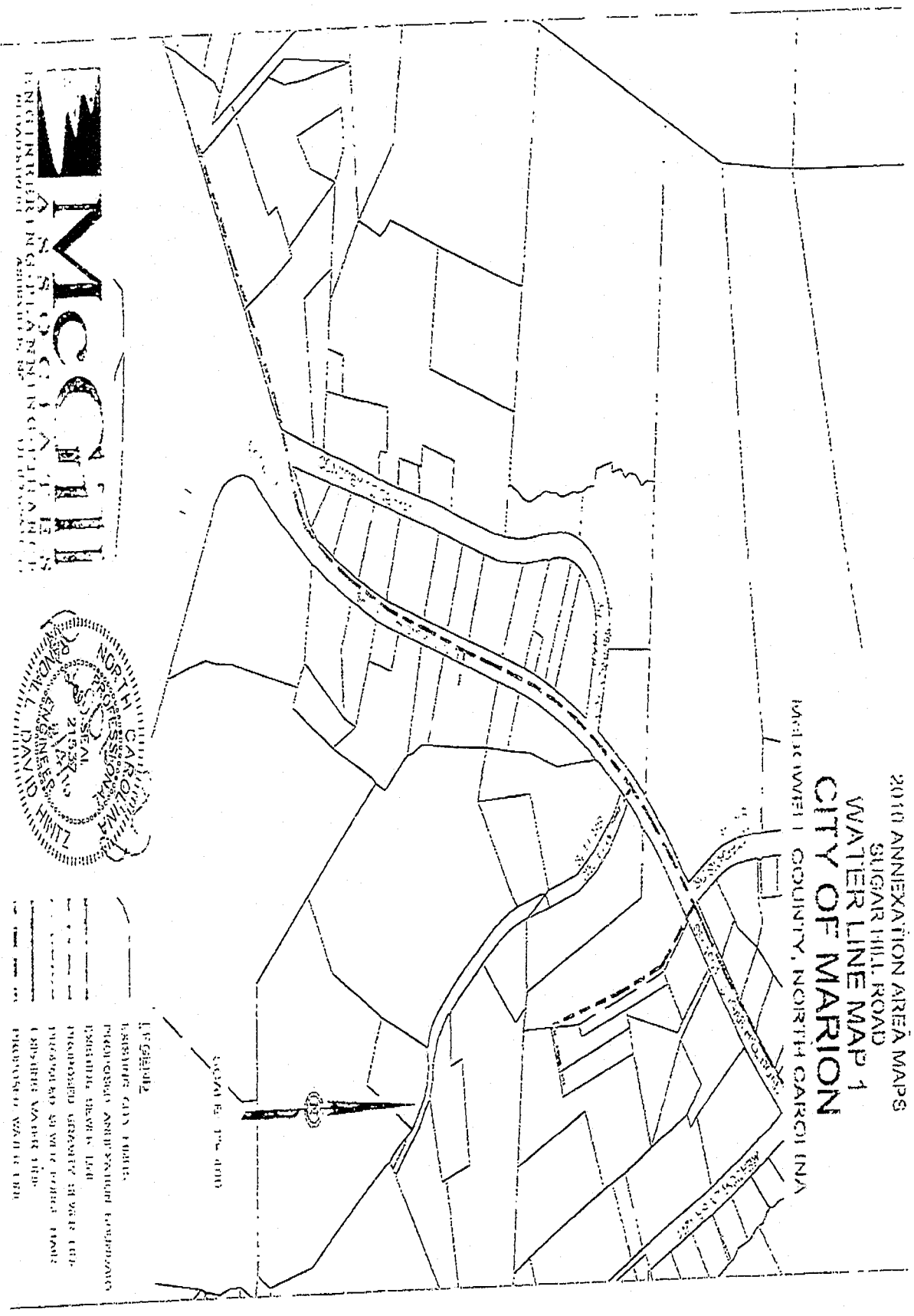
LEGEND

- Parcels
- Municipal Limits
- Annexation Area

EXHIBIT C

AA.000000870 (24)

EXISTING AND PROPOSED WATER LINE MAPS



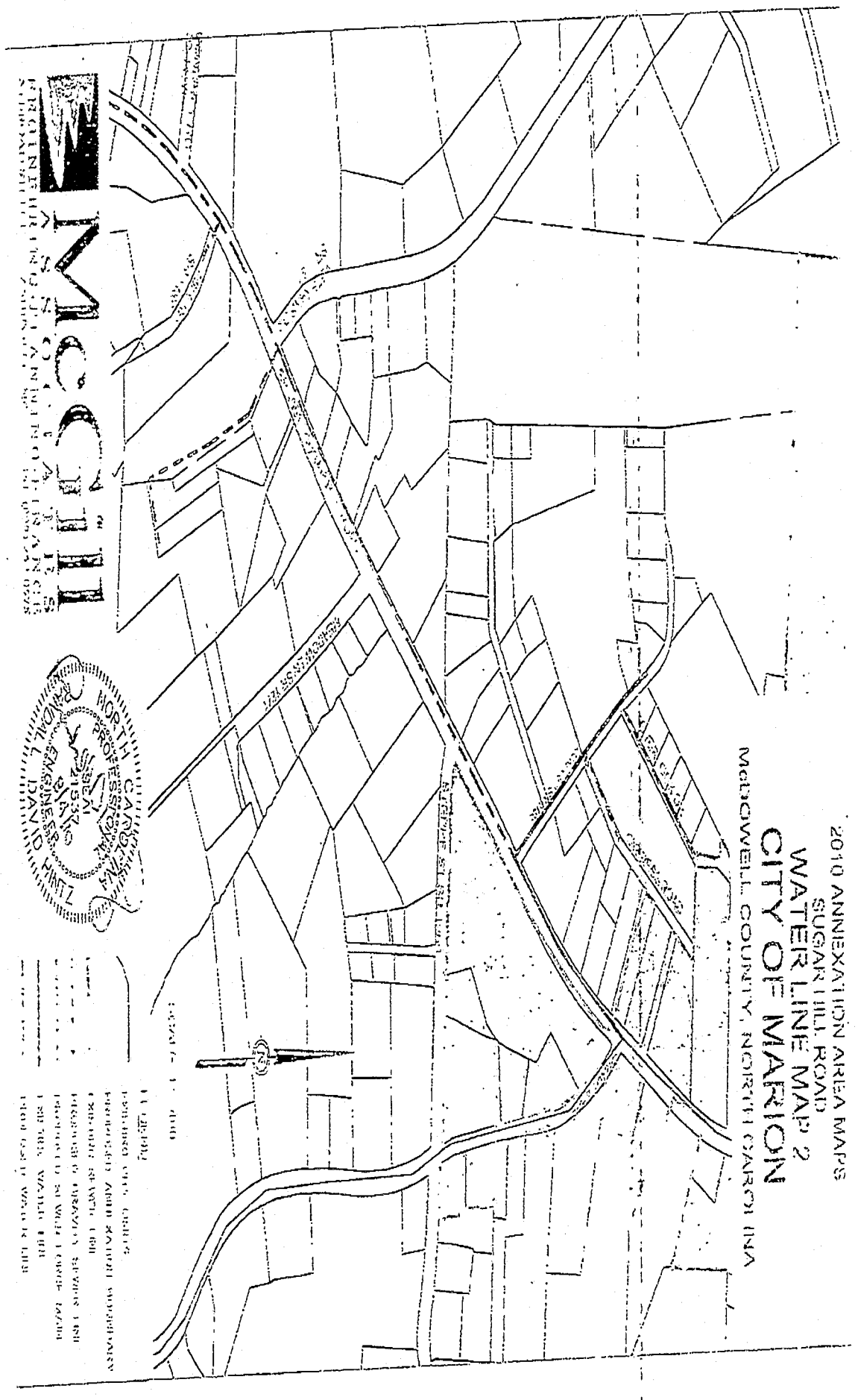


EXHIBIT D
EXISTING AND PROPOSED SEWER LINE MAPS

2010 ANNEXATION AREA MAPS
SUGAR HILL ROAD
SEWER LINE MAP 1
CITY OF MARION
McDOWELL COUNTY, NORTH CAROLINA
McGill

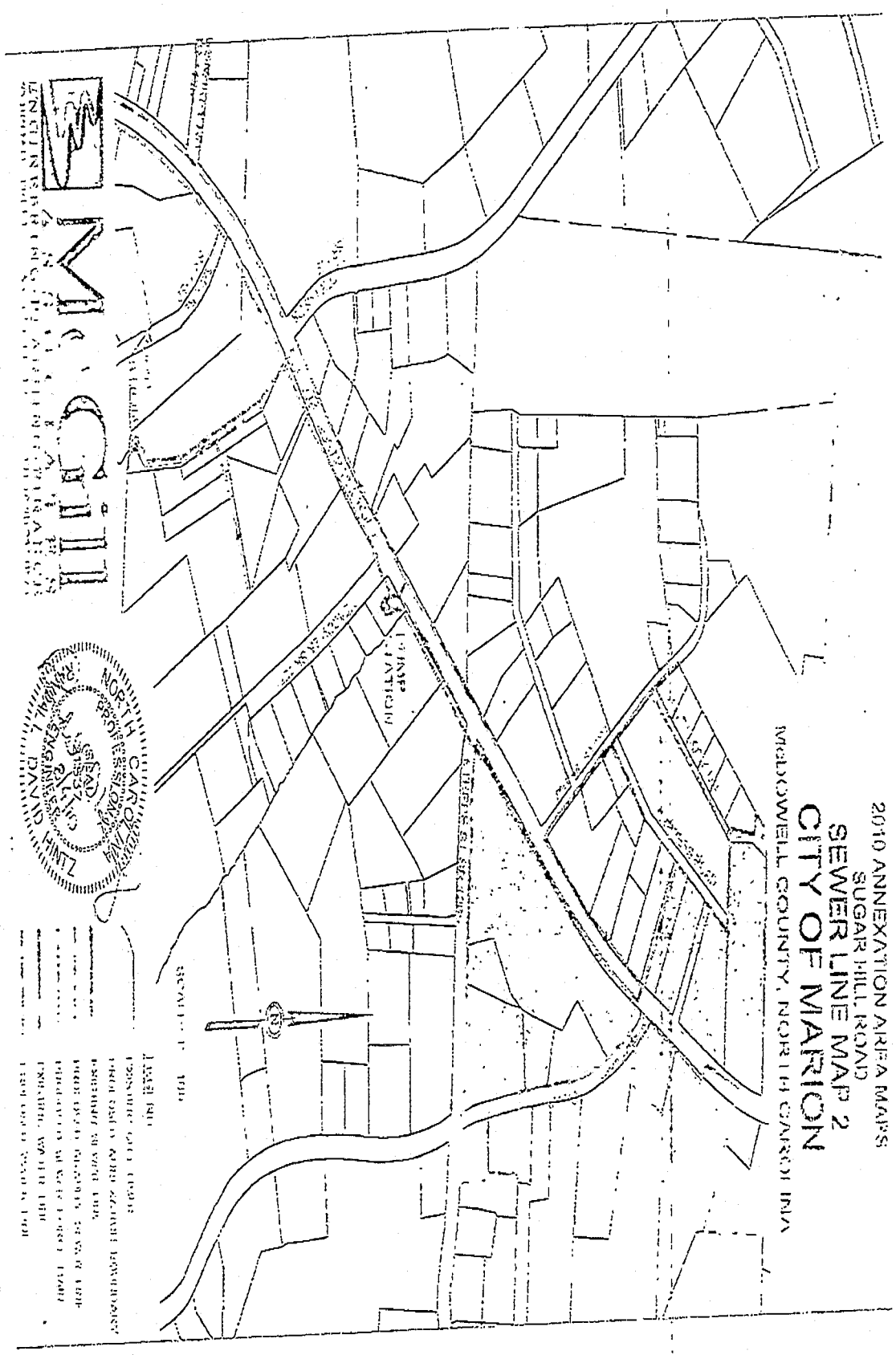
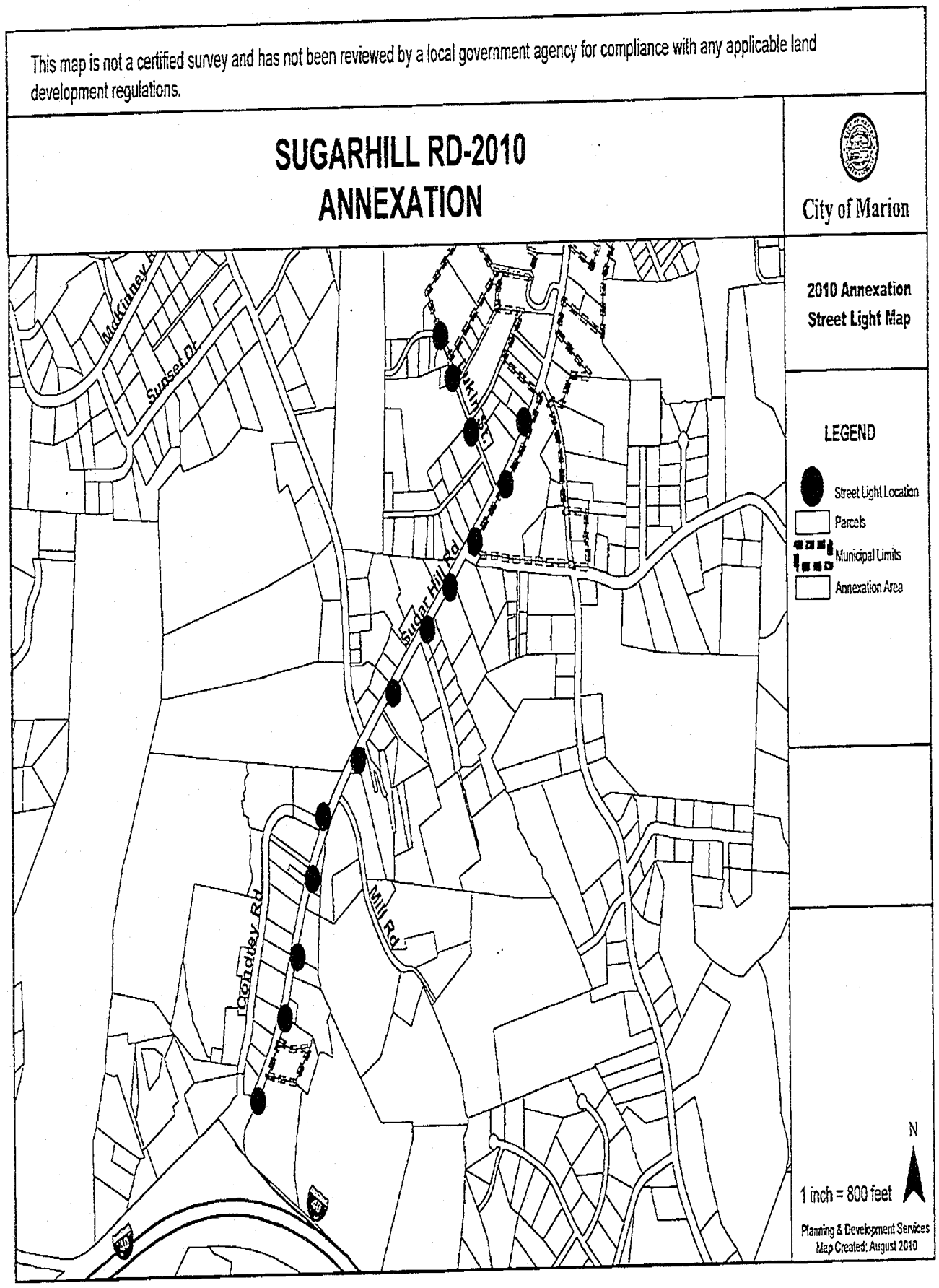


EXHIBIT E
STREET LIGHT MAPS

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C. Adopt Resolution in Support of North Carolina's Current Public Alcoholic Beverage Control System:

CITY OF MARION RESOLUTION
IN SUPPORT OF NORTH CAROLINA'S CURRENT
PUBLIC ALCOHOLIC BEVERAGE CONTROL SYSTEM

WHEREAS, Chapter 18B of the North Carolina General Statutes addresses the regulation of alcoholic beverages in our state; and

WHEREAS, current North Carolina law establishes a uniform system of control over the sale, purchase, transportation, manufacture, consumption and possession of alcoholic beverages in North Carolina; and

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WHEREAS, local government control is central to the current alcoholic beverage control system; it is a local decision to establish and operate ABC stores, and local government, acting through an appointed local ABC Board, balances the control, profits and availability of spirits in its jurisdiction; and

WHEREAS, when local voters approved liquor sales for off-premises consumption, the voters did not vote to allow liquor to be sold in private retail establishments, but only through publicly controlled local ABC stores; and

WHEREAS, current law provides that profits from ABC store sales are returned to local government, and this revenue stream is a critical source of local government funding; and

WHEREAS, it is a priority to maintain current sources of revenue, especially in the current challenging economic times; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Marion does hereby support the continuance of the Alcoholic Beverage Control System, and opposes any efforts to privatize the ABC System, diminish local control or to diminish the local government revenue stream afforded from local ABC store profits.

Adopted this the 17th day of August, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-10-08-17-1

D. Adopt Resolution Authorizing the Sale of City Property on West Yancey Street by Negotiated Offer and Upset Bid and Rejecting Previous Offer to Purchase Said Property Due to the Submission of a Qualifying Upset Bid:

Resolution Authorizing the Sale of Certain Property Owned by the City of Marion on West Yancey Street by Negotiated Offer and Upset Bid and Rejecting a Previous Offer to Purchase Said Property Due to the Submission of a Qualifying Upset Bid

WHEREAS, the City Council of the City of Marion desires to dispose of certain surplus property of the City; and

WHEREAS, N.C.G.S. 160A-269 authorizes a city to convey by negotiated offer and upset bid any real or personal property; and

WHEREAS, on July 2, 2010, Mr. Wynn Jackson submitted a bid in the amount of $3,600 for the purchase of approximately 0.20 acres of property owned by the City of Marion located on West Yancey Street (McDowell County Parcel Identification Number 1701.14-33-9687); and

WHEREAS, the City Council of the City of Marion adopted a resolution on July 20, 2010, in accordance with N.C.G.S. 160A-269, accepting the offer of Mr. Jackson to purchase the property, as described above, for a sum of $3,600, subject to public notice and upset bid; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion received a five percent bid deposit from Mr. Jackson; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion, on July 28, 2010, caused notice of the proposed sale of the property, as described above, to be published in The News Bulletin, a newspaper of general circulation in the City of Marion; and

WHEREAS, on August 6, 2010, Hopewell Road, LLC submitted a bid in the amount of $5,000 for the purchase of the property described above; and

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WHEREAS, in accordance with N.C.G.S. 160A-269, the bid submitted by Hopewell Road, LLC is a qualifying upset bid for the purchase of the property described above; and

WHEREAS, the City Council of the City of Marion desires to reject the previous bid of Mr. Wynn Jackson and to complete the sale of the property described above to Hopewell Road, LLC, subject to public notice and upset bid.

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

1. The parcel owned by the City of Marion on West Yancey Street (McDowell County Parcel Identification Number 1701.14-33-9687) that is approximately 0.20 acres in size is hereby declared to be surplus to the needs of the City of Marion.

2. The City Council rejects the offer of Mr. Wynn Jackson to purchase the above described property for $3,600, due to the submission of a qualifying upset bid during the required ten day upset bid period after publication of the proposed sale, as provided for in N.C.G.S. 160A-269.

3. The City Clerk shall refund Mr. Jackson the five percent bid deposit that he paid to the City.

4. The City Council accepts the offer of Hopewell Road, LLC to purchase the above described property for $5,000, subject to the upset bid process being followed as required by N.C.G.S. 160A-269.

5. The City Clerk shall notify Hopewell Road, LLC of the acceptance of this offer, receive a five percent bid deposit from the bidder, and cause a notice of this resolution to be published in accordance with G.S. 160A-269. Such notice shall state that prospective bidders have ten days from the date the notice is published to offer an upset bid, pursuant to G.S. 160A-269.

6. Once the upset bid process is completed, in accordance with G.S. 160A-269, the City Manager is designated to dispose of the above described property to the bidder selected by City Council, for a minimum price of $5,000.

Adopted this the 17th day of August, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-10-08-17-2

INTRODUCTION OF NEW EMPLOYEES: Police Chief Mark Brooks introduced the City's newest police officers, Randy Seay and Angie Fineberg.

Randy Seay is a rookie officer who is almost finished with his field training. Officer Seay also serves as a drill instructor in the Army Reserves.

Angie Fineberg previously worked for the City of Marion as a Police Officer and is returning to work with the City after having worked for three years as a Police Officer in Black Mountain. Officer Fineberg comes back to the City with considerable experience.

Mayor Little and Council Members welcomed Officers Seay and Fineberg to the City of Marion.

PUBLIC APPEARANCE - MCDOWELL HIGH SCHOOL LINC GROUP: Council Member Doggett stated that she had the pleasure to coordinate the McDowell High School LINC program this summer. Nine rising High School seniors spent eight days learning about their community and visiting various facilities though out the county with a program called LINC.

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Council Member Doggett stated that LINC is a program to build connectivity with McDowell County through **l**eadership, **i**nvolvement, **n**etworking and **c**ommunity awareness.

Council Member Doggett stated the group gained a wealth of knowledge about County and City government and much more. She stated that the participants visited a County Commission meeting and that two of the participants and the High School Principal, Ben Talbert, were present for tonight's meeting.

Council Member Doggett stated that the students would like to form a Youth Advisory Council to advise the City Council, County Commissioners and School Board on issues affecting youth in the community.

The two students who were present were Melanie Rodriguez and Nnekka Robinson. Miss Rodriguez stated that this program had been a great experience for the students and that she had personally learned a lot about local history as well as current events and projects going on in the City and County. Miss Robinson said that she learned a lot about the County as well.

This program was offered through McDowell Tech and the Chamber of Commerce. Council Member Doggett stated that she had enjoyed this experience and would certainly do it again.

Council Doggett asked Council if the City would support the idea of a Youth Advisory Council. She said she would be willing to serve as the City's liaison to the Youth Council.

Mayor Little commended all the students who participated in this program, as well as High School Principal Ben Talbert. Mayor Little stated that a Youth Advisory Council sounds like an outstanding idea.

Council Member Clark stated that City Council discussed the idea of a Youth Council several years ago, but there was no one able to coordinate the effort. He said he strongly supported this concept and added that the North Carolina League of Municipalities and the National League of Cities have programs that allow young people to attend their meetings. Council Member Clark stated that many communities across the State and nation have Youth Councils.

Council Member Doggett stated that, since the LINC program graduation, she has decided to keep in touch with these young people. She really enjoyed the program and enjoyed getting to know the students, each of whom have a lot to offer this City and County.

Mayor Little thanked Council Member Doggett for her role in this program.

Council Member Clark stated that City Council should support this program monetarily as well.

Council agreed by consensus to support the idea of a Youth Advisory Council. More information and details will be prepared and discussed at a future Council meeting.

GREENWAY UPDATE/SCHEDULE DATE FOR CATAWBA RIVER GREENWAY RIBBON CUTTING AND DEDICATION: Mr. Frank Dean and Mr. Bill Hendley of the McDowell Trails Association (MTA) appeared before Council and presented Mayor Little with a check to the City of Marion in the amount of $20,000 to support the Greenway project. The City Manager advised that this donation brings the total amount raised by the MTA and other local agencies to $30,000. The City's local match for Phase One of the Greenway is estimated to be $60,000, so the MTA and other agencies have raised at least one-half of the local match.

Mr. Dean gave an update on the Catawba River Greenway, advising that the recent rainfall has slowed down the project. However, the Phase One construction should wrap up in the next few

AA.000000878 (24)

weeks. Planning and Development Director Heather Cotton reported that the contractor now projected a completion date of September 1.

Mr. Dean stated that the MTA recommended that Council approve calling the entrance road to the Greenway "Sam Phillips Drive" in honor of the contributions of the Phillips family to the Greenway project and the community over the years.

Mayor Pro Tem Owenby asked if the road should also list the name of the Rabb family, since the Rabb family also donated land for the Greenway. Mr. Bill Hendley of the MTA stated that the Rabb's donation was note used for the Greenway, but would be recognized with a plaque.

A discussion followed.

Upon a motion by Council Member Cuthbertson, seconded by Council Member Martin, Council voted unanimously to name the entrance road into the Greenway as Sam Phillips Drive.

Mr. Dean stated that naming the greenway is up to the City. However, he advised that the MTA recommended that Council consider naming the Greenway the Joseph McDowell Historical Greenway, in honor of Revolutionary War Hero and one of McDowell County's founders, Joseph McDowell.

Council Member Clark stated that he would like to see Catawba be a part of the Greenway name.

A discussion followed.

Upon a motion by Council Member Martin, seconded by Council Member Cuthbertson, Council voted unanimously to name the Greenway the Joseph McDowell Historical Catawba Greenway.

The City Manager asked if Council wished to schedule a date for a ribbon cutting and dedication of Phase One, perhaps to take place in September.

It was the consensus of Council to hold the ribbon cutting for the Greenway on Sunday, September 19 at 2:00 p.m., with a backup date of Sunday, September 26 at 2:00 p.m. in the event of inclement weather.

Mr. Dean and Mr. Hendley thanked Mayor Little and City Council for the City's support of this project.

PUBLIC HEARING – ZONING TEXT AMENDMENT: Mayor Little opened the Public Hearing.

Planning and Development Director Heather Cotton advised that this public hearing is to discuss an Ordinance of the City of Marion to amend Section 21-171 *Purpose and Intent* of Division VII *Temporary Uses and Structures* of Article VII *General Provisions* of Chapter 21 *Zoning* of the City of Marion Code to further define the frequency of yard sales in both residential and commercial zoning districts.

Ms. Cotton stated that the purpose of having temporary use regulations within the City Code is to allow for controlled, time-limited uses while ensuring that such uses will not impose an adverse impact on the community and its permanent uses. The current ordinance allows for yard sales to occur for the duration of two days twelve times a year in residential districts, and two days four times a year in commercial districts. The intent of the current ordinance is to allow for residential properties to have one yard sale a month, and one yard sale on commercial properties on a quarterly basis. However, the number of yard sales and their duration continue to grow as do the number of complaints that City Staff receive regarding such sales.

AA.0000000879 (24)

Ms. Cotton reported that the City does not require a permit to conduct a yard sale, and enforcement of the ordinance is challenging since many yard sales occur on weekends. Without making changes to the total number of yard sales permitted, the Planning Board unanimously recommended at their August 5 meeting that the ordinance be amended to further clarify the duration of yard sales. The amendment clarifies that yard sales shall occur for no more than two days at a time within a thirty day consecutive timeframe.

Council Member Doggett stated that she does not want to see the City limit yard sales more than they already are. With the economy the way it is, people have to do a lot of things to make ends meet.

Council Member Clark stated that he feels the proposal still allows for too many yard sales, especially in the residential areas. He added that the City needs to preserve its residential areas.

Council Member Doggett stated that she respectfully disagrees with Council Member Clark and that the ordinance should definitely not be any more restrictive than what the Planning Board recommended.

Council Member Clark suggested that staff should document the number of yard sales that take place, so Council could understand how much of a problem yard sales were in certain areas.

The City Manager stated that City Planning staff did not work on Saturday when most yard sales took place, so the City would either have to adjust the schedule of Planning staff or assign this matter to the Police Department. Council Member Doggett stated that she did not feel this was a good use of staff time, particularly that of police officers.

Ms. Cotton stated that staff currently dealt with yard sales on a complaint basis and through observation of illegally posted yard sale signs and could track the number of complaints received and sign violations observed.

Council Member Clark stated that he could support the Planning Board recommendation, but still believed that it did not go far enough, and asked that the matter be revisited in the future.

There were no citizens present to discuss this item.

A discussion followed.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Doggett, seconded by Council Member Cuthbertson, Council voted unanimously to adopt the following Ordinance to further define the frequency of yard sales in both residential and commercial zoning districts, and to revisit this item in one year to see if it is working:

ORDINANCE
AMENDING CHAPTER 21
ZONING
MARION CITY CODE

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

Section 1. That Chapter 21, Zoning, Section 21.171 *Purpose and Intent* of Division VII *Temporary Uses and Structures* is amended to read as follows:

Sec. 21-171. Purpose and Intent.

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(1) Purpose and Intent. It is the purpose of this section to permit temporary uses and structures within the city on a controlled, time-limited basis to minimize adverse impacts on the community. The intent of this section is to establish specific regulations to allow temporary uses while eliminating to the greatest possible extent, any problems, threats, or dangers to the public health, safety or welfare as may exist with any and all such uses.

(2) Permitted temporary uses. Temporary uses shall be limited to a use or use of land, building, or structure not intended to be of a permanent duration. Such uses shall be limited to the following:

(A) Circuses and/or carnivals.
(B) Evangelistic and religious events.
(C) Outdoor bazaars, cookouts and/or similar activities by churches or other nonprofit institutions or organizations.
(D) Open lot sale area for farm produce made or grown by the farm producer or immediate family.
(E) Open lot sales area for Christmas trees.
(F) Contractors' office and/or construction shed including mobile offices during construction on the development site.
(G) Temporary special sales, yard sale or "flea" markets in commercial or industrial zoned districts.
(H) Yard sales conducted outdoors by a resident in their respective yard area.
(I) Other temporary recreational or entertainment related events or activities such as fairs or concerts.
(J) Temporary relocation of manufactured housing for displaced persons as a result of natural or manmade disaster.
(K) Mobile food vendor, push cart, or similar temporary retail food sales.

Itinerant merchants, as defined by the North Carolina General Statutes, shall not be considered a temporary use pursuant to this section. Itinerant merchants shall be subject to the regulations of Chapter 10, article VII of the Marion City Code, rather than the regulations of this section.

(3) Duration, frequency and permitted zoning districts. The following table defines the requirements for duration, frequency, and permitted zoning districts for which a temporary use may occupy a site.

Temporary Use	Maximum Duration per separate use per site	Maximum Frequency of event per person or group per site	Permitted Zoning Districts
Circuses and/or carnivals.	Seven (7) days	One (1) per calendar year	All non-residential zoning districts
Evangelistic and related religious congregations.	Fourteen (14) days	Four (4) per calendar year	All non-residential zoning districts.
Outdoor bazaars, cookouts and/or similar activities by churches or other nonprofit institutions or organizations	Three (3) days	One (1) every three (3) months	All zoning districts
Open lot sales for farm produce	Two (2) days	Twenty-four (24) per calendar year	All commercial zoning districts
Open lot sales for Christmas trees.	Forty-five (45) days	One (1) per year	All commercial zoning districts
Contractors' office and/or construction shed including mobile offices during construction on the development site.	Between issuance of a building permit and a final certificate of occupancy, annual renewal is required.	None	All zoning districts
Temporary special sales, yard sale or "flea" markets in commercial or industrial zoned districts.	Two (2) days every thirty (30) consecutive days	Four (4) times per year	All non-residential zoning districts
Yard sales conducted outdoors by a resident in their respective yard area.	Two (2) days every thirty (30) consecutive days	Twelve (12) times per year	All residential zoning districts
On-Site Estate Auctions	Two (2) days	One (1) per year	All zoning districts
Other temporary recreational or entertainment related events or activities such as fairs or concerts.	One (1) day except fourteen (14) days for an annual event.	One (1) per month for one (1) day events; one (1) per year for fourteen (14) day events.	All non-residential zoning districts.
Temporary relocation of manufactured housing for displaced persons as a result of natural or manmade disaster	Eighteen (18) months unless authorized by City Council	None	Within a designated disaster relief area.
Mobile food vendor	365 days	Annually	C-1, C-2, & M-1

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Section 2. This ordinance shall become effective upon its adoption.

Adopted this the 17th day of August 2010.

Stephen R. Little
Mayor

ATTEST:

J. Robert Boyette
City Manager/ Clerk

Ordinance Number: O-10-08-17-2

Council Member Clark stated that he would also be keeping an eye on this matter.

PUBLIC HEARING – ZONING MAP AMENDMENT – ASSIGN ZONING TO MCDOWELL COUNTY SCHOOLS AND CITY PROPERTIES ON LUKIN STREET:

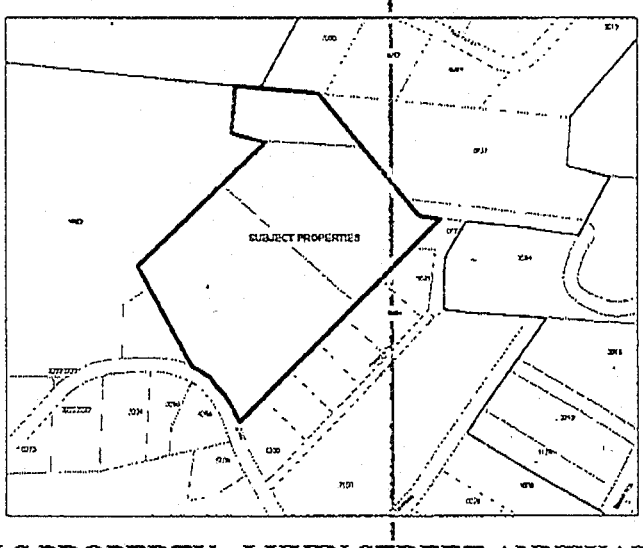
Mayor Little opened the Public Hearing.

Planning and Development Director Heather Cotton advised that the Planning Board voted unanimously on August 5 to recommend that Council assign O-I Office and Institutional zoning to two annexation areas on Lukin Street, including City owned property and property owned by McDowell County Schools. These annexation areas took effect on July 31, 2010.

Ms. Cotton stated that the O-I zoning would be consistent with the School use and adjacent property owned by the McDowell Hospital.

There were no citizens present to discuss this item.

Mayor Little closed the Public Hearing.



Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Owenby, Council voted unanimously to adopt the following Ordinance assigning O-I Office and Institutional zoning to annexation areas located off of Lukin Street:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
ASSIGN ZONING TO CITY PROPERTY AND MCDOWELL COUNTY SCHOOLS PROPERTY - LUKIN STREET ANNEXATION

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to include the McDowell County Schools/Lukin Street Annexation Territory and the City of Marion Property Annexation Territory, as adopted by City Council Ordinance Numbers O-10-07-20-1 and O-10-07-20-2, zoning the area as O-I Office Institutional Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

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Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing July 1, 2010.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective August 17, 2010.

Adopted this the 17th day of August 2010.

Stephen R. Little
Mayor

ATTEST:

J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-10-08-17-1

PUBLIC APPEARANCE – SMITHSON MILLS – DISCUSS POULTRY PROCESSING FACILITY OFF OF HIGHWAY 226 SOUTH: Mr. Smithson Mills appeared before Council to discuss the poultry processing facility to be built by McDowell County next to the Ag Barn off of Highway 226 South.

Mr. Mills presented Council with an update on the project. He said that the facility will process birds and rabbits for small scale producers who have no access to slaughter facilities. The facility will increase the ability of these small producers to create income.

Mr. Mills stated that approximately $900,000 in grant funds from the North Carolina Rural Center and other agencies have been dedicated to this project. Bids have been received and construction can begin in a few weeks, with an anticipated completion date of early 2011.

Mr. Mills reported that the project has no money to cover the more than $19,000 the City will charge for water and sewer connection fees. He asked Council to give the facility at least a six month grace period to begin making payments on the water and sewer connection, under the City's adopted payment plan for business and industrial utility connections.

Council Member Clark stated that the Rural Center has given grant money for utility connection fees in the past. Mr. Mills advised that the Rural Center would not allow such a use of funds this grant cycle.

The City Manager advised that, under previously adopted Council policy, the City can finance a connection fee of this dollar range for up to four years.

Mayor Little stated that he would hope that Council would allow some flexibility for this unique situation and grant the facility a one year delay in beginning payments on the water and sewer connection on the condition that the utility connections are fully paid within the prescribed four year time period.

Upon a motion by Council Member Doggett, seconded by Council Member Martin, Council voted unanimously to grant the McDowell County Poultry Processing Pilot Plant off of Highway

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226 South a one year delay, until August 1, 2011, to begin making payments on the water and sewer connections, on the condition that the utility connections are fully paid no later than August 1, 2014.

Mayor Pro Tem Owenby asked what would happen if the facility fails. Mr. Mills stated that several grant agencies have confidence that the project is viable and that the facility will not fail.

Council Member Cuthbertson stated that his one concern would be to make sure grease from the facility does not become a problem for the City's Wastewater Treatment Plant. Mr. Mills described the grease trap that would be installed at the facility to prevent grease from clogging up wastewater lines.

Council Member Martin asked if there would be a smell from the facility. Mr. Mills stated that the facility would not emit odors and, fortunately, had no residential neighbors, excepting the Minimum Security Prison.

RECOGNITION OF BOY SCOUT: Mayor Little stated that he would like to take a moment to welcome A Boy Scout, Will Seaman, who was present for the meeting. Mayor Little advised that Will is a member of Boy Scout Troop 805 and is working on merit badges for his Eagle Scout designation. Mayor Little thanked Will for coming to the meeting.

PUBLIC APPEARANCE – CHRIS REVIS – THE REVIS GROUP: Mr. Chris Revis appeared before Council and stated that the last time he spoke with Council, it had been agreed that he would produce an economic development video for the City website.

Mr. Revis presented a preview of an economic development video featuring Ms. Nancy Spencer talking about the benefit of running hometown, small businesses in Marion.

Mr. Revis stated that this is not a finished product, but just something he wanted to show to see if this is the direction Council wants to go with the video. He proposed that other film be shot with other local businesses, perhaps to include a local industry and a nationally known local business.

Mayor Little stated that the video looks good to him.

Council Member Cuthbertson asked how many of these videos the City have on its website.

Mr. Revis stated that there would be three or four such videos.

Council agreed by consensus to give Mr. Revis its approval for the concept of the economic development videos.

Mr. Revis said he would be working with the City Manager on this project.

PRESENTATION OF CERTIFICATE FROM U.S. CENSUS BUREAU: The City Manager stated that the U.S. Census Bureau recently sent a letter and a certificate, thanking the City for its help with the 2010 Census. The Census numbers will hopefully be available sometime in early 2011.

The City Manager called on Planning and Development Director Heather Cotton to come before Council and presented Ms. Cotton with the certificate, advising that Ms. Cotton had to put up with a lot during this process and deserves all the credit for the hard work that went into this lengthy process.

Mayor Little and Council Members thanked Ms. Cotton for her hard work with the 2010 Census.

AA.000000884 (24)

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present.

CONSIDER ADOPTION OF ORDINANCES TO BEGIN CONDEMNATION PROCEDURES ON VARIOUS DILAPIDATED HOUSES: Planning and Development Director Heather Cotton advised that, pursuant to Part 6, Article 19, Chapter 160A of the N.C. General Statutes, the Planning and Development Services Department is requesting authority to take action to demolish or have rehabilitated structures located on properties deemed by the City's Building Inspector to be a health and safety hazard by creating dangerous conditions that constitute a threat to children, frequent use by vagrants, conducive to criminal activity, and/or create a fire hazard.

Ms. Cotton presented Council with a current list of dilapidated/abandoned structures located throughout the City, including those that have been mitigated and those included in the department's request (yellow). Ordinances and supporting documents for each of the subject properties were included for City Council review.

The following properties were proposed for condemnation procedures:

1711.05-27-3773 – 150 Perry Street
1701.14.23.9290 – 175 Ridley Rd (identified by the Fire Department as a possible training burn location)
1701.14-33-1627 – 107 Parker Dr. (identified by the Fire Department as a possible training burn location)
1712-17-12-5083 – 32 Circle Lane CL

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to approve the following Ordinances to begin the condemnation process on properties listed above:

CITY OF MARION
ORDINANCE CONCERNING
PARTICULAR ABANDONED STRUCTURES
150 PERRY STREET

WHEREAS, on the 21st day of January, 2003, the City of Marion enacted an Ordinance pursuant to and in compliance with Part 6, Article 19, Chapter 160A of the North Carolina General Statutes;

WHEREAS, said Ordinance was amended on the 4th day of April, 2006 to change the public officer designated to exercise powers of said Ordinance;

WHEREAS, this Ordinance provides for the repair, closure or demolition of any abandoned structure which the City Council finds to be a health or safety hazard as a result of the attraction of insects, rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities;

NOW, THEREFORE, the City of Marion, by action of the City Council, **HEREBY ORDAINS** the following:

Section 1. That the City Council finds as a fact that one or more abandoned structures located on the real property which is located within the corporate limits of the City of Marion as herein below described as 150 Perry Street (formerly 923 Perry St.), Marion, McDowell County, North Carolina, Tax ID 1711.05-27-3773, and as further described in the Warranty Deed recorded in Book 898, Page 401 of the McDowell County Register of Deeds and attached hereto as Exhibit A.

Section 2. That the City Council finds as a fact that the abandoned structures(s) referred to above constitutes a health and safety hazard as a result of the attraction of insects, rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities; and

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Section 3. That the public officer named in the Ordinance adopted on the 21st day of January 2003, as amended on the 4th day of April 2006, which governs hazardous abandoned structures, shall carry out the provisions and procedures contained therein.

ADOPTED THIS the 17th day of August, 2010

Stephen R. Little
Mayor

ATTEST:

J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-10-08-17-3

CITY OF MARION
ORDINANCE CONCERNING
PARTICULAR ABANDONED STRUCTURES
175 RIDLEY STREET

WHEREAS, on the 21st day of January, 2003, the City of Marion enacted an Ordinance pursuant to and in compliance with Part 6, Article 19, Chapter 160A of the North Carolina General Statutes;

WHEREAS, said Ordinance was amended on the 4th day of April, 2006 to change the public officer designated to exercise powers of said Ordinance;

WHEREAS, this Ordinance provides for the repair, closure or demolition of any abandoned structure which the City Council finds to be a health or safety hazard as a result of the attraction of insects, rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities;

NOW, THEREFORE, the City of Marion, by action of the City Council, **HEREBY ORDAINS** the following:

Section 1. That the City Council finds as a fact that one or more abandoned structures located on the real property which is located within the corporate limits of the City of Marion as herein below described as 175 Ridley Street (formerly 169 Ridley St.), Marion, McDowell County, North Carolina, Tax ID 1701.14-23-9290, and as further described in the Warranty Deed recorded in Book 454, Page 159 of the McDowell County Register of Deeds and attached hereto as Exhibit A.

Section 2. That the City Council finds as a fact that the abandoned structures(s) referred to above constitutes a health and safety hazard as a result of the attraction of insects, rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities; and

Section 3. That the public officer named in the Ordinance adopted on the 21st day of January 2003, as amended on the 4th day of April 2006, which governs hazardous abandoned structures, shall carry out the provisions and procedures contained therein.

ADOPTED THIS the 17th day of August, 2010

Stephen R. Little
Mayor

ATTEST:

J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-10-08-17-4

AA.000000886 (24)

CITY OF MARION
ORDINANCE CONCERNING
PARTICULAR ABANDONED STRUCTURES
32 CIRCLE LANE

WHEREAS, on the 21st day of January, 2003, the City of Marion enacted an Ordinance pursuant to and in compliance with Part 6, Article 19, Chapter 160A of the North Carolina General Statutes;

WHEREAS, said Ordinance was amended on the 4th day of April, 2006 to change the public officer designated to exercise powers of said Ordinance;

WHEREAS, this Ordinance provides for the repair, closure or demolition of any abandoned structure which the City Council finds to be a health or safety hazard as a result of the attraction of insects, rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities;

NOW, THEREFORE, the City of Marion, by action of the City Council, **HEREBY ORDAINS** the following:

Section 1. That the City Council finds as a fact that one or more abandoned structures located on the real property which is located within the corporate limits of the City of Marion as herein below described: 32 Circle Lane (CF), Marion, McDowell County, North Carolina, Tax ID 1712.17-12-5083 and as attached hereto as Exhibit A.

Section 2. That the City Council finds as a fact that the abandoned structures(s) referred to above constitutes a health and safety hazard as a result of the attraction of insects, rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities; and

Section 3. That the public officer named in the Ordinance adopted on the 21st day of January 2003, as amended on the 4th day of April 2006, which governs hazardous abandoned structures, shall carry out the provisions and procedures contained therein.

ADOPTED THIS the 17th day of August, 2010

Stephen R. Little
Mayor

ATTEST:
J. Robert Boyette
City Manager/Clerk

Ordinance Number: 10-08-17-6

CITY OF MARION
ORDINANCE CONCERNING
PARTICULAR ABANDONED STRUCTURES
107 PARKER DRIVE

WHEREAS, on the 21st day of January, 2003, the City of Marion enacted an Ordinance pursuant to and in compliance with Part 6, Article 19, Chapter 160A of the North Carolina General Statutes;

WHEREAS, said Ordinance was amended on the 4th day of April, 2006 to change the public officer designated to exercise powers of said Ordinance;

WHEREAS, this Ordinance provides for the repair, closure or demolition of any abandoned structure which the City Council finds to be a health or safety hazard as a result of the attraction of insects, rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities;

NOW, THEREFORE, the City of Marion, by action of the City Council, **HEREBY ORDAINS** the following:

Section 1. That the City Council finds as a fact that one or more abandoned structures located on the real property which is located within the corporate limits of the City of Marion as herein below described: 107 Parker Dr, Marion, McDowell County, North Carolina, Tax ID 1701.14-33-1627 and as attached hereto as Exhibit A.

AA.000000887 (24)

Section 2. That the City Council finds as a fact that the abandoned structures(s) referred to above constitutes a health and safety hazard as a result of the attraction of insects, rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities; and

Section 3. That the public officer named in the Ordinance adopted on the 21st day of January 2003, as amended on the 4th day of April 2006, which governs hazardous abandoned structures, shall carry out the provisions and procedures contained therein.

ADOPTED THIS the 17th day of August, 2010

Stephen R. Little
Mayor

ATTEST:

J. Robert Boyette
City Manager/Clerk

Ordinance Number: 10-08-17-5

CONSIDER APPROVAL OF CITY PARTICIPATION IN NC WATERWARN: The City Manager stated that as shown in the information presented to Council, the N.C. League of Municipalities (NCLM) is recommending that all public water suppliers join NC WaterWARN, a State-wide mutual aid process for dealing with water utility related emergencies. The City of Marion previously signed a State-wide mutual aid compact, but this organization would focus on utility issues.

The City Manager stated that NC WaterWARN is something that the NCLM is pushing and there is no urgency. The City Manager stated that he just wanted to introduce the request to Council.

Council Member Clark asked that we Council postpone action on this item until the proposed agreement can be reviewed in more detail. Council agreed by consensus to postpone action on this matter until an unspecified future date.

CONSIDER ADVISORY BOARD APPOINTMENTS: The City Manager advised that, as previously reported, there was one vacancy on the Tree Board for a term to expire on June 30, 2013, due to Pat Brown not being willing to be reappointed. However, Ms. Brown is now willing to be reappointed. Therefore, the staff recommendation would be to reappoint Pat Brown to a three year term on the Tree Board, to expire on June 30, 2013.

Upon a motion by Council Member Clark, seconded by Council Member Cuthbertson, Council voted unanimously to reappoint Ms. Pat Brown to a three year term on the Tree Board, said term to end June 30, 2013.

The City Manager reported that the Planning Board/Board of Adjustment/Historic Preservation Commission has one Regular Member slot that is vacant for a term to expire on June 30, 2013. Planning and Development Director Heather Cotton is checking with Council's first preference for this position and will hopefully have an answer in the near future.

The City Manager stated that, if one of the Alternate Members moves up to a Regular Member slot, the Planning Board will have two Alternate Member vacancies. He said he checked with the people identified by Council at the last meeting as possible candidates for Alternate Member slots. Two of the people respectfully declined serving, but Ms. Jane Brown stated that she would be willing to serve. The City Manager advised that Ms. Brown stated that she previously served on the Planning Board many years ago.

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Upon a motion by Council Member Cuthbertson, seconded by Mayor Pro Tem Owenby, Council voted unanimously to appoint Ms. Jane Brown to the Planning Board/Board of Adjustment/Historic Preservation Commission as an Alternate Member, said term to expire on June 30, 2013.

CONSIDER ADOPTION OF RESOLUTION – AUTHORIZING THE SALE OF PROPERTY OWNED BY THE CITY ON WEST HIGH STREETS BY NEGOTIATED OFFER AND UPSET BID: The City Manager advised that on August 9, the City received a written offer from Mr. Marco Reyes of 93 West Wilhemenia Street to purchase the City owned property on West High Street for $1,000. The property is 0.30 acres in size and has 103 feet of street frontage. The City acquired this property, along with three other parcels, from Hill Evans several years ago.

The City Manager reported that, on August 10, the City received a written offer from Mr. Guy Jackson to purchase the same property on West High Street, plus two other parcels the City owns on West Grayson Street and one parcel the City owns off of West High Street for $2,000. These four parcels total 1.84 acres and represent the remainder of property offered for sale by the City, other than the lot on West Yancey Street. Mr. Jackson also asked that the City give him preference, when possible to dump fill dirt and debris, as allowed by law, on these properties, to build them up for future productive use.

The City Manager stated that he had prepared resolutions to accept both offers, but would recommend adoption of the resolution to accept Mr. Jackson's offer, since it involves more money and would rid the City of three parcels that would be difficult to sell, given their topography.

Upon a motion by Mayor Pro Tem Owenby, seconded by Council Member Cuthbertson, Council voted unanimously to adopt a the following Resolution authorizing the sale of four parcels of property that are approximately 1.84 acres in size, owned by the City of Marion and located on West High Street and West Grayson Street to Mr. Guy Jackson for $2,000, subject to publication of the notice of sale and acceptance of upset bids:

Resolution Authorizing the Sale of Certain Property Owned by the City of Marion by Negotiated Offer and Upset Bid

WHEREAS, the City Council of the City of Marion desires to dispose of certain surplus property of the City; and

WHEREAS, N.C.G.S. 160A-269 authorizes a city to convey by negotiated offer and upset bid any real or personal property; and

WHEREAS, Mr. Guy Jackson has submitted a bid in the amount of $2,000 for the purchase of four parcels of property that are approximately 1.84 acres in size, are owned by the City of Marion and are located on West High Street and West Grayson Street (McDowell County Parcel Identification Numbers 1701.18-22-5263, 1701.18-22-5387, 1701.14-22-5595 and 1701.17-21-2976).

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

1. The four parcels owned by the City of Marion on West High Street and West Grayson Street (McDowell County Parcel Identification Numbers 1701.18-22-5263, 1701.18-22-5387, 1701.14-22-5595 and 1701.17-21-2976) that are approximately 1.84 acres in size are hereby declared to be surplus to the needs of the City of Marion.

2. The City Council accepts the offer of Mr. Guy Jackson to purchase the above described property for $2,000, subject to the upset bid process being followed as required by N.C.G.S. 160A-269.

3. The City Clerk shall notify Mr. Jackson of the acceptance of this offer, receive a five percent bid deposit from the bidder, and cause a notice of this resolution to be published in accordance with G.S. 160A-269. Such notice shall state that prospective bidders have ten days from the date the notice is published to offer an upset bid, pursuant to G.S. 160A-269.

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4. Once the upset bid process is completed, in accordance with G.S. 160A-269, the City Manager is designated to dispose of the above described property to the bidder selected by City Council, for a minimum price of $2,000.

Adopted this the 17th day of August, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-10-08-17-3

SCHEDULE DATE FOR CITY COUNCIL PLANNING SESSION: The City Manager stated that Council had typically held Planning Sessions every few months and wanted to see if Council wished to hold a Planning Session sometime in September.

Upon a motion by Council Member Cuthbertson, seconded by Council Member Martin, Council voted unanimously to schedule the next City Council Planning Session for Tuesday, September 28 at 6:00 P.M. at City Hall.

DISCUSSION OF PLANS/SCHEDULE FOR MARION 101 CITIZENS ACADEMY: The City Manager advised that, as discussed at a Council Planning Session this past Spring, the City is now ready to launch a citizens academy for City residents and business owners. The academy is entitled "Marion 101." A proposed news release and schedule about the class was presented to Council Members. This information was based heavily on a similar program started last year in Newton.

The City Manager said that the proposal calls for the academy to be held on seven consecutive Thursdays from September 16 until October 28. Each session would begin at 6:30 p.m. and end by 9:00 p.m., if not earlier. The sessions would include overviews and tours of City facilities and services.

The City Manager stated that he would propose capping the class at 25 people. The City will bus people to different locations on as many as four of the sessions. The YMCA has agreed to provide transportation for class participants in their large bus and only charge their actual costs for operation of the bus and to pay the bus driver.

It was the consensus of Council to begin seeking participants and move forward with the academy.

CITY MANAGER REPORTS: The City Manager gave a brief report on current projects.

The City Manager advised that, in early August, the DOT contractor completed work on the installation of a sidewalk on West Henderson Street between Wilhemenia Street and Horton's Store. DOT has also recently upgraded the traffic signals at Fort and Logan Streets and installed pedestrian crossing signals, as requested by the City, First Baptist Church and the First Baptist Church Children's Center.

The City Manager advised that City property tax bills were mailed on August 4, earlier than usual and less than one week after the County's tax bills were mailed. The City Manager commended

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Tax Collector Claudia Hill who has worked extremely hard to get the tax information from the County early this year and to make all necessary corrections so the bills could be mailed early.

The City Manager stated that the City has been working with the YMCA on their Community Healthy Living Index (CHLI) assessments. Dean Ollis, Debi Sherlin and Tammy Rose assisted the YMCA with the community assessment in Eastfield. Council Member Doggett and the City Manager will be working on the Garden Street community assessment on August 23. Dean Ollis and the City Manager will help with the West Marion community assessment later this month. Other community and workplace assessments are also planned. These assessments will allow the YMCA to complete a report that will be a snapshot of health and fitness in the community and which can help with future grant applications and identifying opportunities for positive change.

The City Manager advised that, as previously reported, Marion will receive exhibits from the American Veteran Traveling Tribute as part of a McDowell County Salute to Veterans Celebration Wednesday, May 11 through Monday, May 16. The exhibits include an 80 percent size replica of the Vietnam Memorial Wall, the Cost of Freedom Memorial, 911 Memorials and other exhibits and tributes. The preliminary plan calls for the exhibits to first travel to the High School football field on Wednesday, May 11 for opening ceremonies, then to travel by motorcade down the Five Lane and Main Street to the Courthouse Lawn for a wreath laying ceremony, at which City, County, State and Federal elected officials would be invited to speak and finally travel to the YMCA soccer fields, where the exhibits will remain until Monday, May 16. A committee has been formed to coordinate the event and is working out the plans for the event. The City Manager stated that he would continue to attend the committee meetings and will advise as more information is received.

COUNCIL MEMBER COMMENTS:

Council Member Clark stated that this weekend is the Bluegrass Festival at Tom Johnson's Camping Center, which should bring many people into the community and create a boost to the local economy.

Council Member Martin stated that the dilapidated house on Ridley Street next to the West Marion Park, for which Council approved starting condemnation procedures earlier in the agenda, was owned by Mr. Carl Forney, who recently passed away. Council Member Martin asked that staff be sensitive to Ms. Forney during this time.

Council Member also mentioned that he had received reports of odors coming from the Finley Road pump station behind CVS Pharmacy on North Main Street. Council Member Clark stated that he also received such a complaint from CVS. The City Manager stated that City staff had been working on this issue, but would consult the City's consulting engineer, McGill Associates.

Council Member Cuthbertson stated that the three lane section on Fleming Avenue at the Marion Elementary School entrance looks great and asked if the City was now ready to put up flexible delineators at the location to prohibit left turns into the School parking lot from Fleming Avenue. Public Works Director Chris Hollifield reported that the delineators were being ordered. Council Member Cuthbertson also suggested that "New Traffic Pattern" signs be placed in both directions on Fleming Avenue. The City Manager stated that he and Mr. Hollifield had discussed these signs that morning and that the signs would be in place by the time school started on August 25.

Council Member Cuthbertson reported that the Street Committee recently looked at a drainage issue affecting Oakwood Drive. The City Manager stated that City staff was waiting to hear from Duke Energy, which had created the drainage problem.

Council Member Doggett thanked Council for their support with the High School LINC program and the concept of a Youth Advisory Council.

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ADJOURNMENT: Upon a motion by Council Member Cuthbertson , seconded by Council Member Martin, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, September 7, 2010 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Cecil Owenby, Council Members A. Everette Clark, Lloyd Cuthbertson, Juanita Doggett and Billy Martin.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Harriett Thomas, CPA, Finance Director; Chris Hollifield, Public Works Director; Mark Brooks, Police Chief; Ray McDaniel, Assistant Fire Chief; Kevin Owenby, Fire Inspector; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Jane McDaniel, 96 Jay Dan Drive, Marion, NC; Joe Gorecki, 406 Yancey Road, Marion, NC; Brady and Mary Ann Brooks 20 Meredith Lane, C-1 Marion, NC; Ginger and Harper Webb, 468 Yancey Road, Marion, NC; Becky Gorecki 20 Meredith Lane, Marion, NC; Kimberly, Emma and Pilfer Owenby, 1761 Nix Creek Road, Marion, NC; Jeff Mast, Banner Greenhouse, Nebo, NC; Jacob Gorecki 118 Baxter Lane, Nebo, NC.

OPENING OF MEETING: Mayor Little the meeting with a moment of silence.

CITIZEN OF THE MONTH – SELECTED BY COUNCIL MEMBER JUANITA DOGGETT: Council Member Doggett selected the Citizen of the Month for September 2010.

Becky Gorecki

Council Member Doggett stated that she had known Becky Gorecki for about ten years. Over those years, she had witnessed Becky's humor, her joy and sorrows, and her passion for helping others.

Becky moved to Marion from Moore County in 1963 with her parents Brady and Mary Ann Brooks. Becky has three children, Ginger Webb, Jacob and Joseph Gorecki and four grandchildren.

Becky started working with the Health Department in 1980. She is currently the Nursing Supervisor for Rutherford and Polk counties and for McDowell Home Health.

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Council Member Doggett stated that she nominated Becky for Citizen of the Month for the following reasons.

Becky previously served on the Head Start Board, as Chairperson of the Social Services Board, on the CAP-BA Board and as a member of the United Way Board. Becky was also a foster parent for six years.

Becky is presently serving on the Senior Center Focal Point Advisory Committee, is a part of the First Baptist Mission Team to Belize, serves on the Red Cross Board, the Good Samatarian Clinic Board and also volunteers herself and time with the clinic.

Mayor Little, Council Members, family members and friends all shared kind words about Ms. Gorecki.

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Member Owenby, seconded by Council Member Clark, Council voted unanimously to approve the consent agenda, excluding item C for further discussion, as follows:

A. Approval of Minutes – August 17, 2010 Regular City Council Minutes

B. Receive Certification of Mailing

CERTIFICATION OF MAILING OF SUGAR HILL ROAD ANNEXATION AREA – 2010 NOTICES

I, J. Robert Boyette, City Manager of the City of Marion, certify that notices were mailed by First Class mail on August 19, 2010 to all persons owning property in the City of Marion's Sugar Hill Road Annexation Area – 2010.

Signed this the 19th day of August, 2010.

J. Robert Boyette
City Manager
City of Marion

DISCUSSION – APPROVE BUDGET ORDINANCE AMENDMENTS: Council Member Clark asked that this item be discussed separately from the Consent Agenda. Council Member Clark asked staff to explain why the Budget Ordinance Amendments for the Hospital Pump Station Project including all revenues and expenditures from the project being reduced to zero.

Finance Director Harriett Thomas advised that the Budget Ordinance Amendment account for the closeout of the Hospital Pump Station project. She said that the money was spent for the project, but the revenues and expenditures must be reduced to zero to close out the project, else the project would continue to be shown on the City's books.

Council Member Clark said he just wanted it to be clear that the money was spent on the project and the project was completed.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following Budget Ordinance Amendments.

C. Approve Budget Ordinance Amendments

CITY OF MARION, NORTH CAROLINA

AA.000000893 (24)

2010-2011 BUDGET ORDINANCE
(First Amendment)

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

Section 1. That the Budget Ordinance for the City of Marion, North Carolina for the fiscal year 2010-11 as adopted by the Marion City Council on the 15th day of June, 2010 is hereby amended as follows:

GENERAL FUND

a. General Fund Expenditures, Police, Account Number 10-510-5100, Ammo and Guns is increased from $10,500 to $13,650.

b. General Fund Expenditures, Police, Account Number 10-510-7400, Capital Outlay is increased from $4,500 to $123,284.

c. General Fund Expenditures, Non-departmental, Account Number 10-660-9000, Transfer to General Fund Capital Projects is increased from $20,000 to $100,000.

d. General Fund Revenues, Account Number 10-313-1000, Hold Harmless Revenue is decreased from $61,000 to $55,248.

e. General Fund Revenues, Account Number 10-321-0000, Privilege License Revenue is increased from $36,000 to $38,000.

f. General Fund Revenues, Account Number 10-334-1500, Bullet Proof Vest Grant Revenue is increased from $-0- to $1,147.

g. General Fund Revenues, Account Number 10-334-1700, State Controlled Substance Revenue is increased from $-0- to $35,000.

h. General Fund Revenues, Account Number 10-341-0500, Refunds and Reimbursements is increased from $1,200 to $6,670.

i. General Fund Revenues, Account Number 10-399-0000, Fund Balance Appropriated is increased from $525,775 to $689,844.

WATER AND SEWER CAPITAL PROJECTS FUND

a. Water and Sewer Capital Project Fund Expenses, Account Number 31-816-0400, HPS – Engineering Design, is decreased from $28,300 to $-0-.

b. Water and Sewer Capital Project Fund Expenses, Account Number 31-816-0450, HPS – Legal/Administrative, is decreased from $2,500 to $-0-.

c. Water and Sewer Capital Project Fund Expenses, Account Number 31-816-4400, HPS – Property Acquisitions / Easements, is decreased from $2,500 to $-0-.

d. Water and Sewer Capital Project Fund Expenses, Account Number 31-816-4500, HPS – Construction Costs, is decreased from $260,660 to $-0-.

e. Water and Sewer Capital Project Fund Expenses, Account Number 31-816-4600, HPS – Construction Contingency, is decreased from $26,170 to $-0-.

f. Water and Sewer Capital Project Fund Expenses, Account Number 31-816-4700, HPS – Construction Administration, is decreased from $16,000 to $-0-.

g. Water and Sewer Capital Project Fund Expenses, Account Number 31-816-4800, HPS – Testing During Construction, is decreased from $2,000 to $-0-.

h. Water and Sewer Capital Project Fund Revenues, Account Number 31-370-0300, Rural Center Grant - HPS, is decreased from $225,420 to $-0-.

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i. Water and Sewer Capital Project Fund Revenues; Account Number 31-385-0400, Transfer from Water & Sewer – HPS, is decreased from $112,710 to $-0-.

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 7th day of September 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–10–09–07–1

EMPLOYEE RECOGNITION – KEVIN OWENBY: Asssistant Fire Chief Ray McDaniel stated that Fire Chief Jim Neal could not be present for this meeting due to a prior engagement.

Assistant Chief McDaniel stated that Kevin Owenby joined the Marion Fire Department on February 15, 1990 as a volunteer firefighter. Mr. Owenby was fired on September 24, 2004 as the City's first full-time Fire Inspector and has conducted 92 hours of classroom time to become a level three fire inspector. A level three fire inspector is the highest level possible in North Carolina and includes the capability of inspecting hazardous facilities, institutional facilities, high rise buildings, and any other commercial buildings.

Assistant Chief McDaniel reported that fire prevention and code enforcement has greatly reduced the number of deaths and the amount of property damage to people and business throughout the United States in the last twenty years. Fire inspection, code enforcement, fire prevention, and preplanning are just as important as having the proper equipment in saving lives and property. He stated that the Fire Department would rather prevent fires than fight them and Kevin Owenby is a key to preventing fires in the City.

Assistant Chief McDaniel presented Mr. Owenby with a certificate that read as follows:

North Carolina Code Officials
Qualification Board
STANDARD CERTIFICATE
This is to certify that
KEVIN WENDELL OWENBY

HAVING GIVEN SATIFFACTORY EVIDENCE SHOWING ALL THE NECESSRY QUALIFICATIONS WITH REGARD TO CHARACTER, EDUCATION, AND EXPERIENCE AS REQUIRED BY THE ACT OF THE GENERAL ASSEMBLY OF JUNE 13, 1977, AS AMENDED, WAS EXAMINED – DULY CERTIFIED - AWARDED THIS CERTIFICATE – AND IS HEREBY AUTHORIZED TO SERVE WHILE EMPLOYED BY A CITY, A COUNTY OR THE SATE AS

FIRE INSPECTOR LEVEL III
IN THE STATE OF NORTH CAROLINA
IN TESTIMONY WHEREOF: THE CODE OFFICIALS QUALIFICATION BOARD ISSUES THIS CERTIFICATE UNDER THE SEAL OF THE BOARD AND SIGNATURES OF THE CHAIRMAN AND SECRETARY.

THIS 27TH DAY OF JULY, 2010

CEO ID Nmumber: 10726

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20186

CERTIFICATE NUMBER Attest: SECRETARY CHAIRMAN

Mayor Little, Council Members and the City Manager all congratulated Mr. Owenby on this certification and thanked him for his service to the City.

PRESENTATION – DOWNTOWN HANGING BASKETS: Public Works Director Chris Hollifield stated that he and the City's contracted landscaper Lawrence Moore had studied options for improving downtown hanging baskets and saving money as well. After considering pricing and quality, Mr. Hollifield said that he and Mr. Moore determined that Banner Greenhouses will offer the City a better price and much better quality than our the City's current contracted greenhouse (Gina's Greenhouse).

Jeff Mast of Banner Greenhouses was present to discuss options for the hanging baskets so they can begin working on them in preparation for next spring. Mr. Mast showed options for the baskets and said that Banner would check on the baskets throughout the year as part of the contract.

After discussion, Mayor Little and Council Members agreed by consensus for the City to contract with Banner Greenhouses for the downtown hanging baskets starting in 2011 and to go with Combo #2 as shown below.

BANNER GREENHOUSES

City of Marion
Spring 2011
20" Coco Baskets

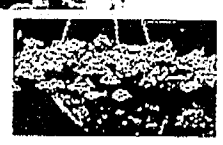
Combo #1



***Dipladenia Rio** – Flowers all summer long, great in hot humid climates.

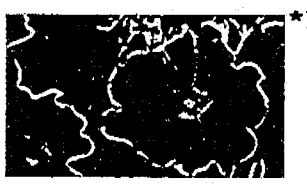


***Angelonia Angel Mist Spreading** - Tough low-maintenance, thrives through extreme heat, humidity, and drought. Works well in every sunny setting.

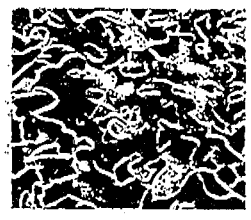


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Combo #2



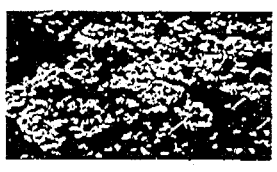
***Petunia Sanguna Lipstick** - Superb bloom coverage makes hanging baskets overflow with color.



***Ipomoea Marguerite** – Bright chartreuse color provides light color contrast in mixed containers.

Combo #3

***Geranium Caliente Coral** - The Calientes are an Ivy/Zonal cross. This series has excellent mounding growth habit that makes them very versatile plants in baskets.





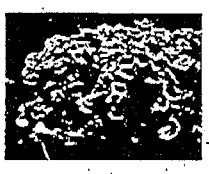


*** Euphorbia Breathless Blush** – Heat tolerant, displays a showy mass of self-cleaning flowers all Summer.

Combo #4

- **Lantana Bandana Cherry Sunrise** - The Bandana™ series is in a Lantana class of its own. Larger flowers and a superior uniform mounded habit.





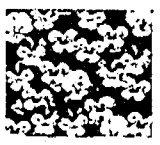
*** Vinca Cora Cascade Magenta** - Cora Cascade is a survivor and thrives in heat and humidity. Super large blooms cover the plant – no bald spots! Vigorous trailing plants fill baskets beautifully.

Fall Combo

- **Viola Endurio**







Unique, mounding, spreading habit
Perfect for hanging baskets, with good bloom coverage over the entire plant

PUBLIC COMMENT PERIOD:

There were no unscheduled citizens present for this meeting.

REVIEW/CONSIDER APPROVAL OF WELLNESS INCENTIVE PROGRAM: Finance Director Harriett Thomas advised, that as previously discussed, staff has drafted a proposed Wellness Incentive Program to encourage participation in wellness activities as well as tobacco cessation. Staff is proposing that, effective July 1, 2011, all City employees be charged 10 percent of their medical insurance premium. Five percent of the insurance premium would be discounted by participating in the City's annual Health Fair/blood screening (or by showing proof of an equivalent blood screening by a physician) on or before May 31 of each year and by attending at least two of the City's three scheduled Lunch n' Learn sessions provided on City

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time (or by completing an on-line Health Assessment offered by Cigna in lieu of one of the Lunch n' Learn sessions). Five percent of the insurance premium would be discounted for employees signing affidavits affirming that they are tobacco use free as of July 1, 2011.

The City Manager advised that like the State, if a reasonable number of employees admit their tobacco use and as long as the City does not have reasonable suspicion of tobacco use by employees signing such affidavits stating that they are tobacco use free, staff will not recommend blood tests to determine tobacco use.

Ms. Thomas stated that , as an added incentive, staff would propose to make tobacco cessation the focus of the City's Wellness Program this year, by promoting and hosting tobacco cessation classes in conjunction with the Health Department, and offering to pay up to one-half of the employee's co-pay for prescription tobacco cessation medication or for over-the-counter tobacco cessation products.

The City Manager stated that Council Member Cuthbertson checked with the School System and verified that the State plans to continue offering insurance incentives for employees not using tobacco products, although the State has decided not to contract with an outside company to test employees for tobacco use.

The City Manager advised that other cities and the State have implemented components of the recommended program, but staff has not found a local government combining incentives for tobacco cessation and Wellness Program participation.

Mayor Pro Tem Owenby stressed the need to explain this Plan in detail to employees. The City Manager stated that employees had been told the concept of this Plan and that further education would take place.

Council Member advised that he serves on the North Carolina League of Municipalities Risk Management Services Board that oversees the League's three insurance polls. He stated that more local governments would likely be moving to such incentive plans.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to approve the City of Marion Wellness Incentive Plan as shown below:

WELLNESS INCENTIVE PROGRAM

The City of Marion provides medical insurance to its employees. Recognizing that the key to improving an employee's overall health is by promoting wellness and increasing awareness, the City has provided for its employees a wellness program, "Wellness for Life".

As of July 1, 2011 the City will begin charging each employee 10% of the total medical insurance premium (employee only portion) with the option of discounting that fee. To exercise this option and for an employee to receive a discount, he/she must actively participate in the following program(s) offered through the "Wellness for Life" program.

- To qualify for a 5% discount, the employee must be TOBACCO USE FREE (includes smokeless tobacco) as of July 1, 2011. The employee will be required to submit an affidavit affirming that he/she is tobacco use free. Wellness for Life has made a tobacco cessation program available to all employees.

- To qualify for an additional 5% discount, the employee must participate in the following wellness activities offered through "Wellness for Life".

  a) Complete annual blood screenings done either at the employee annual Health Fair or by a personal physician by or before May 31 of each year. By doing so and upon receipt of verification, the premium will be discounted by 3%.

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b) Attend two Lunch 'n Learn sessions coordinated by the Wellness Program beginning in July of the current fiscal year. For each session attended, an employee will receive a 1% discount, OR

c) In the event an individual is unable to attend one of the Lunch 'n Learn sessions, he/she may complete the online Health Assessment offered through the City's insurance agent, Cigna @ myCigna.com. Complete information on the program is available through the personnel office.

TOBACCO CESSATION PROGRAM

In an effort to assist employees in their long term goal of tobacco use cessation, the City of Marion's wellness program, Wellness for Life, is providing City employees with assistance in accomplishing their goals.

Wellness for Life provides for assistance in the form of a tobacco cessation program. This program offered through the McDowell County Health Department offers employees the option of attending meetings in a group setting where individuals are provided with literature and information to help them through the transition period and to re-learn life without tobacco. This program is offered at no cost to employees. In order to provide an individual program for City employees, a total of eight (8) individuals are needed. However, individuals may attend sessions already provided by the Health Department.

The City will further assist employees financially in reaching these goals. The City's insurance provider, Cigna, will pay the cost of the prescription tobacco cessation aids such as Chantix, etc. The employee pays a co-pay on these prescriptions. Over-the-counter aids are also available with no assistance by insurance. The City will assist employees by paying one half (1/2) of the cost of either the prescription (co-pay) or over-the-counter product. Sufficient verification will need to be provided by the employee. Further details are available through the City Personnel Office.

CONSIDER AWARD OF CONTRACT FOR HIGHWAY 226 SOUTH SEWER EXTENSION: The City Manager advised that as shown on information presented to Council from McGill Associates, the City recently sought bids for the extension of sewer service on Highway 226 South around the Fairview Road/NC 226 South intersection. Bids from six contractors were opened on August 19. The low bid was received from Freestone Construction LLC of Waynesville in the amount of $81,620.00. McGill has worked with the owner of this firm previously and recommended the award of the contract to Freestone Construction LLC.

The bids received were as follows:

Freestone Construction LLC	$ 81,620.00
T & K Utilities, Inc.	83,385.00
Steppe Construction, Inc.	84,912.05
Huntley Construction Co.	94,512.00
Terry Brothers Construction Co., Inc.	115,315.00
Bryant's land & Development Ind.	136,266.01

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Owenby, Council voted unanimously to accept the low bid of Freestone Construction in the amount of $81,620.00 to complete the extension of sewer service on Highway 226 South around the Fairview Road/NC 226 South intersection.

CONSIDER APPROVAL OF CITY PARTICIPATION IN NC WATERWARN: The City Manager advised that, at the August 17 Council meeting, Council Member Clark asked that action not be taken on the NC WaterWARN agreement, due to concerns he had. The City Manager stated Council Member Clark and he later received an e-mail from Ellis Hankins with the N.C. League of Municipalities, advising that this is a good agreement that should create no concerns for municipalities. Council Member Clark advised that he had heard Mr. Hankins talking about another agreement (as referred to in the e-mail from Ellis) and that he has no further objections to the City participating in NC WaterWARN.

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The City Manager presented Council with information about NC WaterWARN stating that the N.C. League of Municipalities is recommending that all public water suppliers join NC WaterWARN, a State-wide mutual aid process for dealing with water utility related emergencies. The City of Marion previously signed the State-wide mutual aid compact, so this agreement appears to be consistent with past practice. There would be no costs to the City and the City would never be compelled to provide mutual aid. After discussion, the City Manager stated that he and the Public Works Director would recommend that Council approve the agreement authorizing the City's participation in NC WaterWARN.

Upon a motion by Council Member Clark, seconded by Council Member Cuthbertson, Council voted unanimously to adopt the following agreement authorizing the City of Marion to participate in NC WaterWARN:

North Carolina Water and Wastewater Agency Response Network Mutual Aid and Assistance Agreement For Water and Wastewater Utilities

This Agreement is made and entered into by public and private Water and Wastewater Utilities in North Carolina that have, by executing this Agreement, manifested their intent to participate in an Intrastate Program for Mutual Aid and Assistance. This Agreement is authorized under Section 160A-318 of the North Carolina General Statutes which provides that public and private Water and Wastewater Utilities may contract with each other to provide mutual aid and assistance in restoring water and sewer in the event of natural disasters or other emergencies.

ARTICLE I. PURPOSE

Recognizing that emergencies may require assistance in the form of personnel, equipment, materials, and supplies from outside the area of impact, the signatory utilities established an Intrastate Program for Mutual Aid and Assistance. Through the Mutual Aid and Assistance Program, Members coordinate response activities and share resources during emergencies whether localized to the utilities or a declared disaster. This Agreement sets forth the procedures and standards for the administration of the Intrastate Mutual Aid and Assistance Program.

ARTICLE II. DEFINITIONS

A. Authorized Official— An employee or officer of a Member that is authorized by the Member's governing board or management to:

- ☐ request assistance;
- ☐ offer assistance;
- ☐ Refuse to offer assistance or;
- ☐ Withdraw assistance under this Agreement.

B. Disaster – An emergency event that reaches a specific financial threshold related to magnitude of loss and property damage.

C. Confidential Information – Information defined NCGS 132-1.2 as confidential information or NCGS 132-1.7 as sensitive public security information.

D. Emergency— An unanticipated and/or sudden natural or manmade event that requires immediate action and is, or is likely to be, beyond the control of the services, personnel, equipment, and facilities of a Mutual Aid and Assistance Program Member.

E. Incident Command System (ICS) – A standardized on-scene emergency management system designed for use for all kinds of emergencies and is applicable to small as well as large and complex incidents. ICS is the combination of facilities, equipment, personnel procedures, and communications operating within a common organization structure, designed to aid in the management of resources during incidents.

F. Indemnity – Security against hurt, loss, or damage. An exemption from incurred penalties or liabilities.

G. Indemintee – A party to this Agreement that is entitled to be indemnified by another party to this Agreement pursuant to the terms of Article X.

H. Indemnitor – A part to this Agreement that is obligated to indemnify another party to this Agreement pursuant to the terms of Article X.

I. Large water and or wastewater utility— A utility that is represented with a population in excess of 10,000.

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J. Member— Any public or private Water or Wastewater Utility that manifests intent to participate in the Mutual Aid and Assistance Program by executing this Agreement.

K. Mutual Aid and Assistance Agreement – A formal agreement among emergency responders to lend assistance across jurisdictional boundaries when required; either by an emergency that exceeds local resources or a disaster

L. National Incident Management System (NIMS)— A national, standardized approach to incident management and response that sets uniform processes and procedures for emergency response operations.

M. The North Carolina Water and Wastewater Agency Response Network (NCWaterWARN) - A network of public and private water and wastewater utilities united under an agreement to provide and receive mutual aid and assistance to signatories to the agreement during emergencies ranging from those that may arise from declared disasters or are specific to a single utility.

N. Period of Assistance— A specified period of time when a Provider assists a Recipient. The period commences when personnel, equipment, materials, or supplies depart from a Provider's facility and ends when the resources return to their facility (portal to portal). All protections identified in the agreement apply during this period. The specified Period of Assistance may occur during response to or recovery from an emergency, as previously defined.

O. Provider— A Member that responds to a request for assistance under the Mutual Aid and Assistance Program.

P. Recipient— A Member who requests assistance under the Mutual Aid and Assistance Program.

1 *Miriam-Webster*. Retrieved August 22, 2007, from Miriam-Webster.com website: http://www.m-w.com/

Q. Small water and or wastewater Utility— A utility is represented with a population less than 10,000.

R. Private Water Utility— An entity that is not a unit of government that owns or operates a water and/or wastewater utility, whether on a for-profit or not-for-profit basis.

S. Public Utility— A unit of government that owns or operates a water and/ or wastewater utility.

ARTICLE III. ADMINISTRATION

The Mutual Aid and Assistance Program shall be administered through the North Carolina Water and Wastewater Agency Response Network (NCWaterWARN) Committee. The purpose of the NC WARN Committee is to provide coordination of the Mutual Aid and Assistance Program before, during, and after an emergency. The NCWaterWARN Committee, under the leadership of an elected Chairperson, shall meet quarterly as deemed necessary by the Chair to address Mutual Aid and Assistance Program issues. The administration of NCWaterWARN will be through the NCWaterWARN Committee. The committee shall consist of a chair and vice chair, an eastern regional section, a western regional section, and (3) At-Large members. The NC WARN Committee shall consist of an eastern regional section with three (3) seats representing large and small public water and wastewater utilities and private water systems. The western regional section shall consistent of three (3) seats representing large and small public water and wastewater utilities and private water systems. Also, there shall be three (3) At-Large seats for additional representatives from either large and small public water and wastewater utilities or private water systems. NC WARN regional sections include the following counties divided into an eastern regional section and a western regional section. The regional sections are divided along the central division regions of NC Department of Environment and Natural Resources (NCDENR). A map of the regional sections is included in Appendix A of this agreement. Eastern Regional Section— Montgomery, Anson, Moore, Richmond, Person, Orange, Chatham, Lee, Hoke, Scotland, Granville, Durham, Wake, Harnett, Cumberland, Robeson, Vance, Warren, Franklin, Johnston, Sampson, Bladen, Columbus, Northampton, Halifax, Nash, Wilson, Wayne, Duplin, Pender, New Hanover, Brunswick, Edgecombe, Greene, Lenoir, Gates, Hertford, Bertie, Martin, Pitt, Craven, Jones, Onslow, Beaufort, Pamlico, Carteret, Hyde, Dare, Washington, Tyrrell, Chowan, Perquimans, Pasquotank, Camden, and Currituck. Western Regional Section— Cherokee, Graham, Swain, Clay, Macon, Jackson, Haywood, Transylvania, Madison, Buncombe, Henderson, Mitchell, Yancey, McDowell, Rutherford, Polk Avery, Burke, Watauga, Caldwell, Cleveland, Ashe, Alleghany, Wilkes, Alexander, Catawba, Lincoln, Gaston, Surry, Yadkin, Iredell, Mecklenburg, Stokes, Forsyth, Davie, Davidson, Rowan, Cabarrus, Stanley, Union, Rockingham, Guilford, Randolph, Caswell, and Alamance. Representatives from large and small public water and wastewater utilities and private utilities shall be elected at the NC WARN Annual Meeting. Election and voting procedures will be described in the NC WARN Operational Procedures.

Under the leadership of the NCWaterWARN Committee Chair, NCWaterWARN Committee Members shall plan and coordinate emergency preparedness and response activities for the Mutual Aid and Assistance Program. The NCWaterWARN Committee Chair (or his/her designee) shall maintain a master list of all members of the Mutual Aid and Assistance Program. The NCWaterWARN Committee shall elect a Chair and a Vice Chair. The first Chair and Vice Chair will serve a two (2) year term and subsequent Chairs and Vice Chairs will serve one (1) year thereafter. The NCWaterWARN Committee shall:

A. Convene an annual meeting for members.

B. Provide for the development and maintenance of a database of all participating utilities through one of the members, sponsor agencies, or participating agencies or associations.

C. Meet as a NCWaterWARN Committee at least quarterly, as needed and at the discretion of the Chair, to address and resolve concerns, create and modify procedures and any additional policy or legal issues related to NCWaterWARN.

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D. Provide for the development and maintenance of a secure website.
E. Include an advisory board in its meetings to provide input based on the expertise of their agency.

The additional responsibilities of the Chair are described throughout the agreement. Those duties will be highlighted in the agreement for review by the NCWaterWARN Committee and the Sponsors. Those duties will be listed together in the protocols. The NCWaterWARN shall have an advisory board that consists of representatives from partner agencies and stakeholders. Representatives to the advisory board from the respective agencies shall be named by those agencies. The advisory board is not a voting member. NCWaterWARN Advisory Board may include at least one representative from the following agencies:

- ☐ North Carolina Department of Environment and Natural Resources Public Water Supply Section
- ☐ North Carolina Department of Environment and Natural Resources Division of Water Quality
- ☐ North Carolina Section of the American Water Works Association and Water Environment Association
- ☐ North Carolina Rural Water Association
- ☐ North Carolina Waterworks Operators Association
- ☐ North Carolina Emergency Management
- ☐ North Carolina League of Municipalities
- ☐ Eastern Water and Wastewater Network
- ☐ Environmental Protection Agency Region IV
- ☐ Department of Homeland Security Protective Security Advisor

Other agencies may be invited to join or have representation on the advisory board at the discretion of the NCWaterWARN Committee.

ARTICLE IV. PROCEDURES

In coordination with other response partner agencies, *the* NCWaterWARN Committee shall develop operational and planning procedures for the Mutual Aid and Assistance Program. These procedures shall be reviewed at least annually and updated as necessary.

ARTICLE V. PRE-EVENT PLANNING

Members shall identify resources available for deployment and develop plans for housing and providing for the necessities and maintenance of personnel and equipment deployed to provide mutual aid and assistance when a request for assistance is made by the member. In addition, Members shall provide training to their response personnel related to:

- ☐ NIMS compliance
- ☐ Mutual aid response protocols
- ☐ Required documentation for providing mutual aid and assistance and for receiving mutual aid and assistance

ARTICLE VI. REQUESTS FOR ASSISTANCE

Member Responsibility: Members shall identify an Authorized Official and alternates, provide contact information including 24-hour access, and maintain resource information made available by the utility for mutual aid and assistance response. In the event of an Emergency, a Member's Authorized Official may request mutual aid and assistance from a participating Member. Requests for assistance can be made orally or in writing. When made orally, the request for personnel, equipment, materials, and supplies shall be prepared in writing as soon as practicable. Requests for assistance shall be directed to the Authorized Official of the participating Member. The Chair will be notified of all activations of the agreement. Specific protocols for requesting aid shall be provided in the required procedures (Article IV). *Response to a Request for Assistance:* After a Member receives a request for assistance, the Authorized Official evaluates whether resources are available to respond to the request for assistance. Following the evaluation, the Authorized Representative shall inform, as soon as possible, the Recipient whether it has the resources to respond. If the Member is willing and able to provide assistance, the Member shall inform the Recipient about the type of available resources and the approximate arrival time of such assistance. *Discretion of Provider's Authorized Official:* Execution of this Agreement does not create any duty to respond to a request for assistance. When a Member receives a request for assistance, the Authorized Official shall have absolute discretion as to the willingness to respond and/or availability of resources. An Authorized Member's decisions on the availability of resources shall be final.

ARTICLE VII. PROVIDER PERSONNEL

National Incident Management System: When providing assistance under this Agreement, the Requesting Utility and Responding Utility shall be organized and shall function under the National Incident Management System if State or Federal preparedness funding is desired.

Control: Provider personnel shall remain under the direction and control of the Provider. The Recipient's Authorized Official shall coordinate response activities with the designated supervisor(s) of the Provider(s). Whenever practical, Provider personnel must be self sufficient for up to 72 hours. *Food and Shelter:* The Recipient shall supply reasonable food and shelter for Provider personnel. If the Recipient is unable to or fails to provide food and shelter for Responding personnel, the Provider's designated supervisor is authorized to secure the resources necessary to meet the needs of its personnel. The cost for such resources should not exceed the State per diem rates for that area without further justification of good faith efforts to secure accommodations within the per diem. The Recipient remains responsible for reimbursing the Provider for all costs associated with providing food and shelter, if such resources are not provided.

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Communication: The Recipient shall provide Provider personnel with radio equipment as available, or radio frequency information to program existing radio, in order to facilitate communications with local responders and utility personnel. *Status:* Unless otherwise provided by law, the Provider's officers and employees retain the same privileges, immunities, rights, duties, and benefits as provided in their respective jurisdictions. *Licenses and Permits:* To the extent permitted by law, Provider personnel who hold licenses, certificates, or permits evidencing professional, mechanical, or other skills shall be allowed to carry out activities and tasks relevant and related to their respective credentials during the specified Period of Assistance. Members should comply with NIMS credentialing where applicable. *Right to Withdraw:* The Provider's Authorized Official retains the right to withdraw some or all of its resources at any time. Notice of intention to withdraw must be communicated to the Recipient's Authorized Official as soon as possible.

ARTICLE VIII. COST REIMBURSEMENT

Unless otherwise mutually agreed in whole or in part, the Recipient shall reimburse the Provider for each of the following categories of costs incurred while providing aid and assistance during the specified Period of Assistance. Such cost may include damage or loss to equipment.
Personnel: Provider personnel are to be paid for assigned duty during a specified Period of Assistance (refer to definition of period of assistance in Article II) according to the terms provided in their employment contracts or other conditions of employment. Either Member may require Provider's personnel to observe a rest period prior to travel back to the Provider's base
of operations to ensure safety of personnel. The Provider designated supervisor(s) must keep accurate records of work performed by personnel during the specified Period of Assistance. Recipient reimbursement to the Provider must consider all personnel costs, including salaries or hourly wages, costs for fringe benefits, and indirect costs. *Equipment:* The Recipient shall reimburse the Provider for the use of equipment during a specified Period of Assistance, including but not limited to, reasonable rental rates, all fuel, lubrication, maintenance, transportation, and loading/unloading of loaned equipment. All equipment shall be returned to the Provider in similar condition to its condition at the time of the request for mutual aid and assistance. As a minimum, rates for equipment use must be based on the Federal Emergency Management Agency's (FEMA) Schedule of Equipment Rates. If a Provider uses rates different from those in the FEMA Schedule of Equipment Rates, the Provider must provide such rates in writing to the Recipient prior to supplying resources. Mutual agreement on rates other than FEMA Schedule of Equipment Rates must be reached in writing prior to dispatch of the equipment. Reimbursement for equipment not referenced on the FEMA Schedule of Equipment Rates must be developed based on actual recovery of costs. If Provider must lease a piece of equipment while its equipment is being repaired, Recipient shall reimburse Provider for such rental costs. *Materials and Supplies:* The Recipient must reimburse the Provider in kind or at actual replacement cost, plus handling charges, for use of expendable or non-returnable supplies. The Provider must not charge direct fees or rental charges to the Recipient for other supplies and reusable items that are returned to the Provider in a clean, damage-free condition. Reusable supplies that are returned to the Provider with damage must be treated as expendable supplies for purposes of cost reimbursement. *Payment Period:* The Provider must provide an itemized bill to the Recipient for all expenses it incurred as a result of providing assistance under this Agreement. The Provider must send the itemized bill to the authorized official not later than ninety (90) days following the end of the Period of Assistance. The Recipient must pay the bill in full on or before the one hundred eightieth (180th) day following the billing date. Unpaid bills become delinquent upon the one hundred eighty-first (181st) day following the billing date, and, once delinquent, the bill accrues interest at the rate of prime, as reported by the *Wall Street Journal,* plus two percent (2%) per annum. *Records* – Each Provider and their duly authorized representatives shall have access to a Recipient's books, documents, notes, reports, papers, and records which are directly pertinent to this Agreement for the purposes of reviewing the accuracy of a cost bill or making a financial, maintenance, or regulatory audit. Each Recipient and their duly authorized representatives shall have access to a Provider's books, documents, notes, reports, papers, and records which are directly pertinent to this Agreement for the purposes of reviewing the accuracy of a cost bill or making a financial, maintenance, or regulatory audit. Such records shall be maintained and made accessible for at least three (3) years or longer where required by law.

ARTICLE IX. DISPUTES

Any claim arising out of or relating to this agreement shall be subject to mediation as a condition precedent to the institution of legal or equitable proceedings by any Member. The parties shall share the mediator's fee and any filing fees equally. Mediation shall be held in the County of the Providing Member if a place has not been mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court of competent jurisdiction. Claims not resolved by mediation shall be decided by a court of competent jurisdiction unless the parties mutually agree otherwise.

ARTICLE X. LIABILITY

Each Member shall be responsible for any and all claims, demand, suits, actions, damages and causes of action related to or arising out of or in any way connected with its own actions, and the actions of its personnel, in providing mutual aid and assistance rendered or performed pursuant to the terms and conditions of this Agreement.

ARTICLE XI. INDEMNIFICATION

In the event of a liability, claim, demand, action, or proceeding of whatever kind or nature arises out of a specified Period of Assistance, the Members who receive and provide assistance during said Period of Assistance shall indemnify and hold harmless those other Members, NCWaterWARN Committee and Sponsor Agencies, but had no involvement with the transaction or occurrence that is the subject of the aforementioned claim, action, demand, or other proceeding of whatever kind or nature is limited to execution of this Agreement.

ARTICLE XII. WORKERS' COMPENSATION CLAIMS

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Communication: The Recipient shall provide Provider personnel with radio equipment as available, or radio frequency information to program existing radio, in order to facilitate communications with local responders and utility personnel. *Status:* Unless otherwise provided by law, the Provider's officers and employees retain the same privileges, immunities, rights, duties, and benefits as provided in their respective jurisdictions. *Licenses and Permits:* To the extent permitted by law, Provider personnel who hold licenses, certificates, or permits evidencing professional, mechanical, or other skills shall be allowed to carry out activities and tasks relevant and related to their respective credentials during the specified Period of Assistance. Members should comply with NIMS credentialing where applicable. *Right to Withdraw:* The Provider's Authorized Official retains the right to withdraw some or all of its resources at any time. Notice of intention to withdraw must be communicated to the Recipient's Authorized Official as soon as possible.

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of operations to ensure safety of personnel. The Provider designated supervisor(s) must keep accurate records of work performed by personnel during the specified Period of Assistance. Recipient reimbursement to the Provider must consider all personnel costs, including salaries or hourly wages, costs for fringe benefits, and indirect costs. *Equipment:* The Recipient shall reimburse the Provider for the use of equipment during a specified Period of Assistance, including but not limited to, reasonable rental rates, all fuel, lubrication, maintenance, transportation, and loading/unloading of loaned equipment. All equipment shall be returned to the Provider in similar condition to its condition at the time of the request for mutual aid and assistance. As a minimum, rates for equipment use must be based on the Federal Emergency Management Agency's (FEMA) Schedule of Equipment Rates. If a Provider uses rates different from those in the FEMA Schedule of Equipment Rates, the Provider must provide such rates in writing to the Recipient prior to supplying resources. Mutual agreement on rates other than FEMA Schedule of Equipment Rates must be reached in writing prior to dispatch of the equipment. Reimbursement for equipment not referenced on the FEMA Schedule of Equipment Rates must be developed based on actual recovery of costs. If Provider must lease a piece of equipment while its equipment is being repaired, Recipient shall reimburse Provider for such rental costs. *Materials and Supplies:* The Recipient must reimburse the Provider in kind or at actual replacement cost, plus handling charges, for use of expendable or non-returnable supplies. The Provider must not charge direct fees or rental charges to the Recipient for other supplies and reusable items that are returned to the Provider in a clean, damage-free condition. Reusable supplies that are returned to the Provider with damage must be treated as expendable supplies for purposes of cost reimbursement. *Payment Period:* The Provider must provide an itemized bill to the Recipient for all expenses it incurred as a result of providing assistance under this Agreement. The Provider must send the itemized bill to the authorized official not later than ninety (90) days following the end of the Period of Assistance. The Recipient must pay the bill in full on or before the one hundred eightieth (180th) day following the billing date. Unpaid bills become delinquent upon the one hundred eighty-first (181st) day following the billing date, and, once delinquent, the bill accrues interest at the rate of prime, as reported by the *Wall Street Journal,* plus two percent (2%) per annum. *Records* – Each Provider and their duly authorized representatives shall have access to a Recipient's books, documents, notes, reports, papers, and records which are directly pertinent to this Agreement for the purposes of reviewing the accuracy of a cost bill or making a financial, maintenance, or regulatory audit. Each Recipient and their duly authorized representatives shall have access to a Provider's books, documents, notes, reports, papers, and records which are directly pertinent to this Agreement for the purposes of reviewing the accuracy of a cost bill or making a financial, maintenance, or regulatory audit. Such records shall be maintained and made accessible for at least three (3) years or longer where required by law.

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ARTICLE XII. WORKERS' COMPENSATION CLAIMS

Recipient shall not be responsible for reimbursing any amounts paid or due as benefits to Provider's employees under the terms of the North Carolina Workers' Compensation Act, Chapter 97 of the General Statues, 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.

ARTICLE XIII. NOTICE

A Member who becomes aware of a claim or suit that in any way, directly or indirectly, contingently or otherwise, affects or might affect other Members of this Agreement shall provide prompt and timely notice to the Members who may be affected by the suit or claim. Each Member reserves the right to participate in the defense of such claims or suits as necessary to protect its own interests.

ARTICLE XIV. CONFIDENTIAL INFORMATION

Pursuant to NCGS 132-1.7, any Member shall maintain in the strictest confidence and shall take all reasonable steps necessary to prevent the disclosure of any confidential information shared between Members under this Agreement. If any Member, third party, or other entity requests or demands, by subpoena or otherwise, that a Member disclose any confidential information disclosed under this Agreement, the Member shall immediately notify the owner of the confidential information and shall take all reasonable steps necessary to prevent the disclosure of any confidential information by asserting all applicable rights and privileges with respect to such information and shall cooperate fully in any judicial or administrative proceeding relating thereto.

ARTICLE XV. EFFECTIVE DATE

This Agreement shall be effective after the Water and/or Wastewater Utility's authorized representative executes the Agreement. An executed copy will be provided to the NCWaterWARN Committee Chair as soon as possible.

ARTICLE XVI. WITHDRAWAL

A Member may withdraw from this Agreement by providing written notice of its intent to withdraw to NCWaterWARN Committee Chair. Withdrawal takes effect sixty (60 days after the NCWaterWARN Committee Chair receives notice. Membership may be suspended or revoked by the NCWaterWARN Committee for failure to comply with the Articles of this Agreement.

ARTICLE XVII. MODIFICATION

Modifications to this Agreement may be made to incorporate programmatic operational changes to support the Agreement. Modifications require a two-thirds majority vote of Members. The NCWaterWARN Committee Chair must provide written notice to all Members of proposed modifications to this Agreement sixty (60) days in advance of the vote. The NCWaterWARN Committee Chair must provide written notice to all members of approved modifications to this Agreement. Approved modifications take effect sixty (60) days after the date upon which notice of the approved modifications are sent to the Members. No provision of this Agreement may be modified, altered, or rescinded by individual parties to the Agreement.

ARTICLE XVIII. SEVERABILITY

The Members agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

ARTICLE XIX. PRIOR AGREEMENTS

This Agreement supersedes all prior Agreements between Members to the extent that such prior Agreements are inconsistent with this Agreement.

ARTICLE XX. MULTIPLE AGREEMENTS

When multiple mutual aid and assistance agreements exist between two Members, if inconsistencies exist between the agreements, the conditions of this Agreement take precedence except by mutual written acceptance of an alternate agreement of both Members for that specific event.

ARTICLE XXI. PROHIBITION ON THIRD PARTIES AND ASSIGNMENT OF RIGHTS/DUTIES

This Agreement is for the sole benefit of the Members and no person or entity must have any rights under this Agreement as a third-party beneficiary. Assignments of benefits and delegations of duties created by this Agreement are prohibited and must be without effect.

ARTICLE XXII. INTRASTATE AND INTERSTATE MUTUAL AID AND ASSISTANCE PROGRAMS

To the extent practicable, Members of this Agreement shall participate in Mutual Aid and Assistance activities conducted under the North Carolina Statewide Mutual Aid and Assistance Agreement and the Interstate Emergency Management Assistance Compact (EMAC). Members may voluntarily agree to participate in an interstate Mutual Aid and Assistance Program for water and wastewater utilities through this Agreement if such a Program were established. Now, therefore, in

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consideration of the covenants and obligations set forth in this Agreement, the Water and Wastewater Utility listed here manifests its intent to be a Member of the Intrastate Mutual Aid and Assistance Program for Water and Wastewater Utilities by executing this Agreement on this _____ day of _____ year of_____.

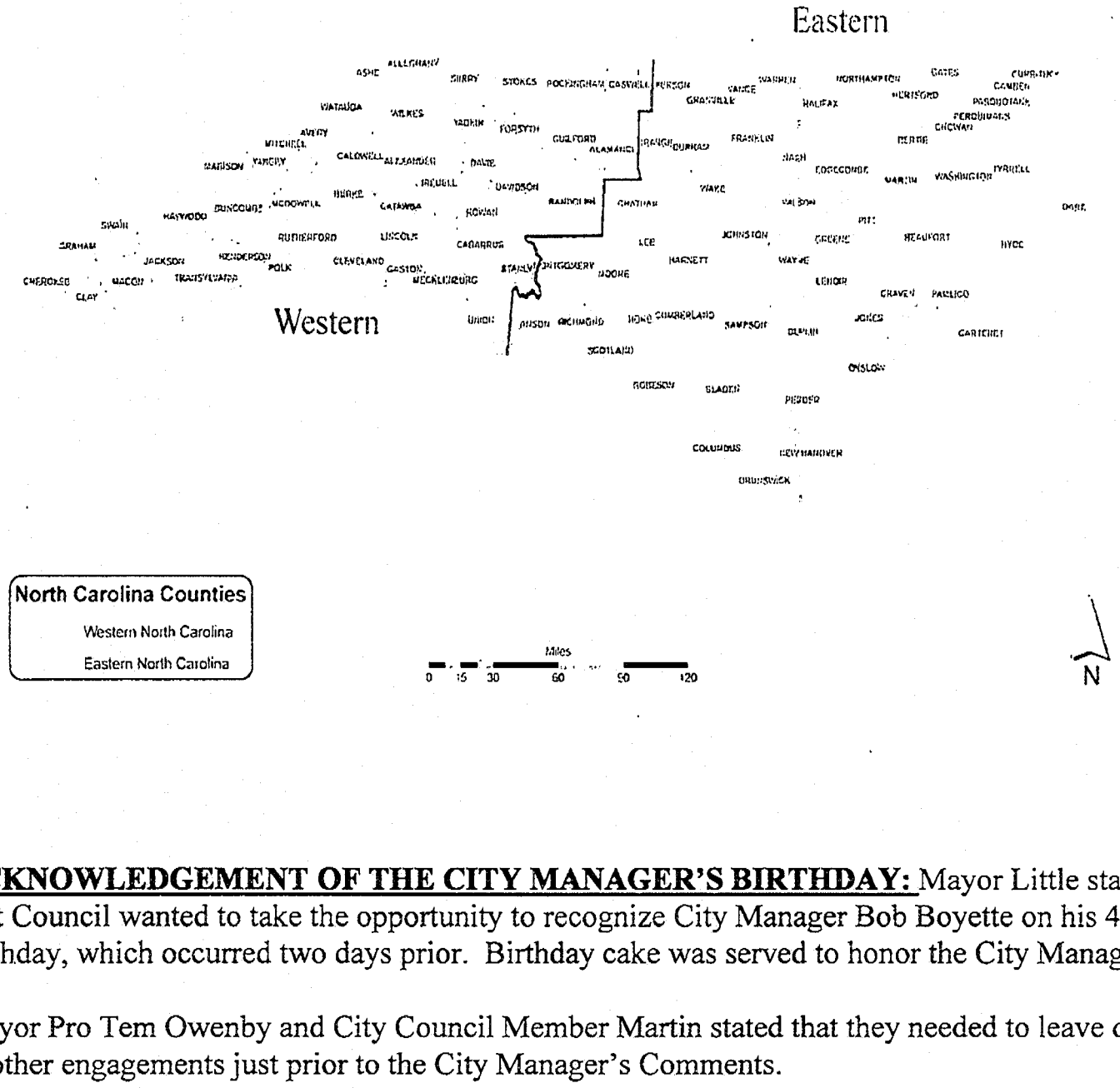
Legal Name of Water/Wastewater Utility: City of Marion

_____
Authorized Representative

_____
Title

_____
Please Print Name

APPENDIX A. NCWaterWARN REGIONAL MAP



ACKNOWLEDGEMENT OF THE CITY MANAGER'S BIRTHDAY: Mayor Little stated that Council wanted to take the opportunity to recognize City Manager Bob Boyette on his 40th birthday, which occurred two days prior. Birthday cake was served to honor the City Manager.

Mayor Pro Tem Owenby and City Council Member Martin stated that they needed to leave due to other engagements just prior to the City Manager's Comments.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that the contractor had completed the paving work on the Greenway in late August and was finishing up final clean-up work. Along with the McDowell Trails Association and inmate labor, City crews will be completing final cleanup work and install trash cans, benches, etc. The ribbon cutting/dedication for the Greenway will be Sunday, September 19 at 2:00 p.m., with Sunday, September 26 at 2:00 p.m. the backup date in case of inclement weather.

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The City Manager stated that he had sent a letter to the Phillips family, advising them of the decision by Council to name the entrance road to the Greenway as "Sam Phillips Drive," thanking them for their continued generosity and inviting them to the ribbon cutting.

The City Manager stated that Building Inspector Jay Suttles had received a letter from Terry McKinney, owner of a dilapidated structure on Circle Lane in Clinchfield. Mr. McKinney has asked for six months to allow him to clean up and sell the property. The City Manager stated that the owner of dilapidated houses on Perry Street had also asked for more time to allow him to repair the houses. The City Manager stated that he and Planning and Development Director Heather Cotton had discussed and agreed to give both property owners a reasonable amount of time, up to six months, to repair or demolish these houses. No objections were stated to this proposal by Mayor Little or Council Members.

The City Manager advised that he had sent an e-mail to DOT, requesting again the placement of pedestrian crossing signals at West Court and Logan Streets, due to the fact that pedestrians cannot see the traffic signal when they attempt to cross the street. The City Manager stated that he continues to hear requests for such pedestrian crossing signals from people who cross the street at this intersection.

The City Manager stated that he thought Council would be interested in seeing the memo he had distributed to and went over in detail with departments concerning cost cutting measures. The City Manager stated that he would be closely tracking expenditures and will make necessary cuts as needed to keep the budget balanced. If any major issues arise, he will discuss them with Council.

The City Manager advised that as previously reported, Mayor Little had received a letter, advising that the City had received a Rural Center Planning Grant in the amount of $22,800 for a study of future Water Plant improvements. The City asked for $40,000, so staff will need to discuss with McGill Associates how this project can be completed with a lower amount of money.

The City Manager advised that as previously reported, Ford Miller's contract with the company that will demolish the Marion Manufacturing building took effect on September 1. This company has already secured their permits, so the demolition will likely begin very soon. The City Manager stated that the City and County did what they could to preserve the building, but that grant funds were simply not available to fund the immediate roof repairs needed for the building.

The City Manager advised that staff is making preparations for the Marion 101 class, which will start on Thursday, September 16 at 6:30 p.m. at City Hall and run each Thursday night through October 28. 23 people have signed up for the class so far.

The City Manager advised that work has been completed on the Eastfield Community Park and the park is now open to the public. The park has recently been hydroseeded and the date for a dedication for the park can soon be set.

The City Manager stated that there are some parking issues on Robert Street that he would request for review by the Street Committee. Mayor Little and Council Members agreed by consensus to refer these matters to the Street Committee for review and recommendations.

Public Works Director Chris Hollifield stated that he was working with a group from Eastfield Elementary School that was planning to adopt a corner of the Eastfield Community Park to make a butterfly garden.

COUNCIL MEMBER COMMENTS:

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Council Member Clark stated that he would not be at the September 21 City Council meeting due to being at a North Carolina League of Municipalities Risk Management Services Retreat.

Council Member Clark stated that he would be serving on the Nominating Committee for the North Carolina League of Municipalities Conference in Winston-Salem in October and that if any Council Member was interested in serving on the League Board, to let him know.

Council Member Doggett stated that McDowell Technical Community College is sponsoring a job fair on Wednesday, September 22, 2010 from 2:00pm to 5:00pm in the Harold Smith Building, Room 113. The City Manager advised that staff could put the job fair announcement on the city channel.

ADJOURNMENT: Upon a motion by Council Member Cuthbertson, seconded by Council Member Doggett, those members of Council present voted to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, September 21, 2010 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Council Members Lloyd Cuthbertson, Juanita Doggett and Billy Martin.

Mayor Pro Tem Cecil Owenby was not present for this meeting due to a prior family commitment honoring his birthday.

Council Member A. Everette Clark was not present for this meeting due to being out of town attending a North Carolina League of Municipalities Risk Management Board Meeting.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Mark Brooks, Police Chief; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: No guests present.

OPEN MEETING: Mayor Little opened the meeting with a moment of silence.

CONSENT AGENDA: Upon a motion by Council Member Cuthbertson, seconded by Council Member Doggett, those members of Council present voted to approve the consent agenda as follows:

AA.000000908 (24)

A. Approval of Minutes – September 7, 2010 Regular City Council Meeting Minutes

B. Adopt Resolution Directing Clerk to Investigate a Petition for Annexation – Marion Retail Investment/Wal Mart Supercenter Property – Sugar Hill Road:

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-58.1 – MARION RETAIL INVESTMENT/WAL MART SUPERCENTER DEVELOPMENT – SUGAR HILL ROAD - 2010

WHEREAS, a petition requesting annexation of an area described in said petition was received on September 13, 2010 by the City of Marion; and

WHEREAS, 160A-58.2 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 of his investigation.

Adopted this the 21st day of September, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-10-09-21-2

C. Approve Language Access Plan Required for Community Development Block Grant Application

Language Access Plan
4-1
City of Marion

The purpose of this Policy and Plan is to ensure compliance with Title VI of the Civil Rights Act of 1964, and other applicable federal and state laws and their implementing regulations with respect to persons with limited English proficiency (LEP). Title VI of the Civil Rights Act of 1964 prohibits discrimination based on the ground of race, color or national origin by any entity receiving federal financial assistance. Administrative methods or procedures, which have the effect of subjecting individuals to discrimination or defeating the objectives of these regulations, are prohibited.

In order to avoid discrimination on the grounds of national origin, all programs or activities administered by City of Marion must take adequate steps to ensure that their policies and procedures do not deny or have the effect of denying LEP individuals with equal access to benefits and services for which such persons qualify. This Policy defines the responsibilities the agency has to ensure LEP individuals can communicate effectively.

This policy and plan is effective September 30, 2010.

Scope of Policy

These requirements will apply to the Isothermal Planning & Development Commission (**herein referred to as "the agency"**) including subcontractors, vendors, and subrecipients.

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The agency will ensure that LEP individuals are provided meaningful access to benefits and services provided through contractors or service providers receiving subgrants from the agency.

Definitions

A. Limited English Proficient (LEP) individual – Any prospective, potential, or actual recipient of benefits or services from the agency who cannot speak, read, write or understand the English language at a level that permits them to interact effectively with health care providers and social service agencies.

B. Vital Documents – These forms include, but are not limited to, applications, consent forms, all compliance plans, bid documents, fair housing information, citizen participation plans, letters containing important information regarding participation in a program; notices pertaining to the reduction, denial, or termination of services or benefits, the right to appeal such actions, or that require a response from beneficiary notices advising LEP persons of the availability of free language assistance, and other outreach materials.

C. Title VI Compliance Officer: The person or persons responsible for compliance with the Title VI LEP policies.

D. Substantial number of LEP: 5% or 1,000 people, whichever is smaller, are potential applicants or recipients of the agency and speak a primary language other than English and have limited English proficiency.

Providing Notice to LEP Individuals

A. The agency will take appropriate steps to inform all applicants, recipients, community organizations, and other interested persons, including those whose primary language is other than English, of the provisions of this policy. Such notification will also identify the name, office telephone number, and office address of the Title VI compliance officer(s).

List the current name, office telephone number and office address of the Title VI compliance officers:

City of Marion
PO Drawer 700 MarionNC
828)

(Note: The agency must notify the DCA compliance office immediately of changes in name or contact information for the Title VI compliance officer.)

B. The agency will post and maintain signs in regularly encountered languages other than English in waiting rooms, reception areas and other initial points of contact. The signs will inform applicants and beneficiaries of their right to free language assistance services and invite them to identify themselves as persons needing such services.

Identify areas within the agency where these signs will be posted:
The required posting will be posted in the Commissions reception area; and in the offices of all Community Development Staff; also in the Section 8 Office reception area located at 111 West Court Street Rutherfordton NC 28139

C. The agency will include statements of the right to free language assistance in Spanish and other significant languages in all outreach material that is routinely disseminated to the public (including electronic text).

D. The agency will also disseminate information in the following manner:

The Agency will disseminate explanatory pamphlets in Spanish translation including copies of the approved language assistance plan and Fair Housing pamphlets in Spanish translation to the City and County government offices. Contents will also be distributed to the Department of Human Health and Services (*Describe how information will be disseminated. This may include, but not be limited to: dissemination of pamphlets explaining the rights in this policy*).

Provision of Services to LEP Applicants/Recipients

A. Assessing Linguistic Needs of Potential Applicants and Recipients

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1. The agency will assess the language needs of the population to be served, by identifying:

   a. the language needs of each LEP applicant/recipient
   b. the points of contact where language assistance is needed; and
   c. the resources needed to provide effective language assistance, including location, availability and arrangements necessary for timely use.
   d. Other (*describe*):

2. Determining the Language Needs of the Population to be Served

   The agency is responsible for assessing the needs of the population to be served. Such assessment will include, but not be limited to the following:

   a. The non-English languages that are likely to be encountered in its program will be identified.

   b. An estimate of the number of people in the community for whom English is not the primary language used for communication will be completed and updated annually. To identify the languages and number of LEP individuals local entities should review:

      i. census data
      ii. school system data
      iii. reports from federal, state, and local governments
      iv. community agencies' information, and
      v. data from client files
      vi. Other (*specify*):

   c. The points of contact in the program or activity where language assistance is likely to be needed will be identified.

3. Determining the Language Needs of Each Applicant/Recipient

   The agency will determine the language needs of each applicant/recipient. Such assessment will include, but not be limited to the following:

   a. At the first point of contact, each applicant/recipient will be assessed to determine the individual's primary language.

   Check all methods that will be used:

      ☐ multi-language identification cards, a poster-size language list, or the use of "I speak" peel-off language identification cards for indicating preferred languages

      ☐ English proficiency assessment tools, provided they can be administered in a manner that is sensitive to and respectful of individual dignity and privacy

      ☐ Other (describe):

   b. If the LEP person does not speak or read any of these languages, the agency will use a telephone interpreting service to identify the client's primary language.

   c. Staff will not solely rely on their own assessment of the applicant or recipient's English proficiency in determining the need for an interpreter. If an individual requests an interpreter, an interpreter will be provided free of charge. A declaration of the client will be used to establish the client's primary language.

   d. When staff place or receive a telephone call and cannot determine what language the other person on the line is speaking, a telephone interpreting service will be utilized in making the determination.

   e. If any applicant/recipient is assessed as LEP, they will be informed of interpreter availability and their right to have a language interpreter at no cost to them with a notice in writing in the languages identified in Section C. Provisions of Written Translations.

B. Provision of Bilingual/Interpretive Services

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1. The agency will ensure that effective bilingual/interpretive services are provided to serve the needs of the non-English speaking population. The provision of bilingual/interpretive services will be prompt without undue delays. In most circumstances, this requires language services to be available during all operating hours.

   This requirement will be met by: The City intends to work with the county to establish a memorandum of understanding with the Department of Human Health and Services for the use of a bilingual staff member when needed during all operating hours. When necessary the City will rely on a telephone interpreter service and/or contract with an independent agent such as teachers who are teaching spanish in the public school system or local community college. (*describe whether the agency has bilingual staff, and if so, how many and in what Sections/Programs/Divisions, whether the agency uses contractual services to meet this requirement, whether the agency relies on telephone interpreter services, etc.*)

2. The agency will provide language assistance at all level of interaction with LEP individuals, including telephone interactions.

   Describe how this requirement will be met: As stated above the City intends to work with the county to establish a memorandum of understanding with the Department of Human Health and Services for the use of qualified bilingual employees and when necessary the City will rely on a telephone interpreter service and/or contract with and independent agent such as teachers who are teaching spanish in the public school system or local community college.
   (*Note: The agency may use paid interpreters, qualified bilingual employees, and qualified employees of other agencies or community resources. Telephone interpreter services should only be utilized as a back-up system or where other language assistance options are unavailable.*)

3. Interpreter Standards

   a. Those providing bilingual/interpretive services will meet the linguistic and cultural competency standards set forth below. The agency will ensure that interpreters and self-identified bilingual staff, have first been screened to ensure that the following standards are met before being used for interpreter services:

      i. Can fluently and effectively communicate in both English and the primary language of the LEP individual
      ii. Can accurately and impartially interpret to and from such languages and English
      iii. Has a basic knowledge of specialized terms and concepts used frequently in the provision of the agency's services
      iv. Demonstrates cultural competency
      v. Understands the obligation to maintain confidently
      vi. Understands the roles of interpreters and the ethics associated with being an interpreter

      Describe how the agency ensures the competency of bilingual staff and interpreters:
      The City will use only qualified bilingual interpreters who are already serving in that capacity in one of local City or county government offices.

   b. When staff members have reason to believe that an interpreter is not qualified or properly trained to serve as an interpreter, the staff member will request another interpreter.

4. Using Family Members or Friends as Interpreters

   a. Applicants/recipients may provide their own interpreter; however the agency will not require them to do so.

   b. The agency will first inform an LEP person, in the primary language of the LEP person, of the right to free interpreter services and the potential problems for ineffective communication. If the LEP person declines such services and requests the use of a family member or friend, the agency may utilize the family member or friend to interpret only if the use of such person would not compromise the effectiveness of services or violate the LEP person's confidentiality. The agency will monitor these interactions and again offer interpreter services, if it appears there are problems with this arrangement.

c. The agency will indicate in the LEP individual's file that an offer of interpreter services was made and rejected; that the individual was informed of potential problems associated with using friends or family members and the name of the person serving as an interpreter at the LEP individual's request.

d. Only under extenuating circumstances shall the agency allow a minor (under the age of 18 years) to temporarily act as an interpreter. The agency will keep a written record of when it has used a minor as an interpreter, and this information will be shared with the DCA upon request.

5. The agency will ***not*** require the applicant/recipient to pay for bilingual/interpretive services.

C. Provision of Written Translations

1. The agency must provide written materials in languages other than English where a substantial number or percentage of the population eligible to be served or likely to be directly affected by the program needs services or information in a language other than English to communicate effectively.

2. Translation of Vital Documents

a. The agency will ensure that vital documents for locally designed programs are translated into Spanish.

b. When DCA forms and other written material contain spaces in which the local entity is to insert information, this inserted information will also be in the individual's primary language. When such forms are completed by applicants/recipients in their primary language, the information must be accepted.

c. If, as a result of the local language assessment, it appears there are a substantial number of potential applicants or recipients of the agency (defined as 5% or 1,000 people whichever is less) who are LEP and speak a language other than Spanish, the agency will translate and provide vital documents in the appropriate language.

d. The agency will keep a record of all vital documents translated, and will submit this information to DCA at their request.

3. If the primary language of an LEP applicant or recipient is a language other than Spanish AND the language does not meet the threshold for translation as defined in the preceding paragraph, the LEP individual will be informed in their own language of the right to oral translation of written notices. The notification will include, in the primary language of the applicant/recipient, the following language: IMPORTANT: IF YOU NEED HELP IN READING THIS, ASK THE AGENCY FOR AN INTERPRETER TO HELP. AN INTERPRETER IS AVAILABLE FREE OF CHARGE.

D. Documentation of Applicant/Recipient Case Records

1. The agency will maintain case record documentation in sufficient detail to permit a reviewer to determine the agency's compliance with this policy.

2. The agency will ensure that case record documentation, including computerized records if appropriate, identifies the applicants/recipient's ethnic origin and primary language. In those cases where the applicant/recipient is non-English speaking, the agency will:

a. Document the individual's acceptance or refusal of forms or other written materials offered in the individual's primary language.

b. Document the method used to provide bilingual services, e.g., assigned worker is bilingual, other bilingual employee acted as interpreter, volunteer interpreter was used, or client provided interpreter. When a minor is used as interpreter, the agency will document the circumstances requiring temporary use of a minor and will provide this information to DCA upon request.

3. Consent for the release of information will be obtained from applicants/recipients when individuals other than agency employees are used as interpreters and the case record will be so documented.

E. Staff Development and Training

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1. The agency will provide staff training at new employee orientation and continuing training programs. The training will include, but not be limited to:

   a. Language assistance policies and procedures, resources available to support such procedures, methods of effective use of interpreters, and familiarization with the discrimination complaint process.

   b. Cultural awareness information, including specific cultural characteristics of the groups served by the agency to provide a better understanding of, and sensitivity to, the various cultural groups to ensure equal delivery of services.

2. The agency will provide or ensure training is provided for bilingual staff and interpreters employed or utilized by the agency. This includes the ethics of interpreting, including confidentiality; methods of interpreting; orientation to the organization; specialized terminology used by the agency; and cultural competency.

3. The agency will ensure that applicable grantees, contractors, cooperative agreement recipients and other entities receiving state or federal dollars are trained in the requirements of this policy.

   Describe how this provision will be met: The Agency will inform applicable grantees, contractor's cooperative agreement recipients and and all other entities recieiving state and federal dollars by distrubuting informational letters regarding updates and training with the LEP, including providing a copy of the Language Access Plan. The agency will ensure that all dates, times and location are clearly noted on the informational documentation.

4. The agency will collect and maintain the following information about training provided to staff: the date(s) of such training, the content of such training, the number and types of credit hours awarded; and the names and identifying information of each attendee at the training. The agency will ensure that grantees, contractors, cooperative agreement recipients and other applicable funded entities collect and maintain such information as well.

Compliance Procedures, Reporting and Monitoring

A. Reporting

   1. The agency will complete an annual compliance report and send this report to DCA. (Format will be supplied by DCA)

B. Monitoring

   1. The agency will complete a self-monitoring report on a quarterly basis, using a standardized reporting system providing by the DCA. These reports will be maintained and stored by the Title VI compliance officer and will be provided to the DCA upon request.

   2. The agency will cooperate, when requested, with special review by the DCA .

Applicant/Recipient Complaints of Discriminatory Treatment

A. Complaints

   1. The agency will provide assistance to LEP individuals who do not speak or write in English if they indicate that they would like to file a complaint. A complaint will be filed in writing, contain the name and address of the person filing it or his/her designee and briefly describe the alleged violation of this policy.

   2. The agency will maintain records of any complaints filed, the date of filing, actions taken and resolution.

   3. The agency will notify the appropriate agency or Division within DCA of complaints filed the date of filing, actions taken and resolution. This information will be provided within 30 days of resolution.

B. Investigation

   1. The DCA Compliance Office will conduct an investigation of the allegations of the complaint. The investigation will afford all interested persons and their representatives, if any, an opportunity to submit evidence relevant to the complaint.

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2. The investigation will not exceed 30 days, absent a 15-day extension for extenuating circumstances.

C. Resolution of Matters

1. If the investigation indicates a failure to comply with the Act, the local unit of government, agency Director or his/her designee will so inform the recipient and the matter will be resolved by informal means whenever possible within 60 days.

2. If the matter cannot be resolved by informal means, then the individual will be informed of his or her right to appeal further to the Department of Justice. This notice will be provided in the primary language of the individual with Limited English Proficiency.

3. If not resolved by DCA, then complaint will be forwarded to DOJ, HUD Field Office.

SUBMITTED AND APPROVED BY:

Stephen R. Little
Mayor

Signature of Mayor

Date

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

ADOPT RESOLUTION AUTHORIZING FINAL SALE OF CITY PROPERTY ON WEST YANCEY STREET: The City Manager stated that, at the August 17 Council meeting, Council adopted a resolution accepting the offer of Hopewell Road, LLC to purchase a 0.20 acre parcel owned by the City on West Yancey Street for $5,000, subject to upset bid. After receiving the required five percent bid deposit from Hopewell Road, LLC, as well as requiring them to prepay for the required legal advertising, City staff published notice in the McDowell News of the proposed sale on August 27, advising that interested persons had ten days to submit an upset bid. The ten day upset bid process passed with no further bids. Therefore, Council action is needed to approve the following resolution to authorize the final sale of this property to Hopewell Road, LLC.

Upon a Motion by Council Member Martin, seconded by Council Member Cuthbertson, those members of Council present voted to adopt the following Resolution authorizing the final sale of City property on West Yancey Street to Hopewell Road, LLC:

Resolution
Authorizing Final Acceptance of Offer to Purchase
Certain Property Owned by the City of Marion
After Solicitation of Upset Bids

WHEREAS, N.C.G.S. 160A-269 authorizes a city to convey by negotiated offer and upset bid any real or personal property; and

WHEREAS, on August 6, 2010, Hopewell Road, LLC submitted a bid in the amount of $5,000 for the purchase of approximately 0.20 acres of City property located on West Yancey Street (McDowell County Parcel Identification Number 1701.14-33-9687); and

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WHEREAS, the City Council of the City of Marion adopted a resolution on August 17, 2010, in accordance with N.C.G.S. 160A-269, accepting the offer of Hopewell Road, LLC to purchase the property, as described below, for a sum of $5,000; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion received a five percent bid deposit from Hopewell Road, LLC; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion, on August 27, 2010, caused notice of the proposed sale of the property, as described below, to be published in the McDowell News, a newspaper of general circulation in the City of Marion; and

WHEREAS, the City of Marion has completed the ten day upset bid period required by N.C.G.S. 160A-269, without the receipt of any upset bids; and

WHEREAS, the City Council of the City of Marion desires to complete the sale of the property described below to Hopewell Road, LLC.

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

1. The parcel owned by the City of Marion on West Yancey Street (McDowell County Parcel Identification Number 1701.14-33-9687) that is approximately 0.20 acres in size is hereby declared to be surplus to the needs of the City of Marion.

2. The City Council accepts the offer of Hopewell Road, LLC to purchase the above described property for $5,000 and directs the City Manager to proceed with the sale of said property, as authorized by N.C.G.S. 160A-269.

Adopted this the 21st day of September, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-10-09-21-1

ADOPT JOINT RESOLUTION OF MARION CITY COUNCI, MCDOWELL COUNTY BOARD OF EDUCATION AND MCDOEWLL COUNTY BOARD OF COMMISSIONERS ESTABLISHING YOUTH ADVISORY COUNCIL: The City Manager advised that, as previously discussed by Council, the County prepared the attached resolution of the City Council, Board of Commissioners and School Board to establish a Youth Advisory Council for all three boards. The Youth Advisory Council will primarily consist of participants of the Junior LINC class each year. Council Member Doggett, County Manager Chuck Abernathy, High School Principal Ben Talbert and the City Manager had an initial meeting with the Youth Council on September 10 to discuss the possible structure of the committee.

Upon a Motion by Council Member Cuthbertson, seconded by Council Member Martin, those members of Council present voted to adopt the following joint resolution with the McDowell County Board of Commissioners and the McDowell County Board of Education establishing a Youth Advisory Council for all three governing boards:

Joint Resolution of the Marion City Council, the McDowell County Board of Education and the McDowell County Board of Commissioners

WHEREAS, the McDowell Chamber of Commerce established the Leadership Involvement Networking Community (LINC) program to facilitate the development of leadership in McDowell County, and

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WHEREAS, one of the first recommendations of the LINC participants was to expand the program to include a leadership component, and

WHEREAS, the first "Junior LINC" class met in the Summer of 2010 and included over ten High School participants that gained tremendous insight and experience into the various operations of the business, government, educational and non-profit organizations, and

WHEREAS, the Marion City Council, the Board of Education and the McDowell County Board of Commissioners recognize the need to establish a Youth Advisory Council to advise and participate in various public policy decisions that are made each year affecting young citizens.

NOW, THEREFORE BE IT RESOLVED, that the Marion City Council, the McDowell County Board of Education and the McDowell County Board of Commissioners hereby designate the "Junior LINC" participants as the McDowell Youth Advisory Board and agree to involve this entity in various public policy questions that arise each year affecting the young people of this community.

ADOPTED, this the _____ day of _____ 2010.

City of Marion

McDowell County School Board

County of McDowell

ADVISORY BOARD APPOINTMENTS: The City Manager advised that Ms. Virginia Williams had advised that she would be willing to accept appointment as a Regular Member of the Planning Board/Board of Adjustment/Historic Preservation Commission, to fill a vacant Regular Member position on this Board.

Upon a motion by Council Member Martin, seconded by Council Member Doggett, those members of Council present voted to appoint Ms. Virginia Williams to a three year term as a Regular Member of the Planning Board/Board of Adjustment/Historic Preservation Commission, said term to expire on June 30, 2013.

SCHEDULE DATE FOR EASTFIELD COMMUNITY PARK DEDICATION: The City Manager stated that, as previously discussed, City staff have now hydroseeded the new Eastfield Community Park. Grass will soon be established in the Park, which will allow Council to schedule a dedication of the Park. The City Manager stated that Council direction on when to hold the dedication would be welcomed and that the City will certainly want to invite the School System to this dedication, given their generosity in making the land for the Park available to the City at no charge.

Council Member Cuthbertson advised that Eastfield Elementary School had just started their three week break the day before, so it will be mid-October before the School could be involved.

It was the consensus of Council to direct the City Manager to coordinate with the principal of Eastfield Elementary School on setting the date for the Park dedication, to occur at such time as Eastfield Elementary School is back in session.

SELECT VOTING DELEGATE FOR N.C. LEAGUE OF MUNICIPALITIES CONFERENCE: The City Manager advised that Council needs to select a voting delegate and alternate for the N.C. League of Municipalities conference in Winston-Salem October 24-26. The League's business meeting will be Monday afternoon, October 25.

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The City Manager reported that Council Member Clark and Council Member Doggett are the only City representatives registered to attend this conference.

Upon a motion by Council Member Cuthbertson, seconded by Council Member Martin, those members of Council present voted to appoint Council Member Clark as the City's voting delegate for the N.C. League of Municipalities conference in Winston-Salem October 24-26 and Council Member Doggett as the City's alternate voting delegate.

CITY MANAGER REPORTS: The City Manager gave a brief report on current projects.

Police Chief Mark Brooks advised that McDowell County is one of six counties in North Carolina to be selected as part of a Federal High Intensity Drug Trafficking Area (HIDTA). The three counties in the local region (McDowell, Buncombe and Henderson) will receive annual Federal funding of $150,000 for this effort. Chief Brooks is working on ways for the City to directly benefit from this funding.

The City Manager advised that the contractor had completed paving and the final clean-up work on the Greenway in late August. City crews then worked with the McDowell Trails Association and inmate labor to perform mowing, weed-eating, trash removal, etc. The City is in the process of ordering trash cans and benches and having signs made for the Greenway.

The City Manager added that the ribbon cutting/dedication for the Greenway will be Sunday, September 19th at 2:00 p.m., with Sunday, September 26th at 2:00 p.m. as the backup date in case of inclement weather.

The City is obtaining an appraisal of the land to be donated by the Phillips family for Phase 2 of the Greenway, so that we can then request a waiver from the State to allow us to acquire the property before we apply for State Parks and Recreation Trust fund grants in January.

The City Manager advised that the fireworks test previously reported will take place after dark on Friday evening, September 24 at the County Recreation Department ballfield on West Court Street, to determine if smaller size shells needed to comply with recent State law changes for fireworks displays can be visible at this location. A news release has been sent to the media about the fireworks test.

Council Member Cuthbertson asked that flyers be distributed to nearby residents about the fireworks test. He added that the former Cross Mill ballfield is owned by Ms. Betty Stock and may be an alternate place to have the fireworks.

The City Manager advised that the City is having construction drawings prepared (after pricing some engineering firms) for the bumpouts on Main Street and a typical crosswalk design. These drawings were required by DOT. However, on September 13, DOT District Engineer Doug McNeal spoke to the City Manager about DOT potentially administering a contract for part or all of the bumpouts. The City Manager stated that Planning and Development Director Heather Cotton met with Doug McNeal on September 14 and Mr. McNeal stated that DOT had committed to provide $50,000 in funding and would pull out a section of the bumpout work of that value, but had decided not to administer the entire contract. Therefore, the City will still have to complete the construction drawings. The City will have Withers and Ravenel start on the construction drawings immediately. DOT will need to approve the construction drawings. Both of these steps will take some time. Mr. McNeal felt that it was now likely that resurfacing Main Street in the project area, which apparently has been committed to by DOT, will take place in April 2012, after which time the decorative crosswalk installation can occur.

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The City Manager advised that Ms. Cotton is applying for an encroachment approval from DOT to allow the holly trees to be replaced with the gingko trees. Based on prices obtained for the new gingko trees, Ms. Cotton is proposing to replace one gingko tree for each holly tree. Ms. Cotton and the City's contracted landscaper, Lawrence Moore, are working to order the trees, which should be able to be planted in November.

The City Manager reported that the downtown way finding signs should arrive around September 30. Staff would propose installing the signs after Mountain Glory on October 9, so that the Main Street sidewalk is not a mess during the Festival.

The City Manager reported that the Marion 101 Citizens Academy class began on September 16 and will run each Thursday night through October 28. A total of 26 people registered for the class.

The City Manager advised that the water and sewer extension on Sugar Hill to I-40 had been released. Surveying work began the week of September 13. The City Manager stated that he had asked the City consulting engineers, McGill Associates to develop a tentative schedule for the water and sewer extension, something the developer has requested, as soon as possible.

The City Manager advised that Isothermal is submitting another Community Development Block Grant (CDBG) request for sidewalks and drainage improvements along a small part of Baldwin Avenue, all of Perry Street and parts of Yancey Street. The City was invited to re-apply by the State, which is a good sign. A public hearing is required for this grant application and has been scheduled to take place at the September 28 City Council Planning Session. The City Manager stated that he had advertised the special meeting notice for the Planning Session to include this public hearing, as well as the Planning Session itself.

The City Manager advised that the Planning is nearly completed for this year's Mountain Glory Festival, which will take place on Saturday, October 9. As previously reported, the Festival will sponsor a talent show for the community on Saturday, October 2 at East Junior High. The winners of the contest will be required to perform at Mountain Glory to claim their prizes (savings bonds). Going Home Free Will Baptist Church will hold a car show in the Wachovia parking lot on the day of the Festival. Freddie has more entertainment booked, especially local acts, for the two outdoors stages than ever before. Vendor applications are coming in very well. The City Manager stated that it looks like this should be a great Festival.

COUNCIL MEMBER COMMENTS:

Council Member Cuthbertson asked, since the annexation of the Alternative Education Center on Lukin Street took effect on July 31, who would be in charge of providing a School Resource Officer. The City Manager stated that Police Chief Mark Brooks was in discussions with the Sheriff's Department and School System about this point. The City Manager added that the City now had responsibility for five public schools in the City, leaving the County only serving seven, with the Town of Old Fort serving one. He said he hoped the County would continue assisting with the AEC, but that the City Police Department would definitely answer calls.

Mayor Little stated that he had confidence that Chief Brooks could handle this matter.

Council Member Doggett stated that she had walked on the new Joseph McDowell Historic Catawba Greenway the evening before and that it was a wonderful experience. She said that there were 35-40 cars in the parking lot and a large number of people walking on the Greenway.

ADJOURNMENT: Upon a motion by Council Member Cuthbertson, seconded by Council Member Martin, Council voted unanimously to adjourn.

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Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, October 5, 2010 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Cecil Owenby, Council Members A. Everette Clark, Lloyd Cuthbertson and Juanita Doggett.

Council Member Billy Martin was not present for this meeting due to being out of town on a scheduled trip.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Mark Brooks, Police Chief; Chris Hollifield, Public Works Director; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: No guests present.

OPEN MEETING: Mayor Little opened the meeting with a moment of silence.

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Cecil Owenby, seconded by Council Member Cuthbertson, those members of Council present voted to approve the consent agenda as follows:

A. Approval of Minutes – September 21, 2010 City Council Minutes

B. Receive Certificate of Sufficiency – Marion Retail Investment/Wal Mart Supercenter Development – Sugar Hill Road

CERTIFICATE OF SUFFICIENCY – MARION RETAIL INVESTMENT/WAL MART SUPERCENTER DEVELOPMENT – SUGAR HILL ROAD - 2010

To the City Council of the City of Marion:

I. J. Robert Boyette, City Clerk, do hereby certify that I have 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-58.1.

In witness whereof, I have hereunto set my hand and affixed the seal of the City of Marion this the 22nd day of September, 2010.

(Seal)

AA.00000920 (24)

J. Robert Boyette, City Clerk

C. Approve Proclamation – Lights on After School Day

City of Marion Proclamation
"Lights On After School Day"

WHEREAS, the citizens of Marion, NC stand firmly committed to quality afterschool programs and opportunities because they:

* Provide safe, challenging, engaging and fun learning experiences to help children and youth develop their social, emotional, physical, cultural and academic skills.

* Support working families by ensuring their children are safe and productive after the regular school day ends.

* Build stronger communities by involving our students, parents, business leaders and adult volunteers in the lives of our young people, thereby promoting positive relationships among children, youth, families and adults.

* Engage families, schools and diverse community partners in advancing the welfare of our children.

WHEREAS, the Corpening Memorial YMCA has provided significant leadership in the area of community involvement in advancing the education and well-being of our youth, grounded in the principle that quality afterschool programs are key to helping our children become successful adults.

WHEREAS, *Lights On Afterschool*, a national celebration of afterschool programs on October 21, 2010 promotes the critical importance of quality afterschool programs in the lives of children, their families and their communities.

WHEREAS, more than 28 million children in the U.S. have parents who work outside the home, and 15.1 million children have no place to go after school.

WHEREAS, many afterschool programs across the country are facing funding shortfalls so severe that they are being forced to close their doors and turn off their lights.

THEREFORE BE IT RESOLVED that I, Mayor Stephen R. Little do hereby proclaim October 21, 2010, as *"Lights On Afterschool* Day"; AND BE IT FURTHER RESOLVED that I enthusiastically endorse *Lights On Afterschool* and commit Marion, NC to engage in innovative afterschool programs and activities that ensure the lights stay on and the doors stay open for all children after school.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

PRESENTATION OF AWARD FOR WATER PLANT PERFORMANCE FROM NORTH CAROLINA PUBLIC WATER SUPPLY SECTION: The City Manager advised that, for several years, the City has received an Award from the North Carolina Public Water Supply Section for Turbidity Removal Optimization. The City received the award again in 2009 and were among 20 out of 189 water plants (or among 11 percent of water plants) receiving this award. Since this award was first presented nine years ago, the City of Marion is one of only two water plants in North Carolina to receive the award each year.

AA.00000921 (24)

Mayor Little and the City Manager presented the award to Water Plant Superintendent Steve Miller and thanked him for the great job he and the Water Plant staff are doing to provide high quality, safe drinking water for the City and surrounding community.

Council Members also thanked Mr. Miller and his staff for their hard work and dedication.

The certificate read as follows:



PUBLIC COMMENT PERIOD: There were no unscheduled citizens present for this meeting.

CONSIDERATION OF ORDINANCE TO ESTABLISH NO PARKING AREAS ON ROBERT STREET ANDAPPROVAL OF STREET PROJECT ON ROBERT STEREET NEAR MARION ELEMENTARY SCHOOL: The City Manager advised that the Street Committee met on September 17 and recommended that the following actions be taken:

A. Establish a no parking area on the south side of Robert Street for the first 70 feet off of Fleming Avenue. This no parking area gives vehicles, especially buses, room enough to make the turn off of Fleming onto Robert.

B. Eliminate the grass strip between the curb and sidewalk and repour the curb to widen the street for parking, on Robert Street between Fleming Avenue and the exit from Marion Elementary School. This project would be proposed after completion of projects by City crews on 6th Street, East Marion (curb replacement) and Crawford Street (sidewalk repair).

C. Paint a white line to mark the edge of the parking lane on Robert Street in the areas in front of, east and west of the school, where the curb has been removed and will be removed to create a wider parking lane.

D. Establish a no parking area on the north side of Robert Street between Fleming Avenue and Richard Drive. Parking is currently prohibited in this area Monday through Friday 8:00 a.m. to 4:00 p.m. The Street Committee felt that parking in this area is unsafe at any time and noted that First United Methodist Church does not use this side of the street for parking.

E. The City Manager advised that the Street Committee did not discuss this item, but he noted that the Traffic Schedule listed a no parking area on the south side of Robert Street that corresponds roughly with the area between the entrance and exit to the traffic circle in front of Marion Elementary School. Parking has been allowed in this area except in front of the driveways and fire hydrant. The City already has prohibitions against parking in driveways or in front of fire hydrants, so this restriction seems unnecessary.

AA.00000922 (24)

The City Manager stated that, as a courtesy, he had also sent property owners adjacent to the area of the proposed parking and street changes (Brown, Reeves, Boyd, First United Methodist Church and Marion Elementary School) a letter advising them of the recommendation. No comments have been received from any of these property owners and no one was present for the meeting.

Upon a motion by Mayor Pro Tem Owenby, seconded by Council Member Cuthbertson, those members of Council present voted to adopt the following Ordinance to establish and modify no parking areas on Robert Street and to authorize staff to complete a street project to eliminate the grass strip between the curb and sidewalk and repour the curb to widen the street for parking on the south side of Robert Street between Fleming Avenue and the exit from Marion Elementary School:

ORDINANCE
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 18-239 is amended by deleting the following:

STREET NAME	REGULATION	REG. APPLICATION
ROBERT STREET	PARKING FROM RICHARD 8AM-4PM MON-FRI	NORTH SIDE, 1198 PROHIBITED FEET DRIVE WESTERLY
	PARKING PROHIBITED	SOUTH SIDE, 450 FEET FROM FLEMING 85 FEET EASTERLY

Section 3. Section 18-239 is amended by adding the following:

STREET NAME	REGULATION	REG. APPLICATION
ROBERT STREET	PARKING PROHIBITED	NORTH SIDE, FROM THE INTERSECTION OF ROBERT STREET AND FLEMING AVENUE TO THE INTERSECTION OF ROBERT STREET AND RICHARD DRIVE
	PARKING PROHIBITED	SOUTH SIDE, FROM THE INTERSECTION OF ROBERT STREET AND FLEMING AVENUVE EXTENDING 70 FEET EASTERLY

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 5th day of October, 2010.

Stephen R. Little, Mayor

ATTEST:

AA.000000923 (24)

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-10-10-05-1

CONSIDER APPROVAL OF REQUEST TO ALLOW USE OF FARMER'S MARKET SHELTER BY CAFFIEND UNDERGROUND ON SATURDAY, OCTOBER 30 FOR HALLOWEEN CONSTUME CONTEST: The City Manager advised that, as shown on information presented to Council, Caffiend Underground is requesting use of the Farmer's Market Shelter on Saturday, October 30 from the afternoon through evening for a Halloween Costume Contest. This event will be open to the public. The Farmer's Market policy allows for private use of the shelter only with the approval of Council.

The City Manager reported that Council has previously authorized closure of streets for events held by private businesses that were open to the public, so this request appears to be consistent with this past practice.

The City Manager stated that Caffiend Underground has agreed to abide by the rules for the Farmer's Market and to sign a responsibility statement agreeing to pay for any damages to the shelter.

Upon a motion by Council Member Cuthbertson, seconded by Council Member Doggett, those members of Council present voted to approve this request to allow Caffiend Underground to use the Farmer's Market Shelter on Saturday, October 30 for a Halloween Costume Contest.

Council Member Clark asked if the City had any guidelines for the Farmer's Market. For instance, would a Church be allowed to have a service under the Shelter?

The City Manager stated that the Farmer's Market policy adopted by Council prohibits the use of the Shelter for religious services or for flea markets. Private uses of the Shelter are permitted only with Council approval.

Council Member Cuthbertson asked who would monitor the parking that day to prohibit people from parking under the Shelter. The City Manager stated that City staff could put up the chains that block people from parking under the Shelter the evening before the event, if so desired by Caffiend Underground.

STREET REQUEST: The City Manager stated Ms. Vernice Francis of Francis Street, located off of Old West Henderson Street near McDonald's, is requesting placement of a mirror in the 90 degree curve on her street. The City Manager stated that he did not recall Ms. Francis mentioning this request previously when City officials and DOT Members met with her regarding other issues in this area last year.

The City Manager stated that the Street Committee may wish to look at this request. Francis Street is a dead end street with only about two houses past Ms. Francis' house.

Public Works Director Chris Hollifield stated that he had looked at the location and thought that a mirror could be justified, since the curve is so sharp and the street is so narrow.

It was the Consensus of those members of Council present to have the Street Committee look at this request and report back to Council.

CITY MANAGER REPORTS: The City Manager gave a brief report on current projects.

AA.00000924 (24)

The City Manager advised that plans are nearly completed for the Mountain Glory Festival, to be held on Saturday, October 9. All entertainment has been booked and vendor space is full. The Festival will have a record of number of vendors totaling about 125 and more entertainment and activities than ever.

The City Manager advised that the fireworks test on September 24 went well and demonstrated that four inch shells will be visible when shot from the Recreation Department site on West Court Street. Therefore, the Marion Business Association can continue using this location for the July 4 fireworks display.

The City Manager advised that the City had received a deed from Norfolk Southern Railway for the purchase of 33 acres of the old Peavine Rail Line right of way from State Street to Jacktown Road, a distance of about 2.4 miles, for $2,500. The deed has been recorded and the City now owns the trail. The City Manager advised that City staff will be doing some clean-up work and minor improvements to make sure the trail is safe before it officially opens. The McDowell Trails Association has offered its help.

The City Manager advised that, for now, the trail will end at the southern edge of the First Christian Church property on Rutherford Road and barricades will be installed to block access to the trestle behind Mi Pueblito Restaurant on Rutherford Road, until such time as the trestle can be demolished.

Council Member Clark stated that the City needs to make sure the trail is added to the City's liability insurance policy. The City Manager stated that staff would take care of this notification.

Council Member Clark stated that the City may be able to find someone to take down the trestle for the timber.

The City Manager stated that paving work had been completed on Cross Street, Finley Road and Bungalow Drive as part of the Wastewater Improvements Project and that the project was now nearly complete, except for some add-on work to take advantage of all available grant funds.

Mayor Little asked if the odor control issue with the Finley Road pump station had been solved with the recent addition of a new automated chemical feed system. The City Manager advised that the chemical feed system appeared to be working, as there had been no further complaints about odor in that area and since City staff had not noticed any odors.

Council Member Clark stated that he smelled a strong odor several weeks ago while passing the Corpening Creek Wastewater Treatment Plant. Public Works Director Chris Hollifield stated that this odor could have been due to weather or due to changes in the way aeration takes place at the renovated Plant.

The City Manager reported that three sessions of the Marion 101 Citizens Academy had been completed, with four left to go. The class continues to go well. About 24 people are actively participating.

The City Manager reported that the splash pad at the Community Building Park will close for the season on Friday, October 15.

The City Manager advised that, without objection, the City would issue a news release asking people to trick or treat on Saturday, October 30, as is the City's tradition when Halloween falls on a Sunday.

The City Manager stated that the downtown wayfinding signs had arrived and looked great. The signs will begin to be installed after Mountain Glory. The gingko trees that will replace the holly

AA.000000925 (24)

trees on Main Street are being ordered and should be planted in November. Staff is looking for locations to replant the holly trees that will be removed.

The City Manager reported that the DOT State Traffic Engineer advised him that DOT will not approve the City's request for a rule change to create more allowances for blue logo signs on the 221 Bypass, but had stated that the Tourist Oriented Destination Sign (TODS) program may be able to accomplish what the City wants. More information will be forthcoming about the TODS program from DOT in the near future.

The City Manager advised that Administrative Assistant Debi Sherlin had spoken with Susan Pool, Principal of Eastfield Elementary School, and had set a tentative date for the Eastfield Park dedication for Friday, October 22 at 1:00P.M. Mayor Little and several Council members had conflicts with this date, so staff will contact Ms. Pool and reschedule a date.

The City Manager reported that two Norfolk Southern officials on two separate occasions looked at the unsightly railroad banks next to Main Street. Council Member and Mrs. Clark had made the initial contact to allow this visit to occur. The City Manager stated that the engineer who made the second visit said that the railroad would advise the City of options to clean up and stabilize the banks. There is no guarantee anything will happen, but this is more progress than has ever been made on this issue. Mayor Little stated that if there is anyone in North Carolina who can get something done, that person is Everette Clark.

COUNCIL MEMBER COMMENTS:

Council Member Cuthbertson asked about a drainage situation on Oakwood Drive behind Fist United Methodist Church that the Street Committee had previously examined. The City Manager stated that he would check on the status of work to install silt fences to address this problem. Council Member Clark stated that silt fences will only be a temporary solution to this issue and that further drainage work will be needed by the City and/or the Church.

Council Member Doggett commended City staff on a job well done in recently installing the water and sewer connection on US 221 South at the Day's Inn. She stated that this was a big project and a difficult location in which to work.

CLOSED SESSION: Upon a motion by Council Member Cuthbertson, seconded by Mayor Pro Tem Owenby, those members of Council present voted to go into Closed Session in accordance with N.C.G.S. 143-318.11(a)(4) to discuss a matter involving the location of business of industry.

REGULAR SESSION: Upon a motion by Mayor Pro Tem Owenby, seconded by Council Member Doggett, those members of Council present voted to go back into Regular Session.

Mayor Little announced that no action was taken during the Closed Session.

ADJOURNMENT: Upon a motion by Mayor Pro Tem Owenby, seconded by Council Member Doggett, those members of Council present voted to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.00000926 (24)

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 19, 2010 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Cecil Owenby, Council Members A. Everette Clark, Lloyd Cuthbertson, Juanita Doggett and Billy Martin.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Chris Hollifield, Public Works Director; Scott Spratt, Patrol Commander; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Doug & Rita Stamey, P.O. Box 249, Marion NC 28752; Russell McDaniel, 320 Zion Hill Road, Marion NC 28752; Mr. and Mrs. Paul Bartlett, P.O. Box 2705, Marion NC 28752; Ralph & Wilma McKinney, 85 Lukin Street, Marion NC 28752, Doris Burgin, 25 Cypress Street, Marion NC 28752; Dennis J. Whitson, 3800 Sugar Hill Road, Marion NC 28752.

OPEN MEETING: Mayor Little opened the meeting with a moment of silence.

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Cecil Owenby, seconded by Council Member Cuthbertson, those members of Council present voted to approve the consent agenda as follows:

A. Approval of Minutes – September 28, 2010 City Council Special Meeting Minutes
October 5, 2010 Regular City Council Minutes
October 5, 2010 City Council Closed Session Minutes

B. Adopt Capital Project Ordinance – Downtown Streetscape Plan

CITY OF MARION, NORTH CAROLINA
GENERAL CAPITAL PROJECTS FUND ORDINANCE – DOWNTOWN STREETSCAPE PLAN

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

Section 1. That the Budget Ordinance for the City of Marion, North Carolina for the fiscal year 2010-11 as adopted by the Marion City Council on the 15th day of June 2010 is hereby amended as follows to include the expenditures associated with General Capital Projects by adopting the following General Capital Projects Fund Ordinance:

GENERAL CAPITAL PROJECT FUND

a. General Capital Project Fund Revenues, Account Number 11-375-0000, Streetscape – NCSTEP Allocation is increased from $-0- to $62,672.

b. General Capital Project Fund Revenues, Account Number 11-375-0100, Streetscape – NCDOT Grant, is increased from $-0- to $50,000.

c. General Capital Project Fund Revenues, Account Number 11-375-0900, Transfer from General Fund Capital Reserve - Streetscape, is increased from $-0- to $343,251.

d. General Capital Project Fund Expenditures, Account Number 11-520-0100, Streetscape – Curbs, Landscaping, etc. is increased from $-0- to $113,544.

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e. General Capital Project Fund Expenditures, Account Number 11-520-0200, Streetscape –Wayfinding Signs is increased from $-0- to $99,910.

f. General Capital Project Fund Expenditures, Account Number 11-520-0300, Streetscape – Site Amenities is increased from $-0- to $15,482.

g. General Capital Project Fund Expenditures, Account Number 11-520-0400, Streetscape – Pavement Enhancement is increased from $-0- to $45,399.

h. General Capital Project Fund Expenditures, Account Number 11-520-0500, Streetscape – Painting, Restriping, etc. is increased from $-0- to $14,507.

i. General Capital Project Fund Expenditures, Account Number 11-520-0600, Streetscape – Logan/Garden St. Phase II is increased from $-0- to $106,088.

j. General Capital Project Fund Expenditures, Account Number 11-520-0700, Streetscape – Surveying is increased from $-0- to $2,500.

k. General Capital Project Fund Expenditures, Account Number 11-520-0800, Streetscape - Engineering is increased from $-0- to $19,000.

l. General Capital Project Fund Expenditures, Account Number 11-520-0900, Streetscape - Contingency is increased from $-0- to $39,493.

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 19th day of October 2010.

Stephen R. Little, Mayor

ATTEST:

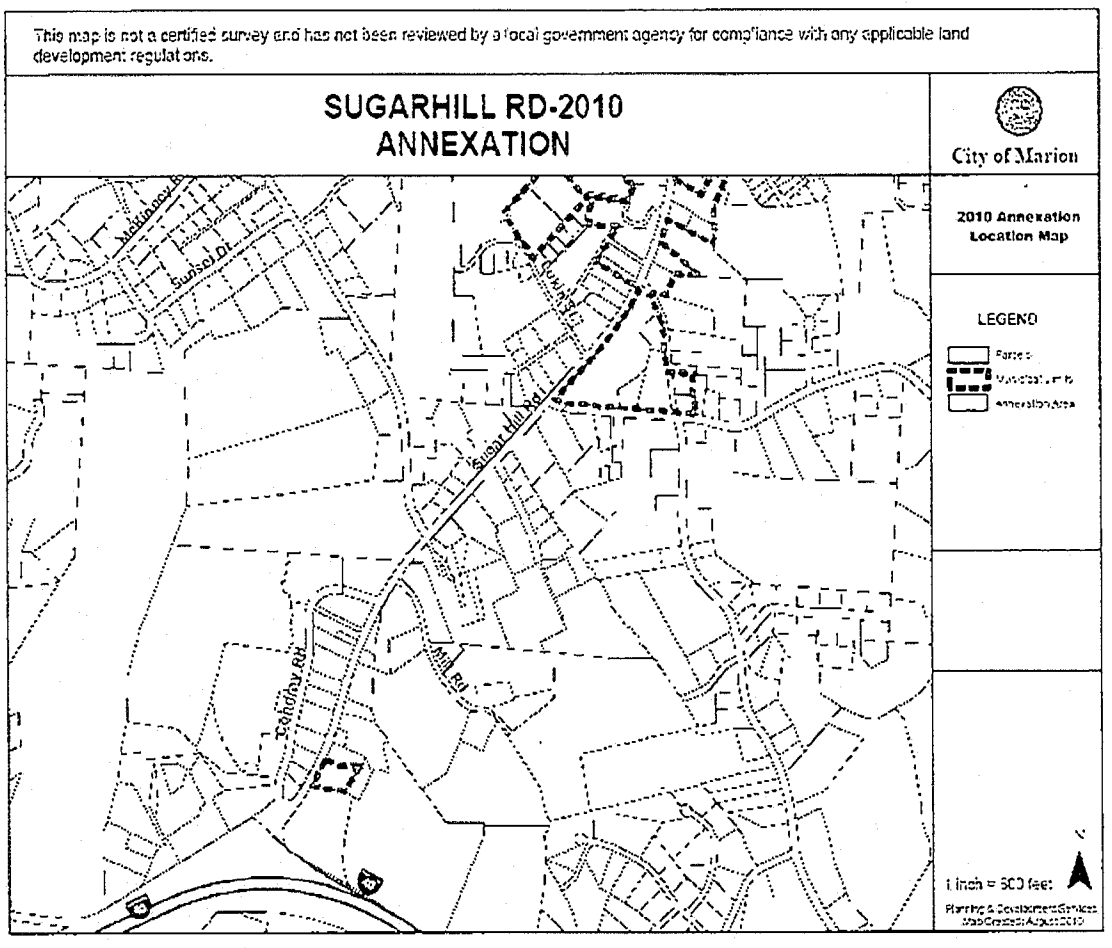
J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–10–10–19-01

PUBLIC HEARING – SUGAR HILL ROAD ANNEXATION AREA:

Mayor Little opened the Public Hearing.

The City Manager advised that a public hearing has been scheduled for tonight's meeting, as required by State law, for the Sugar Hill Road annexation area. This area includes about 92 people. The City Manager presented a map of the annexation area for Council's review, as follows:



In accordance with State Law, the City Manager gave an overview of the Annexation Report and Plan of Services for the Sugar Hill Road area.

The City Manager stated that adoption of the ordinance to annex this area would be considered at a future meeting and that the effective date of the annexation would be set for a time between 40 and 400 days after the adoption of the annexation ordinance.

Ms. Wilma McKinney of 85 Lukin Street stated that her property was over three acres in size and asked if it would automatically be excluded from the annexation area or if it had to be subdivided. Mayor Little advised that State law set limits on how much large acreage property could be in an annexation area, but this area met the State law requirements for subdivision. He added that Ms. McKinney would certainly not have to subdivide her property unless she so wished.

Mr. Russell McDaniel asked various questions about water and sewer service on behalf of his mother, who owns property in the annexation area. The City Manager and Public Works Director Chris Hollifield answered Mr. McDaniel's questions about water and sewer connection fees and line locations.

Mr. Paul Bartlett asked questions about water and sewer line locations and service and about tax rates. The City Manager and Mr. Hollifield answered Mr. Bartlett's questions.

Ms. Doris Burgin asked questions about City services, which were answered by the City Manager.

Mayor Little closed the Public Hearing. Mayor Little announced that Council could not vote on the approval of the annexation at this meeting, under State law requirements, but would take up consideration of the annexation ordinance at a future meeting.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present for this meeting.

STREET REQUEST: The City Manager advised that, as reported at the October 5 Council meeting, Ms. Vernice Francis of Francis Street requested placement of a mirror in the 90 degree

AA.000000929 (24)

curve on her street. At the October 5 Council meeting, Council referred this matter to the Street Committee for review.

The City Manager reported that the Street Committee met on October 14 to review this request. After review, the Street Committee and staff recommended that a mirror not be installed, due to safety reasons. Instead, the recommendation was to have City staff widen the street in the curve to enhance safety. The City Manager stated that City staff felt that such widening could take place without much trouble or expense. He added that this idea was mentioned to Ms. Francis and other residents of Francis Drive and everyone thought this was a great solution.

The Mayor and Council Members agreed by consensus to authorize staff to complete the recommended street widening project on Francis Drive. The City Manager stated that this project would be worked into the Street and Sidewalk Priority List in the near future.

ADOPT RESOLUTION AUTHORIZING FINAL SALE OF CITY PROEPRTY ON WEST GRAYSON AND WEST HIGH STREETS: The City Manager reported that the City has completed the upset bid process for the sale of four parcels of City property on West High Street and West Grayson Street, totaling 1.84 acres. After two upset bids were received after the initial offer from Mr. Guy Jackson of $2,000 was approved by Council at the August 17 Council meeting, the high bidder ended up being Mr. Marco Antonio Cruz Reyes of West Wilhemenia Street in the amount of $3,750. The required ten day upset bid period for Mr. Reyes' bid ended with no further upset bids, so the City Manager recommended Council adoption of a resolution to authorize the final sale of the property noted above to Mr. Reyes in the amount of $3,750. He added that the City will ask that the closing take place within 30 days if at all possible.

Upon a motion by Council Member Clark, seconded by Council Member Cuthbertson, Council voted unanimously to adopt the following Resolution authorizing the final acceptance of the offer to purchase property owned by the City after solicitation of upset bids by Mr. Reyes.

Resolution
Authorizing Final Acceptance of Offer
to Purchase Certain Property Owned by
the City of Marion After Solicitation of Upset Bids

WHEREAS, N.C.G.S. 160A-269 authorizes a city to convey by negotiated offer and upset bid any real or personal property; and

WHEREAS, on August 10, 2010, Mr. Guy Jackson submitted a bid in the amount of $2,000 for the purchase of approximately 1.84 acres of City property located on West Grayson Street and West High Street (McDowell County Parcel Identification Numbers 1701.18-22-5263, 1701.18-22-5387, 1701.14-22-5595 and 1701.17-21-2976); and

WHEREAS, the City Council of the City of Marion adopted a resolution on August 17, 2010, in accordance with N.C.G.S. 160A-269, accepting the offer of Mr. Guy Jackson to purchase the property, as described above, for a sum of $2,000, subject to publication of the proposed sale and acceptance of upset bids; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion received a five percent bid deposit from Mr. Jackson; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion, on August 27, 2010, caused notice of the proposed sale of the property, as described above, to be published in the McDowell News, a newspaper of general circulation in the City of Marion; and

WHEREAS, on September 3, 2010, Mr. Tom Burnette submitted a bid in the amount of $3,516 for the purchase of the property described above, upsetting the bid of Mr. Guy Jackson; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion received a five percent bid deposit from Mr. Burnette; and

AA.00000930 (24)

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion, on September 10, 2010, caused notice of the proposed sale of the property, as described above, to be published in the McDowell News, a newspaper of general circulation in the City of Marion; and

WHEREAS, on September 17, 2010, Mr. Marco Antonio Cruz Reyes submitted a bid in the amount of $3,750 for the purchase of the property described above, upsetting the bid of Mr. Tom Burnette; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion received a five percent bid deposit from Mr. Reyes; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion, on September 24, 2010, caused notice of the proposed sale of the property, as described above, to be published in the McDowell News, a newspaper of general circulation in the City of Marion; and

WHEREAS, the City of Marion has completed the ten day upset bid period required by N.C.G.S. 160A-269, without the receipt of any upset bids; and

WHEREAS, the City Council of the City of Marion desires to complete the sale of the property described below to Mr. Marco Antonio Cruz Reyes.

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

1. The parcels owned by the City of Marion on West Grayson Street and West High Street (McDowell County Parcel Identification Numbers 1701.18-22-5263, 1701.18-22-5387, 1701.14-22-5595 and 1701.17-21-2976) that are approximately 1.84 acres in size are hereby declared to be surplus to the needs of the City of Marion.

2. The City Council accepts the offer of Mr. Marco Antonio Cruz Reyes to purchase the above described property for $3,750 and directs the City Manager to proceed with the sale of said property, as authorized by N.C.G.S. 160A-269.

Adopted this the 19th day of October, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-10-10-19-1

CONSIDER APPROVAL OF SALE OF TIMBER – OLD WASTEWATER TREATMENT PLANT PROPERTY: The City Manager advised that, as previously discussed and authorized, he contacted John Rutland, the consultant forester who helped the City with timber sales in the late 1990's, concerning the possible sale of timber at the City's old wastewater plant property off of College Drive next to the Universal Furniture property. The City is being required by the State to remove vegetation from some of the old sludge pits on this property, so staff thought that a timber sale could at least cover the costs of the removal of this vegetation, if not make some money for the City.

The City Manager stated that Mr. Rutland talked with several timber buyers and presented a draft agreement to authorize the sale of timber on the old wastewater treatment plant property to Powell Industries, Inc. for $10,000. Mr. Rutland would receive 10 percent of this amount. Mr. Rutland advised that this is the best price the City is likely to obtain for some time. The City Manager stated that he would recommend that Council authorize the timber sale outlined in the agreement presented to Council.

AA.00000931 (24)

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to authorize the sale of timber on the City's old wastewater treatment plant property on College Drive to Powell Industries, Inc. for a minimum amount of $10,000, with Mr. Rutland receiving 10 percent of any amount paid by Powell Industries, Inc.

APPROVAL OF FEE SCHEDULE FOR FIRE RE-INSPECTIONS:
The City Manager advised that, as discussed at the September 28 Planning Session and as shown in a memo from Fire Chief Jim Neal that he presented to Council, staff is proposing that Council approve fees for the second and subsequent fire re-inspections. This fee would be in addition to fines that may be issued for non-compliance.

The City Manager stated that there would be no charge for the initial fire inspection or for the first re-inspection. Fees would be charged beginning with the second re-inspection as follows:

Second Re-Inspection - $25.00 fee
Third Re-Inspection - $50.00 fee
Fourth Re-Inspection - $75.00 fee
Fifth Re-Inspection - $100.00 fee

The City Manager stated that he would request Council approve the fees as presented.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to approve the fire re-inspection fees as follows:

Second Re-Inspection - $25.00 fee
Third Re-Inspection - $50.00 fee
Fourth Re-Inspection - $75.00 fee
Fifth Re-Inspection - $100.00 fee

CITY MANAGER REPORTS: The City Manager gave a brief report on current projects.

The City Manager advised that the 27th Annual Mountain Glory Festival was held on Saturday, October 9. The Festival had a record number of vendors, activities and entertainment. There was great weather and tremendous crowds, making it a fantastic day. The City Manager presented a thank you note from Marion Business Association (MBA) staff Freddie Killough and Bobbie Young, thanking the City for its efforts with the Festival. The City Manager advised that he sent thank you notes to the We received a thank you note from Freddie and Bobbie, as presented to council and the City Manager stated that he sent thank you notes to the MBA, along with City staff. A thank you note was also sent from Mayor Little to the Festival volunteers.

The City Manager advised that the dedication of the new Eastfield Community Park has been scheduled for Wednesday, October 20 at 1:30 p.m. This date was set by Susan Pool, Principal of Eastfield Elementary. Students from Eastfield Elementary will participate. The City Manager asked that Council Members who are available try to attend this short dedication ceremony.

The City Manager advised that City crews will be working to clean and address some safety and drainage issues on the Peavine Trail recently acquired from Norfolk Southern. He added that the City has received approval to allow people walking the trail to park at the old Rescue Squad building on State Street and at First Christian Church on Rutherford Road. Barricades have been placed to block access to the trail south of the First Christian Church parking lot and to prevent people from walking across the trestle behind Mi Pueblito Restaurant. The City ended up acquiring about 2.4 miles of trail. A total of 1.4 miles of the trail will be opened for now.

The City Manager advised that five sessions of Marion 101 have been held so far. The Marion 101 class started on September 16 and will run each Thursday night through October 28. He

AA.000000932 (24)

asked the Mayor and Council Members if at all possible to be present for the final session and graduation on October 28.

Council Member Doggett advised that City staff are to be commended for the great job they have done planning and presenting each of the session. She said that she has really enjoyed attending the Marion 101 sessions.

The City Manager advised that DOT had verbally committed to provide $50,000 in funding for the Downtown Streetscape Plan and to resurface Main Street from the curve at Rutherford Road all the way to the old Legendary Ford property, along with East Court Street from Baldwin Avenue to downtown in Spring 2011. The City will soon be replacing the holly trees on Main Street with new gingko trees. Removal of the holly trees has already begun. Installation of new way finding signs on the downtown area will begin in November.

COUNCIL MEMBER COMMENTS:

Council Member Clark stated that the e-mail forwarded to City Council by the City Manager, advising that the North Carolina League of Municipalities is considering a policy proposal to lobby for authorization for local government to levy accident response fees, is very significant and could go a long way to allow municipalities to recover costs incurred as a result of reckless or negligent actions by motorists that cause motor vehicle crashes.

Council Member Doggett commended the City's contracted landscaper, Lawrence Moore, for the beautiful fall displays in front of City Hall and the Community Building.

ADJOURNMENT: Upon a motion by Council Member Doggett, seconded by Mayor Pro Tem Owenby, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, 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 2, 2010 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Cecil Owenby, Council Members A. Everette Clark, Lloyd Cuthbertson, Juanita Doggett and Billy Martin.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Mark Brooks, Police Chief; Chris Hollifield, Public Works Director; Harriett Thomas, Finance Director; Jim Neal, Fire Chief; Matthew Crawford, Firefighter; Mike Conley, News Reporter, McDowell News.

AA.00000933 (24)

GUESTS PRESENT: Clyde Day, Marion, NC; Representing McDowell Mission Ministries: Ed Krause, President; Kathy Evans, Vice President; Becky Cross, Treasurer; Rhonda Bokanoski, Secretary; Rev. Bill Warren, Executive Director; Cliff Wisor, Staff; Linda Cloherty, Pat Faulkner, Jewell McNeal, Dewey Rayburn and Otis Hill, Board Members; Jim Burgin, Volunteer.

OPEN MEETING: Mayor Little opened the meeting with a moment of silence.

CITIZEN OF THE MONTH – SELECTED BY COUNCIL MEMBER LLOYD CUTHBERTSON: Council Member Lloyd Cuthbertson selected the Citizen of the Month for November 2010.

Clyde Day

Council Member Lloyd Cuthbertson stated that Mr. Clyde Day was born in Mountain City, Tennessee. Mr. Day's early and his early ambition was to be a truck driver.

Mr. Day is married to Margaret and has one son Ken and two grandchildren who live in Morganton.

Mr. Day Served in the Navy during World War II from 1941-1946. He served in the Reserves after the war and was reactivated by the Navy to serve in the Korean War from 1951 to 1953.

Mr. Day received a BS in Chemistry and Biology from East Tennessee State University in 1950. He was awarded a Masters in Biology from Appalachian State Teachers College (now Appalachian State University) in 1955.

Mr. Day began his career in education in Tennessee where he was principal of a small elementary school. He taught biology at Appalachian State University for one year and then taught at Lees-McRae College in Banner Elk for several years. Mr. Day also served as an adjunct faculty member at McDowell Technical Community College for over eight years.

After returning from World War II, he taught science at Nebo High School until he was reactivated for the Korean War. He taught at Glenwood High School for nine years and served as principal of Marion Elementary for sixteen years.

Mr. Day retired in June, 1981 with 33.778 years of service including his military time.

Mayor Little, Council Members and friends all shared kind words about Mr. Day.

CONSENT AGENDA: Upon a motion by Council Member Cuthbertson, seconded by Council Member Doggett, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – October 19, 2010 Regular City Council Meeting Minutes

INTRODUCTION OF NEW EMPLOYEE: Fire Chief Jim Neal stated that it was a pleasure to be at this Council Meeting to introduce the Fire Department's newest paid firefighter, Mr. Matthew Crawford. Chief Neal reported that Matthew has been a firefighter since he was a teenager.

After College, Matthew moved to Boone to work as a Fire Inspector and recently moved back to Marion. Chief Neal stated that Matthew was by far the most qualified for the paid firefighter job opening.

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Matthew is a Level I Fire Inspector and a Level II Firefighter. He started work with the City the week before.

Mr. Crawford stated that he gained a lot of knowledge while serving Boone and is glad to be back in Marion.

Mayor Little and Council Members welcomed Matthew to the City staff.

Council Member Clark stated that the Mayor of Boone, Loretta Clawson, sought him out at the recent North Carolina League of Municipalities Conference specifically to tell him that Marion was getting a great firefighter.

PUBLIC APPEARANCE – MCDOWELL MISSION MINISTRIES:

Ms. Linda Cloherty, a member of the McDowell Mission Ministries Board of Directors stated that she appreciated the chance to address City Council on behalf of the Mission. Ms. Cloherty introduced all the board members and staff of McDowell Mission Ministries that were present for this meeting.

Ms. Cloherty gave an overview of how many men, women and children stay at the homeless shelters in Marion. She advised that food and shelter is just part of what clients get. Clients receive housing in a safe and drug free environment, job search assistance, clothing, personal items, food, transportation, medical and prescription assistance and informal counseling.

Ms. Cloherty stated that Mc Dowell Mission Ministries comes before Council to ask for help. The Mission has never made a funding request to the City or County before and hopes that the City can help to keep homeless people of the community off of the streets.

Ms. Pat Faulkner, another McDowell Mission Ministries Board Member, stated that the services of the Mission provide a valuable service to the community. She said it was sad to think that there could be persons without a place to stay now that the temperatures are dropping.

Ms. Faulkner stated that, since 2000, over 1,300 people had come through the shelters in Marion. She advised that the true health of a community is often told by how it takes care of its needy people. Ms. Faulkner stated that the Friendship Home for Women and Children is in critical need of a new roof and for repairs to damages on the inside of the building. The Mission has obtained an estimate for the new roof of approximately $19,000 and an estimated of $10,000 for the inside repairs. Ms. Faulkner advised that the Mission is requesting $15,000 from the City of Marion and $15,000 from McDowell County for this project. She said that the Mission also requests to be a permanent line item in the City of Marion's annual budget.

Mr. Jim Burgin, owner of Jack Frost Dairy Bar and a volunteer for the Mission, stated that he was here with a unique perspective. Upon a suggestion from Judge Bob Hunter, he placed a donation jar on the counter of his business and raised over $3,000 from the public and matching funds from Jack Frost.

Mr. Ed Krause, President of the McDowell Mission Ministries Board of Directors, advised that he has served on the Mission Board since he moved here. Mr. Krause stated that we are fortunate to have a City of Marion's size that includes a hospital, a Y.M.C.A. and, just as important, homeless shelters.

Mayor Pro Tem Owenby asked where the Mission came up with the idea of asking both the City and the County for the same amount of money, adding that the County is far larger than the City.

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Rev. Bill Warren, Executive Director of McDowell Mission Ministries, stated that, since the Mission serves both the City and County, it was thought to be fair to ask the City and County for the same amount of money.

Mayor Little thanked all the representatives of the Mission for coming to the meetings and stated that it had been very powerful to hear all the comments, which left no doubt of the genuine need with this request. Mayor Little stated that the City would, however, have to look at its resources before making any type of decision. He advised that City Council would discuss this request further at their Planning Session on Monday, November 8.

Council Member Clark stated that his heart goes out the mission and that Rev. Bill Warren, Executive Director, does a super job. Council Member Clark commended all persons involved with the Mission for the great job they do and thanked them for coming. He stated that the City is facing a budget deficit of about $200,000 for 2010-11 and is trying to make cuts anywhere possible, which makes funding new requests very difficult. Council Member Clark stated that it was also important for the Mission representatives to understand that a penny on the County's tax rate produces about nine times as much revenue as a penny on the City's tax rate and that a change in the method of sales tax distribution by McDowell County had shifted $300,000 in sales tax revenue from the City to the County for 2010-11, with that figure increasing by $50,000 each year.

Council Member Doggett stated that she had personal experience with students at McDowell Technical Community College that had been affected by the Mission in a positive way.

Council Member Cuthbertson stated that the Mission has come a long way since its inception and had helped numerous people over the years.

Council Member Martin stated that the Mission provides a wonderful service to the community and that there was no doubt that there were needs.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

CONSIDER APPROVAL OF AMENDMENTS TO COMMUNITY BUILDING MAIN LEVEL, COMMUNITY BUILDING BASEMENT AND DEPOT RULES AND REGULARTIONS AND APPROVAL OF COMMMUNITY BUILDING AND DEPOT RATE ORDINANCES:

Finance Director Harriett Thomas appeared before Council and presented proposed amendments to the Rate Ordinances and Rules and Regulations for the Community Building Main Level, Community Building Basement and Depot.

Ms. Thomas stated that the proposed changes involve establishing a $75.00 charge for renting one of the buildings for up to one-half day the day before a scheduled event. The City has previously allowed such use of one of the buildings for decorating free of charge the day before an event, if the building was not already rented. Under the proposed amendments, the rental of one of the buildings the day before an event could be made at the time of reservation for the standard rate or for a reduced fee of $75.00 no more than two weeks prior to the event.

The City Manager stated that the recommendation of this fee was being made in an attempt to adequately cover the cost of the use of the buildings.

Upon a motion by Council Member Cuthbertson, seconded by Council Member Clark, Council voted unanimously to adopt the following Rate Ordinances and Rules and Regulations for the Community Building Main Level, Community Building Basement and Depot:

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CITY OF MARION, NORTH CAROLINA
ORDINANCE
COMMUNITY BUILDING RATES

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

Section 1. The following rates shall be charged for the use of the Marion Community Building effective November 2, 2010.

PER DAY, PER EVENT CHARGE:	
MAIN OR STREET LEVEL:	
KITCHEN AND ASSEMBLY ROOM	$200.00
BASEMENT WITH KITCHEN	$125.00
ONE-HALF DAY (IMMEDIATELY PRECEDING DAY OF EVENT) TO BE RESERVED NO EARLIER THAN TWO WEEKS PRIOR TO EVENT	$ 75.00
DEPOSIT FOR EACH USE: (ALL DEPOSITS MUST BE MADE AT LEAST 30 DAYS IN ADVANCE OF EVENT TO AVOID CANCELLATION)	$200.00

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

PER DAY, PER EVENT CHARGE	$ 30.00
NO DEPOSIT IS REQUIRED.	

GIRL SCOUT ROOM:	
PER DAY, PER EVENT CHARGE	$ 40.00
A CASH DEPOSIT OF $25.00 IS REQUIRED FOR EACH USE. (ALL DEPOSITS MUST BE MADE AT LEAST 30 DAYS IN ADVANCE OF EVENT TO AVOID CANCELLATION)	

ADOPTED this the 2nd day of November, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-10-11-02-1

CITY OF MARION, NORTH CAROLINA
ORDINANCE
DEPOT BUILDING RATES

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

Section 1. The following rates shall be charged for the use of the Marion Depot Building effective November 2, 2010.

PER DAY, PER EVENT CHARGE:	
ASSEMBLY ROOM, KITCHEN AND COURTYARD	$200.00
ONE-HALF DAY (IMMEDIATELY PRECEDING DAY OF EVENT) TO BE RESERVED NO EARLIER THAN TWO WEEKS PRIOR TO EVENT	$ 75.00

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DEPOSIT FOR EACH USE: $200.00
(ALL DEPOSITS MUST BE MADE AT LEAST
30 DAYS IN ADVANCE OF EVENT TO
AVOID CANCELLATION)

CIVIC CLUBS AND NOT-FOR-PROFIT ORGANIZATIONS AUTHORIZED BY THE CITY COUNCIL TO USE THE BUILDING ON A REGULAR SCHEDULE AND AT SPECIAL RATE:
PER DAY, PER EVENT CHARGE $ 30.00
NO DEPOSIT IS REQUIRED.

ADOPTED this the 2nd day of November, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-10-11-02-2

CITY OF MARION, NORTH CAROLINA
RULES AND REGULATIONS
FOR THE
MARION COMMUNITY BUILDING MAIN LEVEL

REVISED NOVEMBER 2, 2010

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

DAYS OF OPERATION

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

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

Marion Rotary Club	Every Thursday 7:00am to 2:00pm
Lions Club	1st and 3rd Thursday 2:00pm to 9:00pm
Kiwanis Club	Every Tuesday 1:00pm to 8:30pm
Christian Women's Club	3rd Monday 7:00am to 3:00pm
McDowell Ballroom Dancers	Last Saturday each month 1:00pm to 11:00pm
McDowell Board of Realtors	1st Tuesday 8:00am to 1:00pm

HOURS OF OPERATION

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

RULES AND REGULATIONS

Violations of any of these rules and regulations or any damages to the Facility may result in forfeiture of all or part of the security deposit held by the City.

1. No one shall be permitted to use the building without first having made proper reservations 1and paying the required deposit and payment for the use of the building.

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2. A cash deposit, as determined by the City Council, shall be required to insure compliance with the rules and regulations governing the use of the building. The deposit must be made at least thirty (30) days in advance of the event to avoid cancellation. The City may keep any or all of the deposit in the case of any violations of the rules and regulations or any damages to the Facility. In addition to the deposit, a valid credit card may also be required (see #12 below). Civic Clubs and Not–For–Profit organizations using the building on a regular basis shall be exempt from making a deposit.

3. All persons or groups renting the Marion Community Building must pay for the use of the building at the time reservations are made. No refunds will be made by the City should the renter not use the building on the date scheduled, unless a cancellation is made at least sixty (60) days in advance of the scheduled event, in which case a refund will be made, except for an administrative service charge of $25.00. In lieu of receiving a refund, a person or group canceling an event more than sixty (60) days in advance of the scheduled event may reschedule the building without additional cost at some other open date within the next twelve (12) months. A person or group canceling an event less than sixty (60) days in advance of the scheduled event may reschedule the building without additional cost at some other open date within the next twelve (12) months, but will not be eligible to receive a refund. Should the person or group fail to reschedule within the designated twelve (12) month period, the entire rental fee will be forfeited. Reservations must be made in person (no reservations by telephone, fax, e-mail or any other electronic means), no earlier than 9:00 A.M. local time and no earlier than the first day of the calendar month prior to the month one year in advance of the proposed use. (Example: if you wish to schedule the building in the month of October 2009, the earliest you can schedule the building is September 1, 2008). In the event two or more persons are at the counter at City Hall at 9:00 A.M., wishing to rent the building on the same day, the name of the one person representing each group shall have their name placed in a box and drawn to determine which person may rent the building on the desired day. In all other situations, reservations shall be accepted on a first come-first served basis. If the deposit is to be refunded, it will be issued by the City within ten (10) work days following the use of the building.

4. A person or group wishing to reserve the building for the day immediately preceding the event may do so at the time of making the initial reservation at the standard rate. The building may also be rented for one-half (1/2) day on the day immediately preceding the event at a reduced rate, however, this reservation may not be made earlier than two (2) weeks prior to the scheduled event.

5. The person or group renting the Community Building may not sublet the building to another person or group.

6. No decorations of any kind, i.e., plaques, pictures, or any other objects shall be fastened to the walls, ceilings, windows or lighting fixtures by use of nails, tacks, screws, tape, etc. Any fixtures, furniture, displays or decorations provided by the user(s) must be removed from the building immediately following the use of the same, so the building will be ready for use for the next group. Failure to remove items shall be cause for revocation of part or all of the rental deposit.

7. The piano in the Community Building shall NOT be moved by anyone other than authorized City employees. If you need the piano moved, please ask that the City have the piano moved for you.

8. Each person or group of persons using the kitchen shall thoroughly clean the kitchen and all fixtures before leaving the building and shall clean and remove all food from the refrigerator. In addition, the stove must be cleaned and the floor mopped before leaving the building. At no time shall any of the kitchen appliances be unplugged or moved from their original location. All garbage and refuse shall be removed from the building and placed in the containers located outside the kitchen door.

9. Any person using the kitchen of the Community Building is responsible for checking the pilot lights on the gas range; located in the kitchen, to make sure they are burning. In the event they are not, Please call the Marion Police Department at 652-3231.

10. Barbeque grills or any outside cooking device shall only be used on the paved area of the Community Building. Any grease or cooking residue shall be cleaned from the area immediately following use.

11. No person(s), organization, etc. may use the Community Building for religious services.

12. No persons, firm or private organization will be allowed to use the building for the purpose of offering bingo games to the general public. Civic clubs, schools or non-profit organizations may use the building for fund-raising bingo games as approved by Council.

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13. Each person using the building will be held responsible for any damages to the walls, floors, windows, appliances and fixtures, furniture and outside areas. Cost for damages will be deducted from the security deposit and in the event the costs exceed the security deposit, the person responsible for renting the facility shall also be held responsible for the additional costs. In order to insure payment for any damages incurred that exceed the security deposit, a guarantee by valid credit card will be required at the time the rental reservation is made. THIS CREDIT CARD WILL ONLY BE USED IF DAMAGES ARE INCURRED THAT EXCEED THE SECURITY DEPOSIT. If damages occur and the card charged is deemed to be invalid and prompt payment is not made, the City will pursue legal action to collect such claims. If the person renting the facility has done so for at least three consecutive occasions without damages, the credit card requirement may be waived. In addition, the credit card requirement may be waived for churches, not-for-profit organizations and civic clubs using the facility on a regular basis.

14. Tables and chairs may be rearranged by persons using the building, but must be returned to their original positions after each use. The podium and the head tables at the Community Building are permanently installed. No attempt should be made to move them.

15. Once the area used has been cleaned and set in order, the Marion Police Department must be notified, at 652-3231, to come inspect and lock the building. Reports prepared by the Marion Police Department and reports from the cleaning agency will be used to determine if the security deposits shall be refunded.

16. The microphone for the sound system may be checked out and signed for through the Marion Police Department. When use of the microphone has been completed, it is to be returned to the Police Department immediately.

17. The volume for the speaker system is preset. A switch located on the backside of the podium will turn on the equipment. No other equipment, other than the microphone may be hooked to the sound system at any time.

18. The officers of the Marion Police Department have authority to enter the building at any time for the purpose on insuring compliance with all rules and regulations.

19. Officers of the Marion Police Department shall have authority to open or look in any ice chests and/or coolers on the premises, to monitor possible alcohol use or other improper activity.

20. It is unlawful for any person to consume any alcoholic beverage on any property owned or controlled by the City of Marion. Possession of alcohol or evidence of consumption of alcohol at the Community Building will result in immediate eviction from the premises, forfeiture of security deposit and may result in criminal charges, fines and penalties.

21. Persons or groups renting the Marion Community Building may request to place messages on the permanent sign in front of the building. In order to place a message, the person or group must legibly write out their desired message on a sheet of paper and turn it in at City Hall. Such request must be received at City Hall no later than 48 hours prior to the scheduled date of the event. The person responsible for scheduling the Community Building will forward the message to the Public Works Secretary, who will issue a work order for the message to be spelled out on the Community Building sign.

    The City reserves the right to edit any messages for length and/or content, in the case of language deemed obscene or objectionable. Messages shall contain only the purpose, date and location of the event and the name of the group sponsoring the event (for example: Downtown Business Association Annual Banquet Thursday night, 6:30 P.M.). Personal messages shall not be permitted. Messages advertising political events shall not endorse a specific candidate for any office, but may state the date and time and purpose of a campaign fundraising event held at the Community Building (for example: John Doe for Senate Campaign Dinner, Friday, 7:00 P.M.). In no case shall any message advertising an event not to be located at the Community Building be permitted, unless it is in conjunction with an event sponsored by the City of Marion.

    In no case shall the City display a message more than three business days before an event. If two or more persons or groups renting any part of the Community Building wish to have their message displayed at the same time, the person or group submitting their message to the front counter of City Hall first shall have priority in having their message displayed.

    Letters and keys for the Community Building sign and keys to the Community Building are not to be given out to persons or groups renting the Community Building, except under unique situations approved by the City Manager.

No signs are permitted to be posted in front of or on the Community Building property, except for political signs posted on Election Day.

22. Animals are not permitted inside any part of the Community Building, with the exception of Seeing Eye dogs for legally blind individuals.

23. If the Marion Police Department is called to the Community Building in reference to a disturbance or due to any violations of Federal, State or Local law, the event may be immediately suspended, all persons evicted from the building after applicable clean-up and the deposit revoked for the event.

24. No skateboards, in-line skates, roller skates or bicycles are allowed inside the Community Building or on the Community Building property.

These new regulations shall be effective upon adoption.

Adopted this the 2nd day of November 2010.

Stephen R. Little, Mayor

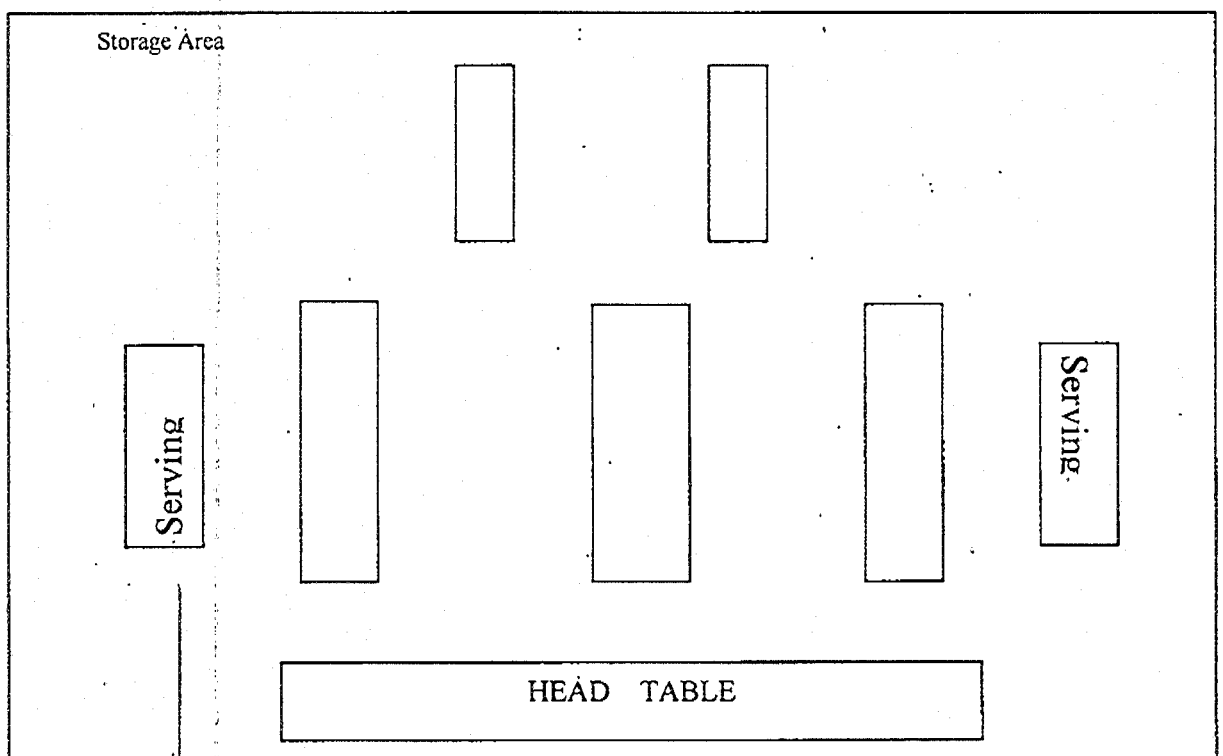
ATTEST:

J. Robert Boyette, City Manager/Clerk

MARION COMMUNITY BUILDING
TABLE ARRANGEMENT

Tables and chairs may be moved by person(s) using the building but must be left in the arrangement shown below. Head tables and podium may not be moved.

Additional tables and chairs are available in the storage area. If these are used, they must be returned to the storage area. Fire regulations prohibit no more than 210 people on the first floor of the Community Building.
Table Size 2 ½ X 8 or 30 ½ Wide by 96 ½ Long



Chimney

Rest Rooms Kitchen

CITY OF MARION, NORTH CAROLINA
RULES AND REGULATIONS
FOR THE
MARION COMMUNITY BUILDING BASEMENT

REVISED NOVEMBER 2, 2010

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

DAYS OF OPERATION

The Community Building Basement is available to be scheduled for use seven (7) days a week, on a year round basis.

HOURS OF OPERATION

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

RULES AND REGULATIONS

Violations of any of these rules and regulations or any damages to the Facility may result in forfeiture of all or part of the security deposit held by the City.

1. No one shall be permitted to use the building without first having made proper reservations, paying the required deposit and payment for the use of the building.

2. A cash deposit, as determined by the City Council, is required to insure compliance with the rules and regulations governing the use of the building. The deposit must be made at least thirty (30) days in advance of the date the building is to be used. The City may keep any or all of the deposit in the case of any violations of the rules and regulations or any damages to the Facility. In addition to the deposit, a valid credit card may also be required (see # 10 below). Civic Clubs and Not–For–Profit organizations using the building on a regular basis are exempt from making a deposit.

3. All persons or groups renting the Marion Community Building Basement must pay for the use of the building at the time reservations are made. No refunds will be made by the City should the renter not use the building on the date scheduled, unless a cancellation is made at least sixty (60) days in advance of the scheduled event, in which case a refund will be made, except for an administrative service charge of $25.00. In lieu of receiving a refund, a person or group canceling an event more than sixty (60) days in advance of the scheduled event may reschedule the building without additional cost at some other open date within the next twelve (12) months. A person or group canceling an event less than sixty (60) days in advance of the scheduled event may reschedule the building without additional cost at some other open date within the next twelve (12) months, but will not be eligible to receive a refund. Should the person or group fail to reschedule within the designated twelve (12) month period, the entire rental fee will be forfeited. Reservations must be made in person (no reservations by telephone, fax, e-mail or any other electronic means), no earlier than 9:00 A.M. local time and no earlier than the first day of the calendar month prior to the month one year in advance of the proposed use. (Example: if you wish to schedule the building in the month of October 2009, the earliest you can schedule the building is September 1, 2008). In the event two or more persons are at City Hall at 9:00 A.M., wishing to rent the building on the same day, the name of the one person representing each group shall have their name placed in a box and drawn to determine which person may rent the building on the desired day. In all other situations, reservations shall be accepted on a first come-first served basis. If the deposit is to be refunded, it will be issued by the City within ten (10) work days following the use of the building.

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4. A person or group wishing to reserve the building for the day immediately preceding the event may do so at the time of making the initial reservation at the standard rate. The building may also be rented for one-half (1/2) day on the day immediately preceding the event at a reduced rate, however, this reservation may not be made earlier than two (2) weeks prior to the scheduled event.

5. The person or group renting the Community Building Basement may not sublet the building to another person or group.

6. No decorations of any kind, i.e., plaques, pictures, or any other objects shall be fastened to the walls, ceilings, windows or lighting fixtures by use of nails, tacks, screws, tape, etc. Fixtures, furniture, displays or decorations provided by the user(s) must be removed from the building immediately following the use of the same, so the building will be ready for use for the next group. Failure to remove items shall be cause for revocation of part or all of the rental deposit.

7. Each person or group of persons using the kitchen shall thoroughly clean the kitchen and all fixtures before leaving the building and shall clean and remove all food from the refrigerator. In addition, the stove must be cleaned and the floor mopped before leaving the building. At no time shall any of the kitchen appliances be unplugged or moved from their original location. All garbage and refuse shall be removed from the building and placed in the containers located outside.

8. Barbeque grills or any outside cooking device shall only be used on the paved area of the Community Building Basement. Any grease or cooking residue shall be cleaned from the area immediately following use.

9. No person(s), organization, etc. may use the Community Building Basement for religious services.

10. No persons, firm or private organization will be allowed to use the building for the purpose of offering bingo games to the general public. Civic clubs, schools or non-profit organizations may use the building for fund-raising bingo games as approved by Council.

11. Each person using the building will be held responsible for any damages to the walls, floors, windows, appliances and fixtures, furniture and outside areas. Cost for damages will be deducted from the security deposit and in the event the costs exceed the security deposit, the person responsible for renting the facility shall also be held responsible for the additional costs. In order to insure payment for any damages incurred that exceed the security deposit, a guarantee by valid credit card will be required at the time the rental reservation is made. THIS CREDIT CARD WILL ONLY BE USED IF DAMAGES ARE INCURRED THAT EXCEED THE SECURITY DEPOSIT. If damages occur and the card charged is deemed to be invalid and prompt payment is not made, the City will pursue legal action to collect such claims. If the person renting the facility has done so for at least three consecutive occasions without damages, the credit card requirement may be waived. In addition, the credit card requirement may be waived for churches, not-for-profit organizations and civic clubs using the facility on a regular basis.

12. Tables and chairs may be rearranged by persons using the building, but must be returned to their original positions after each use.

13. Once the area used, has been cleaned and set in order, the Marion Police Department must be notified, at 652-3231, to come inspect and lock the building. Reports prepared by the Marion Police Department and reports from the cleaning agency will be used to determine if the security deposits shall be refunded.

14. The officers of the Marion Police Department have authority to enter the building at any time for the purpose on insuring compliance with all rules and regulations.

15. Officers of the Marion Police Department shall have authority to open or look in any ice chests and/or coolers on the premises, to monitor possible alcohol use or other improper activity.

16. It is unlawful for any person to consume any alcoholic beverage on any property owned or controlled by the City of Marion. Possession of alcohol or evidence of consumption of alcohol at the Community Building Basement will result in immediate eviction from the premises, forfeiture of security deposit and may result in criminal charges, fines and penalties.

17. Persons or groups renting the Marion Community Building Basement may request to place messages on the permanent sign in front of the building. In order to place a message, the person or group must legibly write out their desired message on a sheet of paper and turn it in at City Hall. Such request must be received at City Hall no later than 48 hours prior to the scheduled date of the event. The person

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responsible for scheduling the Community Building Basement will forward the message to the Public Works Secretary, who will issue a work order for the message to be spelled out on the Community Building Basement sign.

The City reserves the right to edit any messages for length and/or content, in the case of language deemed obscene or objectionable. Messages shall contain only the purpose, date and location of the event and the name of the group sponsoring the event (for example: Marion Business Association Annual Banquet Thursday night, 6:30 P.M.). Personal messages shall not be permitted. Messages advertising political events shall not endorse a specific candidate for any office, but may state the date and time and purpose of a campaign fundraising event held at the Community Building Basement (for example: John Doe for Senate Campaign Dinner, Friday, 7:00 P.M.). In no case shall any message advertising an event not to be located at the Community Building Basement be permitted, unless it is in conjunction with an event sponsored by the City of Marion.

In no case shall the City display a message more than three business days before an event. If two or more persons or groups renting any part of the Community Building wish to have their message displayed at the same time, the person or group submitting their message at City Hall first shall have priority in having their message displayed.

Letters and keys for the Community Building sign and keys to the Community Building Basement are not to be given out to persons or groups renting the Community Building Basement, except under unique situations approved by the City Manager.

No signs are permitted to be posted in front of or on the Community Building property.

18. Animals are not permitted inside any part of the Community Building Basement, with the exception of Seeing Eye dogs for legally blind individuals.

19. If the Marion Police Department is called to the Community Building Basement in reference to a disturbance or due to any violations of Federal, State or Local law, the event may be immediately suspended, all persons evicted from the building after applicable clean-up and the deposit revoked for the event.

20. No skateboards, in-line skates, roller skates or bicycles are allowed inside the Community Building Basement or on the Community Building property.

These new regulations shall be effective upon adoption.

Adopted this the 2nd day of November 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

CITY OF MARION, NORTH CAROLINA
RULES AND REGULATIONS
FOR THE
MARION DEPOT

REVISED NOVEMBER 2, 2010

The Marion Depot is owned and operated by the City of Marion. This building is available to civic groups, organizations, and individuals needing a place to meet.

DAYS OF OPERATION

The Depot is available to be scheduled for use seven (7) days a week, on a year round basis.

AA.00000944 (24)

HOURS OF OPERATION

The Depot may be opened as early as one desires; however, it is requested that the person or persons using the building be out by 12:00 Midnight.

RULES AND REGULATIONS

Violations of any of these rules and regulations or any damages to the Facilities may result in forfeiture of all or part of the security deposit held by the City.

1. No one shall be permitted to use the building without first having made proper reservations, paying the required deposit and payment for the use of the building.

2. A cash deposit, as determined by the City Council, shall be required to insure compliance with the rules and regulations governing the use of the building. The deposit must be made at least thirty (30) days in advance of the date the building is to be used. The City may keep any or all of the deposit in the case of any violations of the rules and regulations or any damages to the Facilities. In addition to the deposit, a valid credit card may also be required (see # 12 below). Civic Clubs and Not–For–Profit Organizations using the building on a regular basis shall be exempt from making a deposit.

3. All persons or groups renting the Marion Depot must pay for the use of the building at the time reservations are made. No refunds will be made by the City should the renter not use the building on the date scheduled, unless a cancellation is made at least sixty (60) days in advance of the scheduled event, in which case a refund will be made, except for an administrative service charge of $25.00. In lieu of receiving a refund, a person or group canceling an event more than sixty (60) days in advance of the scheduled event may reschedule the building without additional cost at some other open date within the next twelve (12) months. A person or group canceling an event less than sixty (60) days in advance of the scheduled event may reschedule the building without additional cost at some other open date within the next twelve (12) months, but will not be eligible to receive a refund. Should the person or group fail to reschedule within the designated twelve (12) month period, the entire rental fee will be forfeited. Reservations must be made in person (no reservations by telephone, fax, e-mail or any other electronic means), no earlier than 9:00 A.M. local time and no earlier than the first day of the calendar month prior to the month one year in advance of the proposed use. (Example: if you wish to schedule the building in the month of October 2009, the earliest you can schedule the building is September 1, 2008). In the event two or more persons are at the counter at City Hall at 9:00 A.M., wishing to rent the building on the same day, the name of the one person representing each group shall have their name placed in a box and drawn to determine which person may rent the building on the desired day. In all other situations, reservations shall be accepted on a first come-first served basis. If the deposit is to be refunded, it will be issued by the City within ten (10) work days following the use of the building.

4. A person or group wishing to reserve the building for the day immediately preceding the event may do so at the time of making the initial reservation at the standard rate. The building may also be rented for one-half (1/2) day on the day immediately preceding the event at a reduced rate, however, this reservation may not be made earlier than two (2) weeks prior to the scheduled event.

5. The Courtyard area of the Depot shall only be rented in conjunction with rental of the Depot. Persons renting the Depot have the authority to ask unauthorized Courtyard users to leave. Any damages to the Courtyard or surrounding landscaped areas will be the responsibility of the person renting the facility.

6. The person or group renting the Depot may not sublet the building or Courtyard to another person or group.

7. No decorations of any kind, i.e., plaques, pictures, or any other objects shall be fastened to the walls, ceilings, windows or lighting fixtures by use of nails, tacks, screws, tape, etc. Fixtures, furniture, displays or decorations provided by the user(s) must be removed from the building immediately following the use of the same, so the building will be ready for use for the next group. Failure to remove items shall be cause for revocation of part or all of the rental deposit.

8. Each person or group of persons using the kitchen in the facility shall thoroughly clean the kitchen and all fixtures before leaving the building and shall clean and remove all food from the refrigerator. In addition, the stove must be cleaned and the kitchen floor mopped before leaving the building. At no time shall any of the kitchen appliances be unplugged or moved from their original location. All garbage and refuse shall be removed from the building and placed in the containers located outside. Do not place garbage in refuse in the dumpster belonging to the neighboring business.

AA.000000945 (24)

9. Barbeque grills or any outside cooking device shall only be used on the paved area of the Depot. Any grease or cooking residue shall be cleaned from the area immediately following use. At no time shall any barbeque grill or outside cooking device be placed on the Courtyard area of the Depot.

10. No motor vehicle of any kind shall be allowed on the Courtyard of the Depot at anytime. All unloading or loading shall be done at curbside.

11. No person(s), organization, etc. may use the Depot for religious services.

12. No persons, firm or private organization will be allowed to use the building for the purpose of offering bingo games to the general public. Civic clubs, schools or non-profit organizations may use the building for fund-raising bingo games as approved by Council.

13. Each person using the building will be held responsible for any damages to the walls, floors, windows, appliances and fixtures, furniture and outside areas. Cost for damages will be deducted from the security deposit and in the event the costs exceed the security deposit, the person responsible for renting the facility shall also be held responsible for the additional costs. In order to insure payment for any damages incurred that exceed the security deposit, a guarantee by valid credit card will be required at the time the rental reservation is made. THIS CREDIT CARD WILL ONLY BE USED IF DAMAGES ARE INCURRED THAT EXCEED THE SECURITY DEPOSIT. If damages occur and the card charged is deemed to be invalid and prompt payment is not made, the City will pursue legal action to collect such claims. If the person renting the facility has done so for at least three consecutive occasions without damages, the credit card requirement may be waived. In addition, the credit card requirement may be waived for churches, not-for-profit organizations and civic clubs using the facility on a regular basis.

14. Tables and chairs may be rearranged by persons using the building, but must be returned to their original positions after each use.

15. Once the area used, has been cleaned and set in order, the Marion Police Department must be notified, at 652-3231, to come inspect and lock the building. Reports prepared by the Marion Police Department and the cleaning agency will be used to determine if the security deposits shall be refunded.

16. The microphone for the sound system may be checked out and signed for through the Marion Police Department. When use of the microphone has been completed, it is to be returned to the Police Department immediately.

17. The officers of the Marion Police Department have authority to enter the building at any time for the purpose on insuring compliance with all rules and regulations.

18. Officers of the Marion Police Department shall have authority to open or look in any ice chests and/or coolers on the premises, to monitor possible alcohol use or other improper activity.

19. It is unlawful for any person to consume any alcoholic beverage on any property owned or controlled by the City of Marion. Possession of alcohol or evidence of consumption of alcohol at the Depot will result in immediate eviction from the premises, forfeiture of security deposit and may result in criminal charges, fines and penalties.

20. No signs are permitted to be posted in front of or on the Depot property.

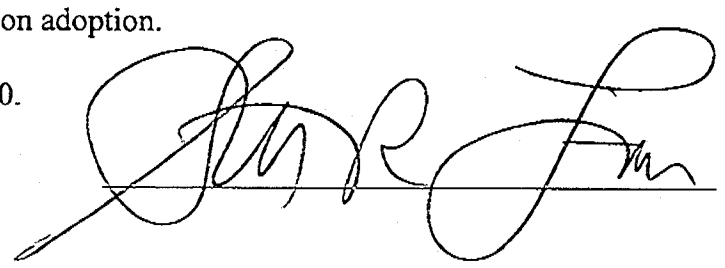
21. Animals are not permitted inside any part of the Depot, with the exception of Seeing Eye dogs for legally blind individuals.

22. If the Marion Police Department is called to the Depot in reference to a disturbance or due to any violations of Federal, State or Local law, the event may be immediately suspended, all persons evicted from the building after applicable clean-up and the deposit revoked for the event.

23. No skateboards, in-line skates, roller skates or bicycles are allowed inside the Depot, in the Courtyard area on anywhere on the Depot property.

These new regulations shall be effective upon adoption.

Adopted this the 2nd day of November 2010.



AA.000000946 (24)

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

CONSIDER APPROVAL OF FEE SCHEDULE AMENDMENTS:

Finance Director Harriett Thomas advised that in an effort to increase revenues, staff had looked at services the City provides, but does not charge for or only charges a minimum fee. She proposed the following new or increased fees for services:

Service Provided	Current Charge	Proposed Charge
Grass mowing	Actual cost	Actual cost plus $50 Administration fee
Driveway lay-out	-0-	$50 permit fee
Sidewalk Inspections (before and after residents operate equipment on sidewalk)	-0-	$25 permit fee
Portable Toilet sites (verify location is out of public view)	-0-	$25 permit fee
White goods pick-up:		
Without backhoe:		
1-5 items	$15	$ 50
6-10 items	$25	$100
Over 10 items	To be determined by Sanitation Supervisor	To be determined by Sanitation Supervisor
With backhoe:		
1-5 items	$35	$100
6-10 items	$45	$200
Over 10 items	To be determined by Sanitation Supervisor	To be determined by Sanitation Supervisor

Upon a motion by Council Member Cuthbertson, seconded by Council Member Doggett, Council voted unanimously to approve the following amended fees, as part of the City's Fee Schedule:

Service Provided	Current Charge	New Charge
Grass mowing	Actual cost	Actual cost plus $50 Administration fee
Driveway lay-out	-0-	$50 permit fee
Sidewalk Inspections (before and after residents operate equipment on sidewalk)	-0-	$25 permit fee
Portable Toilet sites (verify location is out of public view)	-0-	$25 permit fee
White goods pick-up:		
Without backhoe:		
1-5 items	$15	$ 50
6-10 items	$25	$100
Over 10 items	To be determined by Sanitation Supervisor	To be determined by Sanitation Supervisor

AA.000000947 (24)

With backhoe:		
1-5 items	$35	$100
6-10 items	$45	$200
Over 10 items	To be determined by Sanitation Supervisor	To be determined by Sanitation Supervisor

ADD ON – DECEMBER COUNCIL MEETING DATE: The City Manager stated that a public meeting had been scheduled on Tuesday, December 7 from 5:00 PM – 8:00 PM concerning the selection of the Overmountain Victory Trail (OVT) headquarters. The meeting will provide an opportunity for the public and organizations to make comments concerning the OVT headquarters selection, an item of extreme importance to the City and the entire community.

The City Manager advised that, since a City Council meeting is scheduled for December 7, Mayor Little and he would recommend moving the City Council meeting to December 14, which is also the night of the City Council Christmas Dinner. Dinner would begin immediately following the meeting.

Mayor Little stated that the whole point of changing the meeting is to allow for 100 percent attendance by the Mayor and Council Members at the OVT Headquarters selection meeting on December 7, to fully demonstrate the City's commitment to the OVT headquarters being at the McDowell House in Marion.

Upon a motion by Council Member Doggett, seconded by Council Member Martin, Council voted unanimously to change the date and time of the December 7 City Council meeting to Tuesday, December 14, at 6:00 PM.

CITY MANAGER REPORTS: The City Manager gave a brief report on current projects.

The City Manager advised that the next Council Planning Session is set for Tuesday, November 8 at 6:00 p.m. at City Hall. Dinner will be provided. The focus of this Planning Session will be a review of budget and service level issues. The City Manager provided each Council Member with a proposed agenda for the Planning Session, along with background materials.

Council Member Doggett stated that she would not be able to attend the Planning Session due to a work conflict.

The City Manager advised that, as part of the City's participation in the N.C. STEP Program, the N.C. Rural Center is providing the City of Marion and 14 other cities with a free Asset Management Plan for each City's water and sewer system. The City Manager stated that the City obtained a Rural Center grant for McGill to complete a similar plan in 2006. This Plan will not require the City to provide any local match, so it is a great opportunity for the City to receive a free Plan. The Asset Management Plan seeks to identify all water and sewer assets and develop a program for major repairs and replacements to said assets. The 2010 Asset Management Plan identified over $50 million in water and sewer projects over 10 years. The City Manager stated that the City is not quite five years into the Plan and has already completed or has in motion nearly $10 million worth of projects and have obtained another Rural Center grant to study future Water Plant improvements, a project that was estimated at $3.6 million.

The City Manager advised that as previously reported, the American Academy of Dermatologists has a grant program to fund shade shelters. The grant application period for 2011 opened on October 18. After looking at the grant application on-line for the first time, staff determined that municipalities and governmental organizations are not eligible. Therefore, staff will need to

AA.00000948 (24)

discuss how best to construct the desired shade shelter. The City Manager advised that he had asked Public Works Director Chris Hollifield for a design and cost estimate for the shade shelter.

The City Manager advised that City crews are working to clean the Peavine Trail recently acquired from Norfolk Southern. The City has received approval to allow people walking the trail to park at the old Rescue Squad building on State Street and at First Christian Church on Rutherford Road. Barricades have been placed to block access to the trail south of the First Christian Church parking lot and to prevent people from walking across the trestle. The City ended up acquiring about 2.4 miles. A total of 1.4 miles of the trail will be opened for now.

The City Manager advised that the Greenway continues to see a great deal of traffic. Planning and Development Director Heather Cotton is ordering trash cans and benches and having signs made for the Greenway. The City has announced a program where people can sponsor benches for $500. Two such benches have been sponsored so far.

Mayor Pro Tem Owenby advised of complaints received regarding animals running loose on the Greenway and suggested that signs be placed stating that animals must be on a leash at all times. The City Manager stated that the Public Works Department would place such signs.

The City Manager stated that the last session and graduation for the Marion 101 Citizens Academy was held on Thursday, October 28. A total of 19 people graduated. He stated that staff will prepare for Marion 101 again next year, without objection, and may seek to start the class earlier in the year, to take advantage of sunlight.

The City Manager advised that the Department of Transportation has verbally committed to provide $50,000 in funding for the Downtown Streetscape Plan and to resurface Main Street from the curve at Rutherford Road all the way to the old Legendary Ford property, along with East Court Street from Baldwin Avenue to downtown in Spring 2011. He added that Ms. Cotton has received encroachment approval from DOT to allow the holly trees to be replaced with the gingko trees. This planting will take place in November. The new wayfinding signs will begin to be installed in November.

The City Manager advised that Matthew Jones with Norfolk Southern Railway (NS), with whom Council Member Clark, Marion Business Association Director Freddie Killough and he met a few weeks ago to look at possible improvements to the unsightly Main Street railroad banks, e-mailed him on October 26 and advised that NS engineering staff were working on ideas to address the problems and would be in contact as the project advances.

COUNCIL MEMBER COMMENTS:

Mayor Little invited Council to attend a promotional ceremony at the Police Department on Friday morning at 10:00 a.m.

Council Member Clark asked that a letter be sent to Governor Perdue, asking her to support changes to improve the fairness of sales tax distribution and to oppose ABC privatization. Based on consensus from the Mayor and Council, the City Manager stated that he would draft such letters for signature by Mayor Little and all Council Members.

Council Member Clark also stated that he had a call from a citizen, complaining about the Halloween trick or treat observance this past weekend being on Saturday, October 30, instead of Sunday, October 31.

Council Member Clark stated that he had attended a Continuing Education class in the basement of the Community Building that day and that there were some maintenance issues in the

AA.000000949 (24)

basement that needed attention. The City Manager stated that staff would look at this issue and make necessary repairs.

Council Member Martin extended an invitation for everyone to attend the 100th Anniversary Celebration for Addies Chapel United Methodist Church on Sunday, November 7 at 3:00 PM.

Council Member Doggett stated that she had attended the North Carolina League of Municipalities Conference the week before in Winston-Salem and had enjoyed attending the sessions and had learned a great deal.

CLOSED SESSION UNDER N.C.G.S. 143-318.11(a)(4) TO DISCUSS A MATTER INVOLVING THE LOCATION OF BUSINESS OR INDUSTRY: Upon a motion by Mayor Pro Tem Owenby, seconded by Council Member Doggett, Council voted unanimously to go into Closed Session in accordance with N.C.G.S. 143-318.11(a)(4) to discuss a matter involving the location of business or industry.

OPEN SESSION: Upon a motion by Council Member Doggett, seconded by Council Member Martin, Council voted unanimously to go back into Regular Session.

Mayor Little announced that no action was taken during the Closed Session.

ADJOURNMENT: Upon a motion by Council Member Doggett, seconded by Council Member Martin, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in a Special Meeting on Monday, November 8, 2010 at 6:00 P.M. in the City Hall Conference Room located at 194 North Main Street for the purpose of conducting a Planning Session.

BOARD MEMBERS PRESENT: Mayor Steve Little, Mayor Pro Tem Cecil Owenby, Council Members Everette Clark, Lloyd Cuthbertson and Billy Martin.

Council Member Juanita Doggett could not attend this meeting, due to an unavoidable work conflict involving her involvement in the reaccreditation of McDowell Technical Community College.

OTHERS PRESENT: Bob Boyette, City Manager

AA.000000950 (24)

PLANNING SESSION: City Council held a Planning Session and discussed the following topics:

1. Growth Issues/Priorities
2. City Website/Facebook Page
3. Funding Requests
4. 2010-11 Budget/Cost Cutting Measures
5. Service Prioritization/2011-12 Budget Planning
6. Schedule Next City Council Planning Session

No action was taken on these items. Items requiring City Council action will be included in 2010-11 Budget Ordinance amendments, included in the 2011-12 or future budgets or placed on future City Council meeting agendas for consideration.

Council agreed to schedule the next City Council Planning Session in late January or early February after the annual Town Meeting. The exact meeting date and time will be set at a regular City Council meeting.

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Council Member Cuthbertson, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, 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 16, 2010 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Cecil Owenby, Council Members A. Everette Clark, Lloyd Cuthbertson, Juanita Doggett and Billy Martin.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Harriett Thomas, CPA, Finance Director; Heather Cotton, AICP, Planning and Development Director; Rusty Jenkins, Patrol Lieutenant; Public Works Director; Freddie Killough, Executive Director, Marion Business Association; Darren Waugh, President, Marion Business Association; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Jeff Pendley 245 Broad Street, Marion, NC; Earl & Gaye Dagenhart, 2947 8th Street Ct. NE, Hickory, NC.

AA.00000951 (24)

OPEN MEETING: Mayor Little opened the meeting with a moment of silence.

CONSENT AGENDA: Upon a motion by Council Member Martin, seconded by Council Member Cuthbertson, those members of Council present voted to approve the consent agenda as follows:

A. Approval of Minutes – November 2, 2010 Regular City Council Minutes
November 2, 2010 City Council Closed Session Minutes
November 8, 2010 City Council Planning Session Minutes

B. Approve Longevity Pay

DEPARTMENTAL SUMMARY - LONGEVITY 2010

DEPARTMENT			GROSS AMOUNT
GENERAL FUND			
ADMIN	420		$ 6,743.60
INSPECTIONS	500		1,603.32
POLICE	510		12,452.32
FIRE	530		2,000.20
PUBLIC WORKS/ADMIN	545		667.28
FLEET MAINTENANCE	555		1,434.40
STREET	560		5,815.04
SANITATION	580		3,491.16
			38,737.32
I&F			
PURCHASING	445		1,108.80
WATER & SEWER FUND			
WATER UTILITIES	810		3,302.64
WATER FILTER PLANT	812		3,131.76
WASTE TREATMENT PL	816		5,822.48
			12,356.28
		GRAND TOTAL	$ 48,202.40

C. Approve Fire Department Relief Shift Honoraria:
The listed Firefighters donated their time to work relief shifts for paid staff when the paid staff has taken holidays, sick leave and vacation. The total amount requested is $7,943.25.

Marty Coward 66 West Cross St Marion, NC 28752	$ 981.75
Terry Depoyster 69 Grove St. Marion, NC 28752	$1,925.25
Scotty Radford 838 Spaulding Rd. Marion, NC 28752	$1,695.75
Tim Moore 262 Maple Ave. Marion, NC 28752	$1,351.50
Christopher Burnette 62 Lukin St. Marion, NC 28752	$1,211.25

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Wayne Durkee 341 Hunter Dr. Marion, NC 28752	$777.75
Total	$7,943.25

ADOPTION OF ANNEXATION ORDINANCE – SUGAR HILL ROAD ANNEXATION AREA: The City Manager advised that, with the completion of the annexation process for the Sugar Hill Road Annexation Area, he would recommend that Council adopt the ordinance to annex the Sugar Hill Road Area, effective January 31, 2011. State law allows the effective date of an annexation to be set between 40 and 400 days after the adoption of the annexation ordinance.

Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Owenby, Council voted unanimously to adopt the following Ordinance to annex the Sugar Hill Road Area, effective January 31, 2011.

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF MARION UNDER THE AUTHORITY GRANTED BY CHAPTER 160A, ARTICLE 4A, PART 2 OF THE GENERAL STATUTES OF NORTH CAROLINA – SUGAR HILL ROAD AREA - 2010

WHEREAS, all of the prerequisites to adoption of this ordinance prescribed in Chapter 160A, Article 4A, Part 2 of the General Statutes of North Carolina, have been met; and

WHEREAS, the City Council has taken into full consideration of statements presented at the public hearing held on October 19, 2010, on the question of this annexation; and

WHEREAS, the City Council has concluded and hereby declares that annexation of the area described herein is necessary to the orderly growth and development of the City of Marion.

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

Section 1. From and after the effective date of this annexation, the following territory shall be annexed to and become a part of the City of Marion, and the corporate limits of the City of Marion shall be extended to include said territory more particularly described by metes and bounds as follows:

BEGINNING at a point on the boundary of Lot 0375, Block 18 on the McDowell County Tax Map 1700.05, said point also being the current boundary of Marion Corporate Limits thence following the eastern boundary of said Lot 0375 and the Marion Corporate Limits in a southwesterly direction approximately 1027 feet to a point, thence 100 feet in a easterly direction to a point, said point being a southern boundary of said Lot 0375, Marion Corporate Limits, and the northern boundary of Steppe Street (SR 1269); thence crossing Steppe Street (SR 1269) in a southerly direction 60 feet to a point on the southern boundary of Steppe Street (SR 1269), said point also being a point on the northern boundary of Lot 7042, Block 07 on the McDowell County Tax Map 1700.09; thence following the boundary of said Lot 7042 in a southeasterly direction 331.26, thence in a southwesterly direction 209.64, thence in a northwesterly direction 121.64 to a point, said point being on the southwestern boundary of said Lot 7042 and the southeastern point of Lot 5960, Block 06 on the McDowell County Tax Map 1700.09; thence following the boundary of said Lot 5960 in a southwesterly direction 250.19 feet, thence following the boundary of said Lot 5960 in a northwesterly direction 165.55 feet to a point, said point being on the southwestern boundary of said Lot 5960, and the southeastern point of lot 3894, Block 06 of the McDowell County Tax Map 1700.09; thence following the boundary of said lot 3894 in a southwesterly direction 118.17 feet to a point, said point being the southern point of said lot 3894, and a point on the northern boundary of Meadow Lane (SR 1271); thence crossing Meadow Lane (SR 1271) in a southwesterly direction 60 feet to a point on the southern boundary of Meadow Lane (SR 1271), said point also being a point on the northern boundary of Lot 2652 Block 06 on the McDowell County Tax Map 1700.09; thence following the boundary of said Lot 2652 in a southeasterly direction 100.41 feet, thence in a southwesterly direction approximately 381.83 feet to a point, said point being the southern point of said lot 2652 and the eastern point of lot 0465 Block 06 on the McDowell County Tax Map 1700.09; thence following the boundary of said lot 0465 in a southeasterly direction approximately 94.23 feet, thence in a southwesterly direction approximately 29.76 feet; thence in a southeasterly direction 178.12 feet to a point; said point being the southeastern point of said lot 0465 and the northern point of Lot 2097, Block 06 on the McDowell County Tax Map 1700.09, thence following the boundary of said Lot 2097 in a southeasterly direction 238.13 feet, thence in a southwesterly direction 218.27 feet, thence in a southeasterly

direction 334.81 feet, thence in a westerly direction 360.26 feet to a point, said point being the southwestern point of said lot 2097 and the southeastern point of Lot 8087 Block 05 on the McDowell County Tax Map 1700.09; thence following the boundary of said Lot 8087 in a westerly direction 59.24 feet to a point, said point being the southwestern point of said Lot 8087 and the southeastern point of Lot 5823, Block 95 on the McDowell County Tax Map 0790.12; thence following the boundary of said Lot 5823 181.37 feet, thence in a northwesterly direction 496.54 feet to a point, said point being the western point of said Lot 5823, and a point on the eastern boundary of Sugar Hill Road (SR 1001) and the northern point of Mill Road (SR 1189); thence crossing Mill Road (SR 1189) in a southwesterly direction 40 feet to a point on the southern boundary of Mill Road (SR 1189), said point also being a point on the eastern boundary of Sugar Hill Road (SR 1001), thence following the eastern boundary of Sugar Hill Road (SR 1001) in a southerly direction 1524.35 feet to a point on the eastern boundary of Sugar Hill Road (SR 1001), said point also being the northwestern point of Lot 9430, Block 84 on the McDowell County Tax Map 0790.04; thence following the boundary of said Lot 9430 in a easterly direction 245.44 feet, thence in a southeasterly direction 69.17 feet, thence in a southerly direction 448.97 feet, thence in a southeasterly direction, 165.52 feet, thence in a northwesterly direction 507.63 feet to a point, said point being the southwestern point of said lot 9430 and a point on the eastern boundary of Sugar Hill Road (SR 1001); thence crossing Sugar Hill Road (SR 1001) in a northwesterly direction approximately 326.09 feet to a point on the western boundary of Sugar Hill Road (SR 1001), said point also being a point on the southeastern boundary of Lot 2578, Block 84 on the McDowell County Tax Map 0790-04; thence following the boundary of said Lot 2578 in a southwesterly direction 402.91 feet to a point, said point being the southern point of said Lot 2578 and the eastern point of Lot 0336, Block 84 on the McDowell County Tax Map 0790-04; thence following the boundary of said Lot 0336 426.96 feet to a point, said point being a southern point of lot 0336 and the eastern point of Lot 7147, Block 74 on the McDowell County Tax Map 0790-04; thence following the boundary of said Lot 7147 in a southwesterly direction 319.58 feet, thence in a northeasterly direction 288.76 feet, thence in a easterly direction 43.35 feet, thence in a northwesterly direction 39.24 feet, thence in a northeasterly direction approximately 41.55 feet to a point, said point being the northern point of said Lot 7147, and the southwestern point of Lot 0336, Block 74 on the McDowell County Tax Map 0790-04; thence following the boundary of said lot 0336 in a northeasterly direction 306.86 feet, thence in a northwesterly direction 43.07 feet, thence in a northeasterly direction 56.4 feet, thence in a northwesterly direction 245.4 feet, thence in a northeasterly direction 152.04 feet, thence in a southeasterly direction 307.2 feet to a point, said point being a northeastern point of said Lot 0336 and the northwestern point of Lot 2578, Block 84 on the McDowell County Tax Map 0790-04; thence following the northern boundary of said Lot 2578 in a easterly direction 383.04 feet to a point, said point being the northeastern point of said Lot 2578 and a point on the western boundary of Condrey Road (SR 1190); thence crossing Condrey Road (SR 1190) in a easterly direction 60 feet to a point on the eastern boundary of Condrey Road (SR 1190), said point also being a point on the western boundary of Lot 7617, Block 84 on the McDowell County Tax Map 0790-04; thence following the eastern boundary of Condrey Road (SR 1190) in a generally northern direction 1,466.48 feet to a point, said point being on the northern boundary of said Lot 1829 and a point on the southern boundary of Condrey Road (SR 1190); thence crossing Condrey Road (SR 1190) in a northerly direction 60 feet to a point on the northern boundary of Condrey Road (SR 1190), said point also being a point on the southern boundary of Lot 2160, Block 96 on the McDowell County tax map 0790-12; thence following the boundary of said Lot 2160 in a northerly direction 192.63 feet, thence in an easterly direction 441.01 feet to a point, said point being the northeastern point of said Lot 2160 and the western boundary of Sugar Hill Road (SR 1001), thence following the western boundary of Sugar Hill Road (SR 1001) in a northeasterly direction 224.47 feet to a point, said point being on the western boundary of Sugar Hill Road (SR 1001) and the southern boundary of Veterans Drive (SR 1191); thence crossing Veterans Drive (SR 1191) in a northeasterly direction 60 feet to a point on the northern boundary of Veterans Drive (SR 1191), said point also being the southern point of Lot 7572, Block 96 on the McDowell County Tax Map 0790-12; thence following the boundary of said Lot 7572 in a northwesterly direction 138.53 feet, thence in a northeasterly direction 119.98 feet to a point, said point being the northern point of said lot 7572 and the western point of Lot 8671, Block 96 on the McDowell County Tax Map 0790-12; thence following the boundary of said lot in a northeasterly direction 101.64 feet to a point, said point being the northern point of said Lot 8671 and the western point of Lot 9740, Block 96 on the McDowell County Tax Map 0790-12; thence following the boundary of said Lot 9740 in a northeasterly direction 100.15 feet to a point, said point being the northern point of said Lot 9740 and the western point of Lot 0778, Block 96 on the McDowell County Tax Map 0790-12; thence following the boundary of said Lot 0778 in a northeasterly direction 126.03 feet to a point, said point being the northern point of said Lot 0778 and the southwestern point of Lot 8057, Block 06 on the McDowell County Tax Map 1700-09; thence following the boundary of said Lot 8057 in a northeasterly direction approximately 18.62 feet, thence in a northwesterly direction 103.49 feet, thence in a westerly direction 118.13 feet, thence in a northerly direction 184.68 feet, thence in a northeasterly direction 125.59 feet, thence in a easterly direction 139.82 feet to a point, said point being the northeastern point of said Lot 8057 and the northwestern point of Lot 2038, Block 97 on the McDowell County Tax Map 0790-12; thence following the northern boundary of said Lot 2038 in a easterly direction 292.15 feet to a point, said point being the northeastern point of said Lot 2038 and the northwestern point of Lot 4156, Block 07 on the McDowell County Tax Map 1700-09; thence following the northern boundary of said Lot 4156 in a easterly direction 228.05 feet to a point, said point being on the northern boundary of said Lot 4156 and the southwestern point of Lot 5325, Block 07 on the McDowell County Tax Map 1700-09; thence following the boundary of said Lot 5325 in a

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Section 7. The Mayor of the City of Marion shall cause an accurate map of the annexed territory described in Section 1 hereof, together with a duly certified copy of the ordinance, to be recorded in the office of the register of deeds of McDowell County, and to the office of the Secretary of State in Raleigh. Such a map shall also be delivered to the McDowell County Board of Elections, as required in G.S. 163-288.1.

Section 8. This ordinance shall become effective on January 31, 2011.

As to qualified tracts of agricultural land, horticultural land and forestland, the annexation will become effective on the last day of the month in which the tract or part thereof becomes ineligible for present-use classification under G.S 105-227.4 or no longer meets the requirements of G.S 160A-37(f1)(2).

Adopted this 16th day of November, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

APPROVED AS TO FORM:

City Attorney

Ordinance Number: O-10-11-16-1

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL

I, _____, Notary Public of McDowell County, North Carolina, do hereby certify that before me this day personally appeared J. Robert Boyette, who, after first being duly sworn, deposes and says that he is acquainted with Stephen R. Little, who is Mayor of the City of Marion, North Carolina, the corporation executing the foregoing Ordinance to Extend the Corporate Limits of the City of Marion, North Carolina, that he knows the common seal of the City of Marion and that he, the said J. Robert Boyette, Clerk of the City Council of the said City, that he saw the foregoing instrument signed in the name of said corporation by Stephen R. Little, Mayor, as aforesaid, that he saw the Mayor affix the common seal of the said corporation thereto, and that he, the said J. Robert Boyette, Clerk, as aforesaid signed his name in attest action of execution thereof, all ordered by the City Council of the City of Marion, North Carolina, for purposes therein set forth,

WITNESS my hand this the _____ day of _____ 2010

(Seal)

_____
Notary Public

My Commission Expires: _____

PUBLIC APPEARANCE – MARION BUSINESS ASSOCIATION – QUARTERLY REPORT: Mr. Darren Waugh, President of the Marion Business Association, presented the following quarterly report of the Marion Business Association for the period of July-September 2010.

Economic Development Report

3 New Businesses Opened –
Dreamline Fashions
Open Flame
Eddie's Burrito
New Owners or Relocations - 1
Businesses Closed – 2
Business Opportunity Inquiries – 3
Business Technical Assistance Request - 1
Business Loan Inquiries – 1
Business Grant Inquiries – 4
Business Visits - 22
Property Referral Inquiries – 0

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Property Owner Contacts w/ available building - 0
Contacts with interested Commercial Developers – 0
New Businesses Breaking Ground - 0
Façade Grant Inquires – 0
Façade Grant Awarded – 0
Sign Grant Inquires – 0
Sign Grant Awarded - 0

Other Economic Activity:
Historic Marion Tailgate Market opened Tuesday afternoons and Saturday mornings. Very well supported by the community.

MBA continues to meet with the WNC Rail Committee to promote passenger rail service to WNC.

MBA continues to maintain listing of commercial properties in the City of Marion.

Pursuing funding to create Revolving Loan Program.

Several inquiries about Rural Center Micro Loan. One approved and applicant changed their mind.

Special Events Report
July 4 Celebration – Great crowd, great fireworks display
July 17 Taste of Marion Tea @ Depot with 60 guests, showcasing Marion businesses.
Organized by local Business owners/volunteers
August 6, Business for Breakfast, 11 attended. Topic – "Great Customer Service"
August 6, First Friday Concert – good attendance. The children had fun!
August 7, Sidewalk Yard Sale – Over 45 vendors. Great Day!!!
September 6, Labor Day Concert with Terry McKinney. Great crowd and lots of fun.
September 26, Cycle NC @ YMCA – 1200 bike riders camped/stayed in Marion.
Spent most of September working on Mountain Glory Festival.

Events Committee continues to grow!
Volunteer Hours Committed – 101

Upcoming Events
Sunday, November 21 – Christmas Parade
Thursday, December 2 – Melodies on Main
Friday, December 31 – Marion Rotary New Year's Eve Celebration
Every Thursday Night, 7:00 PM – Free Bluegrass Music Jam @ Depot

Mayor Little thanked Mr. Waugh for this presentation and the continued work of the Marion Business Association.

APPROVE STREET CLOSURE FOR NEW YEARS EVE CELEBRATION: The City Manager stated that the City, the County, MBA and Marion Rotary Club have begun planning this year's New Year's Eve Celebration, with the intention to build on last year's inaugural event. The City's role will be supplying labor and equipment, such as police officers for security, a stage for the Courthouse lawn and the Fire tower truck to assist with the dropping of the gold nugget.

The City Manager stated that he would request Council approval of a street closure for this event on Main Street between New and Henderson Streets between 7:00 p.m. and 1:00 a.m. The event will take place between 9:00 p.m. and 12:30 p.m., so the actual street closure may not be needed right at 7:00 p.m.

Upon a motion by Council Member Cuthbertson, seconded by Council Member Martin, Council voted unanimously to approve the street closure for the New Years Eve Celebration between New and Henderson Streets between 7:00 p.m. and 1:00 a.m.

PRESETATION OF 2009-10 CITY AUDIT REPORT: Gaye Dagenhart of Martin Starnes & Associates appeared before Council and presented the City's 2009-10 Audit Report, as follows:

MARTIN·STARNES
& ASSOCIATES, CPAs, P.A.

CITY OF MARION
2010 AUDITED FINANCIAL STATEMENTS

Audit Highlights

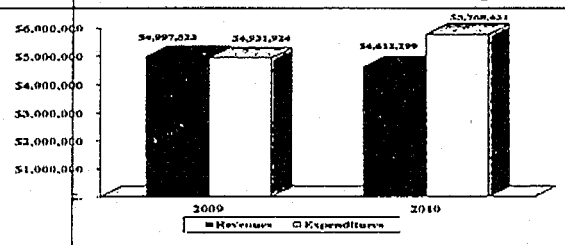
- Unqualified opinion
- No findings or questioned costs
- No material internal control weakness identified
- Cooperative staff

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& ASSOCIATES, CPAs, P.A.

Audit Process

- Planning and risk assessment
- Interim procedures
- Final procedures
- Year-round process

General Fund Summary



MARTIN·STARNES
& ASSOCIATES, CPAs, P.A.

Fund Balance

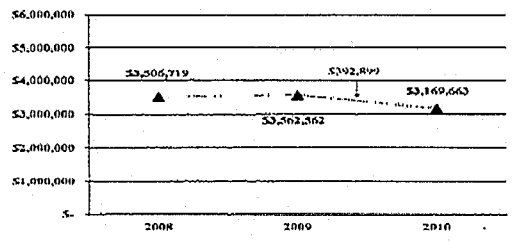
- Serves as a measure of the City's financial resources available

  Assets – Liabilities = Fund Balance

- 3 Classifications:
  - Reserved
  - Unreserved Designated (Available)
  - Unreserved Undesignated (Available)

MARTIN·STARNES
& ASSOCIATES, CPAs, P.A.

Total Fund Balance
General Fund



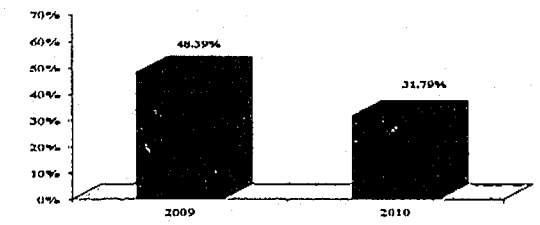
MARTIN·STARNES
& ASSOCIATES, CPAs, P.A.

Fund Balance Position
General Fund

Total Fund Balance	$ 3,169,663
Required Reservations	- 742,983
Council Designations	- 592,979
Unreserved Undesignated	$ 1,833,701
Unreserved Undesignated 2009	$ 2,386,343
Decrease	$ 552,642

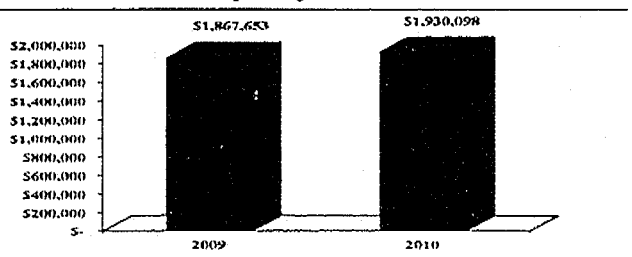
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Unreserved Fund Balance as a Percent of Expenditures – General Fund



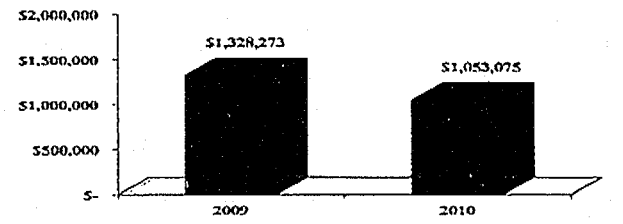
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Property Tax



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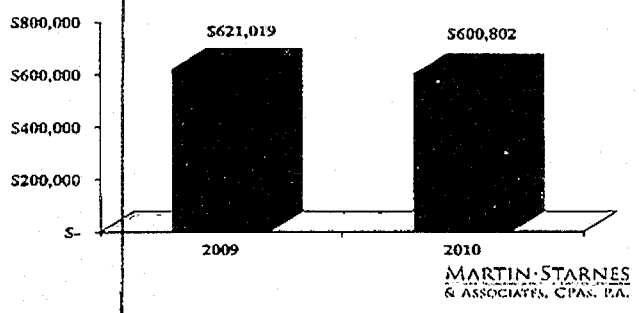
Sales Tax



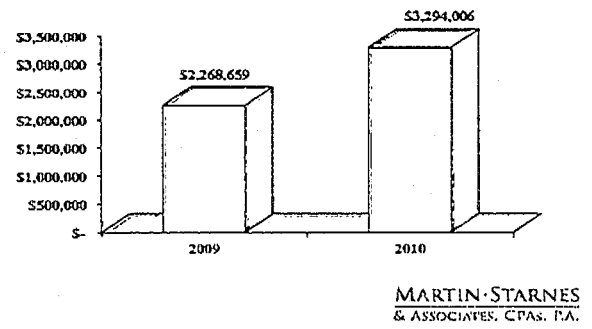
MARTIN·STARNES
& ASSOCIATES, CPAs, P.A.

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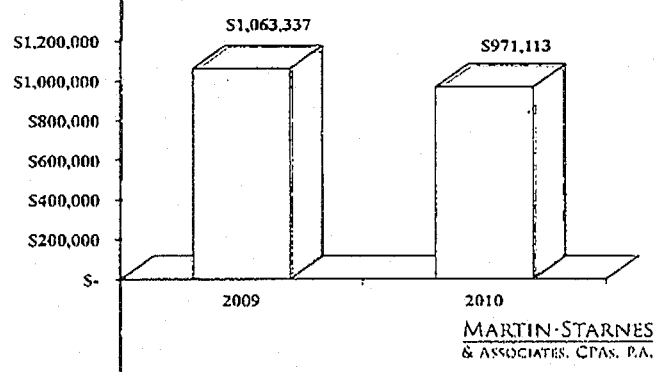
Restricted Intergovernmental



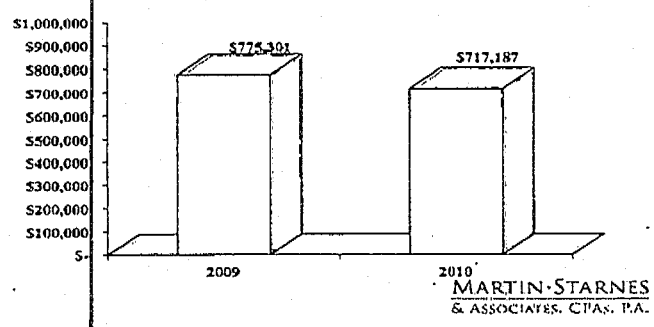
Public Safety Expenditures



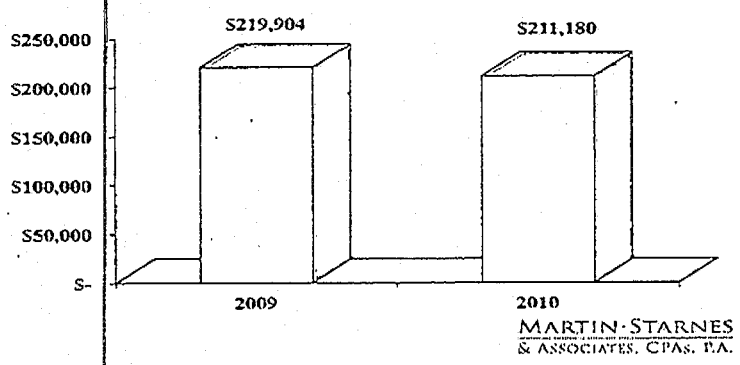
Transportation Expenditures



General Government Expenditures



Debt Service



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Enterprise Fund
Water & Sewer

	2010	2009
Operating Revenues	$2,962,584	$3,151,144
Operating Expenses	3,084,591	2,959,615
Operating Income (Loss)	(122,007)	191,529

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Enterprise Fund
Water & Sewer

	2010	2009
Required Debt Service	$ 143,735	$ 143,734
Cash Flow from Operations	956,274	573,215
Unrestricted Net Assets	1,483,621	1,801,462

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Financial Report Change For 2011

The City's financial statements in 2011 will reflect an accounting standards change regarding special revenue funds and balance reporting.

We will review the City's fund structure in the Spring of 2011 and alert management of any reporting changes that will be necessary.

Discussion
&
Questions

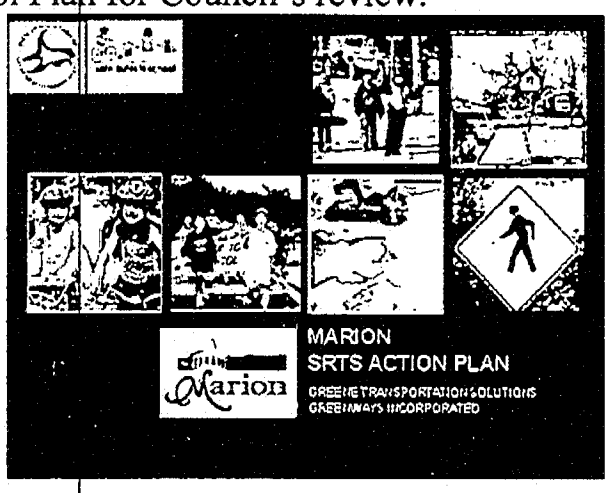
MARTIN·STARNES
& ASSOCIATES, CPAs, P.A.

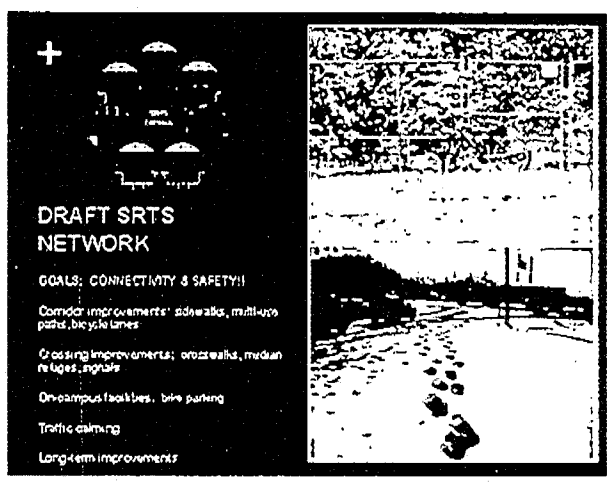
Ms. Dagenhart reported that the City received an unqualified, or clean opinion, for this audit and stressed how helpful Finance Director Harriett Thomas and her staff were during the audit process.

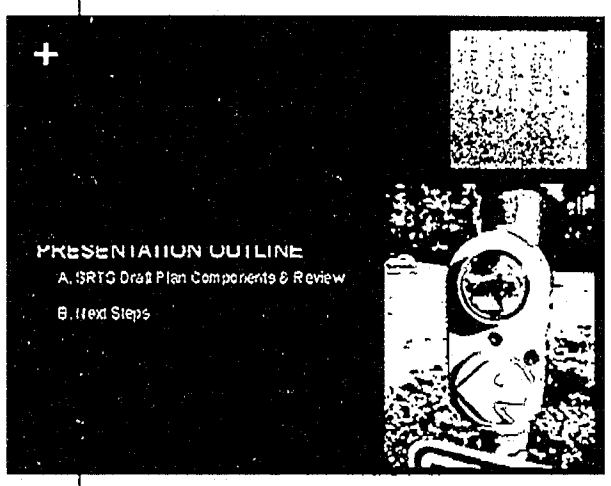
Mayor Little thanked Ms. Dagenhart for the great presentation.

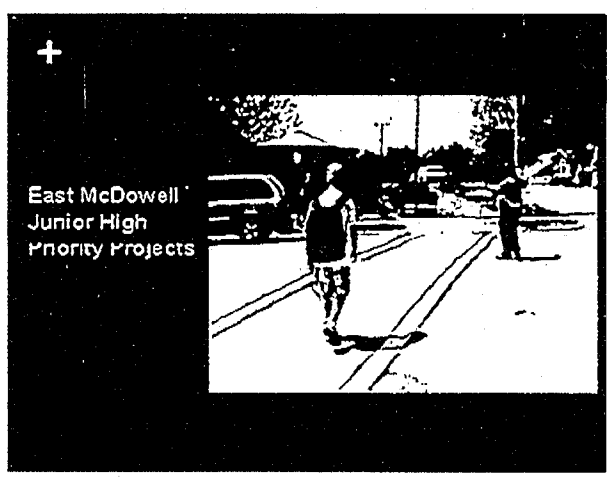
The City Manager stated that he wished to commend Ms. Thomas and her staff for their hard work in managing the City's finances, which has resulted in the City not receiving any findings or management letter comments for five years in a row.

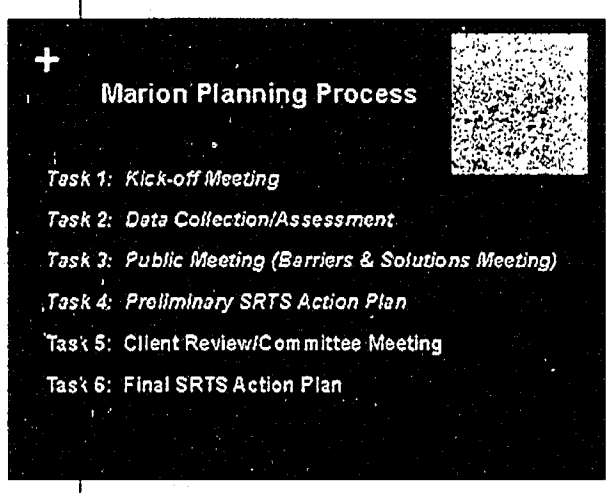
PRESENTATION OF SAFE ROUTES TO SCHOOL PLAN: Planning and Development Director Heather Cotton presented the following highlights of the City's proposed Safe Routes to School Plan for Council's review.

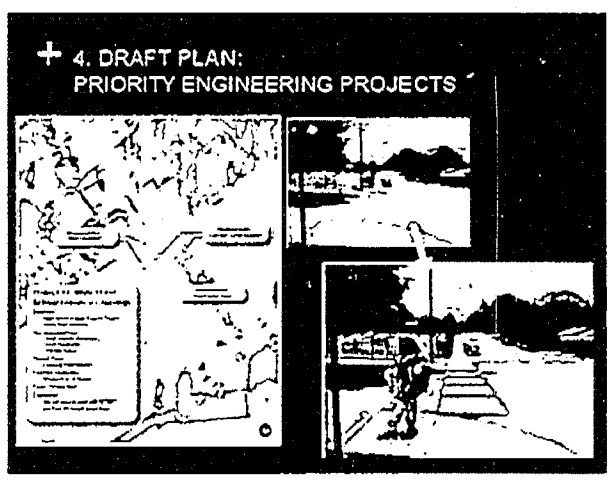




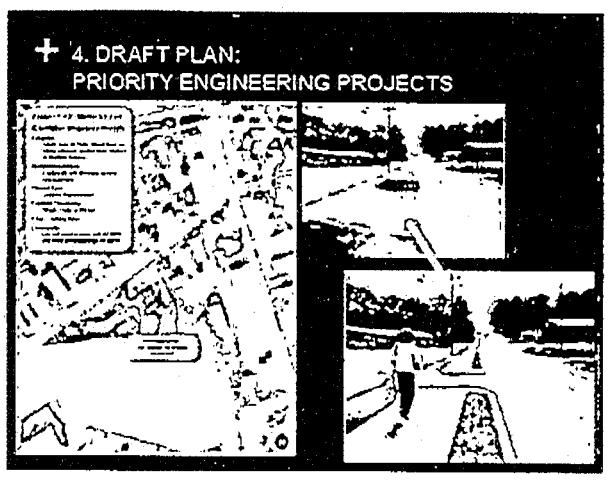


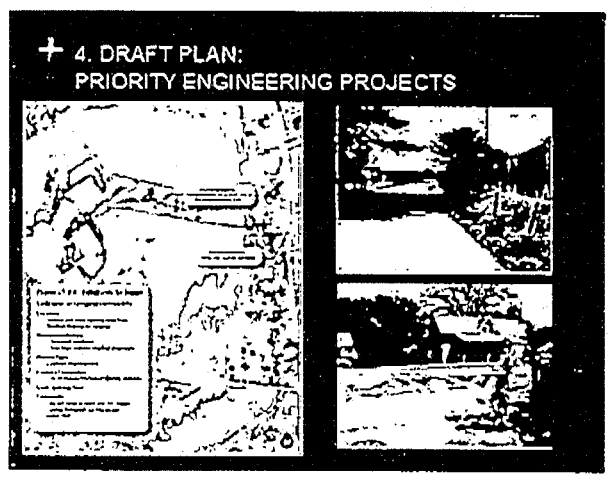


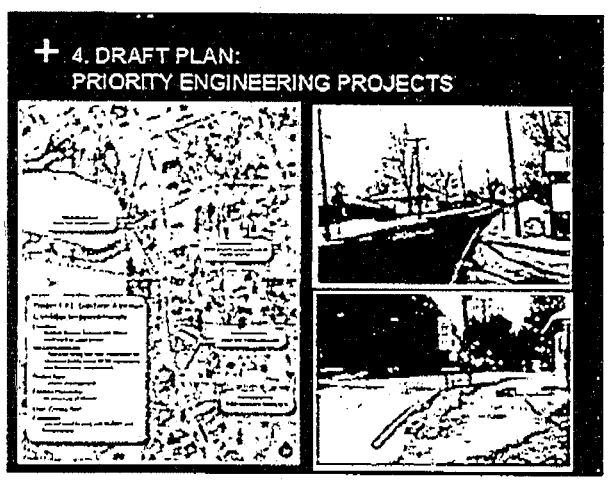


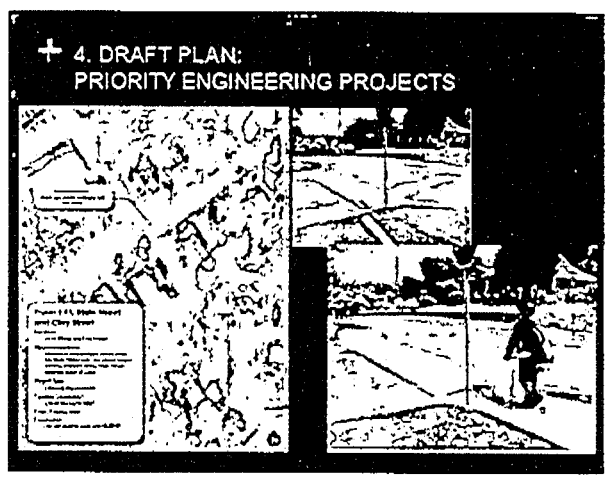


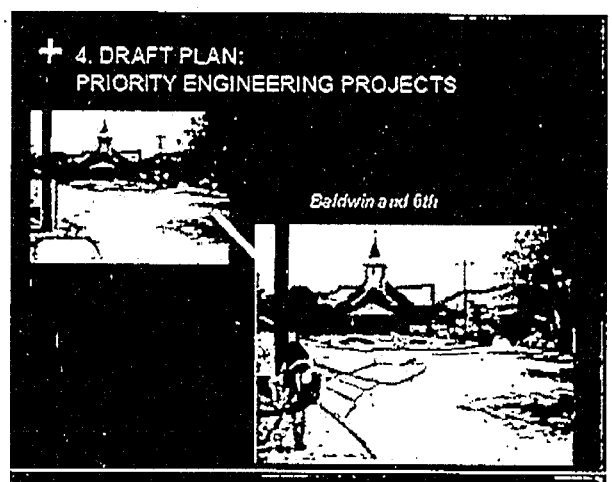
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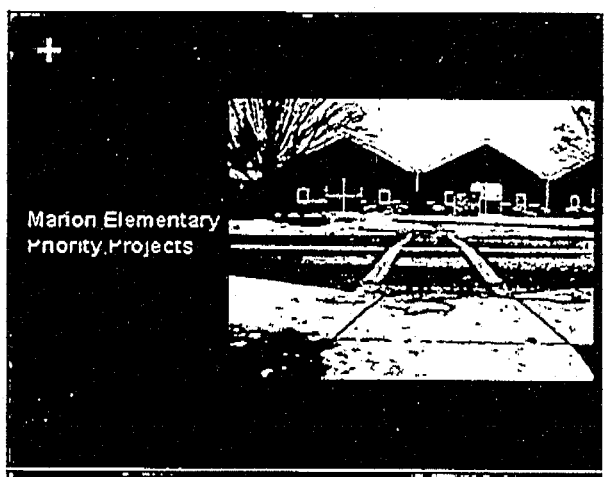


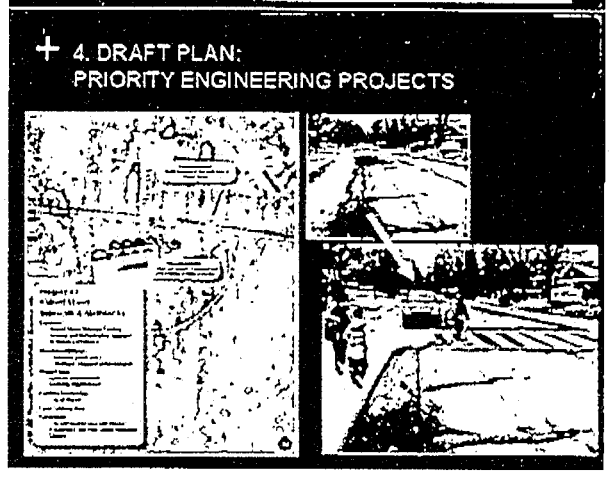


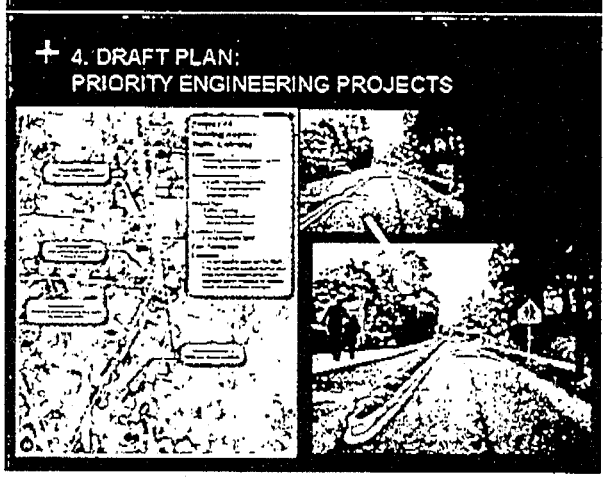




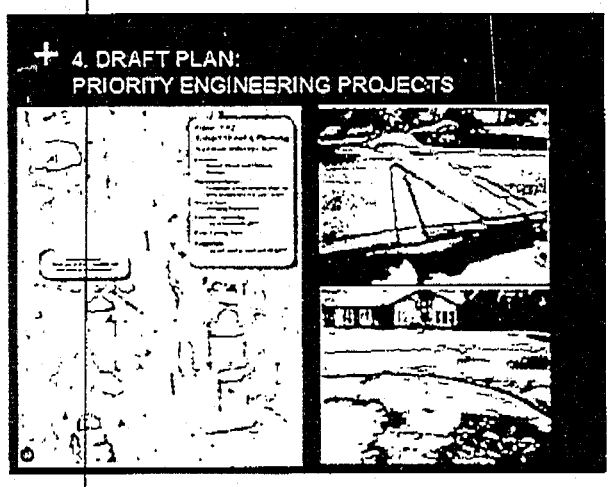


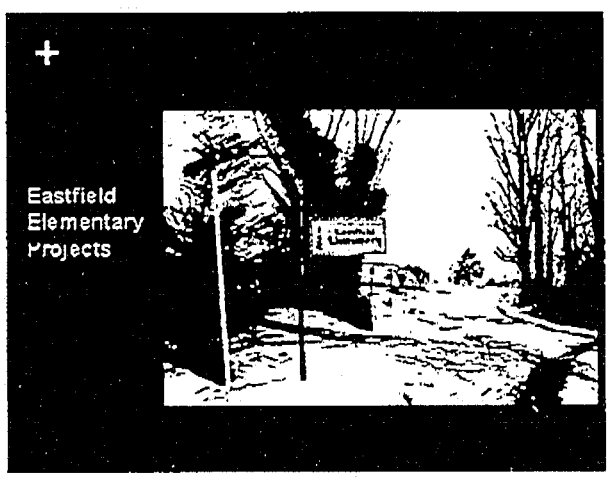


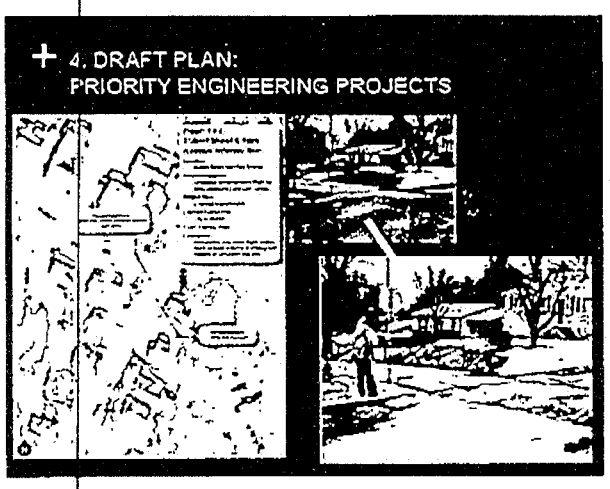


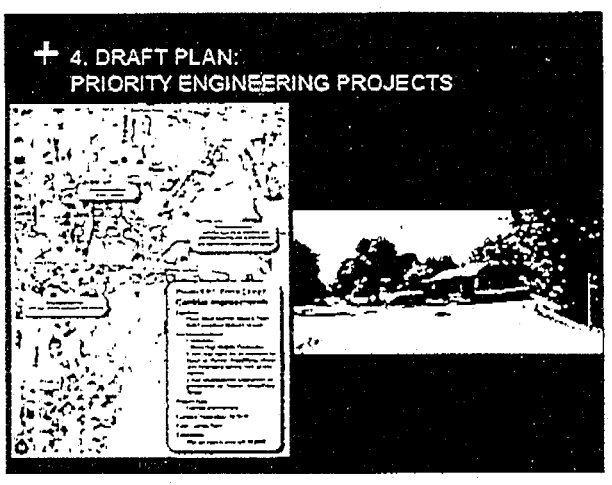


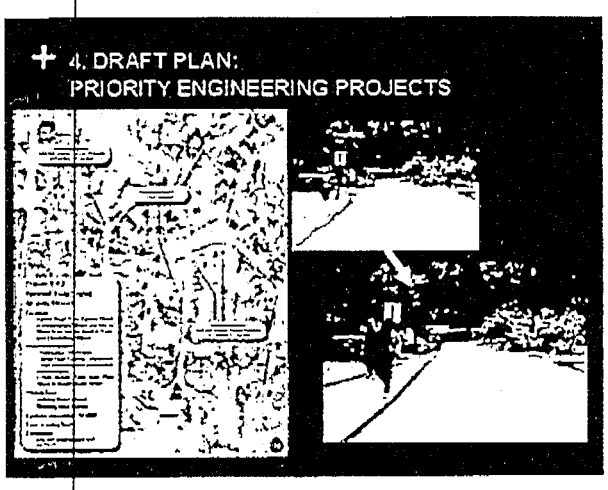
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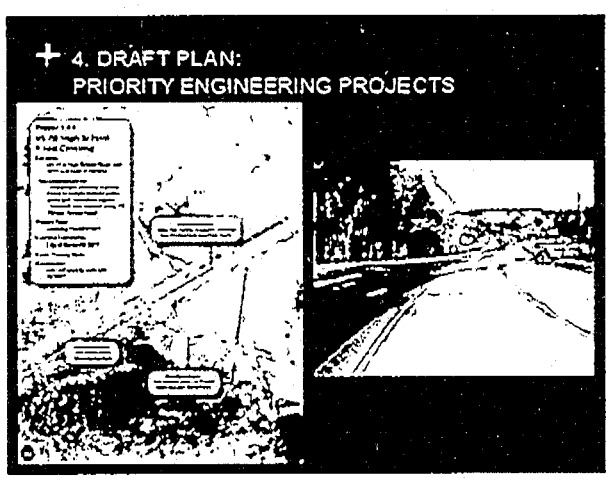


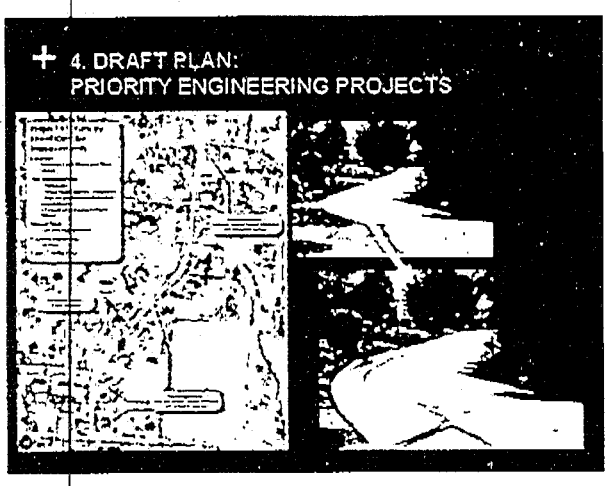


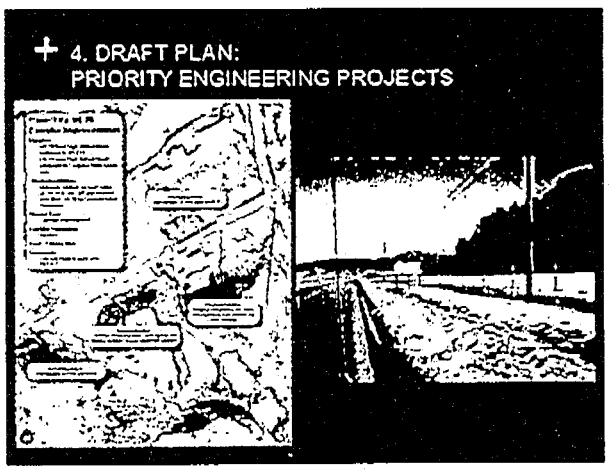








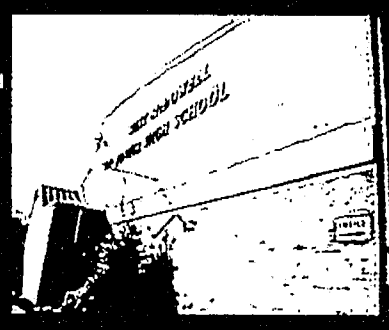




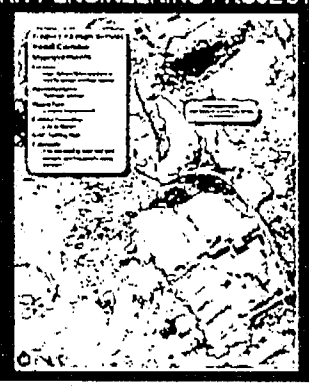
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West McDowell Junior High Priority Projects

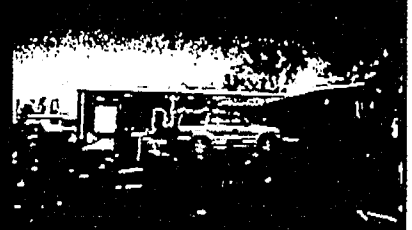


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PRIORITY ENGINEERING PROJECTS

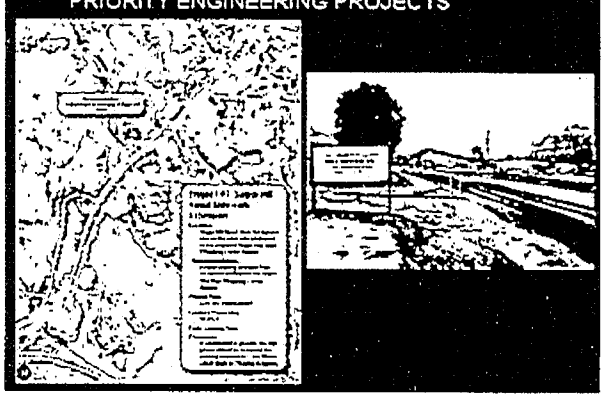


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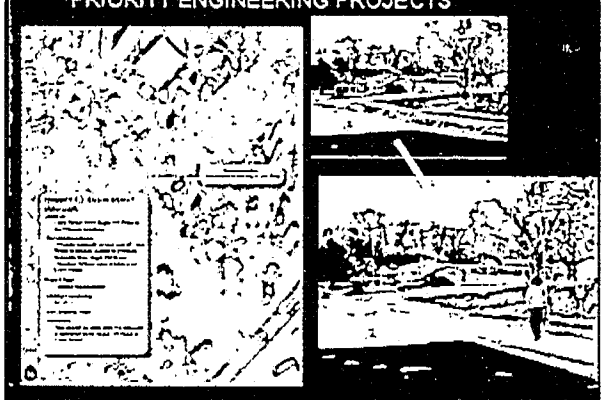
Phoenix Academy Priority Projects



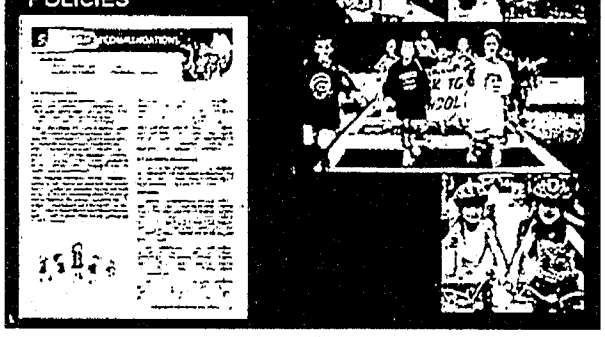
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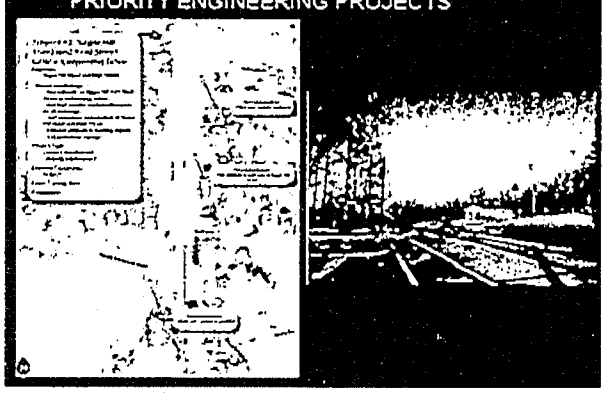
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PRIORITY ENGINEERING PROJECTS



+ 4. DRAFT PLAN:
PROGRAMS & POLICIES



+ 4. DRAFT PLAN:
PRIORITY ENGINEERING PROJECTS



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Top Priority Programs



Education

Integrate bike/ped education into school day

Comprehensive campaign

Encouragement

Walking School Bus

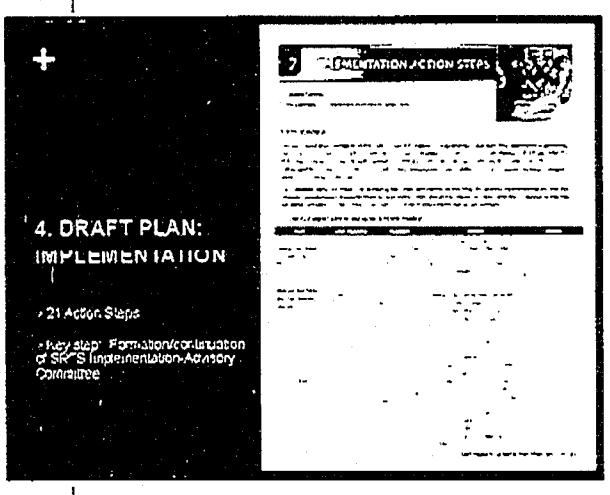
Mileage Contests

Enforcement

Expand crossing guard program

Law enforcement techniques. Ticketing, speed trailers, etc.

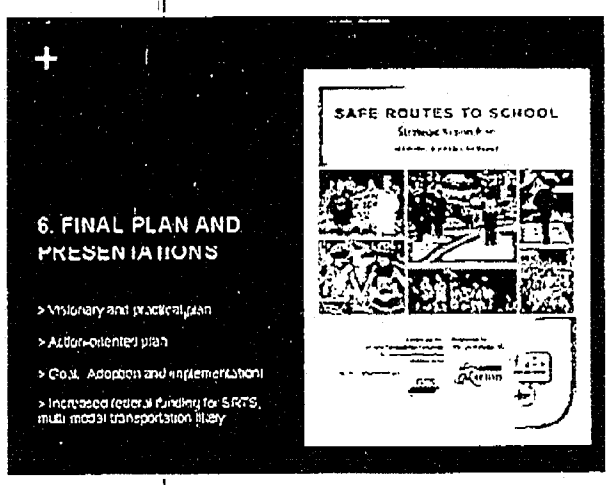
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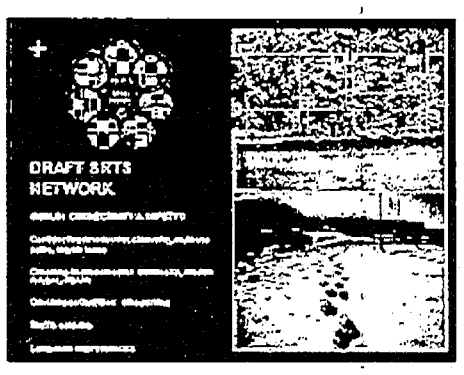


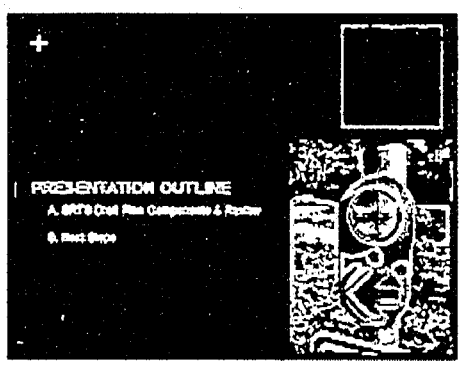


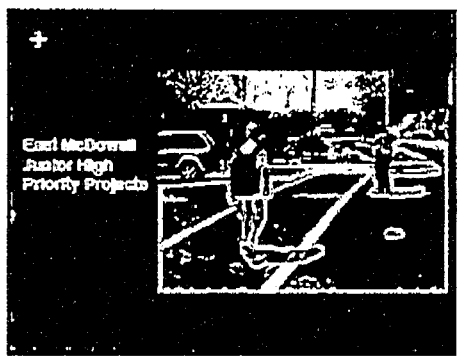


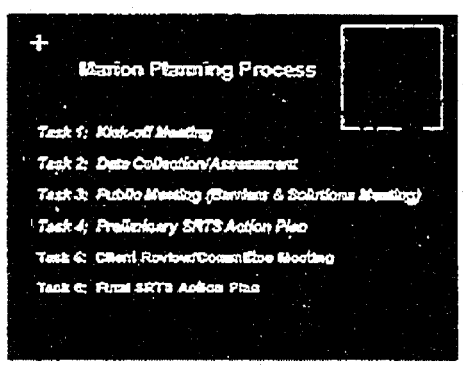


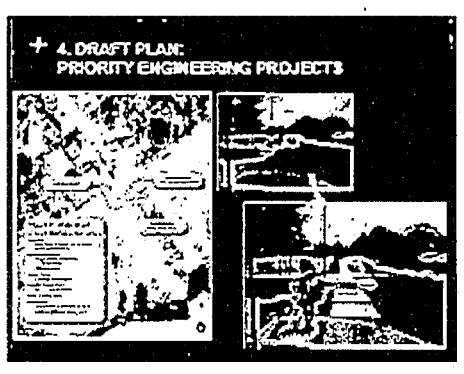












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The City Manager presented a petition from residents of the Baldwin Avenue area, requesting installation of sidewalks and crosswalks in the Baldwin Avenue, Perry Street and Yancey Street areas. The City Manager stated that the work to obtain this petition came from Baldwin Avenue resident Ms. Emily Shirley, after a young man in her neighborhood was hit by a truck while crossing Baldwin Avenue. The City Manager commended Ms. Shirley for taking action, rather than simply complaining about a problem. He added that the completion of the Plan should open the City up to receiving Safe Routes to School implementation funds and that a Baldwin Avenue sidewalk may be a top priority for such funding.

The City Manager stated that if Council had any comments concerning the proposed Plan to let him know, or to let him know if they felt the Plan is on the right track. The City Manager stated that DOT will need to review and adopt the Plan, so Council will have a month or two to make comments.

Council Member Clark stated that the idea of the Plan was very good, but that there was no way the City could afford to implement all recommendations. He said that he would need to review in more detail the specific projects recommended for implementation.

AA.00000966 (24)

Council Member Martin stated that while looking world news that evening, he saw a report that, in China, when something needs done the country does it, but here, we seem to talk about improvements for years. It is time we stop talking and start doing, while recognizing that the City cannot implement the Plan by itself.

Council agreed to take the proposed Plan under advisement and to look at it in more detail at a future meeting.

MCDOWELL MISSION MINISTRIES FUNDING REQUEST: The City Manager advised that, based on Council discussion at the November 8 Council Planning Session concerning the request for funding from McDowell Mission Ministries at the November 2 Council meeting, he had explored grant opportunities for the McDowell Mission Ministries Friendship Home on Fleming Avenue with the County and Isothermal Planning and Development Commission. The City Manager advised that there may be some long term grant prospects for the Friendship Home, but that there were no grants that could fund urgent roof repairs needed at the building.

The s City Manager reported that the County Commissioners recently voted to provide $10,000 in funding for this project. Council Members are working on opportunities for funding for the project, through local non-profit organizations and civic clubs. The City Manager stated that the UNC School of Government advised that cities could fund homeless shelters, since they serve a public purpose and since State law specifically authorizes such funding.

Council Member Clark made a motion that Council approve $5,000 in one-time funding for needed roof repairs at the McDowell Mission Ministries Friendship Home on Fleming Avenue this project, given the work that the Mission does to keep homeless people off of the streets. The motion was seconded by Council Member Cuthbertson and approved unanimously by Council.

Council Member Martin thanked Council Member Clark for his recommendation and Motion.

Mayor Pro Tem Owenby stated that it seems that every time a non-profit organization asks for something, it is a dire emergency. He said he wonders if such organizations allow problems to grow to the point they become a crisis, instead of fixing problems when they occur.

City Council acknowledged that no commitment would be given to future annual funding for McDowell Mission Ministries, as had been requested by the organization.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present for this meeting.

CITY MANAGER REPORTS: The City Manager gave a brief report on current projects.

The City Manager advised that the National Park Service (NPS) had recommended that the Overmountain Victory Trail (OVT) headquarters be located in Burke County, instead of the McDowell House. He reported that the NPS would hold a public comment meeting on the selection on Tuesday, December 7, 2010 from 5:00PM – 8:00PM at the Courthouse. Even though the NPS has recommended Burke County for the OVT headquarters, he noted that Council has already changed its Council meeting date from December 7 to 14, so the Mayor and Council Members could attend the public comment meeting.
Mayor Little suggested that he planned to attend and urged all Council Members to attend as well. He said that he would like to convey the City's disappointment in the McDowell House not being chosen for the OVT headquarters location, but also ask for NPS support for the McDowell House renovation going forward.

The City Manager stated that he would coordinate speakers for the public meeting with other organizations such as the County and the McDowell House Committee.

AA.000000967 (24)

Council Member Clark suggested that the community ask for a certain amount, if known, from NPS for the McDowell House project.

The City Manager advised that the Chamber would be holding a ribbon cutting for Low County Dining on Thursday, November 18 at 2:30 p.m.

The City Manager advised that the Christmas Parade would be held on Sunday, November 21 at 3:00 p.m. The Parade line-up will be in the Advance Auto Parts parking lot at 2:30 p.m. The City van will be decorated for the Mayor and Council Members to ride in the Parade and will be at City Hall until 2:30 p.m., at which time it will be moved to Advance Auto Parts.

The City Manager advised that planning continues for the New Year's Eve Celebration. It appears now that all downtown food and beverage establishments will be open New Year's Eve and most if not all will sell hot drinks and in some cases food on the street or sidewalk.

The City Manager advised that City staff and contracted landscaper Lawrence Moore had recently planted gingko trees on Main Street to replace holly trees that had been removed. The installation of way finding signage in the downtown area will soon take place.

Council Member Doggett asked if Christmas lights will be placed on the trees. The City Manager reported that Mr. Moore recommended that lights not be placed on the new gingko trees this year and that mesh enclosures be placed around the trees, to protect them, for the next year.

Council Member Clark stated that he did not believe that a string of Christmas lights would harm the new trees. The City Manager stated that City staff would light the trees if so directed by Council. Council Member Doggett suggested that she sees why the trees should not be lit this year, but would expect the trees to be lit next year.

The City Manager advised that the Wal Mart Supercenter developer recently informed him that construction would start on the Wal Mart Supercenter by February 1 and on the retail shopping center by April 1, with the completion of both building scheduled for September 15. The City Manager advised that the City hoped to start the water and sewer extension on Sugar Hill Road to I-40 in early 2011.

The City Manager reported that McDowell Early College students would visit City Hall the morning of November 21 to learn about municipal government and invited the Mayor and Council Members to speak to the students if available.

COUNCIL MEMBER COMMENTS:
No comments

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Council Member Cuthbertson, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.000000968 (24)

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, December 14, 2010 at 6:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Cecil Owenby, Council Members Everette Clark, Lloyd Cuthbertson, and Juanita Doggett.

Council Member Billy Martin was not present for this meeting due to family illness.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Harriett Thomas, CPA, Finance Director; Heather Cotton, AICP, Planning and Development Director; Mark Brooks, Police Chief; Chris Hollifield, Public Works Director; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Jean Mackey, Marion, NC; Jeremy Suttles, 671 East Court Street, Marion, NC; Linda King, 245 5th Street, Marion, NC; Joiera Foyad, 1049 Enola Road, Morganton, NC; John Welker, 1901 Nix Creek Road, Marion NC (Boy Scout Troop 807); Pike Davis, 101 Spring Hill Drive, Marion, NC; Scott and Dalton Parvy, 454 Love Drive, Marion, NC; Daniel Miller, Paxton Creek Road, Marion, NC; Seth and Emily Ollis, 5329 Nix Creek Road, Marion, NC.

CONSENT AGENDA: Council Member Clark asked that items H and I be removed from the consent agenda for further discussion.

Upon a motion by Council Member Clark, seconded by Council Member Cuthbertson, those members of Council present voted to approve the consent agenda, excluding items H and I, as follows:

A. Approval of Minutes – November 16, 2010 Regular City Council Meeting Minutes

B. Approve Fire Department Roster/Annual Certification of Firefighters

NAME

Volunteer
Roger McCarthy
Dennis Laws
Marty Coward
Bradley Styles
Terry Depoyster
David Deyton
Scotty Radford
John Morrow
Christopher Burnette
John fox
Jacob Fox
Amber Cody
Chris Lister
Wayne Durkee
Phillip Finley
Martthew Gentry
Larry Guffy
Gregory Hollifield
Adrienne Jones
Bart Kicklighter

AA.00000969 (24)

Darrell Mason
Josh McMahan
Robert Burleson
Tim Moore
Eric Morrow
Fred Nanney
Rebecca Berryhill
Kevin Sisk
Rebecca Berryhill
Kevin Sisk

Paid Staff

Jim Neal
Ray McDaniel
Amy Hudgins
James Mace
Matthew Crawford
Kevin Owenby

Retired

John Beck
Fred T. Brown
Ralph M. Dark, III
R.M. Dark, Jr.
Bruce Edwards
Marvin E. Hall
Tommy W Harris
James R. Hollfield
Millard Hollifield
John C. Laughridge, Jr.
John Mack Laughridge. Jr.
Joseph L. Neal
Jim Morris
James D. Parker
Billy Ray Poteat
Jerry W Poteat
Kenny W Poteat
Charles L Presnell, Jr.
Dennis M Price
John Reese
William Ray Smith, III
Jerry C Stevens
Charles G Suttle, Jr.
James D Willis
William J Young, Jr.
James D Willis
William J Young, Jr.

C. Approve Resolution Fixing the Date of Public Hearing on the Question of Annexation – Marion Retail Investment/Walmart Supercenter Development – Sugar Hill Road Annexation Request:

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-58.1 – MARION RETAIL INVESTMENT/WAL MART SUPERCENTER DEVELOPMENT - SUGAR HILL ROAD - 2010

AA.000000970 (24)

WHEREAS, a petition requesting annexation of the non-contiguous 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 non-contiguous area described herein will be held at City Hall at 7:00 P.M. on Tuesday, January 4, 2011.

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

Commencing at the USGS Monument "CLAIR" having NC grid coordinates N: 715228.370 E: 1107750.191; thence with a tie line S 41-40-21 W for 12,268.92 feet to a concrete right of way monument located along the eastern right of way of Sugar Hill Road (SR 1001) and the western transitional right of way of Mill Road (SR 1189) also being the Point of Beginning: thence with said transitional right of way N 84-33-13 E for 49.22 feet to a concrete right of way monument; thence with said western right of way along a concave curve to the south west having a radius of 331.37 feet, an arc length of 209.41 feet, and a chord bearing and distance of S 30-45-20 E for 205.94 feet to an Iron pin; thence S 12-26-29 E for 44.34 feet to a concrete right of way monument; thence with a line N 77-13-07 E for 58.90 feet to a concrete right of way monument located along the eastern right of way of said Mill Road; thence with a line S 15-24-35 W for 38.27 feet to a point located in said Mill Road; thence with said Mill Road S 02-04-23 W for 103.29 feet to a point; thence S 33-17-00 E for 54.50 feet to a point; thence S 23-36-40 E for 31.30 feet to a PK nail; thence S 22-47-07 E for 62.86 feet to a PK nail; thence S 29-29-21 E for 39.90 feet to a PK nail; thence S 33-33-37 E for 71.38 feet to a PK nail; thence S 33-33-37 E for 71.38 feet to a PK nail; thence S 36-15-42 E for 72.22 feet to a PK nail; thence S 36-45-44 E for 50.13 feet to a PK nail; thence S 40-09-20 E for 42.99 feet to a PK nail; thence S 44-16-57 E for 63.68 feet to a PK nail; thence S 56-59-38 E for 46.37 feet to a MAG nail; thence S 29-59-03 E for 19.26 feet to a MAG nail; thence S 65-31-56 E for 51.02 feet to an iron pin; thence with the common line of McKinney (D.B. 438. pg. 406) S 20-30-23 W for 233.77 feet to an iron pin; thence S 67-52-50 E for 196.26 feet to an iron pin; thence N 24-37-19 E for 228.27 feet to an iron pin; thence S 39-27-48 E for 123.66 feet to an iron pin; thence with the common line of Cardell (D.B. 694 pg. 760) S 42-00-45 E for 71.57 feet to an iron pin; thence S 24-29-47 E for 24.18 feet to an iron pin, thence S 24-50-48 E for 33.95 feet to an iron pin; thence S 36-51-02 E for 49.18 feet to an iron pin; thence S 42-48-17 E for 54.79 feet to an iron pin; thence S 33-24-18 E for 119.18 feet to an iron pin; thence S 35-14-55 E for 78.73 feet to an iron pin; thence S 19-22-49 E for 90.32 feet to an iron pin; thence S 08-43-24 E for 83.28 feet to an iron pin; thence S 14-41-59 E for 34.83 feet to an iron pin; thence with the common line of Tupper (D.B. 588 pg. 209) S 09-47-15 W for 45.37 feet to an iron pin; thence S 28-45-23 W for 77.84 feet to an iron pin; thence S 08-48-36 E for 99.07 feet to an axle; thence S 04-32-32 W for 60.00 feet to an iron pin; thence with the common line of CMH Homes (D.B. 920 pg. 447) and Pearsall (D.B. 814 pg. 969) respectively S 04-27-25 W for 191.47 feet to an iron pin; thence with said common line of Pearsall S 10-49-06 W for 139.73 feet to an iron pin; thence with the common line of Woody (D.B. 478 pg. 924) N 50-02-29 W for 17.22 feet to an iron pin; thence S 05-21-59 W for 577.85 feet to an iron pin located along the northern right of way of Interstate 40; thence with said northern right of way N 58-43-50 W for 190.32 feet to a concrete right of way monument; thence S 31-33-54 W for 34.86 feet to a concrete right of way monument; thence N 58-45-47 W for 559.75 feet to a concrete right of way monument; thence S 31-20-35 W for 65.02 feet to a concrete right of way monument; thence N 59-35-46 W for 537.01 feet to a concrete right of way monument; thence N 27-49-49 E for 11.93 feet to a concrete right of way monument; thence N 63-17-00 W for 250.88 feet to an iron pin; thence leaving said northern right of way and with the common line of Carolina Energies, Inc. (D.B. 631 pg. 152) N 13-09-28 W for 37.85feet to an iron pin; thence N. 15-36-28 W for 130.57 feet to an iron pin; thence N 05-32-40 E for 57.08 feet to an iron pin; thence N 01-07-46 E for 57.87 feet to an iron pin; thence N 12-07-53 E for 180.96 feet to an iron pin; thence N 11-42-13 E for 147.35 feet to an iron pin; thence N 64-35-55 W for 63.42 feet to an iron pin; thence with the common line of My Wife, LLC (D.B. 932 pg. 759) N 29-42-40 E for 52.74 feet to an iron pin; thence N 27-11-06 E for 114.33 feet to an iron pin; thence N 27-35-42 E for 21.62 feet to an iron pin; thence with a line N 83-40-23 W for 116.78 feet to an iron pin; thence with the common line of my Wife, LLC (D.B. 932 pg. 759) N 74-16-43 W for 99.59 feet to an iron pin located along said eastern right of way of Sugar Hill Road; thence with said eastern right of way along a concave curve to the north west having a radius of 1607.60 feet, an arc length of 40.80 feet, and a chord bearing and distance of N 26-54-27 E for 40.80 feet to an iron pin; thence leaving said eastern right of way and with the common line of Gurley Properties (D.B. 852 pg. 719) S 74-16-43 E for 83.03 feet to an iron pin; thence N 81-26-02 E for 192.17 feet to an iron pin; thence S 27-53-08 W for 49.89 feet to an iron pin; thence N 30-49-34 E for 57.05 feet to an iron pin; thence N 25-20-44 E for 161.45 feet to an iron pin; thence N 09-50-19 W for 64.51 feet

to an iron pin; thence N 10-40-40 W for 47.61 feet to an iron pin; thence with the common line of Holmes & Moore (D.B. 843 pg. 618) N 01-56-38 E for 68.88 feet to an iron pin; thence with the common line of NCDOT (D.B. 659 pg. 382) N 70-39-15 W for 190.59 feet to an iron pin located along said eastern right or way of Sugar Hill Road; thence with said eastern right of way N 18-53-42 E for 215.29 feet to a concrete right of way monument; thence along a concave curve to the south east having a radius of 2362.21 feet, an arc length of 605.61 feet, and a chord bearing and distance of N 28-03-53 E for 603.94 feet to the point of Beginning containing 2,466,926 Sq. Ft. or 56.633 Acres more or less.

Section 3. Notice of the public hearing shall be published once 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 the 14th day of December, 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-10-12-14-1

D. Approval of Budget Ordinance Amendments

CITY OF MARION, NORTH CAROLINA
2010-2011 BUDGET ORDINANCE
(Second Amendment)

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

Section 1. That the Budget Ordinance for the City of Marion, North Carolina for the fiscal year 2010-11 as adopted by the Marion City Council on the 15th day of June, 2010 is hereby amended as follows:

GENERAL FUND

a. General Fund Expenditures, Administration, Account Number 10-420-1400, Travel & Training is decreased from $12,000 to $4,000.

b. General Fund Expenditures, Administration, Account Number 10-420-3300, Supplies & Materials is decreased from $8,000 to $6,000.

c. General Fund Expenditures, Administration, Account Number 10-420-7400, Capital Outlay is increased from $2,800 to $5,275.

d. General Fund Expenditures, Administration, Account Number 10-420-9900, Reserve is increased from $-0- to $10,000.

e. General Fund Expenditures, Planning & Development, Account Number 10-500-1400, Travel & Training is decreased from $4,000 to $400.

f. General Fund Expenditures, Planning & Development, Account Number 10-500-5000, Code Enforcement is decreased from $15,000 to $8,000.

g. General Fund Expenditures, Planning & Development, Account Number 10-500-9900, Reserve is increased from $-0- to $10,600.

h. General Fund Expenditures, Police, Account Number 10-510-0200, Salaries & Wages is decreased from $1,088,463 to $1,053,806.

i. General Fund Expenditures, Police, Account Number 10-510-3600, Uniforms is decreased from $26,000 to $20,000.

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j. General Fund Expenditures, Police, Account Number 10-510-5100, Ammo and Guns is increased from $13,650 to $21,350.

k. General Fund Expenditures, Police, Account Number 10-510-9900, Reserve is increased from $-0- to $6,000.

l. General Fund Expenditures, Fire, Account Number 10-530-0900, Pension Fund is decreased from $6,500 to $5,500.

m. General Fund Expenditures, Fire, Account Number 10-530-7400, Capital Outlay is decreased from $10,000 to $5,000.

n. General Fund Expenditures, Fire, Account Number 10-530-9900, Reserve is decreased from $-0- to $6,000.

o. General Fund Expenditures, Public Works Administration, Account Number 10-545-1400, Travel & Training is decreased from $1,600 to $400.

p. General Fund Expenditures, Public Works Administration, Account Number 10-545-1500, Building & Grounds Maintenance is decreased from $1,500 to $300.

q. General Fund Expenditures, Public Works Administration, Account Number 10-545-1600, Equipment Maintenance is decreased from $1,500 to $500.

r. General Fund Expenditures, Public Works Administration, Account Number 10-545-5300, Dues & Subscriptions is decreased from $500 to $300.

s. General Fund Expenditures, Public Works Administration, Account Number 10-545-9900, Reserve is increased from $-0- to $3,600.

t. General Fund Expenditures, Fleet Maintenance, Account Number 10-555-0400, Professional Services is decreased from $250 to $100.

u. General Fund Expenditures, Fleet Maintenance, Account Number 10-555-1500, Building & Grounds Maintenance is decreased from $500 to $100.

v. General Fund Expenditures, Fleet Maintenance, Account Number 10-555-1600, Equipment Maintenance is decreased from $700 to $500.

w. General Fund Expenditures, Fleet Maintenance, Account Number 10-555-3300, Supplies & Materials is decreased from $3,000 to $1,500.

x. General Fund Expenditures, Fleet Maintenance, Account Number 10-555-9900, Reserve is increased from $-0- to $2,250.

y. General Fund Expenditures, Streets, Account Number 10-560-1400, Travel & Training is decreased from $1,500 to $-0-.

z. General Fund Expenditures, Streets, Account Number 10-560-9900, Reserve is increased from $-0- to $1,500.

aa. General Fund Expenditures, Sanitation, Account Number 10-580-7400, Capital Outlay is decreased from $6,500 to $3,000.

bb. General Fund Expenditures, Sanitation, Account Number 10-580-9900, Reserve is increased from $-0- to $3,500.

cc. General Fund Expenditures, Recreation, Account Number 10-620-3300, Supplies & Materials is decreased from $5,000 to $2,500.

dd. General Fund Expenditures, Recreation, Account Number 10-620-9900, Reserve is increased from $-0- to $2,500.

AA.00000973 (24)

ee. General Fund Expenditures, Non-departmental, Account Number 10-660-5700, Miscellaneous is decreased from $10,000 to $7,500.

ff. General Fund Expenditures, Non-departmental, Account Number 10-660-9950, Special Projects is decreased from $30,000 to $10,000.

gg. General Fund Expenditures, Non-departmental, Account Number 10-660-9950, Reserve is increased from $-0- to $22,500.

hh. General Fund Revenues, Account Number 10-321-0000, Frivilege License Revenue is increased from $38,000 to $40,500.

ii. General Fund Revenues, Account Number 10-334-1700, State Controlled Substance Revenue is increased from $35,000 to $38,000.

jj. General Fund Revenues, Account Number 10-335-0300, Mountain Glory Revenue is increased from $20,000 to $22,600.

kk. General Fund Revenues, Account Number 10-370-0000, Powell Bill Allocation is increased from $183,719 to $188,441.

ll. General Fund Revenues, Account Number 10-392-1000, Sale of Real Estate is increased from $3,000 to $8,145.

mm. General Fund Revenues, Account Number 10-392-1100, Sale of Surplus Equipment is increased from $8,000 to $12,000.

nn. General Fund Revenues, Account Number 10-392-2500, Storm Damage Reimbursement - FEMA is increased from $-0- to $1,000.

oo. General Fund Revenues, Account Number 10-391-0200, Transfer from Water & Sewer Fund is increased from $-0- to $100,000.

pp. General Fund Revenues, Account Number 10-399-0000, Fund Balance Appropriated is increased from $689,844 to $542,395.

WATER AND SEWER FUND

a. Water and Sewer Fund Expenses, Utility Line Maintenance, Account Number 30-810-4500, Contracted Services, is decreased from $198,000 to $138,000.

b. Water and Sewer Fund Expenses, Utility Line Maintenance, Account Number 30-810-7400, Capital Outlay, is increased from $98,000 to $158,000.

c. Water and Sewer Fund Expenses, Non-departmental, Account Number 30-660-8500, Transfer to General Fund, is increased from $-0- to $100,000.

d. Water and Sewer Fund Revenues, Account Number 30-335-0000, Miscellaneous Income is increased from $200 to $9,200.

e. Water and Sewer Fund Revenues, Account Number 30-335-0100, Property Insurance Reimbursement is increased from $-0- to $5,514.

f. Water and Sewer Fund Revenues, Account Number 30-335-2800, Fire Protection Taps is increased from $1,000 to $12,000.

g. Water and Sewer Fund Revenues, Account Number 30-373-0100, Water Taps is increased from $60,000 to $112,000.

h. Water and Sewer Fund Revenues, Account Number 30-373-0200, Sewer Taps is increased from $20,000 to $61,000.

i. Water and Sewer Fund Revenues, Account Number 30-392-1100, Sale of Surplus Equipment is increased from $-0- to $3,505.

AA.000000974 (24)

j. Water and Sewer Fund Revenues, Account Number 30-299-0000, Fund Balance Appropriated is decreased from $181,366 to $159,347.

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 14th day of December 2010.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–10–12–14–1

E. Approve ABC Board Requests

Under legislation approved by the North Carolina General Assembly in 2010, ABC Boards have the authority to appoint as their Finance Officer the Finance Officer of the appointing authority with the consent of said appointing authority. Such an appointment may take effect on July 1, 2011. Based on our prior Council discussions at Planning Sessions, the City Manager recommended and Council formally approved the appointment of the City's Finance Director, Harriett Thomas, as the Finance Officer of the Marion ABC System, effective July 1, 2011. The ABC Board will also take action regarding this appointment and record said action in their minutes. This appointment will streamline ABC Board operations and reduce operating expenses, therefore increasing the profits paid to the City by the ABC Board.

Council also formally approved a request by the Marion ABC Board to retain the current level of compensation for ABC Board members, at $275 per month for the Chairman and $250 per month for Board members. This level of compensation has not changed in more than ten years. The recent legislation approved by the North Carolina General Assembly states that approval of the appointing authority is required for any level of ABC Board compensation greater than $150 per Board meeting. The Marion ABC Board typically meets once per month. The City Manager will notify the State ABC Commission of Council's approval of the current level of compensation for the Marion ABC Board Chairman and Board Members.

F. Approve Interlocal Agreement with McDowell County – Motor Vehicle License Tax Billing

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL

AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____ 2010 by and between the County of McDowell, a North Carolina Municipal Corporation, hereinafter referred to as "the County", and the City of Marion, a North Carolina Municipal Corporation, hereinafter referred to as "the City".

WITNESSETH

WHEREAS, McDowell County and the City of Marion are political subdivisions of the State of North Carolina, both having the power and authority to enter into this agreement and the signatories hereto have been authorized to execute this document on behalf of the McDowell County Board of Commissioners and Marion City Council; and

WHEREAS, the City has requested that the County bill the City's motor vehicle license tax; and

WHEREAS, the County is willing to bill said tax subject to the execution of an Agreement.

NOW, THEREFORE, the parties wish to reduce their agreement to writing and agree to the following:

AA.000000975 (24)

1. The County and the City mutually agree that this Contract shall become effective on August 1, 2010 and it shall continue in effect until terminated by the consent of both parties.

2. McDowell County agrees to assume all operational responsibility for the billing and collection of the City's motor vehicle license tax, both current and delinquent. The County, through its Tax Department, shall exercise all general duties on behalf of the City of Marion under the North Carolina General Statutes. This authority includes all remedies, including garnishment, attachment and foreclosure, allowed under the law.

3. The City agrees to pay the County an annual amount of $2,000 to offset the County's costs. The annual costs shall be based on a study of the actual cost of billing and collection of the City motor vehicle license tax and may be adjusted based on subsequent studies that are completed.

4. The County shall send an annual statement for billing and collections services after December 1 of each year. The City agrees to remit payment to County within 30 days of receipt.

5. This Agreement may be modified by mutual, written agreement of the parties. Any termination of this Agreement must be made in writing and delivered no later than December 31 of any year prior to the July 1 effective date of the termination. This six month notice of termination must be sent via first class mail or facsimile to the following:

   For County:

   Charles Abernathy
   County Manager
   60 East Court Street
   Marion North Carolina 28752

   For City

   Bob Boyette
   City Manager
   PO Drawer 700
   Marion, NC 28752

6. The City agrees that the County Tax Department shall be authorized to use all lawful means to collect the motor vehicle license tax on behalf of the City. The City agrees to extend full cooperation from its officials, agents and employees in the collection of these taxes

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first above written.

COUNTY OF MCDOWELL, NORTH CAROLINA

BY:_____
David Walker, Chairman
McDowell County Board of Commissioners

(SEAL)

Attest:

BY:_____
Carrie Padgett, Clerk to the Board

CITY OF MARION, NORTH CAROLINA

BY:_____
Stephen R. Little, Mayor

(SEAL)

Attest:

AA.000000976 (24)

BY: _____
J. Robert Boyette, City Manager/Clerk

G. Request for Use of Farmer's Market Shelter – Caffiend Underground

Council approved the use of the Farmers' Market Shelter on Saturday, October 29, 2011 from 3:00 PM to 12:00 Midnight by Caffiend Underground for the purpose of a Halloween Costume Contest open to the public.

CONSENT ITEM H. - APPROVE RESOLUTION REGARDING TREATMENT OF SMALL REFUNDS OF WATER AND SEWER DEPOSITS: Council Member Clark asked that this item be removed from the consent items for further discussion.

The City Manager suggested that this item be discussed at the next Council Planning Session. The Mayor and Council Members agreed by consensus for this matter to be discussed at the next Council Planning Session.

CONSENT ITEM I. – APPROVE RESOLUTION SUPPORTING COMMUNITY ACTION OPPORTUNITIES APPLICATION FOR GRANT FUNDS FOR COMMUNITY SERVICES BLOCK GRANT FOR EXPANSION INTO MCDOWELL COUNTY: The City Manager advised that Community Action Opportunities (CAO), a non-profit organization operating out of Buncombe and Madison Counties, has asked for County approval and City support of their application for Community Services Block Grant (CSBG) funds from the N.C. Office of Economic Opportunity to allow CAO to expand its services into McDowell County.

Finance Director Harriett Thomas stated that she served as the auditor for CAO for several years and could attest to the good work done by the organization in other counties. She added that CAO has been in existence since 1964. Ms. Thomas reported that McDowell County had endorsed this grant application.

Council Member Clark stated that he serves on the North Carolina Community Development Council, which oversees Community Development Block Grant funds, and wanted to speak to State officials about this organization and the grant they are requesting prior to agreeing to endorse the grant application. Council agreed by consensus to reschedule this item for the January 4 Council meeting.

PUBLIC HEARING- ZONING TEXT AMENDMENT: Planning and Development Director Heather Cotton advised that a request had been submitted on November 12, 2010 by Jeremy Suttles Entertainment to allow for "Bingo Halls" as a permitted use in the C-2 General Business District. Ms. Cotton stated that bingo establishments are regulated by the NC Department of Crime Control and Public Safety. Though several bingo establishments have operated in both C-1 and C-2 Business Districts in the past, the use is not specifically defined within the zoning ordinance. After review of both the Marion City Code and state requirements for the operation of bingo establishments, it is staff's recommendation that the use is substantially different in intent and operation of billiard and pool halls, video game parlors, and other coin operated amusement or recreational machine parlors, and therefore recommended that the Applicant make a request to amend the code.

Ms. Cotton reported that the North Carolina General Statutes gives authorization to the N.C. Department of Crime Control and Public Safety to regulate bingo establishments on an annual basis with an approved license. Organizations that hold a state license for operating a bingo establishment are regulated by strict laws that only allow such activity to take place no more than ten hours a week and no more than twice a week. Other requirements include a cap on prizes awarded, limited to tax exempt organizations, employment criteria, and size of building and

AA.000000977 (24)

property for which bingo can take place. Failure to comply with state regulations can result in the revocation of a state license to operate and/or may constitute a punishable offense.

Ms. Cotton stated that, based on the state requirements summarized above, Staff recommends that bingo establishments be permitted within the C-2 General Business District. The primary reason for this recommendation is concern with regulations that limit the duration and number of days per week bingo activity may take place, which would give the appearance of an empty store front. Another consideration is state regulations placing size requirements on both the building and property where bingo establishments may locate.

Ms. Cotton also advised that staff recommends changes to the code that would allow for billiard and pool halls, video game parlors, or other coin operated amusement facilities to be permitted as an accessory use to a principal business in the C-1 Business District and allow for such uses to be allowed as a principal use within the C-2 General Business District.

Ms. Cotton reported that the Planning Board recommended approval of the Zoning Text Amendments in a 4-0 vote at their December 2 meeting.

Mayor Little opened the Public Hearing.

There were no citizens present to discuss this item.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Cuthbertson, seconded by Council Member Clark, those members of Council present voted to adopt the following Ordinance, as recommend by the Planning Board:

ORDINANCE
AMENDING CHAPTER 21
ZONING
MARION CITY CODE

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, is amended by adding the following:

Sec 21-21 Definitions

Bingo Hall. A facility used to conduct bingo games in compliance with state statutory provisions, and open to the public and not in a subsidiary nature to another use.

Section 2. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, is amending permitted uses within the C-1 Central Business District as follows:

Sec.21-204 (2) Permitted Uses. The following uses are permitted within the C-1 Central Business District:

(7) Billiard and pool hall, video game parlor or other coin operated amusement or recreational machine parlor accessory to a principal use.

Section 3. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina is amended by adding the following to the C-2 General Business District.

Sec. 21-205 (2) Permitted Uses. The following uses are permitted within the C-2 General Business District:

(34) Billiard and pool hall, bingo hall, video game parlor or other coin operated amusement or recreational machine parlor.

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 14th day of December 2010.

Stephen R. Little, Mayor

AA.00000078 (24)

ATTEST:

J. Robert Boyette, City Manager/ Clerk

Ordinance Number: O-10-12-14-2

PUBLIC HEARING – NORTH CAROLINA PARKS AND RECREATION TRUST FUND GRANT - JOSEPH MCDOWELL HISTORICAL CATAWBA GREENWAY PHASE 2:

Planning and Development Director Heather Cotton gave a brief overview of the proposed N.C. Parks and Recreation Trust Fund (PARTF) grant application for Phase 2 of the Joseph McDowell Historic Catawba Greenway, to extend for approximately 2,800 linear feet from the end of Phase 1 under the US 221 Bypass to the McDowell House property on US 70 West. Council must hold two public hearings on the N.C. Parks and Recreation Trust Fund (PARTF) grant application for Phase 2 of the Greenway, this being the first public hearing.

Ms. Cotton stated that, as part of the City's PARTF application, three recreational elements must be included. The trail itself will not be considered as one of the elements. The trail, however, will require the dedication of right of way to the City. The area that approximately extends from the bank behind the McDowell House to the Catawba River or an area about 60-80 feet wide, whichever is greater, is needed for the trail.

Ms. Cotton reported that one of the recommended required recreational elements for the PARTF application will be a canoe launch across the Catawba River. This canoe launch will be located on property already leased by the City by Great Meadows. It is possible that the City's lease with Great Meadows may need to be tweaked a bit to comply with PARTF grant rules for site control. A second proposed recreational element would be fitness stations along the trail, within the area to be dedicated as right of way, as described above.

Ms. Cotton advised that the final recommended element will be an amphitheater extending from the top of the bank at the rear of the McDowell House down to the Catawba River. The amphitheater will be modeled after the one behind the Mountain Gateway Museum in Old Fort. This amphitheater was designed by Terrell Finley. Mr. Finley said he would be happy to help the City with the design for the proposed amphitheater.

The City Manager stated that he had presented these ideas to the McDowell House Committee on December 1. After discussion, the Committee felt that the amphitheater would not adversely affect the McDowell House property in any way and would allow for presentations and educational programs to take place, thereby creating an asset for the property. Committee members asked that the amphitheater be as large as the site and the project budget will allow.

The City Manager stated that, in addition, parking for the Greenway is also recommended for the part of the McDowell House property directly behind the Sonic Drive-In property. The McDowell House Committee again felt that the parking lot be as large as the site and project budget will allow. The parking lot would also serve the McDowell House.

The City Manager stated that the McDowell House Committee felt that the overall Greenway plans proposed by the City would not detract from the property, would create amenities for the McDowell House site and would be consistent with the vision of all involved parties to continue the Greenway. Therefore, the Committee voted unanimously to recommend approval of the Greenway plans, as they affect the McDowell House property, to the County.

Ms. Cotton stated that the City's PARTF application is due January 31. Before that time, Council will need to hold another public hearing and formally approve the grant application.

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Ms. Cotton stated noted PARTF rules about site control of property funded by the grant. Coordination will be needed between the City and County to determine whether property donation is needed from the County to the City, a long-term agreement can be put in place regarding the public use of the elements to be funded by the grant or whether other options, such as a joint City-County PARTF grant application for Phase 2, exists to satisfy grant requirements. The State recommended that a joint City-County PARTF application, with the City being the lead applicant, as the simplest solution to site control with the McDowell House property. The City will have site control over the rest of the Phase 2 Greenway through a property donation from Great Meadows, Inc.

The City Manager stated that he had spoken to County Manager Chuck Abernathy concerning the proposed Greenway plans and needed property donation, long-term agreement or joint application to satisfy PARTF requirements. Mr. Abernathy indicated that the concepts and plans sound fine to him and that the County would likely be willing to work with the City on any of the options needed to satisfy PARTF requirements. If the County is a joint grant applicant, the County will need to hold one public hearing in January and also approve the grant application.

The City Manager stated that he and Ms. Cotton met with Mr. Abernathy at the McDowell House site on December 13 to show him the proposed location of Greenway elements and to discuss the grant process.

Council Member Clark suggested that the maintenance of and lease arrangements for the McDowell House portion of the Greenway, the amphitheater and the parking lot would need to be worked out with the County. The City Manager stated that such arrangements could be worked out as the project progressed.

Upon a motion by Council Member Clark, seconded by Council Member Cuthbertson, those members of Council present voted to approve the general concept of the plans and grant application for Phase 2 of the Joseph McDowell Historical Catawba Greenway.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present for this meeting.

REQUEST BY MR. GORDAN BUNTIC FOR LICENSE TO OPERATE GAME ROOM/POOL ROOM AT 1155 NORTH MAIN STREET (STUDIO ONE) AND TO AMEND CHAPTER 10 OF CITY CODE TO ALLOW ALCOLHOL SALES IN GAME ROOMS OR POOL ROOMS: The City Manager advised that Mr. Gordan Buntic called and withdrew his request prior to this meeting. Therefore, no action was taken by Council.

AWARD CONTRACT FOR PADGETT DRIVE SEWER EXTENSION: The City Manager advised that, as shown on information presented to Council from McGill Associates, the City recently sought bids for the extension of sewer service to Padgett Drive off of US 70 West in the Pleasant Gardens Community. Bids were received from 10 construction companies, with Disaster Recovery Group, Inc. of Arden submitting the low bid of $58,966. The City Manager stated that staff originally estimated construction costs of $60,000 for this project.

Upon a motion by Council member Clark, seconded by Mayor Pro Tem Owenby, those members of Council present voted to award the contract for the Padgett Drive sewer extension to Disaster Recovery Group, Inc. in the amount of $58,966.

DISCUSS REVISED FAÇADE GRANT PROGRAM: The City Manager advised that the City, County, McDowell Economic Development Association (MEDA) and Marion Business Association (MBA) had been discussing for several months the idea of enhancing the MBA's Façade Grant Program. This issue arose out of discussion at a Council Planning Session earlier this year.

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The City Manager gave a brief overview of the proposed revisions to the Façade Grant Program, as follows:

Marion Façade Grant Program
Proposed Revision – December 2010

The Joint Utility Committee held a discussion at their meeting on November 18 concerning the implementation of a revised and expanded Downtown Marion Façade Grant Program, involving improvements such as painting, awnings and windows, to upgrade the attractiveness of the downtown area. Downtown Marion is obviously in the City of Marion's jurisdiction but is also the focal point of McDowell County, making its attractiveness and vitality crucial to both the City and County. The City, County, McDowell Economic Development Association (MEDA) and the Marion Business Association (MBA) have been discussing this matter for several months. The MBA already administers a Façade Grant Program, but grant awards are capped at $1,000, which has resulted in the Program not being used very much, thus minimizing the effectiveness of the grant.

The discussion at the November 18 Joint Utility Committee meeting was that a joint effort to expand and improve the Façade Grant Program should be undertaken jointly by the City of Marion, McDowell County, MEDA and the MBA. MEDA and the MBA would take the lead role in directly providing funding, while the City and County would provide support for the Program, the use of labor and equipment in certain cases and assist with marketing and promotion of the Program.

Mayor Steve Little, McDowell County Board of Commissioners Chairman David Walker, MBA President Darren Waugh, MEDA Chairman Butch Justice, County Manager/MEDA Director Chuck Abernathy, MBA Director Freddie Killough and City Manager Bob Boyette met on December 3 and discussed the program in more detail.

An outline for the revised Façade Grant Program is as follows:

1. MEDA would invest $7,500 per year in the Program, through membership and private funds.

2. The MBA would invest $7,500 per year in the Program. The MBA can do under its current budget for at least two years.

3. The total investment of $15,000 per year would be placed in a pool and matched dollar for dollar by the building or business owner, guaranteeing total annual investment of at least $30,000 per year.

4. Grants would be capped at $5,000, but smaller grants could be considered. Therefore, at least three grants would be awarded per year.

5. The City would use its own forces and equipment for certain limited tasks. Examples include removal of false facades, metal awnings and signs overhanging public sidewalks, after the property owner signs a hold harmless waiver.

6. Grants would be approved on a competitive basis by an appointed committee, composed of representatives from all four involved organizations. A grant period of approximately 90 days would open each year, with grant applications being due perhaps as soon as March 31. For the first year, this deadline will likely have to be later.

7. Program guidelines are largely in place but would need to be reviewed and potentially revised, based on input from the four involved organizations. For example, repairs to structures not visible from the public street, roof repairs and interior improvements would not be eligible.

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8. Approved projects would be required to comply with historic color/décor schemes, along with other criteria established in the Program guidelines. A historic color pallet could be included with the application materials.

9. The Program committee would reserve the right to establish priority areas for grant awards. The Chairpersons and staff of each organization felt that commercial buildings on Main Street and within one block of Main Street should receive priority.

10. Prior to finalizing the Program, the four involved organizations would hold a meeting with Downtown business and building owners, hopefully in January, to receive input regarding the Program guidelines and then would potentially amend the guidelines, based on said input.

The idea of a revised Façade Grant Program has generated considerable excitement among the boards and staff of the four involved organizations. The expanded program, overseen by the City, County, MEDA and MBA working cooperatively, would certainly demonstrate great cooperation and movement on a challenge facing the City: improving the appearance and vitality of the downtown area. The ultimate goal of the Program is to achieve enhanced business activity in the Downtown area.

Approval of the concept of the revised and expanded Façade Grant Program is therefore requested of the Marion City Council, McDowell County Board of Commissioners, McDowell Economic Development Association Board of Directors and the Marion Business Association Board of Directors as soon as possible to allow for the public input meeting to be held in January. After the public input meeting, then each organization can formally and officially approve the Program, based on any changes recommended as a result of the public input meeting. After this formal approval, the Program Committee can be appointed and the grant period can be opened, to allow for grants to be awarded by mid-2011.

The City Manager stated that, at the meeting on December 3 with Mayor Little, Chairman David Walker, Mr. Waugh, Mr. Justice, Ms. Killough, Mr. Abernathy and himself, it was acknowledged that MEDA has the resources to contribute $7,500 per year, while Mr. Waugh and Ms. Killough felt that the MBA could contribute such an amount for at least two years with their current budget.

The City Manager stated that the proposed defined program area would be the commercial downtown area, extending from the Logan/North Main intersection southward to the South Main/Garden Street intersection while also including at least one block on either side of Main Street. Only commercial properties would be eligible for grants.

The four organizations suggested that the County Manager, Freddie Killough and the City Manager work on the Façade Program guidelines and application, which were presented to Council for their review. Some minor tweaking of the guidelines may be needed.

Mayor Little stated that he sees this as a positive program.

Mayor Pro Tem Owenby stated that a lot of people and businesses are not going to have the money for a dollar for dollar match and could use the money up front.

Mayor Little stated that he agrees, given that these are tough economic times. However, at least with this program, business owners would have a chance to cut the price in half.

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Council Member Clark stated that the concept is great, and that the City has a lot of buildings that are unsightly with paint peeling in the downtown area. He added that he hoped the City would keep working on the unsightly railroad banks adjacent to Main Street as well.

Upon a motion by Council Member Clark, seconded by Council Member Cuthbertson, those members of Council present voted to endorse the concept of the revised Façade Grant Outline as follows:

1. MEDA would invest $7,500 per year in the Program, through membership and private funds.

2. The MBA would invest $7,500 per year in the Program. The MBA can do under its current budget for at least two years.

3. The total investment of $15,000 per year would be placed in a pool and matched dollar for dollar by the building or business owner, guaranteeing total annual investment of at least $30,000 per year.

4. Grants would be capped at $5,000, but smaller grants could be considered. Therefore, at least three grants would be awarded per year.

5. The City would use its own forces and equipment for certain limited tasks. Examples include removal of false facades, metal awnings and signs overhanging public sidewalks, after the property owner signs a hold harmless waiver.

6. Grants would be approved on a competitive basis by an appointed committee, composed of representatives from all four involved organizations. A grant period of approximately 90 days would open each year, with grant applications being due perhaps as soon as March 31. For the first year, this deadline will likely have to be later.

7. Program guidelines are largely in place but would need to be reviewed and potentially revised, based on input from the four involved organizations. For example, repairs to structures not visible from the public street, roof repairs and interior improvements would not be eligible.

8. Approved projects would be required to comply with historic color/décor schemes, along with other criteria established in the Program guidelines. A historic color pallet could be included with the application materials.

9. The Program committee would reserve the right to establish priority areas for grant awards. The Chairpersons and staff of each organization felt that commercial buildings on Main Street and within one block of Main Street should receive priority.

10. Prior to finalizing the Program, the four involved organizations would hold a meeting with Downtown business and building owners, hopefully in January, to receive input regarding the Program guidelines and then would potentially amend the guidelines, based on said input.

This matter will be brought back to Council for final approval after the public input meeting is held.

SCHEDULE TOWN MEETING AND CITY COUNCIL PLANNING SESSION: The City Manager advised that Council had traditionally held the annual Town Meeting on or around the third Thursday of January, which would be January 20 this year. The third Thursday of the month always conflicts with Lions Clubs meetings. In addition, on Thursday, January 20, the

AA.000000983 (24)

N.C. League of Municipalities will hold an Advocacy Goals Conference. The City Manager stated that the City may wish to be represented at this meeting, since the City has a goal that will be considered for endorsement by the League.

The City Manager proposed that the Town Meeting be scheduled for Thursday, January 27, at 7:00 p.m. at the Community Building.

It was the consensus of those members of Council present to set the annual Town Meeting for Thursday, January 27, 2011 at 7:00 p.m. at the Community Building, with Thursday, February 3, 2011 as the alternate date in the event of inclement weather.

APPROVE VOTING DELEGATE FOR N.C. LEAGUE OF MUNICIPALITIES ADVOCACY GOALS CONFERENCE: The City Manager advised that, as shown in information presented to Council, action is needed by City Council to select a voting delegate and alternate voting delegate for the N.C. League of Municipalities Advocacy Goals Conference on Thursday, January 20. The City Manager stated that he would plan on attending if Council wishes, but others may want to attend as well. The conference starts at 9:30 a.m. on January 20. To save money, the City Manager stated that he planned on leaving about 5:30 a.m. on the morning of January 20.

Upon a motion by Council Member Clark, seconded by Council Member Cuthbertson, those members of Council voted to appoint City Manager Bob Boyette as the City's voting delegate to the N.C. League of Municipalities Advocacy Goals Conference in Raleigh on Thursday, January 20.

SPECIAL PRESENTATION BY MAYOR LITTLE: Mayor Little presented Mayor Pro Tem Cecil Owenby with a 15 year pin for completing 15 years of service as a Council Member with the City of Marion.

Mayor Little stated that he also had a 15 year service pin for Council Member Martin and would present it to him at the next available meeting.

Council Members congratulated both Mayor Pro Tem Owenby and Council Member Martin for their years of dedicated service to the City of Marion.

SPECIAL PRESENTATION BY MAYOR PRO TEM OWENBY:
Mayor Pro Tem Owenby presented Mayor Little with a 25 year pin for completing 25 years of service to the City of Marion, as Council Member and Mayor.

Council Members also congratulated Mayor Little for his years of dedicated service to the City of Marion.

RECOGNITION AND WELCOME BOY SCOUT TROOP 807: Mayor Little recognizes and welcomes Boy Scout Troop 807 for being present for tonight's City Council Meeting.

CITY MANAGER COMMENTS: The City Manager advised that the City had received a letter from the N.C. Rural Center giving notice of the increase of the City's grant award for the Water Plant study to $37,200. The City asked for $40,000, so the City ended up receiving over 90 percent of what was requested, which should allow for the implementation of the project. McGill is working on a revised project scope to account for the funding reduction.

The City Manager reported that the City also received a letter from the Rural Center providing notice of the receipt of a Building Reuse and Restoration Grant in the amount of $29,765 to allow Samir's (Anwer Gillani) to renovate the former Mystik Convenience Store building on North Main Street for a new convenience store that will employ four people.

AA.000000984 (24)

The City Manager advised that the City had an excellent Christmas Parade on November 21, with tremendous weather and perhaps the best crowd ever. The City Manager commended the board, staff and volunteers from the Marion Business Association, the Police Department, Public Works Department and Fire Department for their great work with the Parade.

The City Manager advised that work continues on the Sugar Hill Road commercial development. According to the developer, construction will start on the Wal Mart Supercenter building by February 1 and on the 40,000 square foot retail shopping center by April 1. Right now, the City Manager stated that he is proposing an annexation effective date of March 31 for this property, but discussions are on-going with the developer and Wal-Mart, which may cause the annexation effective date to be as early as January 4.

The City Manager stated that planning is well underway for the Second Annual New Year's Eve Celebration to take place on Main Street on Friday evening, December 31. The event should be bigger than last year's innaugural event.

COUNCILMAN COMMENTS:

Mayor Little advised that he has recently published a book about the construction of the railroad between Old Fort and Ridgecrest, the largest construction project in the United State up to that point.

Council Member Cuthbertson stated that the recent snow plowing and removal effort was great. City workers are to be commended.

ADJOURNMENT: Upon a motion by Mayor Pro Tem Owenby, seconded by Council Member Clark, those members of Council present voted to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.000000985 (24)

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 4, 2011 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Cecil Owenby; Council Members Everette Clark, Lloyd Cuthbertson, and Juanita Doggett.

Council Member Martin could not be due to an emergency involving a family member.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Mark Brooks, Police Chief; Chris Hollifield, Public Works Director; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Amanda Mann, Attorney, Troutman & Sanders, Raleigh, NC; Gabriel Elliott 1679 Rockhouse Road, Marion, NC; Briggs Gilliam 1679 Rockhouse Road, Marion, NC; Will Ross 200 Pleasant View Drive, Marion, NC; Jim and Charmaine Brady, 754 Rutherford Road, Marion, NC; Ansel Clark, Marion, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

CONSENT AGENDA: Upon a motion by Council Member Clark, seconded by Council Member Cuthbertson, those members of Council present voted to approve the consent agenda as follows:

A. Approval of Minutes – December 14, 2010 Regular City Council Meeting Minutes

B. Adopt Resolution - Building Inspections for Wal Mart Supercenter and Grandview Station Retail Shops on Sugar Hill Road:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARION, NORTH CAROLINA REGARDING DEVELOPMENT-SPECIFIC CITY AND COUNTY COOPERATION (THE "RESOLUTION")

WHEREAS, Marion Retail Investment, LLC (the "Developer") and Wal-Mart Real Estate Business Trust ("Wal-Mart") are constructing certain buildings and improvements (collectively, the "Development") on Sugar Hill Road in McDowell County (the "County"); and

WHEREAS, the Development is to be permitted pursuant to County development regulations (the "Permitting"); and

WHEREAS, the Development is to be annexed into the City (the "Annexation"); and

WHEREAS, given the overlapping timeframes of the Permitting and the Annexation, the City desires to exercise its statutory rights to cooperate with the County in connection with the Permitting and Annexation.

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The foregoing recitals are true and correct and are hereby incorporated into the body of this Resolution as if fully set forth herein.

2. The Development, including without limitation all construction and improvements, is fully vested under current County development regulations and is allowed to proceed to completion under County development regulations, even after the property is annexed into the City, which completion includes without limitation the issuance of the building permit and Certificate of Occupancy.

3. The City will recognize the building permit and Certificate of Occupancy as issued by the County, and pursuant to N.C. Gen. Stat. § 160A-413, the City Council will request the County Board of Commissioners to direct County building inspectors to exercise their powers within the City's jurisdiction and empower them to do so until the City Council officially withdraws its request.

4. In the event the County refuses to cooperate as set forth herein, then following annexation the City will inspect the Development to the standards set forth in the County development regulations and will issue all necessary building permits and Certificates of Occupancy as set forth therein pursuant to N.C. Gen. Stat. § 153A-353.

5. For purposes of this Resolution, the Development does not include Developer's retained outparcels for which no site specific development plans have been prepared.

6. This Resolution shall take effect immediately upon its passage.

ADOPTED this the 4th day of January, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Resolution Number: R-11-01-04-2

C. Adopt Resolution - Verification From Municipality that Marion Fire Department is a City Department:

CITY OF MARION
RESOLUTION

VERIFICATION FROM MUNICIPALITY

WHEREAS, The Volunteer Fire Department of the City of Marion serves as an Agency of the City; and

WHEREAS, The Volunteer Fire Department of the City of Marion has requested confirmation of this Agency relationship; and

WHEREAS, This Agency's relationship is long-standing and generally acknowledged.

NOW, THEREFORE, Be it resolved that the City of Marion does hereby confirm this Agency's relationship and does verify by this Resolution that relationship.

ADOPTED this the 4th day of January, 2011.

Stephen R. Little
Mayor

ATTEST:

J. Robert Boyette
City Manager/Clerk

Resolution Number: **R-11-01-04-4**

AA.000000987 (24)

D. Adopt Interlocal Agreement Regarding Building Inspections for Wal Mart Supercenter and Grandview Station Retail Shops on Sugar Hill Road:

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL

AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____ 2011 by and between the County of McDowell, a North Carolina Municipal Corporation, hereinafter referred to as "the County", and the City of Marion, a North Carolina Municipal Corporation, hereinafter referred to as "the City".

WITNESSETH

WHEREAS, McDowell County and the City of Marion are political subdivisions of the State of North Carolina, both having the power and authority to enter into this agreement and the signatories hereto have been authorized to execute this document on behalf of the McDowell County Board of Commissioners and Marion City Council; and

WHEREAS, the City has, by resolution, requested that the County provide building inspection services for the Wal Mart Supercenter building and Grandview Station retail shops, located on Sugar Hill Road in the City of Marion, for which site specific development plans have been prepared; and

WHEREAS, the County is willing to provide said services.

NOW, THEREFORE, the parties wish to reduce their agreement to writing and agree to the following:

1. The County and the City mutually agree that this Contract shall become effective on January 4, 2011, the effective date of annexation for the Marion Retail Investment, LLC/Wal Mart Supercenter/Sugar Hill Road annexation.

2. The County agrees to provide building inspection services for the Wal Mart Supercenter building and Grandview Station retail shops, located on Sugar Hill Road in the City of Marion, for which site specific development plans have been prepared, up through the issuance of certificates of occupancy for the buildings described above.

3. The County agrees to hold harmless the City from any claim or loss of any kind as a result of any act or omission of the County's building inspector or other employee or designee in any way involved with the inspection and evaluation of work at the site.

4. The County and the City mutually agree that this Contract does not include outparcels on the Marion Retail Investment, LLC site on Sugar Hill Road.

5. The County and the City mutually agree that this Contract shall immediately terminate upon the issuance of certificates of occupancy for the Wal Mart Supercenter and Grandview Station retail shops, after which time the City shall immediately assume responsibility for providing building inspections services to said buildings.

6. The County shall provide the City with a copy of all permits, inspection reports and other records related to the buildings described above.

7. No payment shall be made by the City for building inspections services provided by the County, but the County will be entitled to retain all building permit fees it collects for the buildings described above during the duration of this Contract.

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first above written.

COUNTY OF MCDOWELL, NORTH CAROLINA

BY:_____
David Walker, Chairman
McDowell County Board of Commissioners

AA.000000988 (24)

(SEAL)

Attest:

BY: _____
Carrie Padgett, Clerk to the Board

CITY OF MARION, NORTH CAROLINA

BY: _____
Stephen R. Little, Mayor

(SEAL)

Attest:

BY: _____
J. Robert Boyette, City Manager/Clerk

PUBLIC HEARING – ADOPTION OF ANNEXATION ORDINANCE – MARION RETAIL INVESTMENT/WAL MART SUPERCENTER DEVELOPMENT - SUGAR HILL ROAD ANNEXATION: The City Manager advised that the City has completed the annexation process for the Marion Retail Investment/Wal Mart Supercenter Development annexation on Sugar Hill Road. A public hearing is required on this proposed annexation. The City Manager stated that the property owner had requested that the annexation take effect immediately, upon adoption of the annexation ordinance after the public hearing.

Mayor Little opened the public hearing.

There were no citizens present to discuss this item.

The City Manager acknowledged that Ms. Amanda Mann, an attorney with Troutman & Sanders from Raleigh working with Wal-Mart on this project, was present for this public hearing.

Ms. Mann stated to Mayor Little and Council Members that she had really enjoyed working with City Manager Bob Boyette on this project over the past few months.

Mayor Little closed the public hearing.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Owenby, those members of Council present voted to adopt the following ordinance to annex the Marion Retail Investment/Wal Mart Supercenter Development property on Sugar Hill Road, effective immediately.

AN ORDINANCE TO EXTEND
THE CORPORATE LIMITS OF THE
CITY OF MARION, NORTH CAROLINA –
MARION RETAIL INVESTMENT/WAL MART SUPERCENTER DEVELOPMENT – SUGAR HILL ROAD - 2010

WHEREAS, the City Council has been petitioned under G.S. 160A-58.1 to annex the area described below; and

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

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at City Hall at 7:00 P.M. on Tuesday, January 4, 2011, after due notice by publication on Wednesday, December 22, 2010; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-58.1(b);

AA.000000989 (24)

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

Section 1. By virtue of the authority granted by G.S. 160A-58.2, the following described territory is hereby annexed and made part of the City of Marion as of January 4, 2011:

Commencing at the USGS Monument "CLAIR" having NC grid coordinates N: 715228.370 E: 1107750.191; thence with a tie line S 41-40-21 W for 12,268.92 feet to a concrete right of way monument located along the eastern right of way of Sugar Hill Road (SR 1001) and the western transitional right of way of Mill Road (SR 1189) also being the Point of Beginning: thence with said transitional right of way N 84-33-13 E for 49.22 feet to a concrete right of way monument; thence with said western right of way along a concave curve to the south west having a radius of 331.37 feet, an arc length of 209.41 feet, and a chord bearing and distance of S 30-45-20 E for 205.94 feet to an Iron pin; thence S 12-26-29 E for 44.34 feet to a concrete right of way monument; thence with a line N 77-13-07 E for 58.90 feet to a concrete right of way monument located along the eastern right of way of said Mill Road; thence with a line S 15-24-35 W for 38.27 feet to a point located in said Mill Road; thence with said Mill Road S 02-04-23 W for 103.29 feet to a point; thence S 33-17-00 E for 54.50 feet to a point; thence S 23-36-40 E for 31.30 feet to a PK nail; thence S 22-47-07 E for 62.86 feet to a PK nail; thence S 29-29-21 E for 39.90 feet to a PK nail; thence S 33-33-37 E for 71.38 feet to a PK nail; thence S 33-33-37 E for 71.38 feet to a PK nail; thence S 36-15-42 E for 72.22 feet to a PK nail; thence S 36-45-44 E for 50.13 feet to a PK nail; thence S 40-09-20 E for 42.99 feet to a PK nail; thence S 44-16-57 E for 63.68 feet to a PK nail; thence S 56-59-38 E for 46.37 feet to a MAG nail; thence S 29-59-03 E for 19.26 feet to a MAG nail; thence S 65-31-56 E for 51.02 feet to an iron pin; thence with the common line of McKinney (D.B. 438. pg. 406) S 20-30-23 W for 233.77 feet to an iron pin; thence S 67-52-50 E for 196.26 feet to an iron pin; thence N 24-37-19 E for 228.27 feet to an iron pin; thence S 39-27-48 E for 123.66 feet to an iron pin; thence with the common line of Cardell (D.B. 694 pg. 760) S 42-00-45 E for 71.57 feet to an iron pin; thence S 24-29-47 E for 24.18 feet to an iron pin, thence S 24-50-48 E for 33.95 feet to an iron pin; thence S 36-51-02 E for 49.18 feet to an iron pin; thence S 42-48-17 E for 54.79 feet to an iron pin; thence S 33-24-18 E for 119.18 feet to an iron pin; thence S 35-14-55 E for 78.73 feet to an iron pin; thence S 19-22-49 E for 90.32 feet to an iron pin; thence S 08-43-24 E for 83.28 feet to an iron pin; thence S 14-41-59 E for 34.83 feet to an iron pin; thence with the common line of Tupper (D.B. 588 pg. 209) S 09-47-15 W for 45.37 feet to an iron pin; thence S 28-45-23 W for 77.84 feet to an iron pin; thence S 08-48-36 E for 99.07 feet to an axle; thence S 04-32-32 W for 60.00 feet to an iron pin; thence with the common line of CMH Homes (D.B. 920 pg. 447) and Pearsall (D.B. 814 pg. 969) respectively S 04-27-25 W for 191.47 feet to an iron pin; thence with said common line of Pearsall S 10-49-06 W for 139.73 feet to an iron pin; thence with the common line of Woody (D.B. 478 pg. 924) N 50-02-29 W for 17.22 feet to an iron pin; thence S 05-21-59 W for 577.85 feet to an iron pin located along the northern right of way of Interstate 40; thence with said northern right of way N 58-43-50 W for 190.32 feet to a concrete right of way monument; thence S 31-33-54 W for 34.86 feet to a concrete right of way monument; thence N 58-45-47 W for 559.75 feet to a concrete right of way monument; thence S 31-20-35 W for 65.02 feet to a concrete right of way monument; thence N 59-35-46 W for 537.01 feet to a concrete right of way monument; thence N 27-49-49 E for 11.93 feet to a concrete right of way monument; thence N 63-17-00 W for 250.88 feet to an iron pin; thence leaving said northern right of way and with the common line of Carolina Energies, Inc. (D.B. 631 pg. 152) N 13-09-28 W for 37.85feet to an iron pin; thence N. 15-36-28 W for 130.57 feet to an iron pin; thence N 05-32-40 E for 57.08 feet to an iron pin; thence N 01-07-46 E for 57.87 feet to an iron pin; thence N 12-07-53 E for 180.96 feet to an iron pin; thence N 11-42-13 E for 147.35 feet to an iron pin; thence N 64-35-55 W for 63.42 feet to an iron pin; thence with the common line of My Wife, LLC (D.B. 932 pg. 759) N 29-42-40 E for 52.74 feet to an iron pin; thence N 27-11-06 E for 114.33 feet to an iron pin; thence N 27-35-42 E for 21.62 feet to an iron pin; thence with a line N 83-40-23 W for 116.78 feet to an iron pin; thence with the common line of my Wife, LLC (D.B. 932 pg. 759) N 74-16-43 W for 99.59 feet to an iron pin located along said eastern right of way of Sugar Hill Road; thence with said eastern right of way along a concave curve to the north west having a radius of 1607.60 feet, an arc length of 40.80 feet, and a chord bearing and distance of N 26-54-27 E for 40.80 feet to an iron pin; thence leaving said eastern right of way and with the common line of Gurley Properties (D.B. 852 pg. 719) S 74-16-43 E for 83.03 feet to an iron pin; thence N 81-26-02 E for 192.17 feet to an iron pin; thence S 27-53-08 W for 49.89 feet to an iron pin; thence N 30-49-34 E for 57.05 feet to an iron pin; thence N 25-20-44 E for 161.45 feet to an iron pin; thence N 09-50-19 W for 64.51 feet to an iron pin; thence N 10-40-40 W for 47.61 feet to an iron pin; thence with the common line of Holmes & Moore (D.B. 843 pg. 618) N 01-56-38 E for 68.88 feet to an iron pin; thence with the common line of NCDOT (D.B. 659 pg. 382) N 70-39-15 W for 190.59 feet to an iron pin located along said eastern right or way of Sugar Hill Road; thence with said eastern right of way N 18-53-42 E for 215.29 feet to a concrete right of way monument; thence along a concave curve to the south east having a radius of 2362.21 feet, an arc length of 605.61 feet, and a chord bearing and distance of N 28-03-53 E for 603.94 feet to the point of Beginning containing 2,466,926 Sq. Ft. or 56.633 Acres more or less.

Section 2. Upon and after January 4, 2011, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled

AA.0000000990 (24)

to the same privileges and benefits as other parts of the City of Marion. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Marion shall cause to be recorded in the office of the Register of Deeds of McDowell County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the McDowell County Board of Elections, as required by G.S. 163-288.1.

ADOPTED this the 4th day of January, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Approved As To Form:

City Attorney

Ordinance Number: O-11-01-04-1

PUBLIC HEARING – NORTH CAROLINA PARKS AND RECREATION TRUST FUND AND RECREATIONAL TRAILS PROGRAM GRANT APPLICATIONS – JOSEPH MCDOWELL HISTORIC CATAWBA GREENWAY PHASE 2: The City Manager advised that this would have been the second of two public hearings on the N.C. Parks and Recreation Trust Fund (PARTF) grant application for Phase 2 of the Greenway. The first public hearing was held at the December 14 Council meeting, after which Council endorsed the general concept of Phase 2 and the idea of submitting a joint grant application with the County. The State also recently announced a new grant cycle for its Recreational Trails Program (RTP). Since holding two public hearings on the RTP grant application would be helpful, staff has now scheduled two public hearings on both grant applications. The first public hearing is this one and the second public hearing needs to be held at the January 18 Council meeting, after which time staff will ask Council to adopt a resolution authorizing the submission of both grant applications.

Mayor Little opened the public hearing.

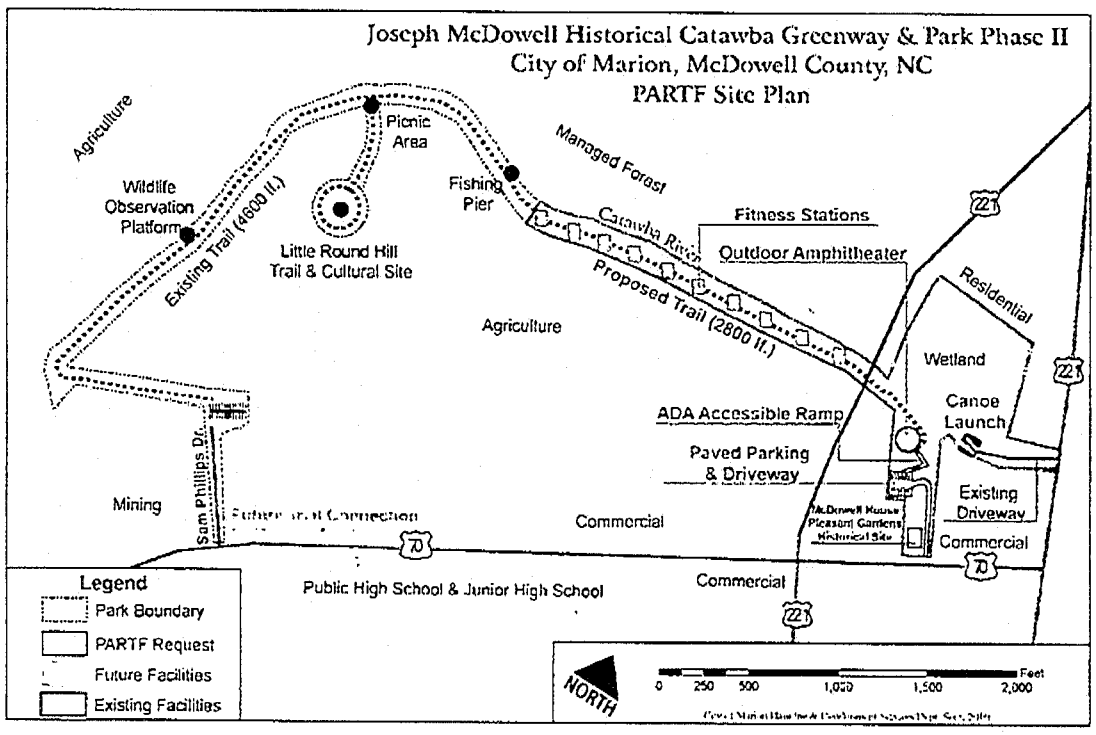
Planning and Development Director Heather Cotton gave an overview of the proposed Joseph McDowell Historical Catawba Greenway Phase 2 project. She stated that the projected cost of Phase 2 of the Greenway, including 2,800 feet of greenway, fitness stations, a canoe launch on the north side of the Catawba River and construction of a paved parking lot and amphitheater behind the McDowell House, is estimated to be $440,000. The City plans to seek $220,000 in funding from PARTF (which will provide no more than 50 percent funding) and the maximum grant amount of $75,000 from RTP. This would leave a $145,000 local match, less the value of the donated land, which is about $38,000. The McDowell Trails Association has already asked for $165,000 from one major donor and the County seems willing to make a contribution, given that the McDowell House property will be directly improved.

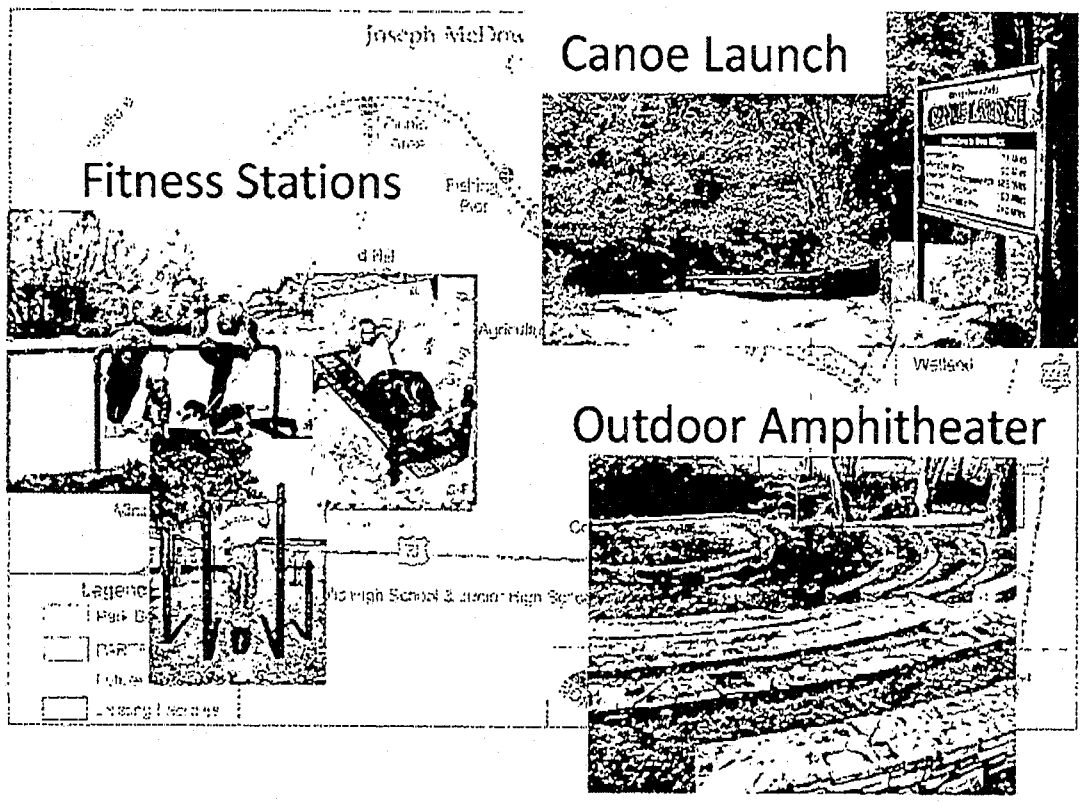
Ms. Cotton advised that the County will hold a public hearing on these grant applications at the January 10 County Commission meeting and will also adopt a resolution authorizing the submission of the grant applications. She stated that, after consulting State officials, staff recommended a joint grant application with the County as the best way to score points for the grant application and to ensure public site control of the entire Phase 2 project site.

Ms. Cotton's report was as follows:

Joseph McDowell Catawba River Greenway|

Catawba River Greenway PHASE II
NC DENR PART F APPLICATION Site Plan





Mayor Little commended Ms. Cotton on the excellent work she has done on this and many other projects.

The City Manager mentioned that, as previously suggested by Council Member Clark, the City may still want to enter into a lease agreement with the County, after the grant is received, to clearly define maintenance responsibilities for the trail, amphitheater and parking lot.

Council Member Doggett asked how much the City's share of the Phase 2 project would be.

Ms. Cotton stated that the City's local match would be approximately $105,000, less any funds raised by the McDowell Trails Association. Ms. Cotton stated that the Greenway is now listed as a State and Regional Trail of Importance, which should increase the chance of funding.

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There were no other citizens present to discuss this item.

Mayor Little closed the public hearing.

Council Member Cuthbertson stated that something needs to be done to keep vehicles off the greenway. The City Manager advised that City staff had met with the McDowell Trails Association and developed a plan to install a removable bollard to keep unauthorized vehicles off of the Greenway.

Council Member Clark stated that ATVs have been a problem on the Pea Vine trail and that this trail needs to be posted. The City Manager stated that staff would work to post this trail.

PUBLIC HEARING – PROPOSED APPROVAL OF LEASE OF A PORTION OF CITY'S MOUNT IDA PROPERTY TO SINCLAIR COMMUNICATIONS, LLC AND UNC-TV FOR USE AS THE LOCATION OF TRANSLATOR TOWERS: The City Manager advised that the City had gone through an extended process to obtain approval from the N.C. Parks and Recreation Trust Fund to subdivide part of the Mt. Ida property from the City's larger grant funded parcel. Approval was given by the State for this subdivision in 2010. Council previously approved the concept of leasing tower space on Mt. Ida to television stations for $300.00 per month for 10 years, the maximum lease term allowed by State law without taking upset bids. The City Manager said he has negotiated with both television stations an additional provision for the lease payment to be adjusted annually by the change in the Consumer Price Index for the U.S. South Region for the preceding 12 months. The proposed Sinclair Communications/WLOS lease was presented for Council's review. WLOS has already reviewed and approved this lease. The City Manager stated that he is still awaiting comments from UNC-TV, but the basic terms have been approved by the State.

The City Manager reported that a public hearing is required on this lease. The public hearing has been advertised, in accordance with State law.

Mayor Little opened the public hearing.

Mayor Little commended the City Manager for using accurate terminology in the agreement that states that the annual rent increase is tied to increases in the annual change in the Consumer Price Index for the South Region.

Council Member Clark stated that he was glad the City Manager covered the fact that the City did not guarantee an access road in this agreement.

Council Member Clark stated that he would like to see the City place revenue generated from these tower leases in a special account for future development of the Mt. Ida property, including an access road and trails. Council agreed to discuss this idea at a future Council Planning Session.

There were no other citizens present to discuss this item.

Mayor Little closed the public hearing

Upon a motion by Council Member Clark, seconded by Council Member Cuthbertson, Council voted unanimously to adopt the following resolution authorizing the lease of a portion of the City's Mt. Ida property to Sinclair Communications/WLOS-TV and UNC-TV for 10 years for $300.00 per month, with an annual adjustment based on the change in the Consumer Price Index for the U.S. South Region for the preceding 12 months:

Resolution Authorizing the Lease of Certain Property Owned by the City of Marion to Sinclair Communications, LLC and UNC-TV

AA.00000993 (24)

WHEREAS, N.C.G.S. 160A-272 authorizes City Councils to lease municipal owned property that will not be needed by the municipality during the term of the lease; and

WHEREAS, N.C.G.S. 160A-272 further authorizes City Councils to lease any municipal owned property for a term of up to ten years by resolution at any meeting, after ten days public notice; and

WHEREAS, the City of Marion owns property on Mount Ida; and

WHEREAS, television towers owned by Sinclair Communications, LLC d/b/a WLOS-TV and UNC-TV are located on a portion of said property; and

WHEREAS, Sinclair Communications, LLC d/b/a WLOS-TV and UNC-TV desire to enter into a lease with the City of Marion to allow said television towers to remain; and

WHEREAS, in accordance with N.C.G.S. 160A-272, the City of Marion, on December 22, 2010, caused notice of the proposed lease of the property, as described above, to Sinclair Communications, LLC d/b/a WLOS-TV and UNC-TV to be published in The McDowell News; and

WHEREAS, the City Council of the City of Marion has determined that said property will not be needed by the City during the ten year term of this lease.

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF MARION RESOLVES:

Section 1. The City Council of the City of Marion does hereby agree to lease the property described on the attached lease agreement to Sinclair Communications, LLC d/b/a WLOS-TV for use as the location of translator towers on said property for a period from March 1, 2011 to December 31, 2020. The lease payments will be $3,600.00 per year with annual increases based on the increase in the Consumer Price Index for the U.S. South Region for the preceding 12 months.

Section 2. The City Council of the City of Marion does hereby agree to lease the property described on the attached lease agreement to UNC-TV for use as the location of translator towers on said property for a period from January 1, 2011 to December 31, 2020. The lease payments will be $3,600.00 per year with annual increases based on the increase in the Consumer Price Index for the U.S. South Region for the preceding 12 months.

Section 3. This resolution shall be effective upon its adoption and the execution of the attached leases by all involved parties.

Adopted this the 4th day of January, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-11-01-04-1

STATE OF NORTH CAROLINA

LEASE AGREEMENT

COUNTY OF MCDOWELL

THIS LEASE AGREEMENT, made and entered into, this the ____ day of _____, 2011, by and between **CITY OF MARION, NC,** Lessor (hereinafter called CITY) and **SINCLAIR COMMUNICATIONS, LLC, d/b/a WLOS-TV,** Lessee (hereinafter called WLOS-TV);

WITNESSETH:

AA.000000994 (24)

A. WLOS-TV has since 1977 maintained a television translator station on land now owned by the CITY on top of Mount Ida to serve Marion and the McDowell County area.

B. CITY and WLOS-TV desire to continue this arrangement under a new Lease Agreement.

NOW THEREFORE, in consideration of the mutual promises and undertakings of CITY and WLOS-TV set forth in this Lease and for other good and valuable consideration, it is agreed as follows:

1. PREMISES. CITY does hereby rent and lease to WLOS-TV that certain tract of land located in Marion Township, McDowell County, and more particularly described on the Attachment A. This lease is non-exclusive and does not preclude the CITY from continuing to lease the premises to other towers currently located and operating on said property.

2. EASEMENTS. WLOS-TV is granted a right-of-way and easement for an access road and for power and telephone lines for the period of this Lease and any extensions thereof, said easements being more particularly described in the Attachment A.

3. TERM. The term of this Lease shall be for a period of almost ten (10) years beginning on March 1, 2011, and ending on December 31, 2020, unless sooner terminated in accordance with this Agreement.

4. RENT. WLOS-TV agrees to pay to CITY as rental for the premises, the sum of THREE HUNDRED and NO/100 DOLLARS ($300.00) per month for 2011. The rent in each successive year during the term shall be increased each January 1st for the upcoming year, beginning on January 1, 2012, based on the Consumer Price Index for the U.S. South Region for the preceding 12 months (as shown on http://data.bls.gov/cgi-bin/surveymost?cu). Rent shall be payable in advance beginning on March 1, 2011 and on the 1st day of each month thereafter. WLOS-TV may at its option elect to pay the monthly rental amounts on a quarterly or annual basis. Rental payments shall be considered late if not paid within fifteen (15) days of the due date. In the event WLOS-TV should fail to pay the rental when due, there shall be no forfeiture of this Lease for non-payment of rent until the rent has been unpaid for thirty (30) days after notice of delinquent rent is given by certified mail to the General Manager of WLOS-TV, with a copy to the General Counsel, as set forth in Section 9 below.

5. ACCESS.

a. WLOS-TV's employees, its agents, and service representatives are granted free access, ingress, egress, and regress to and through the premises for the purpose of installing, constructing, operating, inspecting, repairing, removing, replacing, and maintaining the equipment and facilities of WLOS-TV. The CITY has no obligation to construct or maintain any roadway within the easement area that might be needed for WLOS-TV to access the premises.

b. WLOS-TV shall have sole responsibility for its own personnel and for personnel of any of its contractors at all times while such persons are on the premises and while traveling to and from the premises.

6. LIABILITY. WLOS-TV shall be liable and agree to hold CITY harmless for the negligence of, or damage caused by, its employees, agents, and representatives in connection with the exercise of the rights and privileges herein granted.

7. INSURANCE AND TAXES. WLOS-TV will be responsible for all insurance and taxes, if any, on WLOS-TV's property.

8. TERMINATION AND EQUIPMENT REMOVAL. WLOS-TV has the right to remove any of its property from the premises at any time. At the termination of this Agreement, WLOS-TV shall have six (6) months to remove its property from the premises. WLOS-TV property left on the premises after six months from the date of termination of this Agreement shall become the property of CITY.

9. NOTICE. Any notice, payment, or other obligation under this Lease shall be deemed satisfied when properly addressed and mailed or delivered to the following:

TO CITY:	J. Robert Boyette City of Marion P.O. Drawer 700 Marion, NC 28752 Telephone: (828)652-3551
TO WLOS-TV:	General Manager

WLOS-TV
100 Technology Drive
Asheville, NC 28803
828-684-1340

With a copy to: Sinclair Communications, LLC
Attn: General Counsel
10706 Beaver Dam Road
Cockeysville, MD 21030
Telephone: (410) 568-1500

10. BINDING ON ASSIGNS. This Agreement is binding upon the parties hereto, their successors and assigns.

11. ENTIRE AGREEMENT. This instrument contains the entire Agreement between the parties and no statements, promise, inducement, representation of prior Agreement which is not contained in or referenced by this Agreement shall be valid as a condition of this Agreement.

12. AMENDMENT. No amendment or modification of this Lease Agreement shall be valid unless made in writing and signed by an officer of WLOS-TV and by CITY.

13. CONSTRUCTION OF LANGUAGE. The term Lease, Lease Agreement, or Agreement shall be inclusive of each other and also shall include renewals, extensions, or modifications of the Lease Agreement. Words of any gender shall be held to include any other gender, and words of the singular shall be held to include the plural and plural the singular. The paragraph headings are not a part of this Lease and shall have no effect upon the interpretation of this Lease. This Agreement shall be governed by, construed and enforced in accordance with the laws of North Carolina and any court action may be brought only within the courts of North Carolina.

14. SUBLEASES. WLOS-TV shall not sublease space on its tower without the express written permission of CITY.

IN TESTIMONY WHEREOF, this Lease has been executed by the parties hereto, in duplicate originals, as of the date first above written.

LESSOR:
CITY OF MARION, NC

By: _____ (SEAL)
STEPHEN R. LITTLE, Mayor

LESSEE:
SINCLAIR COMMUNICATIONS, LLC
d/b/a WLOS-TV

By: _____ (SEAL)
DAVID R. BOCHENEK, VP/CAO

AA.000000996 (24)

STATE OF MARYLAND

COUNTY OF HARFORD

I, _____ a notary public for the County and State aforesaid, certify that **DAVID R. BOCHENEK**, VP/CAO of **SINCLAIR COMMUNICATIONS, LLC, d/b/a WLOS-TV**, who is personally known to me, personally appeared before me this day, and acknowledged to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal, this the ____ day of _____, 2011.

_____
Notary Public

My Commission Expires: _____

STATE OF NORTH CAROLINA

COUNTY OF MCDOWELL

I, _____ a notary public for the County and State aforesaid, certify that **STEPHEN R. LITTLE**, Mayor of **CITY OF MARION, NC**, who is personally known to me or who has/have presented sufficient evidence of identification in the form of _____, personally appeared before me this day, and acknowledged to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

IN WITNESS WHEREOF, I have hereunto set my hand and Notarial Seal, this the ____ day of _____, 2011.

_____
Notary Public

My Commission Expires: _____

AA.000000997 (24)

ATTACHMENT A

BEING a 2.58 acre tract and parcel of land shown on that survey for the City of Marion prepared by R.L. Greene, PLS, last revised 10/10/1990 and identified as R-90-091, and from that survey for the City of Marion prepared by R.L. Greene, PLS, originally dated 10/29/2009, last revised 3/23/2010, and identified as Map File 9-114R:

BEGINNING on a 5/8-inch rebar with cap set (which is located South 06 degrees 37 minutes 56 seconds West 2,232.18 horizontal ground feet from NCGS monument "Claire" which bears NAD 83/2007 coordinates of N = 715,228.477 feet and E = 1,107,750.029 feet) and running thence new lines South 38 degrees 26 minutes 28 seconds East 190.43 feet to a 5/8-inch rebar with cap set; thence continuing with new lines the following eight (8) courses and distances generally along the eastern margin of a gravel road, all to unmarked points: South 70 degrees 18 minutes 30 seconds East 30.18 feet, South 34 degrees 58 minutes 52 seconds East 47.48 feet, South 09 degrees 05 minutes 59 seconds East 49.35 feet, South 02 degrees 06 minutes 24 seconds West 50.50 feet, South 04 degrees 19 minutes 49 seconds East 15.76 feet, South 05 degrees 30 minutes 08 seconds West 81.34 feet, South 10 degrees 00 minutes 38 seconds West 40.02 feet, and South 19 degrees 10 minutes 21 seconds West 41.36 feet to a 5/8-inch rebar with cap set in the line of that property either now or formerly owned by Gurley Properties, LLC, as described in Book 852 at Page 719; thence with the Gurley line and crossing a gravel road North 82 degrees 14 minutes 29 seconds West 10.46 feet to a 5/8-inch rebar with cap set; thence continuing with the following nine (9) new lines generally along the western margin of a gravel road, all to unmarked points: North 31 degrees 59 minutes 11 seconds East 1.13 feet, North 19 degrees 10 minutes 21 seconds East 41.52 feet, North 10 degrees 00 minutes 38 seconds East 38.82 feet, North 05 degrees 30 minutes 08 seconds East 80.08 feet, North 04 degrees 19 minutes 49 seconds West 15.46 feet, North 02 degrees 06 minutes 24 seconds East 50.08 feet, North 09 degrees 05 minutes 59 seconds West 46.07 feet, North 34 degrees 58 minutes 52 West 41.83 feet and North 70 degrees 18 minutes 30 seconds West 10.89 feet; thence a new line South 51 degrees 33 minutes 32 seconds West 419.21 feet to a 5/8-inch rebar with cap set in the Gurley line; thence running along and with the Gurley line North 82 degrees 14 minutes 29 seconds West 290.33 feet to a 5/8-inch rebar with cap set; thence leaving the Gurley line and running a new line North 51 degrees 33 minutes 32 seconds East 620.16 feet to the point and place of **BEGINNING**.

TOGETHER WITH the non-exclusive perpetual road right-of-way and easement over the existing private road which is open, visible and in use, leading from US Highway 221, as the same is set forth and described in Book 949 at Page 226, reference tc said deed being made for a more particular description by metes and bounds.

SUBJECT TO the rights of others in and to the non-exclusive perpetual road right-of-way and easement in, over and through the property of the Grantors the boundaries of which are described as follows: **BEGINNING** at a 5/8-inch rebar with cap set located North 82 degrees 14 minutes 29 seconds West 1,008.31 feet from the existing iron pin marking the third corner of the Hamill property as described in Deed Book 186 at Page 493 and the 5th corner as described in Book 949 at Page 226, said 5/8-inch rebar being also in the line of that property either now or formerly owned by Richard Allen Gurley et ux as described in Book 399 at Page 591, Book 399 at Page 596, Book 365 at Page 836, Book 403 at Page 541, Book 400 at Page 438 and Book 421 at Page 683, and running thence from said **BEGINNING** along the following nine (9) new lines generally along the western margin of a gravel road, all to unmarked points: North 31 degrees 59 minutes 11 seconds East 1.13 feet, North 19 degrees 10 minutes 21 seconds East 41.52 feet, North 10 degrees 00 minutes 38 seconds East 38.82 feet, North 05 degrees 30 minutes 08 seconds East 80.08 feet, North 04 degrees 19 minutes 49 seconds West 15.46 feet, North 02 degrees 06 minutes 24 seconds East 50.08 feet, North 09 degrees 05 minutes 59 seconds West 46.07 feet, North 34 degrees 58 minutes 52 West 41.83 feet and North 70 degrees 18 minutes 30 seconds West 10.89 feet to a 5/8-inch rebar with cap set; thence North 38 degrees 26 minutes 28 seconds East approximately 19 feet (crossing the gravel road) to a 5/8-inch rebar with cap set; thence the following eight (8) courses and distances generally along the eastern margin of a gravel road, all to unmarked points: South 70 degrees 18 minutes 30 seconds East 30.18 feet, South 34 degrees 58 minutes 52 seconds East 47.48 feet, South 09 degrees 05 minutes 59 seconds East 49.35 feet, South 02 degrees 06 minutes 24 seconds West 50.50 feet, South 04 degrees 19 minutes 49 seconds East 15.76 feet, South 05 degrees 30 minutes 08 seconds West 81.34 feet, South 10 degrees 00 minutes 38 seconds West 40.02 feet, and South 19 degrees 10 minutes 21 seconds West 41.36 feet to a 5/8-inch rebar with cap set in the Gurley line; thence with the Gurley line and crossing the gravel road North 82 degrees 14 minutes 29 seconds West 10.46 feet to the point and place of **BEGINNING**.

TOGETHER WITH and **SUBJECT TO** the right of way, and all other rights and privileges conveyed and described in Deed Book 55 at Page 148.

DEED REFERENCE: Being a portion of that property conveyed to the City of Marion by that deed recorded in Book 949 at Page 226, McDowell County Registry [portion of Parcel Identification Number: 1701.16-82-1836].

STATE OF NORTH CAROLINA

LEASE AGREEMENT

COUNTY OF MCDOWELL

THIS LEASE AGREEMENT, made and entered into, this the ____ day of _____, 2010, by and between **CITY OF MARION, NC,** Lessor (hereinafter called CITY) and the **STATE OF NORTH CAROLINA,** for the benefit of The University of North Carolina Center for Public Television, Lessee (hereinafter called the UNC-TV);

WITNESSETH:

A. The State of North Carolina has developed a state-wide public television network known as UNC-TV consisting of main transmitting stations and smaller translator stations.

B. UNC-TV has, since 1980, maintained a translator station on land owned by the CITY on top of Mount Ida to serve Marion and the McDowell County area.

AA.0000000998 (24)

C. CITY and UNC-TV desire to continue this arrangement under a new Lease Agreement.

NOW THEREFORE, in consideration of the mutual promises and undertakings of CITY and UNC-TV set forth in this Lease and for other good and valuable consideration, it is agreed as follows:

1. PREMISES. CITY does hereby rent and lease to UNC-TV that certain tract of land located in Marion Township, McDowell County, and more particularly described on the Attachment A. This lease is non-exclusive and does not preclude the CITY from continuing to lease the premises to other towers currently located and operating on said property.

2. EASEMENTS. UNC-TV is granted a right-of-way and easement for an access road and for power and telephone lines for the period of this Lease and any extensions thereof, said easements being more particularly described in the Attachment A.

3. TERM. The term of this Lease shall be for a period of ten (10) years beginning on January 1, 2011, and ending on December 31, 2020, unless sooner terminated in accordance with this Agreement.

4. RENT. UNC-TV agrees to pay to CITY as rental for the premises, the sum of THREE HUNDRED and NO/100 DOLLARS ($300.00) per month for 2011. The rent in each successive year during the term shall be increased each January 1st for the upcoming year, beginning on January 1, 2012, based on the Consumer Price Index for the U.S. South Region for the preceding 12 months (as shown on http://data.bls.gov/cgi-bin/surveymost?cu). Rent shall be payable in advance beginning on March 1, 2011 and on the 1st day of each month thereafter. UNC-TV may at its option elect to pay the monthly rental amounts on a quarterly or annual basis. Rental payments shall be considered late if not paid within fifteen (15) days of the due date. In the event UNC-TV should fail to pay the rental when due, there shall be no forfeiture of this Lease for non-payment of rent until the rent has been unpaid for thirty (30) days after notice of delinquent rent is given by certified mail to the General Manager of UNC-TV, with a copy to the General Counsel, as set forth in Section 9 below.

5. ACCESS.

a. UNC-TV's employees, its agents, and service representatives are granted free access, ingress, egress, and regress to and through the premises for the purpose of installing, constructing, operating, inspecting, repairing, removing, replacing, and maintaining the equipment and facilities of UNC-TV. The CITY has no obligation to construct or maintain any roadway within the easement area that might be needed for UNC-TV to access the premises.

b. UNC-TV shall have sole responsibility for its own personnel and for personnel of any of its contractors at all times while such persons are on the premises and while traveling to and from the premises.

6. LIABILITY. UNC-TV shall be liable and, to the extent permitted under North Carolina law, hold CITY harmless for the negligence of, or damage caused by, its employees, agents, and representatives in connection with the exercise of the rights and privileges herein granted as provided by North Carolina General Statutes Sections 143-291, et seq., entitled "Tort Claims Against State Departments and Agencies".

7. INSURANCE AND TAXES. UNC-TV will be responsible for all insurance and taxes, if any, on UNC-TV's property.

8. TERMINATION AND EQUIPMENT REMOVAL. UNC-TV has the right to remove any of its property from the premises at any time. At the termination of this Agreement, UNC-TV shall have six (6) months to remove its property from the premises. UNC-TV property left on the premises after six months from the date of termination of this Agreement shall become the property of CITY.

9. NOTICE. Any notice, payment, or other obligation under this Lease shall be deemed satisfied when properly addressed and mailed or delivered to the following:

TO CITY: J. Robert Boyette
City of Marion
P.O. Drawer 700
Marion, NC 28752
Telephone: (828)652-3551

TO UNC-TV: The University of North Carolina for Public Television
P.O. Box 14900

AA.0000009999 (24)

Research Triangle Park, North Carolina 27709-4900
Telephone: (919)549-7000

10. CONDITIONS OF CONTINUATION. The parties to this Agreement understand and agree that the continuation of this Lease for its term and the payment of the costs established by this Agreement is subject to and conditioned upon: (1) the availability of State funds to UNC-TV for the purposes of this Lease, and (2) the continuation of licensing by the Federal Communications Commission. If, through no fault of UNC-TV, funds are not appropriated for this lease or UNC-TV loses it FCC license, then this lease can be terminated upon six (6) months advance written notice to the CITY.

11. BINDING ON ASSIGNS. This Agreement is binding upon the parties hereto, their successors and assigns.

12. ENTIRE AGREEMENT. This instrument contains the entire Agreement between the parties and no statements, promise, inducement, representation of prior Agreement which is not contained in or referenced by this Agreement shall be valid as a condition of this Agreement.

13. AMENDMENT. No amendment or modification of this Lease Agreement shall be valid unless made in writing and signed by an office of the UNC-TV and by CITY.

14. APPROVAL BY COUNCIL OF STATE.
This Lease was approved by the Governor and Council of State, as required by law at a meeting held in Raleigh, North Carolina on the ____, day of _____, 2010.

15. CONSTRUCTION OF LANGUAGE. The term Lease, Lease Agreement, or Agreement shall be inclusive of each other and also shall include renewals, extensions, or modifications of the Lease Agreement. Words of any gender shall be held to include any other gender, and words of the singular shall be held to include the plural and plural the singular. The paragraph headings are not a part of this Lease and shall have no effect upon the interpretation of this Lease. This Agreement shall be governed by, construed and enforced in accordance with the laws of North Carolina and any court action may be brought only within the courts of North Carolina.

16. SUBLEASES. UNC-TV shall not sublease space on its tower without the express written permission of CITY.

IN TESTIMONY WHEREOF, this Lease has been executed by the parties hereto, in duplicate originals, as of the date first above written.

LESSOR:
CITY OF MARION, NC

_____ (SEAL)
STEPHEN R. LITTLE, Mayor

LESSEE:
STATE OF NORTH CAROLINA

_____
BEVERLY PURDUE, Governor

ATTEST:

_____
Secretary of State

APPROVED AS TO FORM:

ROY A. COOPER, III
Attorney General

_____
Assistant Attorney General

AA.000001000 (24)

REVIEW SAFE ROUTES TO SCHOOL PLAN/RECEIVE REPORT OF YMCA COMMUNITY HEALTHY LIVING INDEX ASSESSMENT: Planning and Development Director Heather Cotton stated that, at the November 16 Council meeting, Council expressed a desire to review the proposed Safe Routes to School Plan (SRTS) in more detail. She said that NCDOT will be reviewing the draft Plan and wants to finalize it in the near future; therefore, it is vital that Council provide final comments on the draft SRTS plan.

Ms. Cotton gave an overview of the SRTS Program, which is a nationwide program to promote healthy living through engineering, enforcement, education, encouragement, and evaluation. This project was a technical assistance grant awarded to the City of Marion for five schools within Marion to review policies, programs, and infrastructure that are barriers to children walking and bicycling to school which could help them meet their daily physical fitness needs and reduce the number of health complications that occur as a result of lack of physical activity.

Ms. Cotton stated that she was here to provide Council with the recommendations that the projects consultants presented to the SRTS Action Team on November 5, 2010. She said that she has reviewed the document and has proposed grammatical changes and minor changes regarding City vs. DOT control of streets listed in the Plan. Ms. Cotton stated she needed to know from Council any additional changes, amendments, or deletions to the recommendations they have provided so that the document can be forwarded to NCDOT for their approval. The planning contract between the consultants and NC DOT will ends this February, so the Plan needs to be wrapped up quickly.

Ms. Cotton outlined the following priority projects in the SRTS Plan:

East McDowell Junior High School
Project 1: State Street at Main Entrance to School: Crossing Improvement

- Provide high visibility crosswalks
- Curb bulb outs to students better visibility of on-coming traffic
- And a median refuge to reduce the distance and time a child is walking in a vehicular area

Corridor Ownership: State Street-City Control

Project 2: State Street Corridor Improvements (Southside of State from where the sidewalk ends to Baldwin Avenue

- Add a sidewalk that will improve access to the private property (Men's Shelter) and improve safety of children walking to both Eastfield and Clinchfield Neighborhoods.

Corridor Ownership: State Street-City Control

Project 3: Baldwin Avenue Corridor Improvements (between 6th street north to Court Street)

- Add sidewalk along one side (dependant on obstacles light poles, topo, etc)
- Install high visibility crosswalks at the intersections of Baldwin Avenue and all side streets between 6th Street and Matilda.
- Install a school zone flashing light to alter motorists they are in a school zone and children are present.

Corridor Ownership: Baldwin Avenue–NCDOT Control

Project 4: Baldwin Avenue School Entrance Improvements

- Install sidewalk along north side of school entrance road
- Install high visibility crosswalk at intersection of school entrance and Baldwin Avenue

Corridor Ownership: Baldwin Avenue-NCDOT Control; East McDowell Junior High School Entrance-McDowell County School Control. Coordination between NCDOT and McDowell County Schools required.

Project 5: State Street and Clay Street Improvements

- Install high visibility crosswalks at intersection of State Street and Clay Street

Corridor Ownership: Clay Street and State Street – City Control

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Marion Elementary
Project 1: Robert Street Sidewalk & Midblocks (Robert Street, between Fleming Avenue and Richard Drive, adjacent to Marion Elementary School.

- Install sidewalk on north side of Robert Street
- Install high visibility crosswalks and curb-bulbouts at these crossings (This improvement was completed just prior to the plan draft. Changes to the draft are being made by the consultant to reflect changes at Marion Elementary)

Corridor Ownership: Robert Street and Fleming Avenue–City Control

Project 2: Robert Street and Fleming Avenue Intersection.

- Install high visibility crosswalks and curb ramps, and curb bulbouts to minimize distance children are in traffic lanes and provide better visibility to oncoming traffic. (This improvement may be amended to reflect changes the City has made at Marion Elementary)

Corridor Ownership: Robert Street and Fleming Avenue-City Control

Project 3: Robert Street and Park Avenue Intersection

- Install high visibility crosswalk, move the vehicle stop bar back, and add curb ramps.

Corridor Ownership: Robert Street and Park Avenue–City Control

Project 4: Fleming Avenue Traffic Calming

- (This improvement was completed just prior to the plan draft. Changes to the draft are being made by the consultant to reflect recent changes at Marion Elementary)

Corridor Ownership: Fleming Avenue-City Control

Eastfield Elementary School
Project 1: Perry Street Corridor Improvements

- Install sidewalks along one side of Perry Street from Baldwin to Eastfield School entrance.
- Install high visibility crosswalks at all intersections
- Realign and create a three-way intersection at Yancey Street and Perry Street to slow the movement of vehicles.

Project 2: Tunnel Road and Morris Street

- Provide a sidewalk along Tunnel Road from Yancey Street to Westmoreland Drive
- Provide Sidewalk from entrance of school to Tunnel Road.
- Install high visibility crosswalks and pedestrian signage at all intersections
- Add School Zone from Pine Street to Westmoreland.

Project 3: Yancey Street Corridor (Between Clark Street and Perry Street)

- Install sidewalk along Yancey Street between Perry Street and Clark Street
- Install high visibility crosswalks and pedestrian signage at each intersection along Yancey Street
- Install sidewalks on Leach and Clark (Staff recommendation to better define sidewalk extension projects on Leach, Bostic, and Clark Streets)
- Extend school zone to Perry Street.

Corridor Ownership: All NCDOT Controlled

West Junior High School (McDowell High School)

Project 1. US 70/ High School Road Crossing

- Install signalized high visibility crosswalk and center island refuge on US 70 West.
- Install sidewalk along High School Road.

Corridor Ownership: NCDOT controlled

Project 2. US 70 Corridor Improvements

- Install sidewalk along both sides of US 70 to connect McDowell High Drive with nearby commercial land uses and public greenway.
- Enhance school zone signage with flashing lights and consider greater speed limit reduction during school hours.

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- Install pedestrian crossings at signalized intersections once sidewalks are installed.

Project 3. High School Road Corridor Improvements
- Add sidewalk to north side of High School Road

Corridor Ownership: NCDOT controlled

Phoenix Academy (Lukin Street just off Sugar Hill Road

Project 1. Sugar Hill Road Sidewalk Extension
- Add sidewalk to north side of Sugar Hill Road from current terminus to Grandview Station/Super Wal-Mart Center (if completed in phases- phase one should connect to Lukin Street)
- Once sidewalk is installed add a crosswalk with a pedestrian refuge at the signalized intersection of Sugar Hill Road and entrance to Grandview Station. (Staff Recommendation)

Project 2. Sugar Hill Road and Reid Street/ Grace Corpening Drive
- Add sidewalk on Sugar Hill Road from Reid Street to Wilhemenia Street
- Add high visibility marked crosswalks at all intersections.
- Add pedestrian signalization at Sugar Hill Road and Reid Street.
- Connect sidewalk to existing signals and provide pedestrian signage.

Corridor Ownership: NCDOT controlled

Project 3. Lukin Street Sidewalk and School Zone Improvements
- Provide a sidewalk on one side of Lukin Street connecting school to Sugar Hill Road sidewalk to improve pedestrian access.
- Improve school zone markings on Lukin St.

Other Staff recommended changes include:
1. **Eliminating all recommended grass strips between roads and sidewalks.**
2. **Ensure all improvements are updated accordingly in the final plan.**
3. **Add final cost estimates on recommended projects.**

Council provided some suggested changes and deletions to the Plan. Ms. Cotton stated that these comments would be forwarded to NCDOT. The Plan will be brought back for Council approval at a future meeting, after the NCDOT comments are received.

Will Ross from the YMCA gave a brief presentation on the YMCA Community Healthy Living Index (CHLI) assessment process completed in 2010 in several communities and work places in and around the City. This plan identified ways to improve healthy living through sidewalks, parks, nutrition, etc. He thanked the City for its assistance with this project. Mr. Ross invited Council and staff to a meeting at the YMCA on Wednesday, February 16 at 2:00p.m., at which time the CHLI plan will be presented.

SPECIAL PRESENTATION BY MAYOR LITTLE: Mayor Little was scheduled to make a presentation to Council Member Martin. However, Council Member Martin was absent from this meeting due to a family emergency. This presentation will be made at a future meeting.

ACKNOWLEDGEMENT BY MAYOR LITTLE: Mayor Little took the opportunity to acknowledge Mr. Jim Brady, owner and operator of the Morning Dew Coffee Shop, and thanked him for supplying the wonderful coffee to our Citizens of the Month. He noted that the next Citizen of the Month will be presented in February.

PUBLIC COMMENT PERIOD: Ms. Charmaine Brady of Rutherford Road stated that she travels on Baldwin Avenue frequently and feels that the speed limit on this road should be reduced. The City Manager stated that Baldwin Avenue is a DOT Street. Ms. Cotton stated that she could request to the SRTS Plan consultant that the speed limit on Baldwin Avenue be reduced, without objection. Mayor Little and Council Members agreed by consensus for Ms. Cotton to pass this request for the Baldwin Avenue speed limit to be reviewed to the SRTS consultant for possible inclusion in the SRTS Plan.

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Mr. Jim Brady of Rutherford Road appeared before Council and stated that he wished to speak to Council about various issues involving the Marion Business Association (MBA).

Mr. Brady stated that he and his wife had lived in Marion for three years and that as he drove here tonight he noticed 19 empty storefronts in the downtown area. Mr. Brady stated that he feels that the MBA does not meet up to same standard as City departments and feels that the community needs another voice in the economic development area. He said that he would like to know how many grants were applied for and received by the MBA in Fiscal Year 2009-10.

Mr. Brady said he wondered when the last time businesses were canvassed about special events and the actual fiscal benefits they reap from such events and how the benefits compares to the cost of the event. He noted that Mountain Glory should be held on multiple days and questioned the benefit vs. cost of the recent New Year's Eve event.

The City Manager stated that Council gets quarterly reports from the President of the Marion Business Association. Mr. Brady asked that Council direct the MBA director to include his requested information on the reports they receive.

Mayor Little stated that in the last ten months there have been 21 ribbon cuttings for new businesses in the City of Marion, which he said symbolizes that the City is experiencing some growth. Mayor Little stated that he wished that the City had the silver bullet to create jobs and improve economic development. However, he suggested that government can only do so much and that it is up to the private sector and entrepreneurs to create businesses and jobs. Mayor Little added that the City cannot create customers for businesses or make individual businesses stay open. He stated that the City would welcome any ideas.

Council Member Doggett stated that she would also like to see the figure on grants applied for and received added to the MBA quarterly report.

The City Manager advised that the MBA has committees that oversee various functions, such as economic development, special events and the Mountain Glory Festival.

Mayor Little stated that he would encourage Mr. Brady to join the MBA so that he could have the insight on how it operates.

Council Member Clark stated that the MBA hosts Breakfast for Business meetings at various times during the year as a way to obtain input from businesses and to allow businesses to ask questions and make comments.

Mr. Brady asked why the Mountain Glory Festival was only held for one day. If it is such a success, why not have it more often. The City Manager stated that the Mountain Glory Festival Committee has repeatedly stated that it does not feel that Mountain Glory can successfully be expanded to multiple days, despite MBA Executive Director Freddie Killough and he bringing this idea to the Committee on multiple occasions. The City Manager stated that the majority of the people who assist with Mt. Glory are volunteers and the Committee does not feel the volunteer base will support the idea of a multi-day festival.

Mayor Little stated that there is a group of volunteers who get up very early each Mountain Glory day just to greet vendors and to assist with vendor set up for the Festival.

Council Member Cuthbertson stated that Ms. Killough did not work for the City and that the City's contract was with the MBA.

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Mr. Brady said he understood this but felt that the City should ask for more information from the MBA to determine whether they were doing a good job. Mr. Brady complimented City staff and departments for their excellent work, but stated that he did not have enough information to evaluate the success of the MBA.

The City Manager added that if Mr. Brady would e-mail him exactly what information he thought should be included in the quarterly reports, he would ask the MBA to put such information in the reports. Mr. Brady said that he would do so.

YMCA REQUEST: The City Manager advised that, as shown on information presented to Council, the YMCA is requesting use of the Depot at no charge for their Major Gifts Business Luncheon on Wednesday, February 23 from 11:00 a.m. to 1:30 p.m.

The City Manager advised that Council had previously made a $200 donation to the YMCA for such use earlier in 2010 and also noted that the YMCA has not charged the City for use of their bus for Marion 101 Academy Class.

Upon a motion by Council Member Cuthbertson, seconded by Council Member Clark, those members of Council present voted to make a $200 donation to the YMCA to cover the cost of renting the Depot for their Major Gifts Business Luncheon on Wednesday, February 23 from 11:00 a.m. to 1:30 p.m.

CONSIDER APPROVAL OF RESOLUTION SUPPORTING COMMUNITY ACTION OPPORTUNITIES APPLICATION FOR GRANT FUNDS FOR COMMUNITY SERVICES BLOCK GRANT FOR EXPANSION INTO MCDOWELL COUNTY: The City Manager advised that the Community Action Opportunities (CAO), a non-profit organization operating out of Buncombe and Madison Counties, has asked for County approval and City support of their application for Community Services Block Grant (CSBG) funds from the N.C. Office of Economic Opportunity to allow CAO to expand its services into McDowell County. CAO addresses issues arising out of poverty in a number of ways. The County has approved CAO's request to be McDowell County's designee for CSBG funds. The City Manager stated that the resolution presented to Council would provide for Council support of this designation and the grant application. Information on the organization was presented to Council.

The City Manager further advised that, at the December 14 Council meeting, Council Member Clark asked that action on this item be deferred until such time he could discuss this organization and their grant request with the State, since he serves on the North Carolina Community Development Council.

Council Member Clark stated that he had done extensive research into CAO and felt that they are a good organization that helps people in a number of ways.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Owenby, those members of Council present voted to adopt the following resolution supporting the submission of Community Action Opportunities for State grant funds:

RESOLUTION
SUPPORTING THE SUBMISSION OF COMMUNITY ACTION OPPORTUNITIES' APPLICATION FOR GRANT FUNDS FOR COMMUNITY SERVICES BLOCK GRANT TO NC OFFICE OF ECONOMIC OPPORTUNITY
FOR EXPANSION INTO MCDOWELL COUNTY

WHEREAS, the Federal Government has provided Community Services Block Grant funding to the State of North Carolina; and

WHEREAS, the N.C. Office of Economic Opportunity has been delegated the responsibility for the administration of this grant program, establishing necessary procedures; and

AA.000001005 (24)

WHEREAS, McDowell County is eligible to receive an allotment of funds to support the low income citizens of this county; and

WHEREAS, close to 15% of the population of McDowell County, NC lives in poverty, with 11% of the population being unemployed; and

WHEREAS, while most poverty-related organizations focus on a specific area of need, such as job training, health care, housing or economic development, Community Action Agencies reach out to low-income people in their communities, address their multiple needs through a comprehensive approach, develop partnerships with other community organizations, involve low-income clients in the agency's operations, and administer a full range of coordinated programs designed to have a measurable impact on poverty; and

WHEREAS, in order to reduce poverty in its community, a Community Action Agency works to better focus available local, state, private, and federal resources to assist low-income individuals and families to acquire useful skills and knowledge, gain access to new opportunities and achieve economic self-sufficiency; and

WHEREAS, Community Action Opportunities is a catalyst for individual, family and community change. Community Action Opportunities helps hundreds of people each year in Buncombe and Madison Counties to transform their lives. As a Community Action Agency, founded in 1964 by the Economic Opportunity Act, Community Action Opportunities works with citizens who live on limited incomes, elected public officials and private sector representatives to confront and solve the problems that cause poverty; and

WHEREAS, since 1993 Community Action Opportunities has administered Community Service Block Grant dollars in accordance with The Community Services Block Grant Act, Title VI, Subtitle B, of the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35 and the Community Opportunities, Accountability and Training and Educational Services Act of 1998, Public Law 105-285 to run the Life Works Self Sufficiency Program; and

WHEREAS, the Life Works Program is nationally recognized as a "best practice" program by Virtual Community Action Programs, a national resource to support excellence in Community Action, and assists adults in making necessary changes to improve their lives and strengthen their families by strengthening support networks between community programs, businesses and colleges in order to increase participants' life skills and employment options; and

WHEREAS, Community Action Opportunities, if selected, will enter into an agreement with the NC Office of Economic Opportunity to carry out the program.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Marion does hereby adopt this resolution:

1. Supporting the filing of a designation application by Community Action Opportunities;
2. Supporting Community Action Opportunities, if selected by the Governor as McDowell County's designee or eligible entity, to complete the application for funding.

ADOPTED this the 4th day of January 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-11-01-04-3

APPROVAL OF DOWNTOWN STREETSCAPE PLAN SPONSORSHIP PROGRAM:

Planning and Development Director Heather Cotton presented a proposed Downtown Streetscape Sponsorship Program to allow businesses and indivduals to contribute to the cost of installing various fixtures within Downtown Marion that have been preselected to compliment the Downtown Marion Streetscape Plan. Items to be sponsored included benches, planters, trees and bicycle racks.

AA.000001006 (24)

Ms. Cotton stated that powder-coated steel benches are available for sponsorship and will be installed at approved sites in the order payment is received. Requests for installing benches in specific locations will be heavily considered but cannot guaranteed do to site constraints and other similar factors. The cost to sponsor a six-foot bench is $600, which includes a commemorative plaque and installation. This cost also provides maintenance for the life of the bench.

Ms. Cotton stated that the 36" pre-cast concrete planters will be placed on sidewalks in downtown to provide additional opportunities for landscaping and to further enhance the appearance of downtown and buffer sound of vehicular traffic. The planters are available for sponsorship for $450 each and will be installed at approved sites in the order requests are received, and will include a 4"x 6" anodized aluminum commemorative plaque.

Ms. Cotton reported that trees may be sponsored in select public locations. The species of trees planted will be determined by planting location, tree species compatibility, and the City's Urban Forestry Management Plan. Trees ordered from April 1 through October 15 will be planted in the late fall. Trees ordered October 16 through March 31 will be planted in the spring. The cost of a tree is $100, a 4"x6" anodized aluminum engraved commemorative plaque can be installed with a sponsored tree for an additional $50.00.

Ms. Cotton advised that a bicycle rack may be installed on the sidewalk in approved locations to provide facilities for bicycle and promote bicycle transportation. Requests for installing bicycle racks in specific locations will be considered, but sponsors are asked to consider central locations within the downtown vicinity. A bicycle rack is available for sponsorship for $250 each and will be installed at approved sites in the order requests are received.

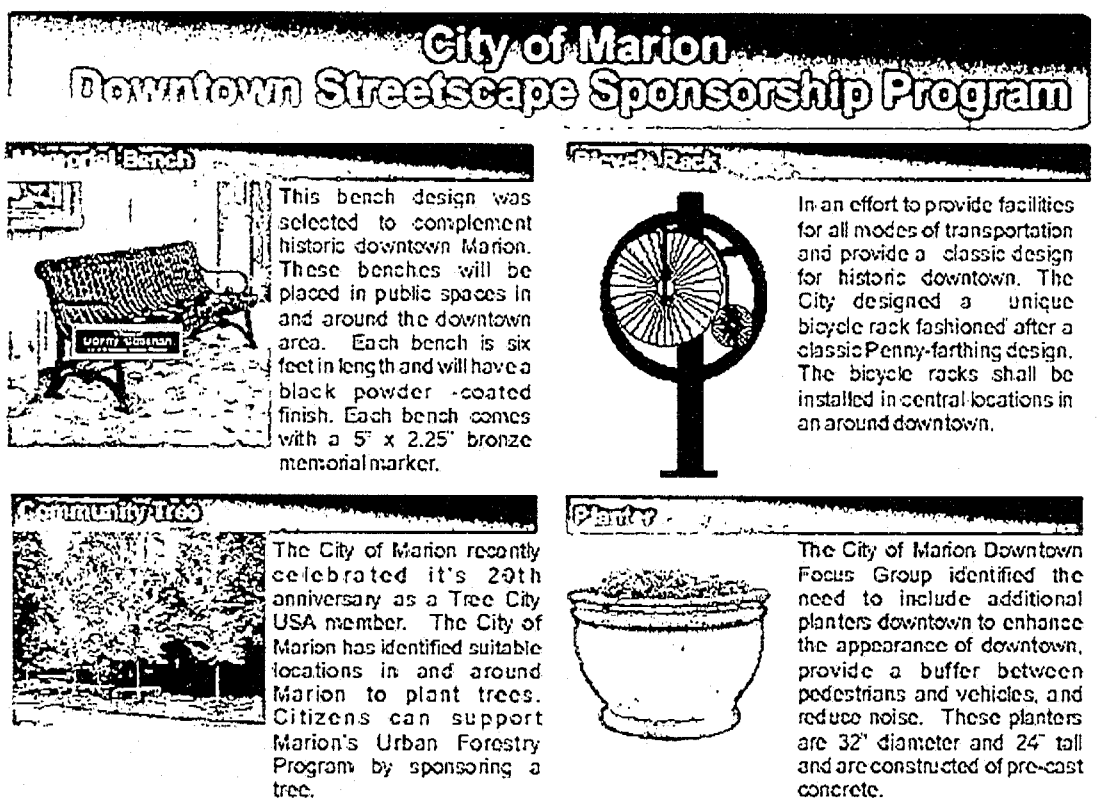
Ms. Cotton reported that the application process to sponsor an item identified in Marion's Streetscape Program begins with the interested party submitting an application form to City Hall. The applicant will be contacted by a City staff to verify sponsor information and provide an estimated date of installation for each item. Upon full receipt of payment, the City will order the item from a predetermined vendor. Payment is non-refundable once the order has been placed. A City staff member will contact the sponsor once the item is received and provide an updated status on installation.

Ms. Cotton advised that the cost of a sponsored item provides for approximately half the total retail cost of the item, installation, and maintenance for the life of the item. Order time for items is approximately six to eight weeks with the exception of trees, which will be purchased and installed based on specific species growing requirements. Upon delivery, the Public Works Department will work as quickly as possible to install an item, however in some cases it may require up to four weeks to arrange installation. The sponsor will be contacted once installation has been completed. While the City of Marion will make every effort to insure the longevity of each item, sponsorships are accepted with the understanding that they will be maintained for approximately 10 years at a specified location, after which the disposition of the gift is at the sole discretion of the City of Marion.

Ms. Cotton stated that the City reserves the right to remove and relocate sponsored items and their associated acknowledgments/memorial plaques, when they interfere with safety, maintenance or construction activities. The City will attempt to contact each identifiable sponsor notifying them of any action related to the disposition of the sponsored item. In certain situations, such as emergencies, the notification may be made after the action is taken. In the event an item must be permanently removed, the City will seek an alternative location consistent with this policy.

Ms. Cotton added that, when an item requires replacement, City staff will attempt to contact the donor to provide the opportunity to sponsor the new item. However, if efforts to contact the donor fail, then another sponsor will be allowed to sponsor a replacement item.

Upon a motion by Mayor Pro Tem Owenby, seconded by Council Member Cuthbertson, those members of Council present voted to approve the Downtown Streetscape Plan Sponsorship Program as presented.



City of Marion
Downtown Streetscape Sponsorship Program

Bench

This bench design was selected to complement historic downtown Marion. These benches will be placed in public spaces in and around the downtown area. Each bench is six feet in length and will have a black powder -coated finish. Each bench comes with a 5" x 2.25" bronze memorial marker.

Penny Rack

In an effort to provide facilities for all modes of transportation and provide a classic design for historic downtown. The City designed a unique bicycle rack fashioned after a classic Penny-farthing design. The bicycle racks shall be installed in central locations in an around downtown.

Community Tree

The City of Marion recently celebrated it's 20th anniversary as a Tree City USA member. The City of Marion has identified suitable locations in and around Marion to plant trees. Citizens can support Marion's Urban Forestry Program by sponsoring a tree.

Planter

The City of Marion Downtown Focus Group identified the need to include additional planters downtown to enhance the appearance of downtown, provide a buffer between pedestrians and vehicles, and reduce noise. These planters are 32" diameter and 24" tall and are constructed of pre-cast concrete.

Streetscape Sponsorship Form

☐ Commitancy Tree - $100 ea. - qty.____ ☐ Bicycle Rack - $250 ea. - qty.____

☐ Planter - $450 ea. - qty.____ ☐ Bench - $600 ea. - qty.____

Payable make checks to: City of Marion
Return form to: City of Marion
PO Drawer 700
Marion, NC 28752

Contact Name_____

Address: _____

City/State/Zip: _____

Phone: _____ Fax:_____ Email:_____

Please print information below as you would like for it to appear on your plaque. Please print clearly to insure accuracy when reproduced. Space is limited to two lines with no more than twenty characters, including spaces, per line.

Line One _____

Line Two _____

Mr. Jim Brady asked if the City had looked at using a local craftsman to make the bike racks. Mr. Cotton advised that this could be explored, but that a particular style had been indentified.

ADD ON – MAYOR PRO TEM OWENBY: Mayor Pro Tem Owenby stated that he has served as Mayor Pro Tem for a year and that he would like to step down and let another Council Member have a chance to serve. With that being said, Mayor Pro Tem Owenby stated that he would like to nominate Council Member Lloyd Cuthbertson to serve as Mayor Pro Tem.

Council Member Clark stated that he would second the nomination. There were no other nominations made. Those members of Council present voted to elect Council Member Cuthbertson to serve as Mayor Pro Tem.

AA.000001008 (24)

ADD ON – RESOLUTION HONORING MARGOT F. CHRISTENSEN: Council Member Clark made a motion to adopt the following resolution honoring Ms. Margot F. Christensen. Ms. Christensen retired from the North Carolina League of Municipalities on December 31 after more than 27 years of service and has helped the City of Marion and all cities and towns in North Carolina tremendously over the years.

The motion was seconded by Mayor Pro Tem Owenby. Those members of Council present voted to adopt the following resolution honoring Margot F. Christensen upon her recent retirement from the North Carolina League of Municipalities:

CITY OF MARION RESOLUTION HONORING MARGOT F. CHRISTENSEN

WHEREAS, Margot F. Christensen served as Public Affairs Director for the North Carolina League of Municipalities for more than 27 years until her retirement on December 31, 2010; and

WHEREAS, Margot F. Christensen planned, wrote and edited over 300 issues of both *Southern City* and *League Letter*, earning awards for these publications, while also overseeing League communications efforts, promoting the League's three Risk Management pools, spearheading the League's 2008 centennial celebration and working on numerous other projects; and

WHEREAS, from a public relations standpoint, Margot F. Christensen offered sound advice and counsel to League staff regarding discussing and lobbying for the membership's issues, leading the League's media relations efforts and presenting the League and its member municipalities in a very positive light; and

WHEREAS, Margot F. Christenson's work was often behind-the-scenes in nature, but was vital to the success of the League and its membership; and

WHEREAS, Margot F. Christensen was a great friend of the City of Marion and all League members and her professionalism, leadership and assistance will be missed.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Council Members of the City of Marion do hereby express their appreciation to Margot F. Christensen for the lasting contributions she made to the North Carolina League of Municipalities and all cities, towns and villages in North Carolina and wish her the best of success in her retirement.

ADOPTED this the 4th day of January, 2011.

Stephen R. Little
Mayor

Lloyd Cuthbertson
Mayor Pro Tem

A. Everette Clark
Council Member

Cecil Owenby
Council Member

Juanita Doggett
Council Member

Billy Martin
Council Member

Resolution Number: **R-11-01-04-5**

SCHEDULE CITY COUNCIL PLANNING SESSION:
Council agreed by consensus to schedule Planning Sessions for Tuesday, February 8 and Tuesday, February 22 (if necessary). Both Planning Sessions would be held at 6:00 PM at City Hall.

AA.000001009 (24)

CITY MANAGER REPORTS: The City Manager gave a brief report on current projects.

The City Manager advised that the Marion Business Association Freddie Killough had received word that the City did not receive the grant sought to install ceiling fans in the Farmer's Market Shelter.

The City Manager gave a brief review of the New Year's Eve Celebration held on December 31 and thanked the Marion Rotary Club, Marion Business Association, County, City staff and others for their work in making this second annual event a success.

The City Manager advised that this year's Town Meeting is scheduled for Thursday, January 27 at 7:00 P.M. at the Marion Community Building. Invitations have been sent out to Duke Energy, Frontier, PSNC Energy, Charter Communications, the Post Office, McDowell County Emergency Management and NCDOT.

The City Manager advised that the Wastewater Improvements Project is essentially complete, except for paving at the Corpening Creek Wastewater Plant and some add-on items involving repairs to the primary clarifiers at Corpening Creek to allow every dollar of our $5.3 million in grants to be spent.

The City Manager advised that Bill Hendley and Frank Dean looked at the trestle on the Pea Vine Trail behind Mi Pueblito on Rutherford Road and now share the City's opinion that the trestle must be demolished. The City Manager stated that he continues to hear comments from the public, wondering why the City could not just build a platform and handrails over the current trestle. The City Manager advised that these comments assume that the trestle is structurally sound, something the City does not know to be true. He asked Council if it wished for the City to hire a structural engineer to make a determination about the condition of the trestle.

Mayor Little and Council Members agreed by consensus that no money should be spent on such a review and that the City should instead explore ways for the trestle to be demolished in the future.

The City Manager advised that the final push for fundraising for the Roy Williams historic marker is underway. About $625 more in donations is needed. A news release was sent to the media the day before about this fundraising effort.

Police Chief Mark Brooks stated that he had three officers that had been promoted and two newly hired officers and would be having a promotional/swearing in ceremony at the Police Department on Friday, January 7 at 9:00AM

COUNCIL MEMBER COMMENTS:

Mayor Little stated that he would be going out of the country next week on a mission trip to Belize and that were two events he hopes Council can attend, the Dr. Martin Luther King, Jr. Service at Addie's Chapel United Methodist Church on Monday, January 17 at 11:00 AM and the Community Inmate Work Program luncheon at the Community Building on Wednesday, January 19 at 11:30 AM.

Council Member Doggett stated that, since the grant to provide ceiling fans for Farmer's Market was not funded, perhaps staff could explore acquiring surplus fans for the Shelter.

Council Member Doggett advised that the City needs signs at the Greenway stating that dogs need to be kept on a short leash. Ms. Cotton reported that language stating that animals must be kept on a leash was included on a sign listing rules and regulations for the Greenway. This sign has just arrived and will soon be installed.

AA.000001010 (24)

ADJOURNMENT: Upon a motion by Council Member Clark , seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, 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 18, 2011 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Pro Tem Lloyd Cuthbertson, Council Members A. Everette Clark, Juanita Doggett, Billy Martin and Cecil Owenby.

Mayor Little was absent from this meeting due to being out of the country on a mission trip to Belize.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, AICP, Planning and Development Director; Harriett Thomas, CPA, Finance Director; Mark Brooks, Police Chief; Chris Hollifield, Public Works Director; Darren Waugh, President, Marion Business Association; Freddie Killough, Executive Director, Marion Business Association; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Kendall Waugh 25 Alma Morgan Drive, Marion, NC; Tonya Waycaster, Marion, NC; Wendy Gibson 52 Circle Drive, Marion, NC; Ken & Kim McElreath 53 Valley Street, Marion, NC; Bill Greenlee, Carson House Representative, Marion, NC.

OPEN MEETING: Mayor Pro Tem Cuthbertson opened the meeting with a moment of silence.

CONSENT AGENDA: Upon a motion by Council Member Owenby, seconded by Council Member Clark, Council voted unanimously to approve the consent agenda as follows:

A. **Approval of Minutes** – January 4, 2011 Regular City Council Meeting Minutes

PUBLIC APPEARANCE – MR. BILL GREENLEE – CARSON HOUSE: Mr. Bill Greenlee appeared before Council representing the Carson House. Mr. Greenlee stated that the Carson House is in need of some financial assistance. The Carson House receives annual assistance from the County and would like to have some from the City of Marion. Mr. Greenlee stated that the Carson House had 1,700 visitors this past year from thirty different states and five of the people were from other countries.

Mr. Greenlee stated that the original land for the City of Marion was donated by Mr. Carson. He stated that the Carson House Board would request that the City include $6,000 in its budget for the Carson House.

Council Member Clark asked what amount the County gave to the Carson House. Mr. Greenlee stated that the County gave $10,000 per year.

Council Member Clark stated that Council would be having Planning Session in February and could look at and discuss this request; however, the City's budget was very tight and that funding could certainly not be guaranteed. He noted the threat of the State taking local revenues in the coming year to balance the State budget.

Mayor Pro Tem Cuthbertson advised that the coming budget would be the toughest one ever faced by the City. He said that Council could take the request under advisement, but that new funding would be difficult.

Council agreed by consensus to discuss this request at their Planning Session in February.

Mayor Pro Tem Cuthbertson and Council Members thanked Mr. Greenlee for coming to the meeting.

PUBLIC APPEARANCE – RELAY FOR LIFE: Ms. Kendall Waugh and Ms. Tonya Waycaster appeared before Council and gave a presentation about Relay for Life, scheduled to take place in May. Ms. Waugh and Ms. Waycaster presented information and statistics regarding how much money has been raised from Relay for Life to go toward cancer research. They also discussed the prevalence of cancer in the community.

Ms. Waugh and Ms. Waycaster invited Council to attend the Relay for Life Kick –Off, scheduled for Thursday, January 27, 2011 at 6:00 P.M. at the McDowell High School Media center. They encouraged Council Members and City employees to form Relay for Life teams, asked Council to consider the City being a sponsor and noted that the County Commissioners had challenged Council members to participate in a fundraising challenge.

Council Member Martin thanked Ms. Waugh and Ms. Waycaster for what they do with Relay for Life, stating that he now knows first hand what Relay for Life does from personal experience. He said that he hoped Council could participate in some fashion, but noted that Council would have to discuss the matter at its Planning Session, given how tight the City budget is.

Mayor Pro Tem Cuthbertson and Council Members thanked Ms. Waugh and Ms. Waycaster for coming to the meeting.

PUBLIC APPEARANCE – MARION BUSIENSS ASSOCIATION – QUARTERLY REPORT: Mr. Darren Waugh, President of the Marion Business Association (MBA), appeared before Council and gave the MBA quarterly report.

October - December, 2010 Quarterly Report to Marion City Council

January 18, 2011

Economic Development Report:

New Businesses Opened – 6
- Low Country Dining
- King Law Office
- Elizabeth's Special Finds
- McDowell OB/GYN and Sugar Hill Primary Care
- KT's Bargains
- Voices of McDowell Center

New Owners or Relocations - 1

Businesses Closed – 2 (Carolina Choclatiers & Bridal Showcase)

Business Opportunity Inquiries – 1

Business Technical Assistance Request - 1

Active MBA Committees

MBA Board of Directors
Events & Promotion Committee
Economic Development Committee
Community Innovators
Mountain Glory Festival Committee
Historic Marion Tailgate Market
Business for Breakfast

Other Committees MBA Supports -
MEDA
McDowell House
Veterans Memorial Wall

AA.00000012 (24)

Business Loan Inquiries – 1
Business Grant Inquiries – 0
Business Visits - 28
Property Referral Inquiries – 2
Property Owner Contacts w/ available buildings – 3
Contacts with interested Commercial Developers – 2
New Businesses Breaking Ground - 0
Façade Grant Inquires – 1
Façade Grant Awarded – 0
Sign Grant Inquires – 1
Sign Grant Awarded - 0

Other Economic Activity:

MBA sponsored and conducted two Businesses for Breakfast, a small business networking event held bi-monthly. Participation is a cross-mix of the business community and open to all small businesses.

MBA continues to work with the WNC Rail Committee & Rep. Ray Rapp to promote passenger rail service to WNC.

MBA continues to update and maintain listings of commercial properties in the City of Marion.

Discussed funding to create Revolving Loan Program with Rural Center staff.

Rural Center Building Reuse Grant – Awarded $29,675.00 to Samir's Convenience Store for North Main Street building. Gave Bldg Reuse Grant information to 2 additional property owners.

Applied for Agriculture Options Community Grant for funding for fans and furnishing for Historic Marion Tailgate Market shade shelter. Did not receive grant. Amount applied for $18,911.46

Collaborated with McDowell County, MEDA and City of Marion to create the Historic Marion Façade Grant program for downtown property owners. Grant applications will be available February 1.

Special Events Report

October 9 – Mountain Glory Festival = One of the best festivals ever. Most vendor attendance ever.
October 26 – Historic Marion Tailgate Market Fall Festival = Trick or Treating for the kids; costume contest; pumpkin painting; market vendors. Great event and making plans for 2011.
November 21 – Marion Christmas Parade. Very well attended and good entry participation.
December 2 – Melodies on Main – Live Santa for the children, craft-making Christmas presents for Mom & Dad (provided by Partnership for Children), extended shopping hours. Melodies is a very good annual children's event.
Volunteer Hours Committed – 235

{Established a new partnership with McDowell County Schools Exceptional Children's Program that desires to assist with events for children, such as the Fall Festival and Melodies on Main.}

Events Committee is planning for 2011 under the direction of Events Coordinator Bobbie Young.

Marion 2011 Calendar of Events

Saturday, April 16 – Easter Bonnet Parade @ YMCA
Saturday, May 7 – Sidewalk Yard Sale – Main Street
Friday, June 3 - First Friday Concert & Livermush Festival – Main Street
Monday, July 4 – Independence Day Celebration
Monday, July 25 – Folkmoot @ East Junior High
Tuesday, August 2 – National Night Out – Main Street
Friday, August 5 – First Friday Concert
Saturday, August 6 – Sidewalk Yard Sale – Main Street
Monday, September 5 - Labor Day Concert @ Historic Depot – Terry McKinney
Saturday, October 8 – Mountain Glory Festival - Main Street
Tuesday, October 25 – Fall Festival @ Tailgate Market
Sunday, November 20 – Christmas Parade - Main Street
Thursday, December 1 – "Melodies on Main" Christmas Celebration
December – Blue Ridge Craftshow @ MACA
December 31 - Marion Rotary New Year's Eve Celebration

AA.000001013 (24)

Every Thursday Night, 7:00 PM - Bluegrass Music Jam @ Depot

Historic Marion Tailgate Market
Tuesdays, May – October, 3:00 PM – 6:00 PM
Saturdays, July – August, 9:00 AM – 12 Noon

Business for Breakfast
Friday, February 4
Friday, April 1
Friday, June 3
Friday, August 5
Friday, October 7
Friday, December 2

The City Manager noted the many events undertaken by the MBA in the final quarter of 2011 and the work being done to enhance the Downtown Façade Grant Program.

Mayor Pro Tem Cuthbertson and Council Members thanked Mr. Waugh for an excellent report and for the work of the MBA.

PUBLIC HEARING – ZONING TEXT AMENDMENT – ATM LOCATIONS: Planning and Development Director Heather Cotton advised that a request was submitted on December 10, 2010 by the State Employees Credit Union (SECU) to amend the City of Marion Zoning Ordinance to allow for automatic teller machines (ATMs) to be a permitted use within the C-2 General Business District.

Ms. Cotton stated that staff has reviewed the Applicant's request and recommends that automatic teller machines (ATMs) be permitted within both the C-2 General Business District and the C-1 Central Business District as a permitted use, which are accessory to either a bank or other commercial building. Staff would further recommend that ATM's not located on the same property as a bank or other financial institution, be limited to one independently-located terminal to minimize vehicular stacking in parking lots, and ingress and egress problems that could arise from multiple drive-through ATM terminals. This amendment would allow for ATM machines to be permitted in both the C-1 Central Business District and the C-2 General Business District.

Ms. Cotton reported that the Planning Board voted 4-0 in favor of recommending approval of the proposed text amendment at a public hearing held January 4, 2011.

Mayor Pro Tem Cuthbertson opened the Public Hearing.

Police Chief Mark Brooks suggested that the ordinance include language that ATMs be required to have security cameras.

Ms. Wendy Gibson, representative of the SECU, stated that all SECU ATMs have security cameras.

There were no other citizens present to discuss this item.

Mayor Pro Tem Cuthbertson closed the Public Hearing.

Council Members stated that they would support the recommendation of Chief Brooks to require security cameras to be placed at all ATMs.

AA.00000101 4 (24)

Ms. Cotton advised that pursuant to North Carolina General Statute and direction by the NC Dept. of Emergency Management, staff is recommending changes to Chapter 8 Flood Hazard Management Ordinance that will give the local floodplain administrator the authority to regulate the size, placement, and installation of LP tanks in a designated special flood hazard area.

Ms. Cotton reported that the Planning Board voted 4-0 in favor of recommending approval of the proposed amendment at a public hearing held January 4, 2011.

Mayor Pro Tem Cuthbertson opened the Public Hearing.

Council Member Clark asked how this ordinance would be monitored.

Ms. Cotton stated that staff would monitor these tanks and provide information to property owners, especially in campgrounds, as well as to LP gas companies.

There were no citizens present to discuss this item.

Mayor Pro Tem Cuthbertson closed the Public Hearing.

Upon a motion by Council Member Clark, seconded by Council Member Owenby, Council voted unanimously to adopt the following Ordinance:

ORDINANCE
AMENDING CHAPTER 8 FLOOD HAZARD MANAGEMENT
MARION CITY CODE

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

Section 1. That Chapter 8, Flood Hazard Management, of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION.

SECTION A. GENERAL STANDARDS.

In all Special Flood Hazard Areas the following provisions are required:

(4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Regulatory Flood Protection Elevation in accordance with the Federal Emergency Management Agency's manual *Principles and Practices for the Design and Construction of Flood Resistant Building Utility Systems*, Ed. 1999, as may be amended. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, electric outlets/switches, and LP fuel tanks."

*****

ARTICLE 5. PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION B. SPECIFIC STANDARDS.

(6) Recreational Vehicles

(c) no more than two (2) "40-pound" LP tanks shall be permitted per recreational vehicle located within a designated floodway; campgrounds and other approved sites that provide fuel service to recreational vehicles shall properly install and anchor all LP tanks in accordance Art. (5) Sec. A. General Standards of this ordinance, and with the National Fire Protection Association Chapter 58 (NFPA 58) Liquefied Petroleum Gas Code, Ed. 2011 as may be amended."

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 18th day of January 2011.

Stephen R. Little, Mayor

ATTEST:

AA.000001015 (24)

J. Robert Boyette, City Manager/ Clerk

Ordinance Number: O-11-01-18-2

PUBLIC HEARING – ADOPTION OF RESOLUTION AUTHORIZING NORTH CAROLINAS PARKS AND RECREATION TRUST FUND AND RECREATIONAL TRAILS PROGRAM GRANT APPLICATIONS FOR PHASE 2 OF THE JOSEPH MCDOWELL HISTORICAL CATAWBA GREENWAY: Planning and Development Director Heather Cotton advised that this is the third public hearing on the N.C. Parks and Recreation Trust Fund (PARTF) grant application for Phase 2 of the Joseph McDowell Historical Catawba Greenway. The first public hearing was held at the December 14 Council meeting, after which Council endorsed the general concept of Phase 2 and the idea of submitting a joint grant application with the County. The second public hearing was held at the January 4 Council meeting. That public hearing was the first hearing on the Recreational Trails Program (RTP) grant for the Greenway, making tonight's public hearing the second hearing on the RTP grant.

Planning and Development Director Heather Cotton gave an overview of the proposed Joseph McDowell Historical Catawba Greenway Phase 2 project. She stated that the projected cost of Phase 2 of the Greenway, including 2,800 feet of greenway, fitness stations, a canoe launch on the north side of the Catawba River and construction of a paved parking lot and amphitheater behind the McDowell House, is estimated to be $477,600. The City plans to seek $238,800 in funding from PARTF (which will provide no more than 50 percent funding), plus property acquisition, and the maximum grant amount of $75,000 from RTP. This would leave a $163,000 local match, less the value of the donated land, which is about $38,000. The McDowell Trails Association has already asked for $165,000 from one major donor and the County seems willing to make a contribution, given that the McDowell House property will be directly improved.

Ms. Cotton advised that the County held a public hearing on these grant applications at their January 17 County Commission meeting and adopted a resolution authorizing the submission of the grant applications. She stated that the grant applications would be done jointly with McDowell County to show site control of the entire site.

Ms. Cotton stated that, after the public hearing, Council action was requested to adopt a resolution to authorize the PARTF and RTP grant applications for Phase 2 of the Greenway.

Mayor Pro Tem Cuthbertson opened the public hearing.

There were no other citizens present to discuss this item.

Mayor Pro Tem Cuthbertson closed the public hearing.

Council Member Owenby asked if McDowell County would be contributing any money to the project.

The City Manager stated that County officials seemed favorable to contributing to the project, given the direct benefit to the County's McDowell House property.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following Resolution authorizing North Carolina Parks and Recreation Trust Fund and Recreational Trail Program Grant Applications for Phase 2 of the Joseph McDowell Historical Catawba Greenway:

RESOLUTION BY THE CITY OF MARION CITY COUNCIL
AUTHORIZING NORTH CAROLINA PARKS AND RECREATION TRUST FUND AND
RECREATIONAL TRAIL PROGRAM GRANT APPLICATIONS

AA.0000010/6 (24)

WHEREAS, the North Carolina Department of Environment and Natural Resources, Division of Parks and Recreation has been authorized by the North Carolina General Assembly to award grant funds to eligible park, recreation and open space projects including recreational trails; and

WHEREAS, the City of Marion seeks to develop phase II of the Joseph McDowell Historical Catawba Greenway in the city with funds from this grant funding that will provide recreational opportunities including public access to the Catawba River as well as protect a vital natural and cultural resource; and

WHEREAS, the City of Marion developed a site plan and cost estimate for phase II of the Catawba River Greenway; and

WHEREAS, the City of Marion projects the total cost of construction for phase two of the Greenway is an estimated $477,600; and

WHEREAS, the City of Marion intends to implement this project and apply for one or both grants in conjunction with McDowell County; and

WHEREAS, the City of Marion intends to request funding from two sources within the Division of Parks and Recreation including $75,000 from the Recreational Trail Program (RTP) and $238,800 from the Parks and Recreation Trust Fund (PARTF).

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

Section 1. The City Council will allocate $163,000 in local match including the total appraised value of 3.9 acres acquired by private donation and dedicate funds from the City's General Fund to match the amount awarded by the State if the grant applications are approved. These funds will be available when the grant is awarded in the Summer of 2011.

Section 2. The City Council will provide for the efficient operation and maintenance of the project on completion of the greenway trail and associated facilities.

Section 3. J. Robert Boyette, City Manager, and successors so titled is hereby authorized to submit an application to the Division of Parks and Recreation for the Recreational Trails Program and the Parks and Recreation Trust Fund and directed to provide such information as the appropriate State agency may request in connection with the City's application.

Section 4. The City of Marion has substantially compiled or will substantially comply with all Federal, State and local laws, rules, regulations and ordinances applicable to the project and to the Federal and State grants and loans pertaining thereto.

Section 5. This resolution shall be effective upon its adoption.

Adopted this the 18th day of January, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-11-01-18-1

PUBLIC HEARING - ECONOMIC DEVELOPMENT INCENTIVES:

The City Manager advised that a public hearing has been advertised concerning proposed economic development incentives for a proposed industry expansion. The industry expansion involves the investment of $18,500,000 in machinery and equipment and the expansion and the creation of 124 new jobs at wages exceeding the average local wage. The City Manager stated that staff believes that these improvements and the jobs to be created will stimulate the local economy and promote business in the City of Marion. The City Manager presented a proposal to provide the industry with annual cash grants to be paid out of the City's General Fund in an amount not to exceed 50 percent of the additional property tax paid to the City as a result of the project, as compared to a baseline tax value prior to the project, for a period not to exceed five years.

AA.000001017 (24)

The City Manager stated that Council approval of the economic incentives is recommended, subject to an agreement being signed with the company, after the project is announced by the State.

Mayor Pro Tem Cuthbertson opened the Public Hearing.

There were no citizens present to discuss this item.

Mayor Pro Tem Cuthbertson closed the Public Hearing.

Upon a motion by Council Member Clark, seconded by Council Member Owenby, Council voted unanimously to approve economic development incentives for an industry expansion, involving the investment of $18,500,000 in machinery and equipment and the expansion and the creation of 124 new jobs at wages, with the following conditions:

1. The incentives will be annual cash grants to be paid out of the City's General Fund in an amount not to exceed 50 percent of the additional property tax paid to the City as a result of the project, as compared to a baseline tax value prior to the project, for a period not to exceed five years.
2. The City of Marion has determined that the value of such public benefit as calculated under NCGS 158-7.1 would be at least equal to if not greater than the benefits provided to the industry.

3. An agreement concerning the incentives shall be approved by Council and signed by the company prior to any cash grant payments being made by the City.

RESOLUITON OF SUPPORT OF PUBLIC MOUNTAIN TROUT WATER DESIGNATION FOR CATAWBA REIVER IN THE AREA OF THE JOSEPH MCDOWELL HISTORICAL CATAWBA GREENWAY: Planning and Development Director Heather Cotton advised that a request was received from the North Carolina Wildlife Resources Commission (NCWRC), Division of Inland Fisheries for a Resolution of Support from the City of Marion to allow NCWRC to manage a section of the Catawba River along the Joseph McDowell Historic Catawba Greenway as a Public Mountain Trout Water under the State's delayed harvest regulations.

Ms. Cotton said that this designation will allow the NCWRC to stock Rainbow, Brown, and Brook trout and enforce fishing laws associated with delayed harvest regulations. Under the delayed harvest regulations, anglers must practice catch and release with single artificial lures from October 1 through the first Saturday in June. Starting the first Saturday in June through October 1, anglers can harvest fish. NCWRC would stock fish from March through June, and again in October through November.

Ms. Cotton reported that NCWRC assessed the temperatures and available habitat and determined that this regulation and management philosophy would best fit the Catawba River along the greenway. The NCWRC conducted a trout economic study in 2008 and estimated a single Delayed Harvest trout fishery contributed an annual average of 2.2 million dollars to local businesses.

Ms. Cotton advised that NCWRC hopes to bring this reach of river into the Trout Program during this next regulation cycle. If everything goes accordingly fish could be in the Catawba as early as October of 2012. In order to do so, NCWRC needs approval from the City of Marion.

Ms. Cotton reported that, as stated above, the community will benefit from this program in a number of ways. In addition, this designation will strengthen the City's grant applications for the Catawba River Greenway Phase 2 extension. Further, NCWRC has had discussions to assist

AA.00000101B (24)

the City with the development of the Canoe Launch site, one of the elements identified as a "new recreational element" in the PAFTF application in an effort to provide more public access along the Catawba River.

Upon a motion by Council Member Clark, seconded by Council Member Owenby, Council voted unanimously to adopt the following Resolution supporting the North Carolina Wildlife Resources Commission Public Trout Water Designation for a section of the Catawba River in the area of the Joseph McDowell Historical Catawba Greeway as follows:

RESOLUTION BY THE CITY OF MARION CITY COUNCIL
SUPPORT FOR NC WILDLIFE RESOURCES COMMISSION (NCWRC)
PUBLIC TROUT WATER DESIGNATION FOR SECTION
OF CATAWBA RIVER

WHEREAS, the North Carolina Wildlife Resources Commission (NCWRC) is dedicated to the wise-use, conservation, and management of the state's fish and wildlife resources;

WHEREAS, NCWRC assessed the temperatures and available habitat on a portion of the Catawba River contiguous to the City of Marion's Joseph McDowell Historic Catawba Greenway;

WHEREAS, NCWRC determined that the assessed area was a good site for Public Trout Water Designation;

WHEREAS, the Public Trout Water Designation will allow NCWRC to stock Rainbow, Brown, and Brook Trout in this section of the Catawba River and enforce state fishing laws;

WHEREAS, NCWRC intends to expand the Public Trout Water Designation to this stretch of River during the next regulatory cycle and have an effective designation by October 2012; and

WHEREAS, the Public Trout Water Designation will lead to increased recreation and sport angler activities, increase educational opportunities, and enhance local economic revenue.

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

Section 1. The City of Marion has made public access for recreational activity a priority along this stretch of river by developing a one-mile ADA accessible greenway and ADA accessible fishing pier.

Section 2. The City of Marion has plans to extend the greenway along the Catawba River to provide additional public access for multiple recreational purposes including access for fishing.

Section 3. The City of Marion supports NCWRC in its efforts to seek Public Trout Water Designation for this section of the Catawba River recognizing all the benefits it will provide to the community.

Section 4. This resolution shall be effective upon its adoption.

Adopted this the 18th day of January 2011

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-11-01-18-1

PUBLIC COMMENT PERIOD: Mr. and Mrs. Ken McElreath appeared before Council complaining about tires stacked behind Scott's Automotive on North Main Street. Mr. McElreath stated that he reported problems last year with the unsightly tires and the mosquito problems they caused. After many months, the tires were removed, but have now again proliferated. He asked that something be done before the problems with mosquitoes arise again.

Planning and Development Director Heather Cotton stated that the City has had many zoning violations with this property and that the property is now under a Notice of Violation. She outlined measures that could be taken to address this matter.

AA.00001019 (24)

The City Manager asked Ms. Cotton to make sure that the violation was dealt with in the strictest way possible, given the repeat violations, and that fines be issued on a daily basis if necessary, until the violations are corrected.

Mr. McElreath stated that he appreciated the assistance.

No action was required for this item.

APPROVE AUDIT CONTRACT: Finance Director Harriett Thomas advised presented to Council the contract for City audit services for 2010-11from Martin, Starnes and Associates. The proposed audit cost for 2010-2011 is $15,700, consisting of $14,200 for basic audit services (prior year $13,800) and $1,500 for services related to the Single Audit. Ms. Thomas stated that staff has been very pleased with the quality of service received from Martin Starnes over the past several years and would recommend Council approval of the contract as presented.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to contract with Martin, Starnes and Associates to complete the City's 2010-11 audit for an amount of $15,700, consisting of $14,200 for basic audit services and $1,500 for services related to the Single Audit.

CONSIDER AMENDMENT TO PLANNING AND DEVELOPMENT DEPARTMENT FEE SCHEDULE ORDINANCE: The City Manager advised that, as previously reported, staff found a 20+ year old provision in the Zoning Ordinance that requires owners of off-premise signs (billboards) to obtain an annual permit from the City for such signs. The annual permit fee is $125.00 plus an additional amount for signs larger than 100 square feet. Hankins Baptist Church received a notice, asking them to pay $125.00 for their annual permit. The City Manager stated that he had subsequently spoke to Mr. Larry Cline with Hankins Baptist, which led to him submitting a letter requesting that non-profit organizations be exempted from paying a fee for the annual off-premise sign permit renewal. The City Manager stated that staff prepared an ordinance for Council's consideration. This ordinance would exempt non-profit organizations with a physical location in McDowell County and owning off-premise advertising signs from the annual off-premise sign permit renewals. Businesses and individuals owning such signs would still have to pay the fee for the permit renewal.

The City Manager stated that he had also spoken to Nancy Spencer on January 4 and later received an e-mail from her, stating her objections to the $125 per year annual permit fees for off-premise signs. Ms. Spencer's sign is smaller than the typical billboard, but is still technically an off-premise sign. The City Manager stated that if Council wished to create further exemptions, based on Ms. Spencer's objections, they could certainly do so.

The City Manager stated that, in addition, staff came up with the idea of instituting an ABC permit fee, something that many larger cities charge. City staff have to complete a zoning and building inspection for establishments such as restaurants, convenience stores, grocery stores and superstores that are seeking ABC licenses and the Police Chief also must comment on the location of the establishment and the character of the applicant. The City Manager advised that, in the proposed ordinance, a category is added for ABC permits, with the lowest fee being $100 for establishments of less than 50,000 square feet. Establishments with 50,001 to 100,000 square feet would pay a permit fee of $400, while establishments over 100,000 square feet would pay a permit fee of $800. The City Manager stated that staff feels that ABC licenses have a great value to the applicant and it is reasonable for the City to charge an ABC permit fee, given the work that must be put into review of said license requests.

Council Member Martin asked if this item could be further discussed at the Planning Session in February. The City Manager stated that such discussion would be fine, if so desired by Council.

AA.0000001020 (24)

The City Manager advised that City crews would soon be installing identification signs at the Peavine Trail, as well as signs prohibiting motorized vehicles on the trail.

The City Manager advised that the City and County were now ready to proceed with implementation of a $59,000 State Energy Grant to relamp most City owned buildings and some County buildings. The County is going out to bid for this work, which should allow the relamping to occur by Spring. The relamping will save the City $13,000 in annual energy costs.

The City Manager stated that he wished to thank City crews for the great work with the recent snow removal. He stated that City staff faced an unusual situation, with low temperatures for several days, and that staff has come up with a new approach to plow ice-prone streets first and to increase the amount of brine pre-applied to streets. The City Manager also noted that City garbage collection was not affected during the snowstorm.

COUNCIL COMMENTS:

Council Member Martin expressed thanks to Council for their individual and collective prayers during recent illness experienced by his wife, Connie, and his grandson, Benjamin. He said that the support and prayers lifted up his family during this difficult time.

Council Member Doggett stated that she would like to see the City participate in some way with the fundraising effort for Relay for Life.

ADJOURNMENT: Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

A.A.00000102I (24)

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 1, 2011 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members A. Everette Clark, Juanita Doggett, Billy Martin and Cecil Owenby.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Mark Brooks, Police Chief; Chris Hollifield, Public Works Director; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Tracy Childers 26 Hillside Drive, Marion, NC; Abby Hollifield, South Garden Street, Marion, NC.

OPEN MEETING: Mayor Little opened the meeting with a moment of silence.

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Owenby, Council voted unanimously to approve the consent agenda as follows:

A. **Approval of Minutes** – January 18, 2011 Regular City Council Meeting Minutes

B. **Receive Report of Unpaid 2010 Real Property Taxes**

Tax Collector Claudia Hill presented a memo to Council advising that, as stated in G.S. 105-369(a), the Municipal tax collector must report to the Governing Board the total unpaid 2010 taxes that are liens on Real Property.

As of the date of the memo, January 25, 2011, the amount of unpaid 2010 Real Property taxes was $164,017.98. Delinquent taxes were as follows:

Owner	Parcel Number	Tax Amount
50 MAIN STREET,LLC.	170111677159	803.66
80 SOUTH MAIN STREET LLC	170111665987	1,229.41
ADDISON IRIS B	170110350999	72.62
ALBRITTON MARK W & SUSAN	170107691171	1,186.82
ANDERSON D. & SHARON	171109073484	153.00
ANDERSON EDWARD BRENT	170111667602	325.02
ANDERSON JOHNNY Y & M.	170107598560	547.54
ANDREWS ROGER	172200734382	145.55
ARRINGTON CLYDE MRS	171105194520	165.29
ASTA FAMILY ENTERPRISES LLC	170106381568	4,318.63
ATKINS CHARLES & SHERI L	170111761289	983.13
AUDREY ANN PROPERTIES LLC	170220902916	911.52
AUDREY ANN PROPERTIES LLC	170220902838	102.00
AYALA CARMEN	171218304004	91.95
AYERS MICHAEL W & REBECCA	171109261345	368.17
BAILEY ALVERTA F	171213221670	20.40

AA.000001022 (24)

BAKER CHARLES K. & CLAUDIA	170220907387	97.72
BAKER CLAUDIA ANNE	170220908304	216.04
BARTLETT PAUL H & LINDA S	170112960185	224.20
BARTLETT PAUL H & LINDA S	170112960064	30.60
BASSETT DAVID & PATRICIA	170112860413	639.64
BEAM CHRISTINE	170112855839	162.28
BEAM GENE H & NORMA J	170118321167	10.20
BEAM GENE H & NORMA J	170114323932	246.79
BEAM RONNIE DELEON	170118420048	30.60
BEAM TAMMY ELIZABETH	170117129234	153.20
BEAM TAMMY ELIZABETH	170117129178	32.64
BEAM THURMAN & MARY	170118320362	102.46
BEAM THURMAN & MARY	170118320353	10.20
BEAM WILLIE H MRS	170118321127	119.29
BEARD MINERVA K	170118219986	209.30
BEATTY THOMAS A	170114337639	143.08
BERRYHILL ALVIN RAY JR	171218205448	30.60
BERRYHILL ALVIN RAY JR	171217204453	223.07
BERRYHILL ALVIN RAY SR	170108981850	428.60
BERRYHILL ALVIN RAY SR	170203042991	297.28
BERRYHILL ALVIN RAY SR	079200958080	255.00
BIDDIX TRISHA ANE	170111763629	229.14
BIRD DOG COMPANY LLC 2/3%	171113134379	297.43
BLACKBURN JASON JAMES	170111667621	266.32
BLANTON EVERETT	170114324745	215.32
BOLICK L. VANESSA BURLESON	171217027425	153.56
BOWLING ALICE FREIDA	171109056658	316.61
BOWLING ALICE FREIDA	171109051612	77.78
BOWMAN ALMA	170114228983	28.56
BOWMAN JIMMY	171218319436	359.30
BOWMAN RICHARD L	170217211605	1,777.71
BOWMAN RICHARD LEE	170108883009	840.33
BOWMAN RICHARD LEE	170108881361	878.78
BOYD BETTY	171105096487	173.81
BOYD CONTRACTORS INC	171113141676	73.24
BOYD RICKEY & RHONDA	170112768096	268.01
BOYD RICKY HAROLD	171002691556	221.39
BRADFORD JAMIE	170005186498	335.07
BRADLEY CECILIA CHRISTINE	170108971562	261.78
BRADLEY EUGENE F	170111564691	133.11
BREWER CHRISTOPHER JOHN	171106481375	210.48
BRIGGS RICKY C	171106391300	109.14
BROWN EUNICE CHRISTINE 1/2	170110351841	142.04
BROWN GUY (DECEASED)	170118226232	105.71
BROWN LARRY D & BETTY	170110356731	219.05
BROWN TROY TIDEN JR &TAMMY	171109250470	230.93
BROWNE SUSAN T aka MCELFRESH	170107579532	331.30
BRUNER LEE A	171218301131	186.46
BRUNER LEE A	171218300023	19.88
BRZOSTOSKI MATTHEW & WIFE	170107589966	1,307.08
BUCKNER GARY L & MINNIE M &	170111760655	78.34
BUFF DAVID & JUDY	171109179107	95.93
BUFF SCOTTY RAY	170220918398	283.00
BURK PAUL J & SHARON M	170116947614	261.02
BURK PAUL JASON	171217110131	159.22

AA.0000001023 (24)

BURNETTE DEVAUN CHARLES	171113146884	71.35
BURNETTE JEFF	171106298567	344.35
BYPASS NORTH LLC	079200798563	51.00
BYPASS NORTH LLC	079200798520	372.56
BYRD RICHARD E & AGNES	171105291855	109.70
CABLE DELORES H	170108986430	317.02
CABLE SAMANTHA & CHRISTOP	171105077583	229.65
CADDELL CHARLES	170111663104	938.91
CADDELL CHARLES	170111662363	324.00
CAMPOS GERMAN & ISELA	171105273960	251.28
CARMACK BOB L	170112769231	188.04
CARSON EVELYN	170114228666A	146.02
CARSON EZEKIEL JR (93-04	170114335284	22.54
CARSON LEMELVIN DEWAIN	170114339830	306.05
CARSON SARAH JANE	170117224271	40.80
CARSON TENCH & ANNETTE	170118310965	150.92
CARSON VERNON E & MARY A	170114335641	187.48
CARSON VERNON E & MARY A	170114335526	126.12
CARSON WARREN JR	171109055964	114.80
CARTER NEIGHBORS LIMITED dba	079200959673	1,131.28
CASH JOSEPH EDWARD & CALLIE	170114335500	131.99
CAUSBY KIM RENEE	171105188375	175.09
CAVINESS Q HAROLD & LOTO G	170111667534	181.50
CHAMBERS ERNEST & ROSEMARY	171109056795	29.22
CHARLIE CHAMP PROPERTIES LLC	171217127322	153.15
CHAVANNES CHRISTOPHER & ENZO	171109168911	249.29
CLARILLO MARIOLYN LOUISE ETAL	170114324537	285.60
CLARK AMBER & T. S. DENNY	170114445399	210.43
CLAYTON MICHAEL &JACKI	170220905453	371.33
COLLINS KENNETH L & TERESA C	171218208881	318.65
CONDREY PHILLIP EDWARD,SR.&	171217005633	142.29
CONLEY BENJAMIN L	170114431307	94.08
CONLEY CHARLIE & ELOISE HEIRS	170114322903	40.80
CONLEY EULA JEAN	170114434880	77.64
CONLEY GREGORY D & FELICIA	170114337127	117.20
CONLEY HERBERT & ARMINTA	170117117909	32.64
CONLEY JAMES EDWARD	170113221518	116.79
CONLEY JAMES ERVIN & RACHEL	170118422272	89.15
CONLEY MARY W	170113221720	139.13
CONLEY RACHEL ANN	170118422212	30.60
CONNER INEZ & J. LOVINGOOD	171105197712	61.20
CONNER MINNIE F	170108989065	191.35
CONNER SANDY JO	171106391426	313.24
CONNERS JESSICA M.	171217006332	162.64
COOPER FRANK & DOVIE & WADE	171002685572	51.00
CORN BELINDA P	171106491626	375.72
CORNETT KATHRYN RASH	171109168192	210.38
COX GEORGE C	171213127723	71.66
COX ORA LEE	170108980850	145.40
COZART ROBERT J & LEONORA	171217101842	133.52
COZART ROBERT J & LEONORA	171113141768	223.48
COZART ROBERT J & LEONORA	170108891133	101.18
CRAWFORD BRUCE & DEBRA	170108884358	30.86
CRAWLEY JAMES E. & JOSEPHINE	171109161586	48.96
CRAWLEY JAMES E. & JOSEPHINE	171109161486	91.04

AA.000001024 (24)

CRESON WANDA E	171217126473	51.00
CRISP STACY LEE & KAREN E	170220900423	876.49
CURRIER AVENUE TOWNHOMES	170116842710	25.50
DALE TOMMY W & DENISE	171105082854	308.30
DALTON MARGIE	170203132889	708.90
DALTON MARGIE & WILBUR	170203141074	1,573.55
DAMIAN JORGE & LINDA	171106382704	175.70
DANIAN JORGE LUIS HERNANDEZ	171106382727	30.60
DAVIS SHEILA D AND HUSBAND	171105197142	259.95
DE JESUS ARTURO FLORES	171105283040	168.86
DENNY KENNETH R & KATHY	170110355663	251.84
DENTON CAMERON J & LOIS H	171106298374	420.75
DILLS ELIZABETH M (DECEASED)	171106299940	62.63
DIXON KUNIGUNDA	171105090044	44.12
DOCKERY BRADFORD WILLIAM	171218316063	464.55
DUGAS TERRI SEAGLE	170107578504	705.48
DUNN CRYSTAL J	170110362799	183.45
EDGERTON BETTYE RUTHERFORD	170114328805	0.10
EFFLER CHET	171218308029	61.20
EFFLER WELZIE	170108988735	343.08
ELLIOTT SIMON BRADLEY	171105183010	237.51
ELLISON TERRY EDWARDS	170108897680	185.74
ESTES KEVIN CHARLES & SANDRA	170108891586	320.79
FEDERAL HOME LOAN MORG.	170110259815	136.88
FENDER GARRETT GREGG	170220807287	196.10
FERGUSON ALLEN S & ALESIA	170113224721	313.65
FINLEY G W HEIRS	171106286910	122.40
FINLEY LULA MAE HEIRS	171105188556	154.79
FITZGERALD DANIEL J & CYNTHIA	170110377125	203.90
FLYNN DAVID C	170220918594	233.86
FLYNN DONNIE JEAN	171109260338	231.69
FORNEY CARL E	170114239100	261.53
FORNEY CARL E & MARY V	170114239290	37.85
FORNEY MARY VIRGINIA	170118322370	33.95
FOWLER BUFORD E.& BRENDA	170108975996	510.92
FOWLER WILLIAM L. AND TRACIE	171218411441	167.23
FRADY BRIAN	171105283234	189.26
FRANKLIN HUGH J	170111667975	518.82
FREEMAN DONNA RENEE ALLISON	171213024671	189.16
FREEMAN LEE & HARRIETT	170118324203	30.60
FREEMAN LEE & HARRIETT	170118324106	342.67
FRISBEE MINNIE A HEIRS	171213220678	61.07
FRYE DIANE M & JAMES A JR	170111563518	154.12
FRYE JAMES A JR & DIANE M	170111563601	7.65
FRYE JAMES A JR & DIANE M	170111563598	40.80
FULLWOOD CLIFTON ANTHONY	170114420713	35.70
FULLWOOD CLIFTON ANTHONY	170114420525	17.85
FULLWOOD CLIFTON ANTHONY	170114328774	89.25
FULLWOOD CLIFTON ANTHONY	170114328537	48.45
FULLWOOD CLIFTON ANTHONY	171109053504	61.20
GIBBS FLOYD HEIRS	170110378084	115.01
GIBBS LLC	170112876286	642.91
GIBSON KIMBERLY BUCHANAN	170114341916	61.20
GIBSON THOMAS J & TRACEY	171113145607	240.72
GIDNEY MARY & THEODORE HEIRS	170114423863	17.85

AA.00001025 (24)

GILLESPIE MAE TILDA	171213223748	47.94
GILLESPIE ROBERT M.	170107790305	6.12
GILLESPIE ROBERT MITCHELL	171105099749	354.81
GILLESPIE ROBERT M	171105191597	610.27
GILLESPIE ROBERT M	171105190446	750.06
GILLILAND JEAN ATWOOD	170108789869	175.75
GILLILAND JOYCE	171106399594	159.53
GILLILAND RODNEY LEE	171106395827	53.55
GODLEY FRED D.	170110466003	3,151.29
GODLEY FRED D.	170110465361	51.00
GODLEY FRED D.	170110465318	18.36
GODLEY FRED D.	170110464385	61.20
GODLEY FRED D.	170110464324	61.20
GOINS DEBBIE H.	170112956142	243.17
GOINS DEBBIE H.	170112955530	174.01
GOINS DEBBIE H.	170112954331	437.17
GOINS RANDY & DEBBIE	170112953290A	208.58
GOINS RANDY E.	170112955102	219.30
GOINS RANDY E.	170112954081	210.53
GOODE JACK O (DECEASED)	171105293544	165.50
GOODMAN DRUCILLA PARKS	170114424892	1.61
GOODMAN DRUCILLA PARKS	170114328867	2.58
GORECKI LELAND H	171217021182	144.13
GORECKI LELAND H	170112973063	341.80
GOUGE G. TODD & TERESA	170217214449	1,132.76
GRANT RANDY LEE	171002693712	387.86
GREENE LARRY & ELIZABETH	170108989635	347.41
GREENE LARRY & BRENDA	170111671037	188.90
GREENLEE ELBERT & BETTY	170117118955	54.98
GREENLEE JAMES H & MAGGIE	170118312819	61.20
GTLS&A CO.,LLC	079200950453	1,740.78
GUFFEY ARTHUR G & BETTY J	171105184260	118.52
GURLEY LARRY & KAREN H	170108799898	418.86
HAIFAX LAND COMPANY	170114337524	159.32
HALL DANNY	170112962617	271.83
HALL GENEVA	170111760759	46.26
HALL JOSEPH K & VAN BOYD &	170217117290	286.31
HAMILTON DWAYNE AND WIFE	171105198196	238.68
HAMILTON ROBERT C	171113143575	229.25
HAMILTON ROBERT C	171113143525	129.95
HAMILTON ROBERT C	171105080780	178.86
HARBISON BARBARA	170114334141	52.89
HARDY ALPHONZO	170114431647	239.90
HARDY JAMES W HEIRS	170114444246	47.43
HARDY NAOMI,SINGLE	170114337520	66.30
HARDY WILLIAM F & JODEE K	171105198481	177.84
HARRIS FRED RUSSELL JR	171105095198	170.80
HARRIS MADGE SHEPHERD	170114331599	40.85
HARRIS TERESA DENISE DAVIS	171109156786	245.57
HARRIS VIRGINIA KAY	171217004881	225.78
HARRISON MELVIN J III	170108991735	294.78
HARVEY KEVIN LEON	170110354592	170.54
HAWKINS F.D. ESTATE	170114334977	24.48
HAWKINS GARY W & PATRICIA	171105182485	25.50
HELMS CLAUDE A	171109163423	89.51

AA.000001026 (24)

HENDLEY OPAL	170108799758	196.20
HENDLEY STEVEN C	170108799710	214.71
HENRY LESLIE DIANA aka MIILER	170117220329	73.44
HENSLEY DIANA	171105185828	91.80
HENSLEY JANICE REESE	171217022309	232.15
HENSLEY J. MICHAEL & LAURA	170112852424	229.96
HENSLEY MAUDE V	171217117959	131.22
HENSLEY RONALD H.& PALMER	170107572697	687.99
HENSLEY WM E SR	170220807035	56.10
HENSON ALVIN	170112962747	151.06
HERNANDES ANTONIO DURAN	171106299225	100.67
HERNANDES ANTONIO DURAN	171106298391	61.20
HERNANDEZ DOMINGO R &	171105281533	304.37
HESTER MARTHA B LIFE ESTATE	171109167155	79.10
HICKS ALFRED J & LINDA L	171105292788	185.64
HICKS BOBBY & CAROLYN	171106385481	111.03
HICKS BOBBY R & CAROLYN SUE	171217212947	309.42
HICKS BOBBY & CAROLYN SUE	171217210341	651.07
HICKS BOBBY & CAROLYN SUE	170220928061	196.30
HICKS BOBBY & CAROLYN SUE	170108892064	200.99
HICKS JAMES DAVIS &	171218206140	105.26
HICKS JEFFERY SCOTT	171105185971	70.38
HIGGINS ED HEIRS	170114226858	42.48
HIGGINS MARY E. (DECESD)	170114227833	25.50
HIGHLAND PATRICK JOHN JR	170110367999	238.63
HILL MAMIE R	170111560448	103.43
HOGAN M CARROLL & JOYCE B	171105072587	16.27
HOLCOMBE JANE	170108898912	435.85
HOLLAND RONALD & CRYSTAL	171109174471	702.47
ALVIN CLINTON HOLLIFIELD	170112962784	126.02
HOLLIFIELD RUBY & DELLA	171105293599	194.00
HOOPER LULA HEIRS	170114422584	204.71
HOOPER WALTER A. (DECEASED	170114338648	95.78
HOPEWELL ROAD LLC	170220909161	270.45
HOPPES SHEILA	170107773886	4.48
HOWARD GAIL F	171109167559	266.78
HOWARD GARY DWAYNE	171105186522	63.44
HUDGINS TERESA 1/2%	171217004981	145.61
HUDSON GLADYS SISK	171105291800	193.19
HUGHES CINDY S.	171217007293	187.32
HUGHES MARGARET	170108992482	335.02
HUGHES JOHNNY WAYNE dba	170108880100	259.13
HURST FRANCES	171105092448	332.62
HURST JERRY WAYNE	171213220842	133.98
HUTCHINS BRYAN FRANKLIN	171217008657	168.50
HUTCHINS BRYAN FRANKLIN	171217002824	52.63
IDEAL CLEANERS	170111569575	40.80
IDEAL CLEANERS INC	170111660506	320.23
INNOVATIVE REAL ESTATE	170106386700	350.32
INNOVATIVE REAL ESTATE	170106282795	788.21
ISAACS JAMES & NANNETTE	170112973344	594.05
ISAACS JAMES& NANETTE	170112972475	110.16
ISRAEL CHARLES	170108887441	653.21
ISRAEL CHARLES	170108886386	153.00
ISRAEL INVESTMENTS INC	171113142627	66.30

AA.000001027 (24)

ISRAEL INVESTMENTS INC	171106397481	242.15
ISRAEL INVESTMENTS INC	170112859649	263.62
ISRAEL INVESTMENTS INC	170112859289	302.63
ISRAEL INVESTMENTS INC	170108894616	227.10
ISRAEL INVESTMENTS INC	170108893530	178.86
ISRAEL INVESTMENTS INC	170108887606	199.67
ISRAEL INVESTMENTS INC	170108886672	143.11
ISRAEL INVESTMENTS INC	170108886558	154.99
ISRAEL INVESTMENTS INC	170108886525	45.90
J & R'S FOOD INC	170203134649	1,555.04
JACKSON FRANCIS (DECEASED)	170117222087	40.80
JACKSON FRANCIS (DECEASED)	170117221190	45.90
JACKSON FRANCIS (DECEASED)	170117221023	40.80
JACKSON ROSIA	170113224769	51.00
JAYNES CHARLES D & DEANA N	170111655356	553.15
JENNINGS JAMES M & BRENDA	171217009855	175.80
JOHNSON BRENDA & JOHNNY	171217117626	147.75
JOHNSON DAWN & KEITH	079200966575	564.16
JOHNSON KAREN TERESA	170118228221	323.03
JONES BRENDA BAKER	171217017026	51.00
JONES EDGAR T SR & BRENDA	171217007839	156.01
JONES EVELYN ROSS	170217117290	286.31
JONES STEVEN JOE	170111674161	534.74
JTV PROPERTIES, LLC	079200877699	427.99
JUSTICE ADOLPH & VICTORIA	171002980660	753.68
JUSTICE ADOLPH & VICKIE	171002694461	139.43
JUSTICE ADOLPH & VICKIE	079200974386	706.45
JUSTICE ADOLPH A JR	171105191764	42.02
JUSTICE C. WILLIAM	171106382968	92.00
JUSTICE C. WILLIAM	171106382908	51.00
JUSTICE CHRISTOPHER W.	171109161384	235.01
KEESEE TERA	171105270774	228.79
KEHLER DAVE BUILDER,INC.	170203136273	505.46
KELLY RICKY DEAN & WIFE	170203221615	960.69
KINCAID BOBBY & MAXINE	170114329516	140.00
KING JAMES T & LINDA	170220916363	402.14
KING TED R & FAYE	170112852736	83.08
LAFON JOSEPH S. & CARA	170108899092	277.54
LAEL KENNETH & DOROTHY	170112858867	223.33
LAEL KENNETH & DOROTHY	170112858607	30.60
LAMBERT PATRICIA L.	171105281901	88.16
LANNING PAUL	170220806173	92.57
LANNING T. & CHARLES K.	170110365146	321.91
LATTO DAVID D	171218317410	805.70
LAUGHRIDGE J. MACK JR	170220904620	266.30
LAURENT HUMPHREY O.	079200869725	961.66
LAWS CATHY D	171106298862	97.92
LAYFIELD HENRY	171217117733	105.37
LEARY MICHAEL & WILMA	171106296161	443.24
LECO NICOLAZA L SANCHEZ	171113146841	190.23
LEDBETTER MARIA	170203046152	267.75
LEDBETTER MARIA	170108990045	315.33
LEDBETTER MARIA	170203045242	324.41
LEDBETTER MARIA	170203044019	96.90
LEDFORD DALLAS A	171218302611	116.28

AA.0000001028 (24)

LEDFORD TERESA NICHOLS	171217108812	239.66
LEWIS BRENDA,WIDOW AND	171213021695	114.24
LEWIS EDWARD EUGENE	171217000168	166.62
LEWIS ERNESTINE D	170112964572	42.84
LEWIS ERNESTINE D	170112964536	42.84
LEWIS STEVE	171218300257	129.34
LINDSEY JAMES E dba	170118420412	161.09
LINDSEY JAMES E dba	170114339242	89.40
LITTLE CALVIN DEWAYNE	170114239145	179.98
LOFTIS JANIE LEE STROUD	170106377814	287.18
LOGAN DAVID RAY	170114326834	118.05
LOMBARDI DAVID AND SHARI	170111678267	349.91
LONG GEORGE F & DENISE Y	171105094803	314.82
LONG GEORGE F & DENISE Y	170111760769	61.25
LONG LESLIE E.	170111562323	402.95
LONG WM E SR & HARRIETT	170114338367	4.13
LOPEZ PEDRO PEDRO GARCIA	171105282965	291.26
LOPEZ PEDRO & BRENDA L.	171105283945	232.36
LOWE ANDREW & PHYLLIS	170108970711	238.99
LYES ALAN JOHN & JANICE	170106486218	1,400.00
LYNCH JAMES & MARGARET	170118320109	264.84
MACE CLINTON F & ADA L	171105293377	201.35
MACE EDNA WOODY & ET AL	171105194597	76.50
MAGANA B. & MELANIE	170114323719	221.95
MAHAN CHARLES R	171106388965	213.95
MAIN STREET STUDIO,LLC	170111674477	638.11
MANLEY EDDIE AND DONNA	171109252759	280.19
MARCUS JUSTINE J	170111652868	460.94
MARRS JERED & LEANNE	171217123293	223.07
MARTIN BISHOP C JR ET AL	170118322496	32.44
MARTIN KIMBERLY D.& PEARL	170118322176	180.49
MARTINEZ JOSE SILVESTRE	170108879543	100.45
MASHBURN DELORES G	170117129079	124.85
MASHBURN DELORES GARDIN	170117128028	73.44
MATHIS EDDIE LEE	171213021769	18.68
MCCORMICK ROBERT T	170110378211	119.49
MCCOY KATHY	170112868032	227.90
MCCOY T. & KATHERINE	170111660077	1,003.12
MCHONE JACK & GRACE S.	171105171806	227.61
MCINTOSH ERIC LEE & TONYA	170111564228	402.34
MCINTOSH ESTHER E	170110368239	128.37
MCINTOSH MARILYN PERKI-	171105188785	178.48
MCKESSON MARY	170118423369	20.40
MCKINNEY DANIEL DEWAYNE	171217127068	231.13
MCKINNEY RANDOLPH	171106480422	34.35
MCKINNEY ROSE ANDREWS	171105192266	22.34
MCKINNEY TERRY HUGHES	171217126046	254.08
MCKINNEY TERRY HUGHES	171217125083	43.29
MILAM CHRIS & ALISSA MOON	171105284946	272.54
MILLER PAUL D & PATRICIA L	171105090088	205.38
MILLS MEREDA BELL	171109163521	100.78
MINISH JOHN EDWARD	170220906867	346.14
MINISH NELLIE 03-04	171106390121	5.81
MITCHELL APRIL M	170108989852	238.73
MONTES MARCO & MARIA	171217117843	84.93

AA.00001029 (24)

MOORE CHRISTINE PARKER	170112856874	238.32
MOORE ELOISE HEIRS	170118319900	173.03
MOORE GUY	170113223825	526.01
MORGAN LULA HEIRS	170114228544	25.50
MORROW ANNETTE	171106384728	139.54
MORROW BOBBY & BETTY	171218207318	178.76
MOSTELLER TERRY &NANCY	171106382700	135.41
MURDOCK JAMES	170108974548	169.68
NELSON EDWIN C. AND WIFE	170112879424	319.57
NELSON VICKEY & HAROLD	170220808155A	109.96
NICHOLS DONALD J & ILA	170112965373	198.65
NICKENS TERAESA	171113143782	60.59
NOBLITT HAROLD L	171105199943	18.85
N. C..OUTREACH	170107586308	327.93
O AND F MEDICAL,LLC	170111566919	246.18
O'BUCKLEY M. & CLAUDIA	170108798111	268.02
O'BUCKLEY M. & CLAUDIA	170108796279	140.23
O'CONNOR D. & BETTY JEAN	171105291292	258.26
O'QUINN BESSIE DECEASED	171106487520	36.72
O'QUINN BESSIE DECEASED	171106485381	61.20
O'QUINN BESSIE DECEASED	171106485297	226.34
O'QUINN BESSIE DECEASED	171106485482	91.80
OLLOQUI JOSE NOE	171213224907	97.24
OWENBY H. & RHONDA	171109250277	441.76
OWENBY JOSHUA K.	170108785795	184.47
OWENBY PRISCILLA PRICE	170111665531	9.63
OWENSBY CHARLES & MARY	171109164586	130.66
PAINTER BOBBY DEAN	170220905723	191.20
PAINTER IRENE	170112768318	259.54
PARKER ALBERT ROBERT	170114332875	23.69
PARKER CHARLOTTE A	171217107669	113.32
PARKER JAMES DOUGLAS	170111754258	411.42
PARKER JOANNE & MICHAEL	171109179107A	184.47
PARKER ROBERT ALBERT	170114333775	117.30
PARKINS BRENDA EVANS	170220928276	383.67
PARKINS TERESA & JOSEPH	170217117290	304.16
PARKINS TERESA H	079200878500	387.55
PATTERSON T. & OLEN	171105187263	368.53
PEARSON RACHEL,ADRIAN L	170118415831	183.34
PENDLEY C. & ELIZABETH	170112956245	175.80
PENDLEY JOSHUA LEE	171113131967	624.55
PENLEY STANLEY & JULIA	170111656137	582.06
PHILBECK CALVIN & Wife	171113147619	51.00
PHILBECK ERNEST & Wife	171113147723	40.80
PHILBECK ERNEST & Wife	171113146680	51.00
PHILBECK SHIRLEY &Wife	171113146695	139.59
PITTMAN KENNETH WAYNE	170114331627	166.97
PORTER JOHN R. & LUCRETA	170118218933	106.64
POTEAT A D & PANSY	171002770958A	269.23
POTEAT DEREK & WIFE	171218314257	667.79
POTEAT JOEL ARRON	171002689820	364.14
PRICE GARRY D	170112855935	230.93
PROCTOR BESSIE R	171217123400	23.41
PROCTOR BILLY J	171217123445	70.37
PROCTOR CARROLL D	170110354771	181.51

AA.000001030 (24)

PROCTOR CARROLL D	170110352575	184.01
PROCTOR HOWARD D	171106297963	297.13
RADFORD JOEY CLAYTON	171106399159	236.18
RADFORD JOSEPH & KATHY	171106396269	419.22
RADFORD MICKEY	170110368105	352.31
RAMIREZ ALVARO & ROSA	170118413882	306.71
RAMSEY CLARENCE & GAY	170114420866	181.05
RAMSEY DIANNE NEAL	170217117290	304.16
RANDOLPH HAROLD DEAN	171109261522	76.35
RANDOLPH LOIS STEPHENS	171217011405	34.59
RAYBUCK JASON & CHRISTY	171218207129	263.26
REESE ALVIN EUGENE	170108887731	387.04
REID SINA MCGIMPSEY	170219603735	465.32
REVIS CHARLES D & JEAN S	171105095954	540.04
REVIS JOAN BISHOP	170112855832	29.98
RHODES KATHY	170110474240	25.50
RHODES LARRY & KATHY	170110473146	314.39
RICH M. & A. BUCHANAN	171105187904	286.52
RICH NAOMI E HOLLAND	171218403392	112.20
RICHEY JAMES E & JOYCE	171106381486	122.15
RIDDLE JEFFERY R C	171106381692	187.07
RIDDLE JULIA A.	171217107624	52.02
RIDDLE MARSHA	170220809014	119.85
ROBERTS BOBBY R	170117202110	8.16
RODRIGUEZ DANIEL & MARIA	171113144666	51.00
ROJAS CECILIO PAVON	171105197604	77.57
ROJAS CECILIO PAVON	171105197506	176.10
ROJAS GUSTAVO & MARIA	171105193560	181.00
ROJAS GUSTAVO & MARIA	171105193501	201.50
ROPER BEULAH M	171217129415	178.14
ROPER GENEVA LIFE ESTATE	171105284571	48.96
ROSALES MIREYA FLORES	171105184265	219.76
ROSE LISA LYNETTE	171217120464	51.00
ROSE LISA LYNETTE	171217120415	228.53
ROSE OAKLIE HEIRS	171218307058	88.41
ROSENBLEDT DANIEL J	170106493120	25.50
RUEL CINDY AND MATTHEW	170111667993	456.86
RUMFELT CHRISTOPHER H.	170112875387	310.28
RUMFELT STEVE	171218412446	182.22
RUTHERFORD JOSEPH & LUCIL	170114441139	104.60
RUTHERFORD MARY H	171109053558	66.30
RUTHERFORD MELVIN	170118228003	124.44
RUTHERFORD MELVIN & A.	170114433936	45.90
SALAS DAVID ROJAS	171105194498	279.74
SAMIR ENTERPRISES LLC	170203049210	579.21
SANCHEZ ARTEMIO &EVELIA	171105290559	61.20
SANCHEZ FROYLAN & MARIA	171105099933	409.17
SANCHEZ FROYLAN & MARIA	171105098971	75.89
SANCHEZ JAVIER F &JUANA	171106380692	235.67
SANCHEZ JAVIER & JUANA	171213222900	76.50
SANCHEZ JAVIER & JUANA	171105294633	211.14
SANCHEZ JAVIER & JUANA	171105284306	89.20
SANCHEZ JAVIER & JUANA	171105283360	172.48
SANCHEZ NICOLAZA	171218208540	63.19
SANCHEZ NICOLAZA	171105293852	97.92

SANTA CLARA CARMEN	171105291899	119.19
SANTACLARA J. & XOCHITL	171218205097	278.46
SCHWANIGER PROPERTY	170114420783	20.40
SCOTT MAUDE	170114329857	62.53
SEAGLE JEFFREY A & RITA H	171109159423	201.20
SHAPIRO ERIC S & VAULTY	170203045326	401.98
SHELTON DARREN	170112967951	353.48
SHEPARD LIBBY	171217007895	183.09
SHERLIN EDWARD	170110363632	48.96
SHERLIN RONNIE D & CAROL	171106383738	254.49
SIERRA ROBERTO & JUANA I	170118228374	297.53
SISK LAWRENCE	170108886843	209.20
SISK NORA C	170114338263	35.70
SISK SHARON E.	171106298700	348.74
SKYVIEW BLDG. INC.	170112854859	236.33
SKYVIEW BUILDERS, INC	170112854840	25.50
SLICK MARION,LLC.	170111673178	681.36
SLOAN LARRY RAY & BETH	171109156005	48.96
SMITH DARRYL & BRENDA	171002761634	1,646.54
SMITH ROGER LEE	170110352748	454.26
SOLORZANO EDITH M	170220908842	174.68
SOMMER OLIVER&MAUREEN	170112853367	51.00
SPARKS BENNY & CHRIS-	171109176069	292.43
SPARKS CHARLES & LOIS G	171113231032	7.44
SPENCER GENEVA HALL	170111764119	406.93
SPRATT LUANNE H	171105177923	197.12
STACY BENNIE R	170110364208	350.47
STAMEY CAROLYN	171213224802	117.40
STEVENS LARRY & SANDRA	171213121747	15.30
STEVENS LARRY & SANDRA	171213120683	196.55
STEVENS LARRY & SANDRA	171213120603	279.43
STEVENS LARRY DEAN	170108785472	598.94
STEVENS RONNIE R & DAWN	170114341877	102.36
STEVENS RONNIE R & DAWN	170110354854	72.73
STEVENS RONNIE R & DAWN	170107571694	720.17
STEVENS RONNIE R & DAWN	171213223936	61.20
STEVENS RONNIE R & DAWN	170108894042	161.77
STINES ANNETTE & THOM	171105095301	236.79
STOCK RICHARD & BETTY	170110350874	132.14
STONE DANIEL WAYNE	171217015284	204.15
STOTT ROGER W & LINDA K	171105271981	118.91
SURRATT WILLIAM	171105092220	140.96
SUTTLES LORA	170220916595	225.06
SWEENEY JULIE & MICHAEL	171218207484	393.62
SWEPSON PAULA	170117220245	376.79
TASSIN ELAINE	170220804272	166.31
TATE BRENDA	170118318839	246.33
TATE BRENDA	170118317980	15.30
TATE BRENDA	170118317940	64.97
TATE PHILLIP J & KAYE P	170203207373	1,494.15
TATE PHILLIP J & KAYE P	170115637948	263.77
TAYLOR KEITH W	171218300764	277.13
TAYLOR KIMBERLY ANNE	170114344941	218.28
THOMAS MARY JEAN	171105195679	91.80
THOMPSON KENNETH E	171109055589	51.00

AA.000001032 (24)

THOMPSON KENNETH E	171109054678	76.50
THOMPSON LOVIE CARSON	171109052741	66.30
TILLEY BENNY & MARJORIE	170116843642	10.04
TOOLCRAFT INC	171118324056	5,034.26
TRAIN DEPOT,LLC	170111662654	714.51
TRANTHAM JODY	171217003940	177.89
TRIPLETT ALBERT JAMES	170110464641	177.84
TUCKER DANIEL & WANDA	171106288999	256.79
TURNER C. & DWAYNE	171106297756	366.27
TURNER JAMES C	171106481488	61.20
TWITTY ALBERT FRANKLIN	170114322972	211.34
TWITTY NICHOLAS	171109053759	64.06
TWITTY NICHOLAS	170114442204	292.89
UMANA DANIEL	171106394092	416.11
UNKNOWN PROPERTY	170118426044	10.20
UNKNOWN PROPERTY	170118425085	20.40
UNKNOWN PROPERTY	170118421037	24.48
UNKNOWN PROPERTY	170114427820	7.65
UNKNOWN PROPERTY	170114426821	8.93
UNKNOWN PROPERTY	170114329576	25.50
VALDEZ MANUEL	171105290131	583.70
VAZQUEZ R. & EDELVIA	170108882676	197.73
VESS JODY HOWARD	170108898428	252.60
VESS RUSSELL & LUCY J	171106394874	68.85
VESS RUSSELL & LUCY J	171106394718	235.52
ROSENBLEDT DANIEL	170106493120B	2,432.55
W H CAPITAL LLC dba	171002985199	1,503.74
WALDEN C. STROUTH aka	170108973598	15.30
WALDEN C. STROUTH aka	170108973593	247.66
WALKER B M & MARY K	170114227574	51.10
WALKER MARY WILLIAMS	170118313889	404.48
WALKER MARY WILLIAMS	170118312969	20.40
WELLMAN ROBIN & DORIS	170112865302	118.73
WELLS SARAH ANN	170108970796	170.44
WESTMORELAND MICHAEL	171106288837	416.47
WHITE DANNY II	079200977158	630.72
WHITE PINE LAND INVEST.	170115740873	690.08
WHITESIDES JAMES & WIFE	170112767365	458.75
WILLIAMS BETTY J. DAVIS	171106286395	145.15
WILLIAMS CHRIS NEIL	171113142115	45.90
WILLIAMS CHRIS NEIL	171113141242	182.78
WILLIAMS CONNIE W	170118311999	244.90
WILLIAMS D. LIFE ESTATE	170114226584	53.40
WILLIS FRANK W & MAUDE	170112953302	142.90
WILLISON MICHAEL H	170111751562	324.26
WILSON BEVERLY	170112853677	346.70
WILSON JESSE TYLER	170108798684	236.18
WILSON SUSAN H.	170108887786	250.72
WINCHESTER J. SEAGLE	171106386615	100.01
WISEMAN JIM & MAXINE	170115648741	471.60
WOODBY E. ANN,JOSEPH	171105176944	79.92
WOODBY E. ANN,JOSEPH	171105175985	146.27
WOODBY E. ANN,JOSEPH	171105174991	56.10
WOODY EUGENE	171105193621	81.60
WOODY FRANCES & MARY	171105194608	45.90

AA.000001033 (24)

WOODY JAMES E JR	171105195576	61.20
WOODY RICKY & NORMA	171105186242	230.72
WOODY RICKY & NORMA	171105186239	40.80
WOODY RONALD EUGENE	171105194509	72.47
WOODY FRANKLIN & VERNA	171218308170	177.48
WRIGHT JOYCE PRESSLEY	170108889517	397.85
WRIGHT NATHAN A	171105198841	152.08
WYATT ALBERT WILLIAM	170112970394	153.00
WYATT ALEEN W	170114445306	7.14
WYATT LARRY RAY	170112769440	328.39
WYATT LARRY RAY	170112768562	222.16
WYATT LARRY RAY	170112768389	63.75
WYATT MIMI M	170108993284	531.47
WYATT WELZIE & LINDA	170108897484	158.10
YOUNG ERNEST JAMES	170220809846	171.36
YOUNG ROBERT LEE SR	170114436964	40.80
ZIMMERMAN MONICA R	170110462967	223.43
	Total	$164,017.98

C. Approve Advertisement of Delinquent 2010 Real Property Taxes

Tax Collector Claudia Hill presented Council with a memo advising that, as stated in General Statute 105-369(c), the Tax Collector must advertise tax liens on Real Property at least once between March 1 and June 30.

Council approved the request of Ms. Hill to advertise City of Marion delinquent 2010 real property taxes in The McDowell News on Wednesday, May 11, 2011.

D. Approve Resolution Directing the Clerk to Investigate the Sufficiency of a Petition for Annexation – Silver/Yancey Road

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-31 – YANCEY ROAD – SILVER PROPERTY - 2011

WHEREAS, a petition requesting annexation of an area described in said petition was received on January 26, 2011 by the City of Marion; and

WHEREAS, 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 of his investigation.

Adopted this the 1st day of February, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

RESOLUTION NUMBER: R-11-02-01-1

AA.00001034 (24)

SPECIAL PRESENTATION BY MAYOR LITTLE: Mayor Little stated that it was with great pleasure that he recognize Council Member Billy Martin for completing 15 years of service as an elected official with the City of Marion. He noted that Council Member Martin had not been able to be present when other such presentations were made previously, due to family illness. Mayor Little presented Council Member Martin with a 15 year service pin.

Council Member Martin thanked Mayor Little and stated that serving on City Council is not a job to him, it is a passion.

PUBLIC COMMENT PERIOD: No citizens were present wishing to speak to Council during the Public Comment Period.

APPROVE ORDINANCE – TRAFFIC SCHEDULE ADDITIONS:
The City Manager presented a proposed ordinance to Council reflecting various additions to the Traffic Schedule, including streets added as a result of the Sugar Hill Road Area annexation on January 31 and the inclusion of streets missed in previous updates. He noted that almost all of the streets missed in previous updates are private roads that carry no City regulations or streets that exit into areas within the City. The deletion of the stop sign regulation on Atwood Drive is due to this street being a private road. The City does not typically place stop signs on private drives.

Upon a motion by Council Member Owenby, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to adopt the following ordinance amending the City Traffic Schedule:

ORDINANCE
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 18-239 is amended by deleting the following:

STREET NAME	REGULATION	REG. APPLICATION
ATWOOD DRIVE	STOP SIGN	AT TUNNEL ROAD

Section 3. Section 18-239 is amended by adding the following:

STREET NAME	REGULATION	REG. APPLICATION
LUKIN STREET	STOP SIGN	AT SUGAR HILL ROAD
OVERLOOK DRIVE (WEST)	NONE	
CYPRESS ROAD	NONE	
BEN STREET	STOP SIGN	AT LUKIN STREET
STEPPE STREET	STOP SIGN	AT SUGAR HILL ROAD
MEADOW LANE	STOP SIGN	AT SUGAR HILL ROAD
VETERANS DRIVE	NONE	

WEST MARION BUSINESS PARK DRIVE	NONE	AT SUGAR HILL ROAD
MILL ROAD	STOP SIGN	AT SUGAR HILL ROAD
CONDREY ROAD	STOP SIGN	AT SUGAR HILL ROAD
		AT WORLEY ROAD
WORLEY ROAD	STOP SIGN	AT SUGAR HILL ROAD
BUENA VISTA RIDGE	STOP SIGN	AT STROUD STREET
COOL BREEZE DRIVE	NONE	
CREEKVIEW COURT	NONE	
ADDIE'S CHAPEL DRIVE	NONE	
JACKSON STREET	NONE	
SAM PHILLIPS DRIVE	STOP SIGN	AT US 70 WEST
HANKINS ROAD	STOP SIGN	AT US 221 NORTH BUSINESS
BUNGALOW DRIVE	NONE	
WOODY STREET	STOP SIGN	AT RIDGE STREET
PLATO DRIVE	NONE	
COLLEGE DRIVE	NONE	
BARNES ROAD	STOP SIGN	AT US 221 SOUTH
POTEAT ROAD	STOP SIGN	AT NC 226 SOUTH
ATWOOD DRIVE	NONE	

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 1st day of February, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-11-02-01-1

REQUEST FROM DOT – SIDEWALK ADDITION ON US 70 WEST FROM WEST MCDOWELL JUNIOR HIGH SCHOOL PARKING LOT TO GREENWAY ENTRANCE: The City Manager advised that, as shown on information presented to council, NCDOT is strongly considering
funding a requested sidewalk from the West Junior High School ballfield parking lot to US 70, a crosswalk across US 70 and a sidewalk extending to the Greenway entrance. This crosswalk and sidewalk have been requested by West McDowell Junior High School and were on the City's Safe Routes to School Plan presented to Council in January.

AA.000001036 (24)

The City Manager advised that, in order for DOT to construct the sidewalk, the City must agree to maintain it. He stated that the area in which the sidewalk would be constructed is technically outside the City. However, eventually this part of US 70 will develop, so Council may wish to consider the City accepting maintenance of the sidewalk. The City Manager suggested that one way to justify this sidewalk could be the City annexing US 70 West from the edge of the Lowe's property to the Greenway entrance. The City Manager stated that he was not sure at this point how a highway only annexation would be accomplished, but that he could explore this possibility if so desired by Council.

The City Manager stated that under North Carolina law, counties are not permitted to maintain sidewalks and DOT does not maintain sidewalks, so City maintenance is the only way this project could take place.

Council Member Clark asked if just the area of the sidewalk could be annexed. The City Manager stated that he has heard of cities annexing street rights-of-way, but was not sure exactly how the process for such an annexation would work.

Mayor Little asked if the neighboring property to the proposed sidewalk, Great Meadows could donate needed property or give the City a sidewalk easement. The City Manager advised that DOT was planning to install the sidewalk on Highway right of way. He also said that Great Meadows would also likely not wish to give up prime commercial road frontage.

Council Member Clark stated that there are a lot of things to consider before agreeing to this request, such as would the City have insurance coverage on the sidewalk, even though it is not in the City Limits and who would cover the liability and cost of the maintenance?

Mayor Pro Tem Cuthbertson stated that the maintenance on a new sidewalk should be very minimal. He added that this was a good chance to get the sidewalk installed and would hate to see this opportunity pass by.

Council Member Owenby stated that he would be in favor of tabling this item until more information could be obtained.

Mr. Tracy Childers, a teacher at West McDowell Junior High School, advised that he had made the request for the sidewalk to NCDOT and that over 400 students signed a petition all requesting that this sidewalk be installed. He described the great connection the sidewalk would make from the school to the Greenway.

Council Member Clark added that he would like to see the sidewalk extended eastward to the Lowe's property to make a connection to commercial areas.

Council Member Clark stated that he hoped Mr. Childers understood his concerns about liability if the City agreed to maintain this project. Mr. Childers said that he certainly understood and appreciated any assistance the City could provide with this project.

Council Member Clark made a motion that the City agree to maintain the sidewalk proposed by the North Carolina Department of Transportation and extending from the West Junior High School ballfield parking lot to the Greenway entrance, on the condition that liability insurance coverage can be provided for this sidewalk on the City's insurance policy, that the area of the sidewalk can be annexed by or donated to the City and that a request is made to NCDOT to extend the sidewalk eastward along US 70 West in the direction of Lowe's. Mayor Pro Tem Cuthbertson seconded the motion. All Council Members voted in present of the motion, which was carried unanimously.

AA.000001037 (24)

Council Member Doggett asked that Mr. Childers thank the students who wrote to DOT and made this project a reality.

The City Manager stated that he would obtain information on the conditions listed in the motion and convey such information to Council.

DISCUSS SUGAR HILL ROAD WATER AND SEWER EXTENSION PROJECT: Public Works Director Chris Hollifield reported that the City has an opportunity to serve the West Marion Business Park on Sugar Hill Road with gravity sewer service, as part of the City's Sugar Hill Road water and sewer extension project. This area is below grade and will require a pump station in order to provide sewer service unless an adjustment is made to the Wal-Mart Supercenter outparcel sewer line. Mr. Hollifield said that if the last five outparcel manholes were lowered, the Business Park could be served without a pump station being needed. The Wal Mart Supercenter developer, WRS, has submitted a proposal for their contractor to complete this work.

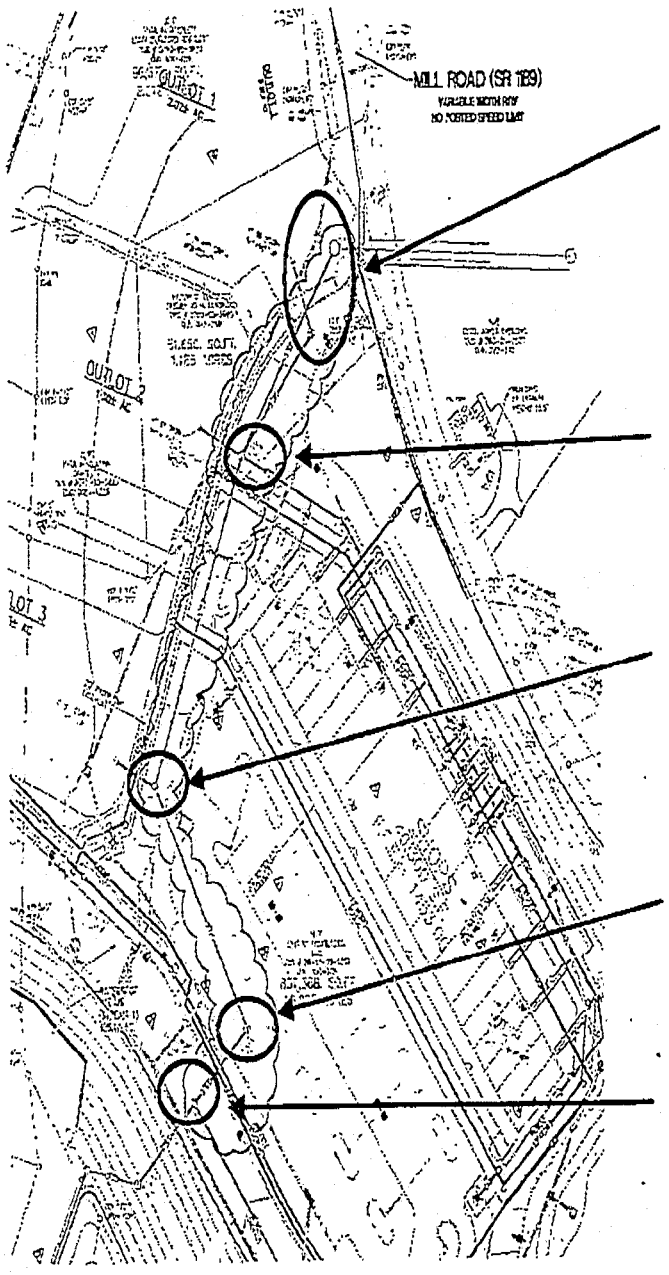
Mr. Hollifield stated that the manholes are labeled on the Wal-Mart utility drawing as #5, #11, #12, #13, and #17. These manholes would be maintained by the City anyway due to sewer flow from both the outparcels as well as the Grandview Station retail shops. The manholes are currently at a depth that ranges from 10 – 20 feet. Once the manholes were lowered to accommodate gravity sewer flow from the Business Park, they would range in depth from 20 – 34 feet.

Mr. Hollifield advised that, while working at a greater depth does present challenges, the City is no worse off in the adjusted state than it was at the original design depth. The current equipment owned by the City will allow it to dig to a depth of 10 feet maximum; therefore, the City would not have been able to reach the deepest area of the original design. Working beyond 10 feet in depth would require the City to contract with a utility contractor for excavation. It is also important to note that to work in a depth beyond 10 feet also requires a protective trench device that must be designed by a structural engineer. Mr. Hollifield said that the City would most certainly contract out a project in the depth range of 10 feet + due to trench safety requirements as well as equipment limitations.

Mr. Hollifield reported that the sewer lines that connect the manholes in question are specified to be ductile iron (DIP) and would carry gravity flow only. He said that he does not expect maintenance disasters like line breaks with the new line due to the fact that the pipes are not being used in a pressure capacity. Mr. Hollifield said that he would also propose that daily maintenance be performed using the City of Marion's Wastewater Treatment Plant jet rodder machine. The operation of the jet rodder should not be affected by the proposed adjustments.

Mr. Hollifield presented a visual presentation of the proposed plans and gave a further synopsis of how the proposed changes would work. He advised that the proposed cost of the work was $162,129, which is significantly cheaper than the $200,000+ cost of installing a pump station and the perpetual electrical and maintenance costs on a pump station.

AA.0000001038 (24)



MH #17
Relocated to avoid property line
Lowered 22 ft to depth of 34 ft
Originally located in Asphalt
Relocated in Grass

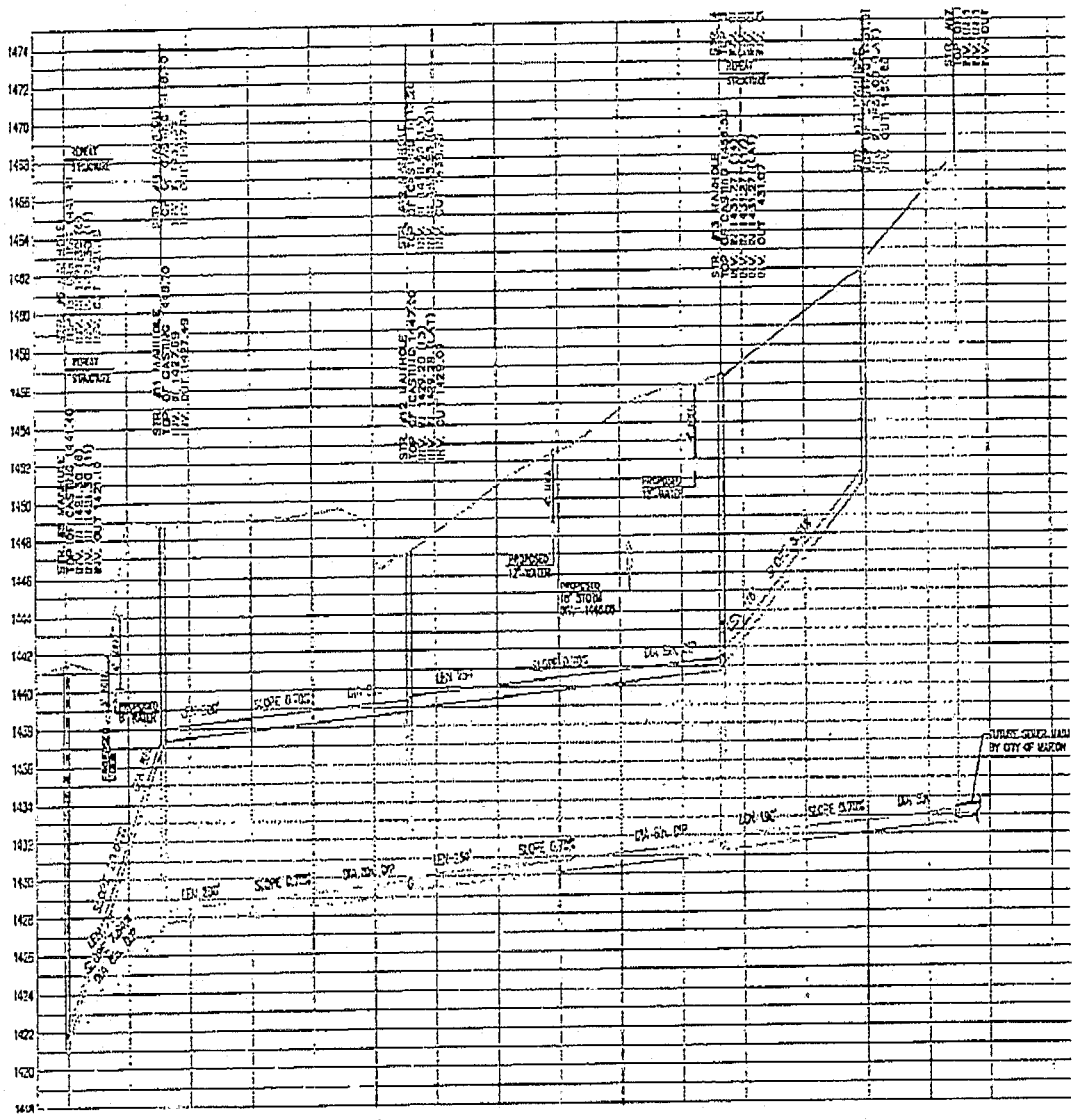
MH #13
Lowered 10 ft to depth of 25 ft
Located in Asphalt

MH #12
Lowered 10 ft to depth of 18 ft
Located in Asphalt

MH #11
Lowered 9 ft to depth of 20 ft
Located in Grass

MH #5
Lowered 1 ft to depth of 20 ft
Located in Asphalt

AA.000001039 (24)



Red indicates original design
Green indicates adjusted design to avoid PS
Yellow indicates additional excavation

Council Member Clark expressed concerns about the City being asked to approve a $162,129 expenditure without bids being taken. He said he understood that it would be difficult to ask the developer to take bids when they already have a contractor hired, but that he still found the process to be less than ideal. Council Member Clark also asked if McGill Associates had estimated the cost of the pump station that would not be needed as a result of this work. The City Manager stated that McGill had estimated a cost of $200,000. Mr. Hollifield added that McGill had not done detailed design on the pump station, since the idea to eliminate the pump station had been identified, but that he thought a pump station might run $300,000 or more, based on the City's past experience.

Council Member Clark stated that the City had to install pump stations in the past that were not needed, due to State regulatory interference, so it was certainly a good thing to avoid a pump station if possible. He suggested that the City receive a 40 foot permanent easement, in addition to a 40 foot temporary easement, given the depth of the line.

Mayor Little said that he thought the idea of a wider permanent easement was excellent.

Mayor Pro Tem Cuthbertson stated that the costs of a pump station would be forever, so the City's savings from eliminating a pump station would be far greater than just the initial cost of a pump station.

AA.000001040 (24)

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Martin, Council voted unanimously to approve the proposal from WRS and their contractor Clary Hood in the amount of $162,129.00 to complete work to lower the sewer line and manholes across the Wal Mart development on Sugar Hill Road, in an effort to eliminate a pump station and the associated $200,000+ cost, subject to the City receiving a 40 foot permanent easement from WRS across their development property.

CITY MANAGER REPORTS: The City Manager gave a brief report on current projects.

The City Manager advised that he and Planning and Development Director Heather Cotton met with DOT District Engineer Doug McNeal in late January about the Downtown Streetscape Plan. Mr. McNeal said DOT is ready to go out to bid on milling Main Street in the downtown area (from the South Main/Rutherford Road curve to the North Main/Logan curve) and spot milling on North Main Street out to the Legendary Ford building at the North Main/US 70 West intersection and on East Court Street to the railroad underpass east of the former Swift Galey building. This work would take place at night, to avoid disruptions to traffic and businesses. DOT would then resurface Main Street in the downtown area, except for the parking strip in which the City would be doing the concrete bumpout work, and all of North Main Street and East Court Street. Striping and signal modifications would then be done by DOT.

The City Manager said that the City would then complete the concrete bumpout work, assuming the bids come in within budget. The City would pave the parking strips and complete striping work, through a reimbursable agreement with DOT. As a final step, the City will complete the decorative crosswalk stamping at downtown intersections prior to the Mountain Glory Festival.

The City Manager said that he has asked DOT for advance notice of when the milling work will begin, so that the public can be identified. He said that DOT is currently seeking bids for such work, which may begin between March and June.

Council Member Clark asked if staff had talked about upcoming requirement on retro reflectivity of street and traffic signs.

Public Works Director Chris Hollifield stated that he was working on plan for implementation of this unfunded mandate, but had not yet received a quote. He said he anticipated the cost to be in the tens of thousands of dollars in a few years.

The City Manager stated that the City would obtain bids on the concrete bumpout work, after final approval of the Downtown Streetscape Plan by DOT.

The City Manager stated that he had a parking issue that the Street Committee would need to look at. Council agreed by consensus to refer this matter to the Street Committee for review.

The City Manager advised that City staff had recently installed locking bollards for the Greenway, to prevent vehicular access. The City has also installing the rules sign at the trail entrance, along with benches and trash cans.

The City Manager reported that the City is now the owner of the property for Phase 2 of the Greenway, after the deed for this property donation was signed by Byron Phillips on January 26. The Phillips family also extended the City's lease on property for the canoe launch site on the north side of the Catawba River off of Highway 221 North Business from 20 years to 30 years, which is important as a term of 25 or more years can be funded by the N.C. Parks and Recreation Trust Fund and count toward the City's grant match.

The City Manager advised that identification signs and signs prohibiting motorized vehicles have been installed on the Pea Vine Trail. He further advised that a local man is interested in taking

AA.000001041 (24)

down the trestle on the Pea Vine Trail, but that the City will first require the man to signing a hold harmless agreement, releasing the City from liability.

The City Manager advised that the City has pledges in the amount of $3,850 for the Roy Williams historic marker as of January 24. He said that the marker will be ordered in the near future, now that fundraising has been completed. No City funds will be used for the marker.

The City Manager stated that the Marion Business/McDowell Economic Development Association/City County Downtown Façade Grant Program had been launched that day, with two meetings held with property and business owners in the project area. Grants will be accepted until March 31. The City Manager noted that Council needed to appoint a City representative to serve on the Review Committee for the Façade Grant Program.

COUNCIL COMMENTS:

Mayor Pro Tem Cuthbertson advised that Ms. Terri Silver had asked when the annexation of her property on Yancey Road would take effect. The City Manager stated that he was projecting an effective date of March 31. Mayor Pro Tem Cuthbertson stated that he would pass on this information to Ms. Silver.

Council Member Doggett stated that someone had mentioned to her that better directional signage needed to be placed directing motorists to Historic Downtown Marion, as in places there are not such directional signs once motorists exit the Highway 221 Bypass. The City Manager stated that the wayfinding signs that would soon be installed included some "Welcome to Historic Downtown Marion" signs to be placed at the edge of the downtown area, but that additional DOT signs were needed. These additional signs would be part of a second phase of wayfinding signs to include I-40 and the Highway 221 Bypass.

Council Member Clark noted that he had seen in other states the placement of Business Interstate signs to direct motorists off of Interstates into cities and then back on the interstate. He said that he thought such an idea should be implemented in McDowell County.

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Council Member Owenby, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.000001042 (24)

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in a Special Meeting on Tuesday, February 8, 2011 at 6:00 P.M. in the City Hall Conference Room located at 194 North Main Street for the purpose of conducting a Planning Session.

BOARD MEMBERS PRESENT: Mayor Steve Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members Everette Clark, Juanita Doggett, Billy Martin and Cecil Owenby.

OTHERS PRESENT: Bob Boyette, City Manager

PLANNING SESSION: City Council held a Planning Session and discussed the following topics:

1. Economic Development Prospects
2. Sugar Hill Road Water and Sewer Extension
3. Joseph McDowell Historical Catawba Greenway Phase 2 Project
4. Community Development Block Grant Award for Eastfield Sidewalks
5. Cemetery Issues
6. Growth Priorities
7. Project Priorities/2011-12 Budget
8. Idea of Fire Sprinkler Line Monthly Service Charges
9. Idea of Not Issuing Small Refunds
10. Planning and Development Fee Schedule
11. Property/Liability Insurance
12. 911/Dispatching
13. Carson House Funding Request
14. Relay for Life Funding
15. Ideas for Water/Wastewater Grants

No action was taken on these items. Items requiring City Council action will be included in the 2011-12 or future budgets or placed on future City Council meeting agendas for consideration.

Council agreed to schedule the next City Council Planning Session for Tuesday, February 22, at 6:00 p.m. at City Hall.

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Council Member Owenby, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.000001043 (24)

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 15, 2011 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members Everette Clark, Juanita Doggett.
Billy Martin and Cecil Owenby.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, AICP, Planning and Development Director; Mark Brooks, Police Chief; Chris Hollifield, Public Works Director; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Abby Hollifield South Garden Street, Marion, NC 28752; Judson Wortman, Rutherford Electric Membership Corporation, 186 Hudlow Road, Forest City, NC 28020; Dirk Burleson, Rutherford Electric Membership Corporation, 186 Hudlow Road, Forest City, NC 28020; Douglas & Rita Stamey 228 Padgett Burns Road, Forest City, NC 28043.

OPEN MEETING: Mayor Little opened the meeting with a moment of silence.

CONSENT AGENDA: Upon a motion by Council Member Cuthbertson, seconded by Council Member Owenby, those members of Council present voted to approve the consent agenda as follows:

A. Approval of Minutes – February 1, 2011 Regular City Council Meeting Minutes or February 8, 2011 City Council Planning Session Minutes

B. Receive Certificate of Sufficiency – Silver-Yancey Road Annexation

CERTIFICATE OF SUFFICIENCY – SILVER/YANCEY ROAD ANNEXATION – 2011

To the City Council of the City of Marion:

I, J. Robert Boyette, City Clark, do hereby certify that I have 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 2nd day of February, 2011.

(Seal)

J. Robert Boyette, City Clerk

C. Adopt Resolution Fixing the Date of Public Hearing on the Question of Annexation – Silver/Yancey Road Annexation

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31 – SILVER/YANCEY ROAD - 2011

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

AA.000001044 (24)

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 contiguous area described herein will be held at City Hall at 7:00 P.M. on Tuesday, March 22, 2011.

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

TRACT ONE

BEGINNING on an iron pin, it being the Southeast corner of that certain lot of land described in a deed from Thurley F. Steppe to Troy Messer and wife, Hilda P. Messer, dated March 29, 1955, and which is recorded in Deed Book 132, at page 114, of McDowell County Deed Records, and runs thence N 21 E 188 feet to an iron pin; thence S 56 deg. and 30 min. E 50 feet to a iron pin; thence S 21 W 188 feet to an iron pin; thence N 56 deg. and 30 min. W 50 feet to the Beginning, let the same contain what it may.

TRACT TWO

BEGINNING on an iron stake, the Southeast corner of the tract of land described in a deed dated April 2, 1951, from Oliver S. Franklin to Helen F. Swofford, and also being located S 56 deg. and 30 min. E 200 feet from the Beginning corner of a tract of land described in a deed from Oliver S. Franklin to Olive F. Webster, dated April 2, 1951, and runs thence N 26 deg. 45 min. E 189 feet to an iron stake, the Northeast corner of the Helen F. Swofford lot; thence S 56 deg, 30 min. E 80 feet to an iron stake; thence S 21 W 188 feet to an iron stake; thence N 56 deg. 30 min. W 100 feet to the Beginning and being in all respects the same tract of land described in a deed from Oliver S. Franklin to Thurley F. Steppe, dated April 2, 1951, and recorded in Deed Book 116, at page 309 of McDowell County Deed Records.

Section 3. Notice of the public hearing shall be published once 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 the 15th day of February, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-11-02-15-1

D. Adopt Resolution Stating the Intent of the City of Marion to Annex Property Owned by the City Contiguous to the Existing Municipal Boundaries – Joseph McDowell Historical Catawba Greenway Phase 2:

RESOLUTION STATING THE INTENT OF THE CITY OF MARION TO ANNEX PROPERTY OWNED BY THE CITY WHICH IS CONTIGUOUS TO THE EXISTING MUNICIPAL BOUNDARIES – JOSEPH MCDOWELL HISTORICAL CATAWBA GREENWAY PHASE 2

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

Section 1. It is the intent of the City Council, pursuant to G.S. 160A-31, to annex the property described in Section 2, which is owned by the City of Marion.

Section 2. The legal description of the property is as follows:

AA.000001045 (24)

BEGINNING on an unmarked point located at the easternmost corner of that property conveyed to the City of Marion by that deed recorded in Book 1018 at Page 504, said unmarked point being also located at the top of the bank of the Catawba River, and running thence from said **BEGINNING** along the top of the bank at the edge of the Catawba River the following 56 calls and distances all to unmarked points: South 74 degrees 48 minutes 29 seconds East 45.94 feet, South 88 degrees 40 minutes 19 seconds East 44.24 feet, North 75 degrees 06 minutes 21 seconds East 123.77 feet, North 79 degrees 52 minutes 25 seconds East 43.09 feet, North 71 degrees 12 minutes 06 seconds East 36.07 feet, North 73 degrees 20 minutes 54 seconds East 43.94 feet, North 60 degrees 07 minutes 44 seconds East 57.49 feet, North 72 degrees 14 minutes 10 seconds East 40.30 feet, North 77 degrees 58 minutes 17 seconds East 41.88 feet, North 79 degrees 48 minutes 18 seconds East 51.95 feet, South 87 degrees 13 minutes 40 seconds East 34.01 feet, North 81 degrees 05 minutes 23 seconds East 49.41 feet, North 83 degrees 05 minutes 05 seconds East 51.21 feet, North 89 degrees 03 minutes 43 seconds East 48.88 feet, North 86 degrees 32 minutes 12 seconds East 51.45 feet, North 89 degrees 26 minutes 07 seconds East 42.97 feet, North 85 degrees 15 minutes 13 seconds East 33.75 feet, South 82 degrees 26 minutes 52 seconds East 41.30 feet, North 88 degrees 04 minutes 28 seconds East 47.43 feet, North 89 degrees 11 minutes 27 seconds East 36.95 feet, North 78 degrees 27 minutes 20 seconds East 20.25 feet, South 88 degrees 42 minutes 47 seconds East 38.63 feet, North 80 degrees 42 minutes 11 seconds East 33.01 feet, North 86 degrees 23 minutes 40 seconds East 33.15 feet, North 79 degrees 33 minutes 04 seconds East 35.94 feet, South 87 degrees 47 minutes 21 seconds East 39.56 feet, North 82 degrees 34 minutes 00 seconds East 31.88 feet, North 85 degrees 27 minutes 51 seconds East 33.47 feet, North 86 degrees 09 minutes 07 seconds East 43.31 feet, North 76 degrees 50 minutes 03 seconds East 40.69 feet, South 86 degrees 55 minutes 24 seconds East 36.00 feet, North 80 degrees 57 minutes 44 seconds East 25.79 feet, North 84 degrees 44 minutes 16 seconds East 31.97 feet, South 81 degrees 09 minutes 47 seconds East 31.55 feet, North 85 degrees 43 minutes 43 seconds East 34.18 feet, North 86 degrees 11 minutes 56 seconds East 36.21 feet, North 78 degrees 10 minutes 44 seconds East 20.87 feet, North 87 degrees 25 minutes 40 seconds East 28.84 feet, South 85 degrees 17 minutes 03 seconds East 22.61 feet, North 82 degrees 10 minutes 43 seconds East 34.31 feet, North 82 degrees 37 minutes 24 seconds East 31.73 feet, North 84 degrees 55 minutes 29 seconds East 39.21 feet, North 83 degrees 48 minutes 02 seconds East 50.07 feet, North 82 degrees 07 minutes 18 seconds East 47.80 feet, North 87 degrees 21 minutes 29 seconds East 33.95 feet, North 69 degrees 17 minutes 46 seconds East 41.90 feet, North 85 degrees 19 minutes 11 seconds East 32.79 feet, South 82 degrees 03 minutes 35 seconds East 27.36 feet, South 87 degrees 18 minutes 31 seconds East 18.44 feet, South 83 degrees 10 minutes 46 seconds East 32.65 feet, South 77 degrees 27 minutes 56 seconds East 7.90 feet, South 66 degrees 09 minutes 01 seconds East 14.81 feet, South 84 degrees 13 minutes 16 seconds East 26.28 feet, South 70 degrees 12 minutes 36 seconds East 18.79 feet, North 71 degrees 36 minutes 59 seconds East 10.01 feet, North 51 degrees 14 minutes 05 seconds East 6.10 feet and North 86 degrees 16 minutes 19 seconds East 11.04 feet; said unmarked point being the current boundary of the City of Marion corporate limits; thence leaving the edge of the Catawba river and running along the current boundary of the Marion corporate limits South 16 degrees 19 minutes 25 seconds East 13.62 feet to a 5/8-inch rebar set and South 01 degrees 52 minutes 37 seconds East 69.14 feet to a 5/8-inch rebar set bearing the following coordinates: N=726,090.853 feet and E=1,098,534.808 feet; thence the following 17 courses and distances, new lines, all to 5/8-inch rebars set: North 75 degrees 02 minutes 51 seconds West 65.76 feet, North 79 degrees 18 minutes 36 seconds West 70.83 feet, North 87 degrees 13 minutes 26 seconds West 59.57 feet, South 70 degrees 54 minutes 56 seconds West 47.12 feet, South 83 degrees 52 minutes 52 seconds West 244.09 feet, North 89 degrees 00 minutes 46 seconds West 45.14 feet, South 84 degrees 18 minutes 59 seconds West 103.31 feet, North 89 degrees 56 minutes 59 seconds West 114.66 feet, South 82 degrees 47 minutes 17 seconds West 152.43 feet, South 85 degrees 19 minutes 44 seconds West 138.70 feet, South 88 degrees 49 minutes 01 seconds West 360.86 feet, South 82 degrees 30 minutes 42 seconds West 215.27 feet, South 64 degrees 55 minutes 55 seconds West 89.29 feet, South 74 degrees 50 minutes 08 seconds West 263.79 feet, North 88 degrees 19 minutes 35 seconds West 60.65 feet, North 78 degrees 24 minutes 04 seconds West 52.62 feet, and North 13 degrees 31 minutes 05 seconds East 67.79 feet to the point and place of **BEGINNING.**

Section 3. The property described in Section 2 is contiguous to the current municipal boundaries.

Section 4. A public hearing on the question of annexation of the contiguous area described herein will be held at the Marion City Hall located at 194 North Main Street in Marion 7:00 P.M. on Tuesday, March 22, 2011.

Section 5. Notice of the public hearing shall be published once 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 the 15th day of February, 2011.

Stephen R. Little, Mayor

AA.00001046 (24)

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-11-02-15-2

E. Approve Resolution Directing the Clerk to Investigate the Sufficiency of a Petition for Annexation – Haney/US 70 East - Annexation

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-58.1 – HANEY PROPERTY – US 70 EAST - 2011

WHEREAS, a petition requesting annexation of an area described in said petition was received on February 2, 2011 by the City of Marion; and

WHEREAS, 160A-58.2 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 of his investigation.

Adopted this the 15th day of February, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-11-02-15-3

F. Receive Certificate of Sufficiency – Haney/US 70 East Annexation

CERTIFICATE OF SUFFICIENCY – HANEY PROPERTY – US 70 EAST - 2011

To the City Council of the City of Marion:

I, J. Robert Boyette, City Clark, do hereby certify that I have 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-58.1.

In witness whereof, I have hereunto set my hand and affixed the seal of the City of Marion this the 2nd day of February, 2011.

(Seal)

J. Robert Boyette, City Clerk

AA.000001047 (24)

G. Adopt Resolution Fixing the Date of Public Hearing on the Question of Annexation – Haney/US 70 East Annexation

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-58.1 – HANEY PROPERTY/US 70 EAST-2011

WHEREAS, a petition requesting annexation of the non-contiguous 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 non-contiguous area described herein will be held at City Hall at 7:00 P.M. on Tuesday, March 22, 2011.

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

BEING ALL OF THOSE TWO CERTAIN TRACTS OF LAND as recorded in Deed Book 199, at Page 155 and Deed Book 466, at Page 419 of the McDowell County Deed Registry, containing a total of 0.80 acre and being more fully described by metes and bounds per new unrecorded plat of survey as follows:

BEGINNING on a point in the centerline of U.S. Hwy. 70, the same being the Southwest corner of tract recorded in Deed Book 199, at Page 156 of the McDowell County Deed Registry and also being the Southeast corner of the Harris lands as described in Deed Book 267, at Page 730 of the McDowell County Deed Registry, and runs thence, with the Harris line (Book 267, at Page 730 and Book 270, at Page 638), North 40 degrees 30 minutes 00 seconds West 339.50 feet, passing an iron pin found on line at 17.14 feet to a PK nail set in the centerline of Conley Road, State Road No. 1536; thence, with said centerline North 36 degrees 42 minutes 03 seconds East 102.18 feet to a PK nail set; thence, leaving said centerline and with the line of Vallini (Book 411, at Page 859), South 40 degrees 30 minutes 00 seconds East 362.14 feet, passing an iron pin found on line at 344.99 feet to a point in the centerline of U.S. Hwy. 70; thence, with said centerline, South 49 degrees 30 minutes 00 seconds West 99.64 feet to the **BEGINNING**, containing 0.80 acre. ALL CALLS USED in this description were taken from an unrecorded plat of survey prepared by C & R Surveying, dated May 31, 1995, numbered C-4195, entitled "Survey for Floyd & Debra Bradford", hereby incorporated by reference as if fully set out.

SUBJECT TO the right of way for U.S. Hwy. 70 and State Road No. 1536, Conley Road, to each of their full legal widths

AND BEING the same property described and conveyed in Deed Book 811 at Page 891 of the McDowell County Deed Registry.

Section 3. Notice of the public hearing shall be published once 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 the 15th day of February, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-11-02-15-4

H. Approve Waiver for Penalty for Civil Citation - Council approved waiving the $10.00 penalty for a civil citation received my Ms. Margaret Love for overtime parking on Court Street.

AA.00001048 (24)

Ms. Love's handicapped placard had fallen down and was not visible. Ms. Love provided evidence that she has a valid handicapped placard.

I. Approve Personnel Policy Amendment

City of Marion
Personnel Policy Amendment

The Personnel Policy of the City of Marion, as adopted on February 21, 2006, is hereby amended as follows:

Section 1. That Article V, The Pay Plan, Section 13. Longevity Pay – Pay Amounts is amended by deleting the first paragraph in its entirety and replacing it with the following:

Pay Amounts

Annual longevity pay amounts are based on the length of consecutive years of service with the City of Marion. For employees with hire dates prior to February 15, 2011, amounts shall be computed in the following manner:

Article V, The Pay Plan, Section 13. Longevity Pay – Pay Amounts is further amended by adding the following as the last paragraph in the section:

For employees with hire dates after February 15, 2011, pay amounts shall be computed as $50 per year for each year of service with the City of Marion.

Section 2. This amendment shall become effective on February 15, 2011.

Adopted this the 15th day of February 2011.

Stephen R. Little, Mayor

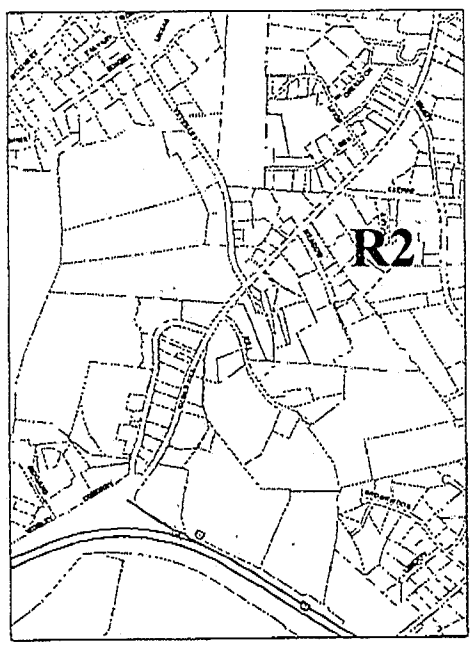
ATTEST:

J. Robert Boyette, City Manager/Clerk

Policy Number: P-11-02-15-1

PUBLIC HEARING – ZONING MAP AMENDMENT – ASSIGN ZONING TO SUGAR HILL ROAD AND MARION RETAIL INVESTMENT/WAL-MART SUPERCENTER ANNEXATION AREAS: Planning and Development Director Heather Cotton advised that City Council recently adopted Ordinance Numbers 10-11-16-1 and 11-01-04-1 extending the corporate limits of Marion to include the Wal-Mart Supercenter development as well as properties that border Sugar Hill Road. Council now needs to adopt an ordinance to assign zoning to these newly annexed areas.

Ms. Cotton advised that the purpose of the recommended ordinance is to assign a zoning designation to the annexed areas that will be most compatible with the existing uses within the area and provide a mechanism to regulate such uses. Based on Marion City Code, the annexation area is most compatible with Section 21-205 *C-2 General Business Zoning District.* The C-2 General Business Zoning District is established as a district where the principal use of land is for commercial purposes.



Ms. Cotton reported that the newly annexed area also includes a concentration of residential properties

AA.000001049 (24)

on the northeastern end of Sugar Hill Road and Lukin Street. Staff is proposing that this area be assigned the R-2 General Residential Zoning District. She said that some of these properties along Sugar Hill Road will most likely transition into commercial in the future as utilities are expanded, and properties are sold for commercial uses. Staff is currently evaluating this corridor within the comprehensive land use study and opportunities for improving the transition of residential to commercial uses in this and similar areas.

Ms. Cotton advised that staff had recommended assigning R-2 General Residential zoning to the northern part of the Sugar Hill Road annexation areas and C-2 General Business zoning to the southern part of the annexation areas. The Planning Board approved staff's recommendation at their February 3, 2011 meeting.

Mayor Little opened the Public Hearing.

Mr. Doug Stamey asked when the water and sewer installation would get started on Sugar Hill Road.

The City Manager stated that construction would hopefully start within 60 days. He noted that it is the City's goal to make water service available to the Wal-Mart development by July 1 and sewer available to the Wal-Mart development by August 1. The City Manager stated that service to properties off of Sugar Hill Road may take a little longer.

Mayor Little stated that it is the City's desire to extend water and sewer service as soon as possible and to try to comply with Wal-Mart's timeline if at all possible.

Mr. Dirk Burleson of Rutherford Electric Membership Corporation stated that Rutherford EMC owns the old Sugar Hill Road Truck Stop that will be served by City water and sewer. He commended City Manager Bob Boyette and Public Works Director Chris Hollifield for the way they have worked with his company and provided information and help with the water and sewer project.

The City Manager thanked Mr. Burleson for his assistance.

Mayor Little stated that he would also like to thank Doug and Rita Stamey for being present for this meeting and stated that it is always a pleasure to deal with Stamey Chrysler Dodge Jeep.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Doggett, seconded by Mayor Pro Tem Cuthbertson, those members of Council present voted to amend the Official Zoning District Map to assign the R-2 General Residential and C-2 General Business Zoning District designation to the Sugar Hill Road Annexation Area and the Marion Retail Investment/Wal-Mart Supercenter Annexation Area as follows:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
SUGAR HILL RD/WALMART SUPER CENTER

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to include the Sugar Hill Rd. Annexation Territory adopted by City Council on January 4, 2011 Ordinance Number O-11-01-04-1 and the Marion Retail Investment/Walmart Super Center Annexation adopted by City Council on November 16, 2011 Ordinance Number O-10-11-16-1,

AA.000001050 (24)

Section 3: The City of Marion is assigning the R-2 General Residential and C-2 General Business Zoning Districts to the newly incorporated areas as indicated on the amended Official Zoning District Map attached hereto as Exhibit A.

Section 4. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 5. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing on February 3, 2010.

Section 6. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 7. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 8. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 9. This ordinance shall become effective upon its adoption.

Adopted this the 15st day of February 2011.

Stephen R. Little
Mayor

ATTEST:
J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-11-01-15-1

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present for this meeting wishing to speak to Council.

REVIEW/CONSIDER AWARD OF CONTRACT – PURCHASE OF PUMPS AND EQUIPMENT FOR SUGAR HILL ROAD WATER AND SEWER EXTENSION: The City Manager stated that, as shown on information presented to Council, the City opened bids recently for the purchase of pumps and generators for the pump stations to be constructed as part of the Sugar Hill Road Water and Sewer Extension Project. This project was broken into two contracts, Contract One (the extension needed to serve the Wal Mart Supercenter and related retail shops) and Contract Two (including additional extensions to serve the West Marion Business Park and Stamey Chrysler Dodge Jeep. The City Manager stated that the City took pump and generator bids separately to speed up the project to meet Wal Mart's stated deadlines for water and sewer service being available.

The low bids were as follows:

Contract One

Pumps – Carolina Pumpworks	$57,477.00
Generators – Nixon Power Services	$45,674.00
Subtotal	$103,151.00

Contract Two

Pumps – Carolina Pumpworks	$20,682.00
Generators – Nixon Power Services	$20,914.00
Subtotal	$41,596.00

AA.00001051 (24)

Total, Contracts One and Two	$144,747.00

The City Manager advised that McGill has worked successfully with both companies and recommends award of the contracts to the low bidders, as stated above. The City Manager added that, unfortunately, the City does not yet have the approval of the U.S. department of Agriculture to award any contacts. Therefore, the City Manager asked that Council agree for the City to proceed with the purchase of the equipment. The final contract award and payments to the low bidders would not occur until the City is given the go-ahead by USDA. Hopefully USDA approval will be received in time for an official contract award in March

The City Manager advised that in the meantime, the low bid companies have agreed to provide McGill with shop drawings to make sure the equipment to be supplied fully meets City specifications. This process will take about two weeks, so the City will lose not time.

It was the consensus of those members of Council present to approve the low bids for the purchase of pumps and generators for the Sugar Hill Road water and sewer extension, subject to final USDA approval, as follows:

Contract One

Pumps – Carolina Pumpworks	$57,477.00
Generators – Nixon Power Services	$45,674.00
Subtotal	$103,151.00

Contract Two

Pumps – Carolina Pumpworks	$20,682.00
Generators – Nixon Power Services	$20,914.00
Subtotal	$41,596.00
Total, Contracts One and Two	$144,747.00

Formal action by Council will need to take place at a future meeting, after USDA approval occurs.

CONSIDER APPROVAL OF REVISED ELECTIONS AGREEMENT WITH McDOWELL COUNTY: The City Manager advised that, as previously reported, the McDowell County Board of Elections recently informed the County that a new elections agreement is needed between the City and County, due to changes in State law and the standard election agreement template.

The City Manager presented Council with a copy of the proposed agreement, preceded by a memo and e-mail from the Board of Elections and information from County Manager Chuck Abernathy.

The City Manager stated that County Elections Director Kim Welborn noted in her e-mail that the major change is limiting the County's charges to the City to only the actual cost of the election. The annual cost of salaries has been excluded from the document. The County has been charging the City for compiling the list of voters, something Board of Elections Member Jack Wood said the County now gets for free from the State. The agreement no longer mentions the City paying for this information.

AA.00000105Z (24)

The City Manager also presented Council with a copy of a memo from the County Manager to the County Commissioners, describing this agreement as routine. The County Commissioners approved this agreement in January and Council approval of the agreement is now requested.

Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Cuthbertson, those members of Council present voted to approve the Elections Agreement between the City of Marion and McDowell County as follows:

NORTH CAROLINA
MCDOWELL COUNTY

MUNICIPAL AGREEMENT

THIS AGREEMENT made and entered into this the 17th day of January, 2011 by and between the City of Marion, A municipal corporation hereinafter referred to as "Municipality" and the McDowell County Board of Elections hereinafter referred to as "Board of Elections" and the McDowell County Board of Commissioners hereinafter referred to as "Commissioners".

WITNESSETH

THAT, WHEREAS, The above named Municipality will continue its agreement with the Board of Elections to conduct its future municipal elections; and

WHEREAS, the Board of Elections will conduct said municipal elections upon proper execution of this Agreement; and

WHEREAS, Parties to this agreement acknowledge that fair and accurate elections cannot take place without the Board of Elections receiving accurate and complete voting district and voting schedule information from the Municipality sufficiently in advance of the election to assign voters properly; and

WHEREAS, when contracting with a county board of elections for the conduct of its elections, a municipality is required to pay the actual cost of conducting said election. For budgeting purposes, however, the Board of Elections understands that it would benefit municipal officials to have the most accurate estimate of costs possible for allocation of budget revenues.

Barring new laws, annexations, districting, redistricting, ward changes, and other changes by the Municipality and other variables, the Board of Elections does not anticipate the cost of each succeeding election to increase more than ten percent. If it learns that the increase will exceed ten percent, the county board of elections will notify the Municipality as soon as they are aware. The Board of Elections, therefore, estimates that the current year's municipal election costs will not be likely to increase more than ten percent of its most recent odd-numbered election costs billing.

To determine the ten percent estimated increase; the Municipality should refer to is files for the most recent odd-numbered–year election billing with comprehensive sheet showing complete and detailed related charges billed and explanations as to arrival at prorate charges.

NOW, THEREFORE, IT IS MUTALLY UNDERSTOOD AND AGREED BETWEEN THE PARTIES HERETO THAT:

1) The Board of elections shall conduct all elections required by law or duly called by said Municipality, all as by law provided.

2) It is the responsibility of the municipality to provide the Board of Elections with clear and accurate maps, districts, municipal lines, government changes, and proof of preclearance. The

AA.000001053 (24)

Board of Elections cannot assure voters are properly assigned to districts without accurate information to all facts necessary to conduct an election, promptly but in no event less than 90 days before filing begins. A form provided by the Board of Elections will be sent to the Municipality in advance of the filing date giving all information as to the form of government, the offices to be elected and all other dates and relevant election information. This form must be signed by the mayor, city manager, or other designated official and returned to the Board of Elections 30 days before filing begins.

3) The Municipality shall pay to the Board of Elections the actual cost of conducting an election within thirty days of receipt of billing, subject to the setoff of retained filing fees and all funds shall be deposited in the McDowell County General Fund. Actual costs of an election shall include, but is not limited to all expenses, travel, actions, and labor in the preparation for and conduct of all primaries, runoffs, and elections. Actual costs shall also include expenses, transportation, and labor costs for elections protests, petition examinations, and petition certification that may arise from the election. The Board of Elections shall not be responsible for any expenses arising from litigation from a municipal election, except as to allegations that the Board failed to follow the instructions of the Municipality as to the election or was negligent in the conduct of the election. In addition, if the Municipality requires annexation activation, ward defining, districting, or redistricting work, actual costs will be charged by the Board of Elections to the Municipality in the year of municipal elections. Reference should be made to previous billings for estimated cost of such work that may include mailing of annexation notifications, required overtime of staff and related cost of supplies. The Municipality shall be entitled to a detailed billing for the incurred costs.

4) If the Board of Elections conducts an election for said Municipality simultaneously with a countywide election, all actual expenses incurred for conducting the municipal election in excess of the cost for the countywide election shall be reimbursed by said Municipality to the Board of Elections.

5) The number of and compensation of poll workers and voting machine technicians, along with election preparations and training and programming of voting machines, as well as other matters directly related to any election, shall be determined according to federal election laws, North Carolina Administrative Code and General Statutes of North Carolina by the State Board of Elections and the McDowell County Board of Elections.

6) The North Carolina State Board of Elections and the McDowell County Board of Elections have jurisdiction over election matters. Therefore, any questions or problems concerning election, including billing, should be brought directly to the McDowell County Board of Elections for resolution. If not resolved satisfactorily within a reasonable or statutory period, appeals may be made to the North Carolina State Board of Elections under the provisions of NCGS 163-285.

7) All municipal filing fees paid to the Board of Elections shall be deposited to the general fund of McDowell County and deducted from the Municipality's election costs. The Municipality will be provided exact written information as to the fees collected.

8) The term of this Agreement shall be for a two-year period, commencing on the 17th day of January, 2011 and terminating on January 16, 2013. The term of this Agreement shall be automatically extended for successive two (2) year periods unless either party provides verified hand delivered notice to the other party of its intent to terminate the agreement no later than the first day of December of the year prior the termination is to be effective.

9) If the Municipality desires to allow absentee voting in its elections or to eliminate absentee ballots, it shall be the responsibility of the Municipality to comply with the provisions of NCGS 163-302.

AA.000001054 (24)

IN TESTIMONY WHEREOF, said Municipality has caused this instrument to be executed in its corporate name by its Mayor, its Official Seal to be affixed and attested by its Clerk, and the McDowell County Board of Elections has caused this instrument to be executed in its name by all members and attested by its Director in duplicate originals, the day and year first above written; one duplicate original to be retained by each of the parties hereto.

THIS, THE 18th DAY OF January, 2011.

CITY OF MARION
BY_____
_____, MAYOR
ATTEST:

_____
_____, CLERK
(Municipal Seal)

APPROVED

_____
_____MUNICIPAL ATTORNEY

MCDOWELL COUNTY BOARD OF ELECTIONS

BY_____
_____, CHAIRMAN
_____, SECRETARY
_____, MEMBER
ATTEST:

_____
_____,DIRECTOR
APPROVED

_____
_____COUNTY ATTORNEY

MCDOWELL COUNTY BOARD OF COMMISSIONERS

BY_____
_____,CHAIR

Council Member Doggett asked what the City's election costs averages. The City Manger stated that the City's average costs are approximately $5,000 to $6,000 per year.

APPOINT CITY REPRESENTATIVE TO FAÇADE GRANT REVIEW COMMITTEE:
The City Manager advised that in recent meetings to discuss the expanded Downtown Façade Grant Program, the City, County, Marion Business Association and McDowell Economic Development Association representatives proposed having each participating organization appoint one person to serve on a review committee for Façade Grant applications. In addition, it was suggested that one additional at-large committee member be appointed. Kathy Rabb's name has been mentioned for this at-large position, given her vast experience with reviewing Façade Grant applications in the past.

The City Manager stated that he, Marion Business Association Executive Director Freddie Killough and County Manager Chuck Abernathy would provide advice and assistance to the committee, but would not vote on awards. He stated that Council action is needed to appoint a City representative to the Façade Grant Review Committee and to suggest an at-large appointment, if so desired.

AA.000001055 (24)

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Martin, those members of Council present voted to appoint Council Member Doggett as the City representative on the Façade Grant review Committee.

Council Member Owenby asked who could apply for the grants, property owners or tenants. The City Manager advised that either property or business owners could apply, but the property owner would have to sign and approve the application.

Upon a motion by Council Member Owenby, seconded by Council Member Martin, those members of Council present voted to appoint Ms. Kathy Rabb as a Community At-Large representative on the Façade Grant Review Committee, subject to concurrence by the Marion Business Association, McDowell County and McDowell Economic Development Association.

ADD ON – RESOLUTION AUTHORIZING SUBMISSION OF STATE REVOLVING FUND WASTEWATER GRANT: The City Manager stated that, as previously reported, the City's best possible project for the upcoming State Revolving Fund wastewater cycle is the extension of sewer service to the south side of I-40 on Sugar Hill road to serve the Marion Travel Plaza and possibly other properties as well. A Preliminary Engineering Report is not required for the grant application, which is due February 15. Therefore, the costs of initial application should be minimal.

The City Manager stated that Council adoption of a resolution was needed to authorize the submission of this grant application.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Martin, those members of Council present voted to adopt the following resolution, authorizing submission of a State Revolving Fund Application:

RESOLUTION BY CITY COUNCIL OF THE CITY OF MARION

WHEREAS, The Federal Clean Water Act Amendments of 1987 and the North Carolina the Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of a wastewater collection system and,

WHEREAS, The City of Marion has need for and intends to construct a wastewater collection system project described as the construction of a wastewater pump station and force main in order to decommission a non-compliant wastewater treatment plant and provide connection to the wastewater system of the City of Marion,

WHEREAS, The City of Marion intends to request State loan and/or grant assistance for the project,

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

That the City of Marion the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State loan and/or grant award.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the (unit of government) to make scheduled repayment of the loan, to withhold from the (unit of government) any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

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

AA.000001056 (24)

That Stephen R. Little, Mayor, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a (loan or grant) to aid in the construction of the project described above.

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

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the15th day of February, 2011 at Marion, North Carolina.

(Signature of Chief Executive Officer)

(Title)

Resolution Number: R-11-02-15-5

ADD ON – MARCH CITY COUNCIL MEETING DATE: The City Manager advised that Council's next two regular scheduled meeting will be March 1 and March 15. He noted that Mayor Little will be attending, as well as paying his own way, the National League of Cities meeting in Washington, D.C. and will be out of town for the March 15 meeting.

Mayor Little stated that Council could go ahead and meet on March 15 or reschedule the meeting until March 22, when he would be back in town.

Upon a Motion by Council Member Martin, seconded by Council Member Owenby, those members of Council present voted to reschedule the second City Council meeting in March from March 15 to March 22.

CITY MANAGER REPORTS: The City Manager gave a brief report on current projects.

The City Manager presented information on the change in position from the N.C. Department of Environment and Natural Resources Public Water Supply Section regarding water fluoridation. As previously reported, the U.S. Department of Health and Human Services recently recommended that the level of water fluoridation be lowered to 0.7 milligrams per liter (parts per million) from a range of 0.7 to 1.2 milligrams per liter. The State is now recommending a range of 0.7 to 1.0 milligrams per liter. In order for the City not to risk falling below the minimum level of 0.7 milligram, staff has set the fluoride level at 0.8 milligrams per liter, to give the City some leeway. The City Manager advised that this change will be implemented immediately and will save the City money on chemical costs.

The City Manager advised that City staff have installed locking bollards for the Greenway, to prevent vehicular access. Staff also installed a rules sign at the trail entrance. All the benches for Phase 1 of the Greenway (6) and the Round Hill spur trail (4) have been sponsored. Six of the benches have been installed and four more are being ordered.

The City Manager noted that Planning and Development Director Heather Cotton submitted the City's N.C. Parks and Recreations Trust Fund (PARTF) grant for Phase 2 of the Greenway in late January. However, it appears that the State will take funds appropriated for recreational grants, making it very likely that funding for the greenway will have to wait until at least next year.

The City Manager advised that the kickoff meeting for the McDowell County Comprehensive Transportation Plan will be held on Wednesday, February 23 at 12:00 Noon at the Community

AA.000001057 (24)

Building. As previously reported, this Plan will be completed for the City, County and Town by DOT with assistance from the Isothermal RPO at no cost to local governments. The City Manager suggested that it may be good for the Street Committee to be involved in these meetings, if so desired. Mayor Little and Council Members agreed by consensus for the Street Committee to work with staff and interested Planning Board members on this process. Recommendations will be brought back to Council as decisions need to be made.

The City Manager further advised that the Isothermal RPO wanted input on projects for the DOT 10-15 year Transportation Improvement Plan work plan. Mayor Little and Council Members agreed by consensus for the Street Committee to work with staff and interested Planning Board members on this process. Recommendations will be brought back to Council as decisions need to be made.

COUNCIL MEMBER COMMENTS: Mayor Pro Tem Cuthbertson asked about the meeting at the YMCA the following day concerning the YMCA's recently completed Community Healthy Living Index (CHLI). Planning and Development Director Heather Cotton advised that the meeting would be an unveiling of the CHILI Assessment and that she would present the City's recently completed Safe Routes to School Plan. Mayor Little, Mayor Pro Tem Cuthbertson, Council Member Doggett, Ms. Cotton and the City Manager all indicated that they planned to attend this meeting.

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Council Member Doggett, those members of Council present voted to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in a Special Meeting on Tuesday, February 22, 2011 at 6:00 P.M. in the City Hall Conference Room located at 194 North Main Street for the purpose of conducting a Planning Session.

BOARD MEMBERS PRESENT: Mayor Steve Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members Juanita Doggett, Billy Martin and Cecil Owenby.

Council Member Everette Clark was not present due to being out of town.

OTHERS PRESENT: Bob Boyette, City Manager

PLANNING SESSION: City Council held a Planning Session and discussed the following topics:

1. 911/Dispatching

AA.000001058 (24)

2. Use of Mt. Ida Tower Rents
3. Possible Purchase of Sprayer for Downtown Hanging Baskets
4. Request by Pendergraph Company for City Infrastructure Assistance for Proposed Multi-Family Development on North Main Street
5. Discuss Property Sale
6. Idea to Not Pay for Meals for Travel Unless Overnight Travel is Involved
7. Request to Allow Concealed Weapons on Greenway
8. Powell Bill Street Changes
9. Idea from Council Member Clark for City to Open up a Drive/Street from State/Main intersection Beside Old Jong's and Heileg Myers Buildings
10. Sign Ordinance
11. Marion 101`Citizens Academy
12. Clinchfield Park

No action was taken on these items. Items requiring City Council action will be included in the 2011-12 or future budgets or placed on future City Council meeting agendas for consideration.

Council agreed to schedule the next City Council Planning Session/Budget Workshop for late May or early June to review the proposed 2011-12 City budget. The exact date and time of this session will be set at a Regular City Council meeting.

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Council Member Doggett, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, March 1, 2011at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members A. Everette Clark, Juanita Doggett, Billy Martin and Cecil Owenby.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Mark Brooks, Police Chief; Chris Hollifield, Public Works Director; Matt Huggins, Police Officer; Daniel Hoskins, Police Officer, Tim Cox, Police Officer; D.J. Barrier, Police Corporal; Lucrica Reinhardt, Utility Collections Clerk; Mike Conley, News Reporter, McDowell News.

AA.000001059 (24)

GUESTS PRESENT: Terry Young, McDowell County Emergency Management Director; John & Debra Bailey, Marion, NC; Bo Daniels, Marion, NC; Jeremy Suttles and Kellie Ewart, 671 East Court Street, Marion, NC; Ethan Patrick, Marion, NC; Linda King 245 5th Street, Marion, NC.

Mayor Little opened the meeting with a moment of silence.

CITIZEN OF THE MONTH – Mayor Little announced that the Citizen of the Month presentation would be held over until the April 5 City Council meeting, at which time Council Member Billy Martin will present the next Citizen of the Month.

CONSENT AGENDA: Upon a motion by Council Member Owenby, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – February 15, 2011 Regular City Council Meeting Minutes and February 22, 2011 City Council Planning Session Minutes

B. Approve Reimbursement Resolution – Sugar Hill Road Water and Sewer Extension Project

RESOLUTION DECLARING THE INTENT TO REIMBURSE EXPENDITURES – SUGAR HILL ROAD WATER AND SEWER EXTENSION PROJECT

WHEREAS, the City Manager has described to the City Council the desirability of adopting a resolution, as provided under federal tax law, to facilitate the City's using financing proceeds to restore the City's funds when the City makes capital expenditures prior to closing on a bond issue or other financing.

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

1. The project is for the City of Marion Sugar Hill Road Water and Sewer Extension Project.

2. The project is to be financed. The currently expected type of financing is an installment financing contract as allowed for under N.C.G.S 160A-20. The currently expected maximum amount of bonds or other obligations to be issued or contracted for the project is $1,102,125.

3. Funds that have been advanced, or may be advanced from the Water and Sewer Fund, the Water and Sewer Capital Reserve Fund, the General Fund or the General Capital Reserve Fund for project costs are intended to be reimbursed from the financing proceeds.

Adopted this 1st day of March, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-11-03-01-2

INTRODUCTION OF NEW EMPLOYEES: Police Chief Mark Brooks introduced new Police Officers Matt Huggins, Daniel Hoskins and Tim Cox. All are sworn officers who are off to a great start with the City.

AA.000001060 (24)

Finance Director Harriett Thomas introduced new Utility Collection Clerk, Ms. Lucrica Reinhardt. Ms. Reinhardt replaced Libb Whitseide, who retired last fall, and is also off to a great start with the City.

Mayor Little and Council Members welcomed Mr. Huggins, Mr. Hoskins, Mr. Cox and Ms. Reinahrdt and wished them well in their service with the City.

PUBLIC APPEARANCE – ANNETTE BRYANT: Ms. Annette Bryant appeared before Council and thanked them for the beautiful Christmas Lights that were displayed this past Christmas season in Downtown Marion.

Ms. Bryant stated that she went out on Christmas Day and enjoyed taking pictures in the downtown area. As a token of appreciation; she presented Mayor Little, Council Members and the City Manager with a coffee mug displaying the various scenes she captured while walking the downtown.

Mayor Little thanked Ms. Bryant and stated that this was very kind of her, adding that she is a great photographer.

PUBLIC HEARING – ADOPTION OF RESOLUTION TO AUTHORIZE APPLICATION TO LOCAL GOVERNMENT COMMISSION FOR APPROVAL OF FINANCING FOR SUGAR HILL ROAD WATER AND SEWER EXTENSION AND ADOPTION OF RESOLUTION APPROVING FINANCING AGREEMENT WITH BB&T FOR SAID PROJECT: The City Manager advised that State law requires local governments to obtain approval from the N.C. Local Government Commission (LGC) before entering into loans for construction projects. Therefore, such approval is needed for financing for the Sugar Hill Road Water and Sewer Extension Project. The City Manager stated that the City is seeking to finance $1,102,225 for this $2.4 million project. The other $1.3 million in funding will come from a North Carolina Rural Center Grant and a Federal Appalachian Regional Commission grant.

Finance Director Harriett Thomas reported that bids were sought from nine banks. Responses were received from three banks. Mountain First Bank withdrew their proposal, because they could not provide government rates. Carolina First Bank did not meet the specifications in the request for proposals. Therefore, the only qualifying proposal was received from BB&T, with an interest rate of 3.31 percent for a ten year loan term. Ms. Thomas stated that staff recommended Council adoption of a resolution approving the proposal from BB&T, subject to LGC approval.

The City Manager advised that a public hearing is required on the City's application for financing of this project. After the public hearing, Council adoption of a resolution is needed to authorize staff to submit an application to the LGC for approval of financing for the Sugar Hill Road Water and Sewer Extension Project.

Mayor Little opened the Public Hearing.

There were no citizens present to discuss this item.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Clark , seconded by Council Member Martin, Council voted unanimously to approve the following resolution approving the proposal from BB&T to finance $1,102,225 for the City's Sugar Hill Road Water and Sewer Extension Project over ten years, at an interest rate of 3.31 percent, and approving the following resolution authorizing staff to submit an application to the Local Government Commission for approval of financing for the Sugar Hill Road Water and Sewer Extension Project:

AA.00001061 (24)

CITY OF MARION
RESOLUTION
APPROVING FINANCING TERMS

WHEREAS: The City of Marion ("City") has previously determined to undertake a project for financing water and sewer line extensions (the Project"), and the Finance Officer has now presented a proposal for the financing of such, Project.

BE IT THEREFORE RESOLVED, as follows:

1. The City hereby determines to finance the project through Branch Banking the Trust Company (BB&T") in accordance with the proposal dated February 28, 2011. the amount financed shall not exceed $1,102,225.00, the annual interest rate (in the absence of default or change in tax status) shall not exceed 3.31%, and the financing term shall not exceed 10 years from closing.

2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the City are hereby authorized and directed to execute and deliver any Financing documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution. The Financing Documents shall include a Financing Documents shall include a Financing Agreement and Deed of Trust and a Project Fund Agreement as BB&T may request.

3. The Finance Officer is hereby authorized and direct to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by City officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.

4. The City shall not take or omit to take any action the taking or omission of such shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The City hereby designated its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Sections 265(b)(3).

5. The City intends that the adoption of this resolution will be a declaration of the City's official intent to reimburse expenditures for the project that is to be financed from proceeds of the BB&T financing described above. The City intends that funds that have been advance, or that may be advanced, from the City's general fund, or any other City fund related to the project, for project costs may be reimbursed from the financing proceeds.

6. All prior actions of City officers in furtherance of the purposes of this resolution are hereby ratified, approved ad confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Approved by the City Council of the City of Marion this 1st day of March, 2011.

By: _____ By: _____

J. Robert Boyette
City Manager/Clerk

Stephen R. Little
Mayor

RESOLUTION NUMBER: R-11-03-01-3

RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR APPROVAL OF A FINANCING AGREEMENT AUTHORIZED BY NORTH CAROLINA GENERAL STATUTE 160A-20

WHEREAS, the City of Marion, North Carolina desires to extend water and sewer utilities along Sugar Hill Road to Interstate 40 to better serve the citizens of Marion and to serve a large commercial development being constructed at said location; and

AA.0000001082 (24)

WHEREAS, the City of Marion desires to finance the Project by the use of an installment contract authorized under North Carolina General Statute 160A, Article 3, Section 20; and

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

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Marion, North Carolina, meeting in regular session on the 1st day of March, 2011, make the following findings of fact:

1. The proposed contract is necessary or expedient in order to finance $1,102,225 of water and sewer improvements for the City of Marion.

2. The proposed contract is preferable to a bond issue for the same purpose because: 1) the total costs of the financing are not sufficient to warrant the expenses involved in a General Obligation Bond issue; 2) the proposed project is too expensive to be funded through current revenues and/or fund balance, thus the installment contract method of financing proves to be the best alternative for the City of Marion; and 3) the desired term of the sewer system financing is ten to fifteen years, thereby making bonds a less desirable alternative.

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

4. The City of Marion's debt management procedures and policies are good because the City adheres to its Budget Ordinance, has a history of timely debt obligation payments, and maintains an acceptable level of unappropriated fund balance. The City Manager and Finance Officer constantly monitor the City's fiscal structure and periodically report the financial condition to the City Council.

5. The City of Marion has entered into an Interlocal Agreement with McDowell County, under which the County will reimburse the City on an annual basis for 40 percent of the City's debt service for this project.

6. The increase in taxes necessary to meet the sums to fall due under the proposed contract will be 0.0 cents per $100 valuation and is not deemed to be excessive.

7. The City of Marion is not in default in any of its debt service obligations.

8. The attorney for the City of Marion has rendered an opinion that the proposed Project is authorized by law and is a purpose for which public funds may be expended pursuant to the Constitution and laws of North Carolina.

9. The probable net revenues of the project to be financed will be sufficient to meet the sums to fall due under the proposed contract.

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

This resolution is effective upon its adoption this 1st day of March, 2011.

The motion to adopt this resolution was made by Council Member Clark, seconded by Council Member Martin, and passed by a vote of 5 to 0.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Resolution Number: R-11-03-01-1

AA.000001063 (24)

PRESENTATION ON EMERGENCY PREPAREDNESS BY MCDOWELL COUNTY EMERGENCY MANAGEMENT DIRECTOR TERRY YOUNG: McDowell County Emergency Management Director Terry Young appeared before Council and gave a brief presentation on emergency preparedness and Severe Weather Awareness Week.

Mr. Young stated that everyone needs to be prepared for disasters and advised that both the City and County are prepared. Mr. Young also stated that City crews did an excellent job keeping the streets clear during snow events over the past two winters.

Mr. Young briefed Council on several projects being worked on by Emergency Management and presented Council with a pamphlet regarding the need to be prepared for disasters and the importance of being self-sufficient for the first 72 hours of an emergency.

Mayor Little thanked Mr. Young for all the presentation and information and for his service to McDowell County.

CONSIDER APPROVAL OF LICENSE FOR PLACE OF AMUSEMENT – MARION'S FUN FACTORY – 671 EAST COURT STREET, APT. C: The City Manager advised that, as shown in the information, presented to Council from Police Lieutenant Gaye Noblitt, Mr. Jeremy Suttles has submitted an application requesting a license to operate a place of amusement called Marion's Fun Factory at 671 East Court Street, Apt. C. Mr. Suttles proposes to have two pool tables and 15 arcade games in this business. He currently operates a bingo parlor at this location.

The City Manager advised that the Police Department background check showed no criminal record for Mr. Suttles. He reported that the City Code states that Council shall not issue a license for a place of amusement to any person who:

(1) Has been convicted of unlawfully selling intoxicating liquors or narcotic drugs; or

(2) Is not a citizen or resident of this state; or

(3) Is an excessive user of intoxicating liquor or narcotic drugs; or

(4) As a result of the criminal background check, is deemed by the City Council to be unfit to conduct a business for which the license is applied.

The City Manager stated that Mr. Suttles is a resident of North Carolina, does not have a criminal record and there is no evidence that he is an excessive user of intoxicating liquor or drugs. The City Manager stated that he would therefore recommend that Council approve the license for Mr. Suttles to operate Marion's Fun Factory at 671 East Court, Apt. C, with two pool tables and 15 arcade games.

Mayor Pro Tem Cuthbertson asked what the City Code requires as far as visibility of windows for this type of facility. Mayor Little stated that he remembered the City Code having such requirements.

Ms. Linda King stated that the windows of the business provided for excellent visibility. The City Manager stated that staff would check the City Code and make sure the business is in compliance.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to approve the license for Mr. Jeremy Suttles to operate Marion's Fun Factory at 671 East Court, Apt. C, with two pool tables and 15 arcade games.

PUBLIC COMMENT PERIOD: Mr. John Bailey was present for this meeting and stated that he would like to discuss the bids that were recently received for City mowing contracts.

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Mayor Little stated that that was the next item on the Council meeting agenda.

There were no other unscheduled citizens present to speak to Council.

CONSIDER AWARD OF STREET RIGHT OF WAY AND CEMETERY MOWING BIDS: Finance Director Harriett Thomas advised that the City recently took bids for street right of way and Oak Grove Cemetery mowing services.

Ms. Thomas stated that bids for street right of way mowing services were opened on Tuesday, February 22, 2011 at 2:00 pm. A total of 14 requests for bids were mailed and notice of the bids was advertised in the local newspaper. Bids were received from the following five companies:

RJ's Lawn and Landscaping (Randy Jones)	$1,500.00
Millers Lawncare & Landscaping (Eric Miller)	$1,500.00
Bailey Services (John Bailey)	$1,300.00
Appalachian Grounds Mgt. (Richie Atkins)	$1,185.00
Truett Insulation, Inc. (Mitchell Truett)	$1,150.00

Ms. Thomas reported that Truett Insulation, Inc. (Mitchell Truett), was the lowest bidder at $1,150.00 per week. She stated that Roger Estes, Public Works Superintendent, met with Mr. Truett, who seemed very professional and knowledgeable; however, before the contract is awarded, Mr. Estes would like to have the opportunity to discuss the job further with him to determine if he owns the proper equipment, has the personnel needed to complete the required work, etc. Ms. Thomas stated that awarding this contract would save the City $1,100.00 over last year's contract.

Ms. Thomas also presented the bids for the City's Oak Grove Cemetery mowing services that were opened on Tuesday, February 22, 2011 at 2:00 pm. A total of 14 requests for bids were mailed and notice of the bids was advertised in the local newspaper. Bids were received from the following eight companies:

Johnnie's Lawn Care (Johnnie McLaughlin)	$1,200.00
Bailey Services (John Bailey)	$ 900.00
McClure Nursery & Landscaping (Dean McClure)	$ 900.00
Appalachian Grounds Mgt. (Richie Atkins)	$ 800.00
Pinnacle Landscape Management (Kyle Fiore)	$ 785.00
Truett Insulation, Inc. (Mitchell Truett)	$ 750.00
Millers Lawncare & Landscaping (Eric Miller)	$ 750.00
RJ's Lawn and Landscaping (Randy Jones)	$ 700.00

Ms. Thomas reported that RJ's Lawn and Landscaping (Randy Jones) was the lowest bidder at $700.00 per week. She stated that Roger Estes, Public Works Superintendent, would like to have the opportunity to discuss the job further with Mr. Jones him to determine if he owns the proper equipment, has the personnel to complete the required work, etc. Ms. Thomas reported that awarding this contract would save the City $2,200.00 over last year's contract.

Mr. John Bailey, who provided street right of way and Cemetery mowing services for the City for the past three years, stated that sometimes low bid is not the best bid. He noted that he realized he was not the low bidder, but stated that he had offered a five year contract with no price increases.

Council Member Owenby asked if the City knew anything about Mr. Truett and Mr. Jones. Ms. Thomas stated that Mr. Estes took Mr. Truett around to the street right of way mowing sites and feels that he is professional and can do the work. Ms. Thomas stated that Mr. Estes has not yet met with Mr. Jones.

AA.000001065 (24)

Council Member Martin asked about a discrepancy in the City Manager's Agenda Comments, where it said in one place that the low bids were $150 per week less than charged by Mr. Bailey and in another place that the low bids were $350 per week less than Mr. Bailey. The City Manager stated that the low bids were $150 less than what the City paid Mr. Bailey for the past three years, but the low bids were $350 per week less than what Mr. Bailey had bid for the new contract.

Upon a motion by Council Member Owenby, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to postpone the award of the street right of way and Oak Grove Cemetery mowing contracts until City staff can do an in-depth interview with both low bidders, to determine if the low bidders can perform the needed work.

Council Member Clark stated that mowing will need to begin in mid-April, so that the City can have the Cemetery looking good for Easter in late April.

Mr. Bailey stated that the City should start mowing on April 1.

The City Manager apologized that all the information was not presented tonight. He said that City staff should have talked to the low bidders before this meeting. The City Manager stated that mowing early and late in the season had been covered by City staff for the past two years, to reduce the contract costs.

Mayor Pro Tem Cuthbertson stated that it might be good to have Mr. Estes present at the next Council meeting to answer any questions Council might have about the low bidders and the mowing contracts.

CONSIDER AMENDMENT TO PLANNING AND DEVELOPMENT DEPARTMENT FEE SCHEDULE ORDINANCE: The City Manager advised that, as discussed at the February 8 Council Planning Session, City staff came up with the idea of instituting an ABC permit fee, something that many larger cities charge. He noted that City staff has to complete a zoning and building inspection for establishments such as restaurants, convenience stores, grocery stores and superstores that are seeking ABC licenses and the Police Chief also must comment on the location of the establishment and the character of the applicant. On the attached ordinance, a category is added for ABC permits, with the lowest fee being $100 for establishments of less than 50,000 square feet (which would apply to most convenience stores and restaurants). Establishments with 50,001 to 100,000 square feet (which would apply to larger grocery stores) would pay a permit fee of $400, while establishments over 100,000 square feet (including superstores) would pay a permit fee of $800. The City Manager stated that staff feels that ABC licenses have a great value to the applicant and it is reasonable for the City to charge an ABC permit fee, given the work that must be put into review of said license requests. The City does not issue ABC licenses, but forwards comments on zoning compliance, building and fire code compliance, the location of the establishment and the character of the applicant to the N.C. ABC Commission, which decides whether or not to issue the license.

Council Member Clark stated that he feels the fees recommended by staff are too high, especially for large stores.

The City Manager stated that the $800 fee would only apply to superstores and that the fee would only apply for new ABC permits or the transfer of such permit to new owners.

Council Member Clark stated that he did not see enough difference in the work required for large and small stores to justify the difference in fees. He suggested possible fee tiers of $100, $300 and $500, instead of $100, $400 and $800.

Council Member Owenby stated that he would like to see the fees studied further.

AA.000001066 (24)

Council Member Martin stated that he had no problem with the idea of such fees in concept, but would like information on the fees charged by other cities.

A brief discussion followed.

Upon a Motion by Council Member Owenby, seconded by Council Member Martin, Council voted unanimously to postpone action on this item until the next Council meeting and to direct the City Manager to bring back information on ABC permit fees charged by other cities.

AWARD CONTRACTS FOR PUMP AND GENERATOR PURCHASE – SUGAR HILL ROAD WATER AND SEWER EXTENSION PROJECT: The City Manager advised that, as reported at the February 15 Council meeting, the City recently sought bids for the purchase of pumps and generators for the Sugar Hill Road Water and Sewer Extension Project. He said action on award of the contracts for this equipment was postponed at the February 15 Council meeting, because the U.S. Department of Agriculture (USDA), administering a Federal Appalachian Regional Commission (ARC) grant that will partially fund this project, had not given its approval to allow the contracts to be awarded.

The City Manager stated that the USDA approval had still not been given; therefore, Council to award the contracts for the pump and generator purchase will have to be postponed again.

The City Manager advised that City staff and the City's consulting engineers, McGill Associates, had spent countless hours with USDA officials and that approval was being withheld due to paperwork and contract issues.

Mayor Little stated that the USDA has been unreasonable to deal with on this project.

Council Member Martin stated that he understood from the City Manager that some local governments people turn down these ARC grants because of the delays and hurdles put forward by the Federal Government.

The City Manager stated that the City's grant administrator, Isothermal Planning and Development Commission, let the City down on this project by giving poor advice on bidding the project before the USDA authorized such bidding to take place, by not being responsive and not following through on certain items. The City Manager stated that the bureaucratic hurdles from the USDA would not matter if the City had unlimited time to complete the project. However, the City is on a very tight time schedule to complete the project, as the City has made commitments for water and sewer service to Wal-Mart, based on the understanding from USDA staff that the review process was going well. He said that USDA staff now said that, due to parts of the approval process being completed out of order and due to paperwork issues, the City would have to start the process over and re-bid the project, something that will threaten the project and the 400 jobs and $20 million on tax base being created by the Wal-Mart Supercenter development.

The City Manager stated that he is awaiting advice from N.C. ARC Manager Olivia Collier about what the City can do to deal with this issue. He noted that the City is fortunate to have the $977,100 N.C. Rural Center grant, so the loss of the ARC grant would hurt, but not be devastating.

Council Member Clark stated that the City has received ARC grants in the past and should not have to give up a $200,000 - $300,000 ARC grant due to the Federal bureaucracy. He stated that the offices of Senator Richard Burr, Senator Kay Hagan, Congressman Heath Shuler and Governor Beverly Perdue should be contacted the next day and asked to provide assistance with this matter. Council Member Clark stated that ARC money was intended for purposes such as

AA.000001067 (24)

the Sugar Hill Road/Wal-Mart Supercenter project and that the City should not be dealing with petty issues from USDA that threaten this project.

Mayor Little stated that, at this point, starting the process over does not serve any purpose. He said this is a case of a Federal agency flexing its authority.

Council Member Clark stated that he feels by making these contacts, with Federal and State elected government officials, the red tape can be cut and the project can get back on track.

The City Manager advised that the City needs to be under contract with this project by early April to meet Wal-Mart's desired timeline.

Mayor Little and Council Members agreed by consensus to direct the City Manager to immediately contact the offices of Senator Richard Burr, Senator Kay Hagan, Congressman Heath Shuler and Governor Beverly Perdue and ask each office to assist the City with convincing the USDA to approve the Sugar Hill Road Water and Sewer Extension Project ARC Grant in a timely manner, by the end of March, to allow the City to be under contract for this project in early April, to meet the desired water and sewer service timeline of the Wal-Mart Supercenter.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that staff hopes to receive word soon from DOT District Engineer Doug McNeal about when the milling and resurfacing work will take place on Main Street in the downtown area, on North Main Street and on East Court Street, to allow the City to follow with completion of the Downtown Streetscape Plan. The City Manager stated that he would advise Council and the public as soon as the schedule is set.

The City Manager also advised that the way finding signs have begun to be installed. Staff is awaiting the receipt of brackets from the sign company to make installation easier.

The City Manager advised that city crews began work in late February on the curb and sidewalk project on Robert Street near Marion Elementary School. He stated that Public Works Director Chris Hollifield is evaluating how best to proceed with the next two scheduled large projects, a curb replacement on Crescent Drive and a curb and sidewalk replacement on Park Drive. The City Manager stated that he hoped to have recommendations to present to Council on these projects by April.

The City Manager advised that, based on Council direction at the February 15 Council meeting, staff had worked with McGill on a grant application for the upcoming State Revolving Fund wastewater cycle. The City submitted a grant for the sewer extension under I-40 to Marion Travel Plaza on Sugar Hill Road for funding. The State will not have a spring funding cycle for water projects. The next water funding cycle will be due on September 1. The City Manager stated that the City will hopefully learn how much, if any, grant money will be received in the next few months.

The City Manager advised that The Wastewater Improvements Project is essentially complete, except for paving at the Corpening Creek Wastewater Plant and some add-on items involving repairs to the primary clarifiers at Corpening Creek to allow every dollar of our $5.3 million in grants to be spent. This work will take place over the next month or two to allow the project and all grants to be closed out.

The City Manager advised that a contractor would soon start on grading of the Clinchfield Park and implementation of the approved Erosion Control Plan for the property, as has been required by the State. Public Works Director Chris Hollifield advised that plans are to start either this week or next with grading. He described some of the work to take place with this project.

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COUNCIL MEMBER COMMENTS:

Council Member Clark that he had recently been in the Community Building and that the floors are badly in need of repair. The City Manager stated that Public Works Superintendent Roger Estes actually has inmate crews lined up to do work on the floors within the next 30 days.

Mayor Pro Tem Cuthbertson stated that one of the picnic tables at the Greenway is missing a bench. Public Works Director Chris Hollifield stated that this is a handicapped spot. Mayor Pro Tem Cuthbertson suggested that this spot be marked as handicapped, since it appears that a bench is missing. The City Manager stated that staff would place such a sign.

Mayor Pro Tem Cuthbertson stated a better physical barrier is needed to keep people from blocking the overflow parking area at the Greenway. The City Manager stated that staff continued to work on ways to address this problem.

ADJOURNMENT: Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, March 22, 2011at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

This date was one week later than the regularly scheduled meeting so that Mayor Little could attend the National League of Cities Conference in Washington, D.C.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members A. Everette Clark, Juanita Doggett, Billy Martin and Cecil Owenby.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Harriett Thomas, CPA, Finance Director; Heather Cotton, AICP, Planning and Development Director; Mark Brooks, Police Chief; Chris Hollifield, Public Works Director; Rusty Jenkins, Police Lieutenant; Matt Huggins, Police Officer; April Noles, Ordinance Enforcement Officer;

AA.000001069 (24)

Tim Cox, Police Officer; Daniel Hoskins, Police Officer; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: John Reese, 85 Vine Street, Marion, NC; Randy Jones, 116 Clark Street, Marion, NC; Frank & Evelyn Huggins, 8 Sunset Lane, Swannanoa, NC; Grayson & Kyle Huggins Marion, NC; Jack Wood, McDowell County Fraternal Order Police Lodge # 84; Paige Gibson, P.O. Box 1882, Marion, NC; Nancy Clark, Fleming Avenue, Marion, NC; Mitch Truett PO Box 807 Nebo, NC; Mathew Hebb 2119 US Hwy 70 East Marion, NC; John Bailey PO Box 2734 Marion, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

CONSENT AGENDA: Upon a motion by Council Member Owenby, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – March 1, 2011 Regular City Council Meeting Minutes

B. Endorse Governor's Proclamation – 2011 Spring Litter Sweep
Spring Litter Sweep April 16 – April 30, 2011 by the Governor of the State of North Carolina Beverly Perdue

C. Approve Waiver of Charges for Collection of Bulky Trash Items During Spring Litter Sweep 2011
Council Authorized the waiver of charges for the collection of bulky trash items from April 18 to 22 during Spring Litter Sweep 2011.

D. Receive Report of Sale of City Surplus Property

City of Marion
Surplus Items Sold
1/1/10 - 12/31/10

Description	Category	Sold Amount	Date
NEC Phone System	Office Equipment/Supplies	$6.00	01/04/10
Minolta Di181Copier	Computers, Parts and Supplies	$52.00	03/24/10
Printers and Office Equipment	Office Equipment/Supplies	$122.00	03/24/10
Space Heaters	Office Equipment/Supplies	$21.00	03/24/10
1992 Ford F150	Trucks, Light Duty under 1 ton	$1,305.00	04/13/10
1999 Chevrolet C3500 Utility Truck	Trucks, Light Duty under 1 ton	$3,505.00	11/08/10
Chairs	Furniture/Furnishings	$11.00	11/11/10
Motorola Mobile Radio Modem	Communication/Electronic Equipment	$723.21	11/11/10
Navman GPS Trackers	Communication/Electronic Equipment	$10.00	11/11/10
Lot of 5 Navman GPS Trackers	Communication/Electronic Equipment	$14.00	12/07/10
31 Glock 9mm	Guns	$10,850.00	08/26-09/27/10
		$16,619.21	

E. Approve Use of Main Street Sidewalks and North Main Street Gazebo Parking Lot for MBA Sidewalk sales on Saturday, May 7 and Saturday, August 6
Council approved a request by the Marion Business Association (MBA) to use the Main Street sidewalks and the Gazebo Parking Lot on North Main Street for the MBA's Annual Sidewalk Sale on Saturday, May 7 and Saturday, August 6. Marion Tailgate Market growers will use the Gazebo Parking Lot on North Main Street for a sale. This location is proposed to keep all sales on or near Main Street. No street closures will be required for the event.

F. Approve Budget Ordinance Amendments

CITY OF MARION, NORTH CAROLINA
2010-2011 BUDGET ORDINANCE
(Third Amendment)

AA.000001070 (24)

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

Section 1. That the Budget Ordinance for the City of Marion, North Carolina for the fiscal year 2010-11 as adopted by the Marion City Council on the 15th day of June, 2010 is hereby amended as follows:

GENERAL FUND

a. General Fund Expenditures, Administration, Account Number 10-420-2600, Advertising is increased from $1,000 to $9,200.

b. General Fund Expenditures, Recreation, Account Number 10-620-7400, Capital Outlay is increased from $25,000 to $64,000.

c. General Fund Expenditures, Non-departmental, Account Number 10-660-9600, Insurance, Bonds, Workers Comp is increased from $148,400 to $151,750.

d. General Fund Revenues, Account Number 10-321-0000, Privilege License Revenue is increased from $40,500 to $41,500.

e. General Fund Revenues, Account Number 10-334-1400, On the Job Training (OJT) Revenue is increased from $-0- to $3,420.

f. General Fund Revenues, Account Number 10-341-0500, Refunds/Reimbursement Revenue is increased from $6,670 to $8,050.

g. General Fund Revenues, Account Number 10-365-1000, Donations - Restricted is increased from $-0- to $2,175.

h. General Fund Revenues, Account Number 10-390-0000, Cemetery Revenue is increased from $6,000 to $8,500.

i. General Fund Revenues, Account Number 10-392-2000, Property Insurance Reimbursement is increased from $-0- to $9,873.

j. General Fund Revenues, Account Number 10-399-0000, Fund Balance Appropriated is increased from $542,395 to $572,597.

WATER AND SEWER FUND

a. Water and Sewer Fund Expenses, Non-departmental, Account Number 30-660-5400, Unemployment Insurance, is increased from $11,750 to $15,040.

b. Water and Sewer Fund Expenses, Non-departmental, Account Number 30-660-5500, Wellness Programs, is increased from $1,000 to $2,000.

c. Water and Sewer Fund Expenses, Non-departmental, Account Number 30-660-9600, Insurance, Bonds and Workers Comp is increased from $107,500 to $109,717.

d. Water and Sewer Fund Expenses, Utility Line Maintenance, Account Number 30-810-8000, Dispatching Allocation, is increased from $-0- to $5,300.

e. Water and Sewer Fund Expenses, Utility Line Maintenance, Account Number 30-810-8100, Mapping Allocation, is increased from $-0- to $2,905.

f. Water and Sewer Fund Expenses, Wastewater Treatment, Account Number 30-816-7400, Capital Outlay, is increased from $32,500 to $63,500.

g. Water and Sewer Fund Revenues, Account Number 30-335-0000, Miscellaneous Income is increased from $9,200 to $14,500.

h. Water and Sewer Fund Revenues, Account Number 30-335-0100, Property Insurance Reimbursement is increased from $5,514 to $35,815.

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i. Water and Sewer Fund Revenues, Account Number 30-335-2900, Reconnect and Transfer Fees is increased from $1,400 to $7,400.

j. Water and Sewer Fund Revenues, Account Number 30-355-0000, Owner Temporary Service is increased from $250 to $500.

k. Water and Sewer Fund Revenues, Account Number 30-355-2000, W&S Usage Temporary Service is increased from $10 to $900.

l. Water and Sewer Fund Revenues, Account Number 30-360-1000 Write-off Bad Debts (contra revenue) is increased from $-0- to $6,500.

m. Water and Sewer Fund Revenues, Account Number 30-373-0100 Water Tap Revenue is increased from $112,000 to $132,000.

n. Water and Sewer Fund Revenues, Account Number 30-373-0100 Sewer Tap Revenue is increased from $61,000 to $68,000.

o. Water and Sewer Fund Revenues, Account Number 30-373-0900 Tank Truck Charges is increased from $1,000 to $2,600.

p. Water and Sewer Fund Revenues, Account Number 30-299-0000, Fund Balance Appropriated is decreased from $159,347 to $140,218.

CAPITAL RESERVE FUND

a. Capital Reserve Fund Expenditures, Account Number 75-491-0000, Transfer to General Fund Capital Projects is increased from $-0- to $72,000.

b. Capital Reserve Fund Expenditures, Account Number 75-999-0000, Future Expenses is decreased from $769,471 to $697,471.

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 22nd day of March 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–11–03–22-4

G. Approve Mowing Agreement with North Carolina Department of Transportation

Approved Mowing Agreement, copy on file, with the North Carolina Department of Transportation to allow the City to be paid $2,500 per year for mowing State street rights-of-way. DOT will pay for four mowing cycles. The agreement allows the City to receive some reimbursement for mowing, even though the mowing does not cover all of the City's costs. The agreement is for three years and is retroactive to January 1, 2009.

H. Approve Proclamation – McDowell County Salute to Veterans Week – May 9-15, 2011

CITY OF MARION, NORTH CAROLINA PROCLAMATION
MCDOWELL COUNTY SALUTE TO VETERANS WEEK
MAY 9-15, 2011

WHEREAS, America is the land of the free and home of the brave; and

AA.000001072 (24)

WHEREAS, American men and women, devoted to liberty and freedom have unflinchingly answered their nation's call to arms to fight in the air, on the land and on the sea, thousands of miles from home, enforcing our founding fathers' vision; and

WHEREAS, we still believe today that the blessings of liberty, freedom and justice require constant vigilance, determination, and sacrifice; and

WHEREAS, every man, woman and child in our great nation owes a debt of gratitude to those who served their country so unselfishly; and

WHEREAS, these brave Soldiers, Sailors, Airmen, Marines and Coast Guardsmen were the sons and daughters of our land; and

WHEREAS, McDowell County answered the call and 140 of her brave made the supreme sacrifice in World War I, World War II, Korea, Vietnam and Iraq, so we can continue to live free.

NOW, THEREFORE, BE IT RESOLVED, that the County of McDowell, the City of Marion, and the Town of Old Fort in the great State of North Carolina do jointly declare the week of May 9-15, 2011 "McDowell County Salute to Veterans Week" and

BE IT FURTHER RESOLVED, that all are asked to commemorate the contributions and sacrifices of those men and women who placed their lives in harm's way, preserving American values and protecting democracy for the world, and

BE IT FURTHER RESOLVED, the observance of "McDowell County Salute to Veterans Week" appropriately pays honor and expresses gratitude to all those that have ever worn a uniform of any of our great military services and gave so much to the world and our great nation.

PROCLAIMED this the 22nd day of March, 2011 by the Mayor and City Council of the City of Marion, North Carolina.

Stephen R. Little, Mayor

PRESENTATION OF COMMENDATIONS BY POLICE CHIEF MARK BROOKS:

Police Chief Mark Brooks stated that he wished to commend two officers who have recently gone above and beyond the call of duty.

Chief Brooks stated that he would like to nominate April Noles, the Ordinance Officer (civilian position) for the Marion Police Department for a Region C Certificate of Commendation. Ms. Noles handles animal control and parking enforcement duties for the City of Marion.

On March 17, 2011, Ms. Noles was engaged in parking enforcement duties on East Court Street near the McDowell County Courthouse when she observed a vehicle parked in the "jury parking" area with the motor running. She noticed that the windows were rolled up and an elderly gentleman was slumped over the steering wheel. Ms. Noles approached the vehicle at which time a small explosion occurred from the engine compartment of the vehicle, followed by a plume of smoke. Ms. Noles notified dispatch of the situation, requested assistance and immediately opened the door of the vehicle. She assisted the disoriented elderly gentleman in getting out of the vehicle who was then transported to McDowell Hospital suffering from carbon monoxide poisoning. Hospital personnel confirmed that the gentleman was suffering from a near fatal level of carbon monoxide.

Chief Brooks stated that the attentive and quick actions of Ms. Noles may have saved this individual's life. Medics reported that if he had not been extracted from vehicle he would have died.

Chief Brooks stated that with that being said he would present Ms. Noles with the Region C Letter of Commendation and also presented her with a Challenge Coin.

Mayor Little, Council Members and the City Manager expressed their appreciation to Ms. Noles for her heroism and for the great job she does for the City.

AA.000001073 (24)

Chief Brooks also recognized Officer Matt Huggins, stating that on March 11, 2011, Officer Huggins responded to a disturbance call on East Oak Street. Upon arrival, he knocked on the door at which time a male subject kicked open the door and advanced towards Officer Huggins. Officer Huggins ordered the subject to stop as he backed into the yard. At that time Officer Huggins noticed that the subject was holding a knife in his hand. After the second command to stop, the subject continued to advance towards Officer Huggins, who, after giving proper warnings, tazed the subject, who fell on the ground with the knife still in his hand. The subject got up and advanced again towards Officer Huggins who warned the subject another time and gave a second cycle of the tazer to him. Again, the subject got up and advanced at Officer Huggins for a third-time and after ignoring verbal warnings again, Officer Huggins utilized the tazer for the third time. At this time a back-up officer arrived and both officers struggled with the subject and were finally able to get him handcuffed. The subject continuously made threatening remarks about hurting the officers.

The weapon held by the suspect was a kitchen knife approximately six inches in length with a fixed 2.5 inch blade. Although criminal charges have been secured, at this time the subject is being held for mental commitment.

Officer Huggins was in a position where lethal force would have been clearly justifiable. His actions to retreat and utilize the tazer (repeatedly) no doubt saved this man's life.

Chief Brooks stated that it should also be noted that Officer Huggins has only been officer for less than four months.

With all that being said, Chief Brooks stated that he would also like to present Officer Huggins with the Region C Letter of Commendation and also presented him with a Challenge Coin.

Mayor Little, Council Members and the City Manager expressed their appreciation to Officer Huggins for his extraordinary bravery and for the great job he is doing for the City, noting that Officer Huggins showed the judgment of a veteran officer in this situation.

CONSIDER AWARD OF STREET RIGHT OF WAY AND CEMETERY MOWING CONTRACTS: The City Manager advised that, as shown on the memos presented to Council, the City recently sought bids for street right of way and cemetery mowing services. The City received five bids for street right of way mowing, with the low bid received from Truett Insulation of Nebo in the amount of $1,150 per week, which is $50 per week less than what the City paid for this service for the past three years. The City received eight bids for the Oak Grove Cemetery mowing, with RJ's Landscaping (Randy Jones) of Marion submitting the low bid in the amount of $700 per week, which is $100 per week less than what the City paid for this service for the past three years.

Public Works Superintendent advised that he had met with Mr. Truett and Mr. Jones, who were also present for this discussion. Mr. Estes stated that both contractors have the proper equipment and appear capable of completing the required work. He noted that both contractors have provided proof of insurance to Purchasing Agent Brenda Williams.

Based on this documentation and information, the City Manager stated that staff would recommend that Council award the street right of way mowing contract to Truett Insulation in the amount of $1,150 per week and the Oak Grove Cemetery mowing contract to RJ's Landscaping in the amount of $700 per week.

The City Manager noted that Truett had offered the City a three contract, with a 2.5 percent increase in years two and three. Mr. Randy Jones presented a signed offer to also provide a three year contract, with a 2.5 percent increase in years two and three.

AA.00001074 (24)

Council Member Clark asked if other bidders had the opportunity to provide a quote for a three year contract. The City Manager stated that Bailey's Landscaping offered a five year contract, but at a much higher price. The City Manager stated that this was a case of the City negotiating with the low bidders. He advised that the three year contracts, even with the 2.5 percent increase in years two and three, would still average out to be less per year than the next lowest bid for each contract.

Council Member Owenby asked if Mr. Estes had seen the work of Truett's and RJ's. Mr. Estes stated that he had not, but had seen their equipment and talked to each about the City expectation. Mr. Estes noted that he had not seen the work of the City's most recent contractor, Bailey's, prior to that company being awarded a contract.

Mayor Pro Tem Cuthbertson stated that it needed to be understood that Oak Grove Cemetery is very important, and if it is not maintained properly, then City Council will hear about it. The City Manager stated that both he and Mr. Estes had stressed this point to Mr. Jones.

Mayor Pro Tem Cuthbertson stated that he would hesitate in awarding a three year contract to someone who has not previously performed mowing work for the City.

The City Manager noted that Bailey's received a three year contract three years ago, without having previously worked for the City.

Council Member Doggett stated that she feels a three year contract with the price of gas going up would be a good thing for the City, given how gas prices have risen so rapidly recently.

Council Member Doggett made a motion to award the street right of way mowing contract to Truett Insulation for a period of three years, with a first year contract amount of $1,150 per week and an option for Truett to increase the contract price for years two and three by a maximum of 2.5 percent each year and to award the Oak Grove Cemetery mowing contract to RJ's Landscaping for a period of three years, with a first year contract amount of $700 per week and an option for RJ's to increase the contract price for years two and three by a maximum of 2.5 percent each year. The motion was seconded by Council Member Martin.

A brief discussion on the motion followed.

Council Member Clark stated that he would make a substitute motion to award the street right of way mowing contract to Truett Insulation for a period of one year, at an amount of $1,150 per week and to award the Oak Grove Cemetery mowing contract to RJ's Landscaping for a period of one year, at an amount of $700 per week. The motion was seconded by Mayor Pro Tem Cuthbertson.

The vote on the substitute motion carried four to one as follows:

Clark	Yes
Cuthbertson	Yes
Martin	Yes
Owenby	Yes
Doggett	No

PRESENTATION BY TREE BOARD: Tree Board Members John Reese and Nancy Clark were present for this meeting.

Mr. Reese presented Council with an overview of the Tree Board's plan for 2011.

AA.00001075 (24)

Mr. Reese stated that City Staff, especially Public Works Superintendent Roger Estes, Planning Director Heather Cotton and Administrative Assistant Debi Sherlin, all did a fantastic job working with the Tree Board.

Mr. Reese stated that the Tree Board had come a long way in its 20+ years of existence and accomplished a great deal for the City; however, this is the first time that they have given a report to City Council.

Mr. Reese stated that most of the Tree Board's plan for 2011 had been implemented, so he briefly highlighted a few issues.

Mr. Reese stated that the City had needed a Certified Arborist to work with for some time and that the City's landscaping contractor, Mr. Lawrence Moore, had recently been certified, which will benefit the City.

Mr. Reese stated that he would like to prepare a Power Point presentation on tree planting and protection for use for presentations to civic clubs, organizations and schools.

Mr. Reese stated that there are a few tree-related challenges facing the City, including looking at the condition of cherry trees in Oak Grove Cemetery and some of the older, larger trees in the Community Building Park.

Mayor Little stated that he appreciated the support and dedication of Mr. Reese, Mrs. Clark and all Tree Board members to the City over the years.

PUBLIC HEARING – ADOPTION OF ANNEXATION ORDINANCE – SILVER/YANCEY ROAD PROPERTY: The City Manager advised that a public hearing is required on the requested annexation of the 3.56 acre Silver property on Yancey Road. This property is contiguous to the City Limits and contains a two unit apartment building. If approved, the effective date of the annexation would be March 31, 2011.

Mayor Little opened the Public Hearing.

There were no citizens present to discuss this ordinance.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Clark, seconded by Council Member Cuthbertson, Council voted unanimously to adopt the following Ordinance annexing the Silver/Yancey Road property, effective March 31, 2011:

AN ORDINANCE TO EXTEND
THE CORPORATE LIMITS OF THE
CITY OF MARION, NORTH CAROLINA –
SILVER/YANCEY ROAD PROPERTY

WHEREAS, the City Council has been petitioned under G.S. 160A-31 to annex the area described below; and

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

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at City Hall at 7:00 P.M. on Tuesday, March 22, 2011, after due notice by publication on Wednesday, March 9, 2011; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-31;

AA.000001076 (24)

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

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the City of Marion as of March 31, 2011:

TRACT ONE

BEGINNING on an iron pin, it being the Southeast corner of that certain lot of land described in a deed from Thurley F. Steppe to Troy Messer and wife, Hilda P. Messer, dated March 29, 1955, and which is recorded in Deed Book 132, at page 114, of McDowell County Deed Records, and runs thence N 21 E 188 feet to an iron pin; thence S 56 deg. and 30 min. E 50 feet to a iron pin; thence S 21 W 188 feet to an iron pin; thence N 56 deg. and 30 min. W 50 feet to the Beginning, let the same contain what it may.

TRACT TWO

BEGINNING on an iron stake, the Southeast corner of the tract of land described in a deed dated April 2, 1951, from Oliver S. Franklin to Helen F. Swofford, and also being located S 56 deg. and 30 min. E 200 feet from the Beginning corner of a tract of land described in a deed from Oliver S. Franklin to Olive F. Webster, dated April 2, 1951, and runs thence N 26 deg. 45 min. E 189 feet to an iron stake, the Northeast corner of the Helen F. Swofford lot; thence S 56 deg, 30 min. E 80 feet to an iron stake; thence S 21 W 188 feet to an iron stake; thence N 56 deg. 30 min. W 100 feet to the Beginning and being in all respects the same tract of land described in a deed from Oliver S. Franklin to Thurley F. Steppe, dated April 2, 1951, and recorded in Deed Book 116, at page 309 of McDowell County Deed Records.

Section 2. Upon and after March 31, 2011, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City of Marion. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Marion shall cause to be recorded in the office of the Register of Deeds of McDowell County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the McDowell County Board of Elections, as required by G.S. 163-288.1.

ADOPTED this the 22nd day of March, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Approved As To Form:

City Attorney

Ordinance Number: O-11-03-22-1

PUBLIC HEARING – ADOPTION OF ANNEXATION ORDINANCE – JOSEPH MCDOWELL HISTORICAL CATAWBA GREENWAY PHASE 2 PROPERTY: The City Manager advised that a public hearing is required on the annexation of the City owned Joseph McDowell Historical Catawba Greenway Phase 2 property. If approved, the annexation would become effective March 31, 2011.

Mayor Little opened the Public Hearing.

There were no citizens present to discuss this Public Hearing.

Mayor Little closed the Public Hearing.

AA.00001077 (24)

Upon a motion by Council Member Martin, seconded by Council Member Owenby, Council voted unanimously to adopt the following Ordinance annexing the Joseph McDowell Historical Catawba Greenway Phase 2 property, effective March 31, 2011:

AN ORDINANCE TO EXTEND
THE CORPORATE LIMITS OF THE
CITY OF MARION, NORTH CAROLINA –
JOSEPH MCDOWELL HISTORICAL CATAWBA GREENWAY PHASE 2 - 2011

WHEREAS, the City Council has adopted a resolution under G.S. 160A-31 stating its intent to annex the area described below; and

WHEREAS, a public hearing on the question of this annexation was held at City Hall at 7:00 P.M. on Tuesday, March 22, 2011, after due notice by publication on Wednesday, March 9, 2011; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-31;

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

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described contiguous property owned by the City of Marion is hereby annexed and made part of the City of Marion as of March 31, 2011:

BEGINNING on an unmarked point located at the easternmost corner of that property conveyed to the City of Marion by that deed recorded in Book 1018 at Page 504, said unmarked point being also located at the top of the bank of the Catawba River, and running thence from said BEGINNING along the top of the bank at the edge of the Catawba River the following 56 calls and distances all to unmarked points: South 74 degrees 48 minutes 29 seconds East 45.94 feet, South 88 degrees 40 minutes 19 seconds East 44.24 feet, North 75 degrees 06 minutes 21 seconds East 123.77 feet, North 79 degrees 52 minutes 25 seconds East 43.09 feet, North 71 degrees 12 minutes 06 seconds East 36.07 feet, North 73 degrees 20 minutes 54 seconds East 43.94 feet, North 60 degrees 07 minutes 44 seconds East 57.49 feet, North 72 degrees 14 minutes 10 seconds East 40.30 feet, North 77 degrees 58 minutes 17 seconds East 41.88 feet, North 79 degrees 48 minutes 18 seconds East 51.95 feet, South 87 degrees 13 minutes 40 seconds East 34.01 feet, North 81 degrees 05 minutes 23 seconds East 49.41 feet, North 83 degrees 05 minutes 05 seconds East 51.21 feet, North 89 degrees 03 minutes 43 seconds East 48.88 feet, North 86 degrees 32 minutes 12 seconds East 51.45 feet, North 89 degrees 26 minutes 07 seconds East 42.97 feet, North 85 degrees 15 minutes 13 seconds East 33.75 feet, South 82 degrees 26 minutes 52 seconds East 41.30 feet, North 88 degrees 04 minutes 28 seconds East 47.43 feet, North 89 degrees 11 minutes 27 seconds East 36.95 feet, North 78 degrees 27 minutes 20 seconds East 20.25 feet, South 88 degrees 42 minutes 47 seconds East 38.63 feet, North 80 degrees 42 minutes 11 seconds East 33.01 feet, North 86 degrees 23 minutes 40 seconds East 33.15 feet, North 79 degrees 33 minutes 04 seconds East 35.94 feet, South 87 degrees 47 minutes 21 seconds East 39.56 feet, North 82 degrees 34 minutes 00 seconds East 31.88 feet, North 85 degrees 27 minutes 51 seconds East 33.47 feet, North 86 degrees 09 minutes 07 seconds East 43.31 feet, North 76 degrees 50 minutes 03 seconds East 40.69 feet, South 86 degrees 55 minutes 24 seconds East 36.00 feet, North 80 degrees 57 minutes 44 seconds East 25.79 feet, North 84 degrees 44 minutes 16 seconds East 31.97 feet, South 81 degrees 09 minutes 47 seconds East 31.55 feet, North 85 degrees 43 minutes 43 seconds East 34.18 feet, North 86 degrees 11 minutes 56 seconds East 36.21 feet, North 78 degrees 10 minutes 44 seconds East 20.87 feet, North 87 degrees 25 minutes 40 seconds East 28.84 feet, South 85 degrees 17 minutes 03 seconds East 22.61 feet, North 82 degrees 10 minutes 43 seconds East 34.31 feet, North 82 degrees 37 minutes 24 seconds East 31.73 feet, North 84 degrees 55 minutes 29 seconds East 39.21 feet, North 83 degrees 48 minutes 02 seconds East 50.07 feet, North 82 degrees 07 minutes 18 seconds East 47.80 feet, North 87 degrees 21 minutes 29 seconds East 33.95 feet, North 69 degrees 17 minutes 46 seconds East 41.90 feet, North 85 degrees 19 minutes 11 seconds East 32.79 feet, South 82 degrees 03 minutes 35 seconds East 27.36 feet, South 87 degrees 18 minutes 31 seconds East 18.44 feet, South 83 degrees 10 minutes 46 seconds East 32.65 feet, South 77 degrees 27 minutes 56 seconds East 7.90 feet, South 66 degrees 09 minutes 01 seconds East 14.81 feet, South 84 degrees 13 minutes 16 seconds East 26.28 feet, South 70 degrees 12 minutes 36 seconds East 18.79 feet, North 71 degrees 36 minutes 59 seconds East 10.01 feet, North 51 degrees 14 minutes 05 seconds East 6.10 feet and North 86 degrees 16 minutes 19 seconds East 11.04 feet; said unmarked point being the current boundary of the City of Marion corporate limits; thence leaving the edge of the Catawba river and running along the current boundary of the Marion corporate limits South 16 degrees 19 minutes 25 seconds East 13.62 feet to a 5/8-inch rebar set and South 01 degrees 52 minutes 37 seconds East 69.14 feet to a 5/8-inch rebar set bearing the following coordinates: N=726,090.853 feet and E=1,098,534.808 feet; thence the following 17 courses and distances, new lines, all to 5/8-inch rebars set: North 75 degrees 02 minutes 51 seconds West 65.76 feet, North 79 degrees 18 minutes 36 seconds West 70.83 feet, North 87 degrees 13 minutes 26 seconds West 59.57 feet, South 70 degrees 54 minutes

AA.000001078 (24)

56 seconds West 47.12 feet, South 83 degrees 52 minutes 52 seconds West 244.09 feet, North 89 degrees 00 minutes 46 seconds West 45.14 feet, South 84 degrees 18 minutes 59 seconds West 103.31 feet, North 89 degrees 56 minutes 59 seconds West 114.66 feet, South 82 degrees 47 minutes 17 seconds West 152.43 feet, South 85 degrees 19 minutes 44 seconds West 138.70 feet, South 88 degrees 49 minutes 01 seconds West 360.86 feet, South 82 degrees 30 minutes 42 seconds West 215.27 feet, South 64 degrees 55 minutes 55 seconds West 89.29 feet, South 74 degrees 50 minutes 08 seconds West 263.79 feet, North 88 degrees 19 minutes 35 seconds West 60.65 feet, North 78 degrees 24 minutes 04 seconds West 52.62 feet, and North 13 degrees 31 minutes 05 seconds East 67.79 feet to the point and place of BEGINNING.

Section 2. The Mayor of the City of Marion shall cause to be recorded in the office of the Register of Deeds of McDowell County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the McDowell County Board of Elections, as required by G.S. 163-288.1.

ADOPTED this the 22nd day of March, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Approved As To Form:

City Attorney

Ordinance Number: O-11-03-22-2

PUBLIC HEARING ADOPTION OF ANNEXATION ORDINANCE – HANEY/US 70 PROPERTY: The City Manager advised that a public hearing is required on the requested annexation of the 0.80 acre Haney property on US 70 East. This residential property is located 0.16 miles from the current City Limits. If approved, the annexation would become effective March 31, 2011.

Mayor Little opened the Public Hearing.

Mr. Matthew Hebb, who is in the process of purchasing the property to be annexed, thanked City Manager Bob Boyette for all he had done in assisting him with this process.

Mayor Little stated that Mr. Hebb had demonstrated how to run a successful business, Caffiend Underground, since he came to Marion.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Doggett, seconded by Council Member Martin, Council voted unanimously to adopt the following Ordinance annexing the Haney Property on US 70 East, effective March 31, 2011:

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF MARION, NORTH CAROLINA – HANEY PROPERTY/US 70 EAST - 2011

WHEREAS, the City Council has been petitioned under G.S. 160A-58.1 to annex the area described below; and

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

AA.000001079 (24)

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at City Hall at 7:00 P.M. on Tuesday, March 22, 2011, after due notice by publication on Wednesday, March 9, 2011; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-58.1(b);

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

Section 1. By virtue of the authority granted by G.S. 160A-58.2, the following described territory is hereby annexed and made part of the City of Marion as of March 31, 2011:

BEING ALL OF THOSE TWO CERTAIN TRACTS OF LAND as recorded in Deed Book 199, at Page 155 and Deed Book 466, at Page 419 of the McDowell County Deed Registry, containing a total of 0.80 acre and being more fully described by metes and bounds per new unrecorded plat of survey as follows:

BEGINNING on a point in the centerline of U.S. Hwy. 70, the same being the Southwest corner of tract recorded in Deed Book 199, at Page 156 of the McDowell County Deed Registry and also being the Southeast corner of the Harris lands as described in Deed Book 267, at Page 730 of the McDowell County Deed Registry, and runs thence, with the Harris line (Book 267, at Page 730 and Book 270, at Page 638), North 40 degrees 30 minutes 00 seconds West 339.50 feet, passing an iron pin found on line at 17.14 feet to a PK nail set in the centerline of Conley Road, State Road No. 1536; thence, with said centerline North 36 degrees 42 minutes 03 seconds East 102.18 feet to a PK nail set; thence, leaving said centerline and with the line of Vallini (Book 411, at Page 859), South 40 degrees 30 minutes 00 seconds East 362.14 feet, passing an iron pin found on line at 344.99 feet to a point in the centerline of U.S. Hwy. 70; thence, with said centerline, South 49 degrees 30 minutes 00 seconds West 99.64 feet to the **BEGINNING**, containing 0.80 acre. ALL CALLS USED in this description were taken from an unrecorded plat of survey prepared by C & R Surveying, dated May 31, 1995, numbered C-4195, entitled "Survey for Floyd & Debra Bradford", hereby incorporated by reference as if fully set out.

SUBJECT TO the right of way for U.S. Hwy. 70 and State Road No. 1536, Conley Road, to each of their full legal widths

AND BEING the same property described and conveyed in Deed Book 811 at Page 891 of the McDowell County Deed Registry.

Section 2. Upon and after March 31, 2011, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City of Marion. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Marion shall cause to be recorded in the office of the Register of Deeds of McDowell County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the McDowell County Board of Elections, as required by G.S. 163-288.1.

ADOPTED this the 22nd day of March, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

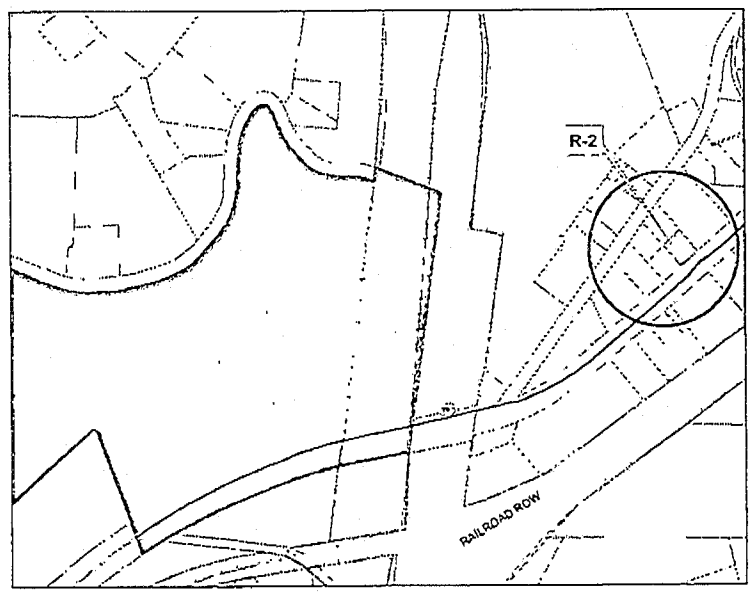
Approved As To Form:

City Attorney

Ordinance Number: O-11-03-22-3

AA.000001080 (24)

PUBLIC HEARING ZONING MAP AMENDMENT – ASSIGN ZONING TO HANEY/US 70 ANNEXATION AREA: Planning and Development Director Heather Cotton advised that the purpose of this proposed ordinance is to assign an appropriate zoning designation to the Haney/US 70 East annexation area that is most compatible with the existing uses within the area and to provide a mechanism to regulate such uses. Based on Marion City Code, the subject area is most compatible with Section 21-202, *R-2 General Residential* zoning district. The R-2 General Residential Zoning District is established as a district where the principal use of land is for residential purposes, and which allows some flexibility for commercial uses. While the property includes one single-family residence, it is located in an area that includes a mixture of land uses. Therefore, Staff recommended the R-2 General Residential designation



Ms. Cotton reported that the Planning Board recommended Council approval of an ordinance to assign R-2 zoning to this area in a 5-0 vote at their regularly scheduled meeting on March 3, 2011.

Mayor Little opened the Public Hearing.

There were no citizens present to discuss this zoning issue.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Clark, seconded by Council Member Cuthbertson, those members of Council present voted unanimously to adopt the following ordinance to assign the R-2 General Residential Zoning District to the US70/Haney annexation area:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
ASSIGN ZONING TO HANEY/ HIGHWAY 70 EAST ANNEXATION

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to include the Haney/Highway 70 East Annexation Territory, as adopted by City Council Ordinance Number O-11-03-22-3.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing March 3, 2011.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

AA.000001081 (24)

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective upon its adoption.

Adopted this the 22nd day of March 2011.

Stephen R. Little
Mayor

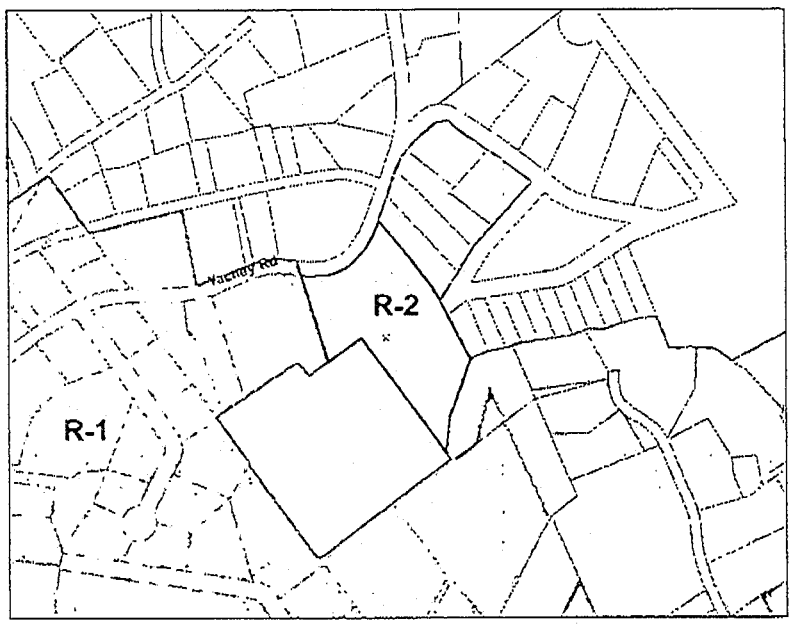
ATTEST:

J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-11-03-22-5

PUBLIC HEARING – ZONING MAP AMENDMENT – ASSIGN ZONING TO SILVER/YANCEY ROAD ANNEXATION AREA:

Planning and Development Director Heather Cotton advised that the purpose of this ordinance is to assign an appropriate zoning designation to the Silver/Yancey Road annexation area that is most compatible with the existing uses within the area and to provide a mechanism to regulate such uses. Based on Marion City Code, the subject area is most compatible with Section 21-202, *R-2 General Residential* zoning district. The R-2 General Residential Zoning District is established as a district where the principal use of land is for residential purposes. The property includes more than one residential dwelling, therefore Staff recommended that the property be designated R-2 General Residential.



Ms. Cotton reported that the Planning Board recommended Council approval of an ordinance to assign R-2 zoning to this area in a 5-0 vote at their regularly scheduled meeting on March 3, 2011.

Mayor Little opened the Public Hearing.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following Ordinance to assign the R-2 General Residential Zoning District to the Silver/Yancey Road annexation area:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
ASSIGN ZONING TO SILVER ANNEXATION

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

AA.000001082 (24)

Section 2: The City of Marion is amending the Official Zoning District Map to include the Silver Annexation Territory, as adopted by City Council Ordinance Number O-11-03-22-1.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing March 3, 2011.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective upon its adoption.

Adopted this the 22nd day of March 2011.

Stephen R. Little
Mayor

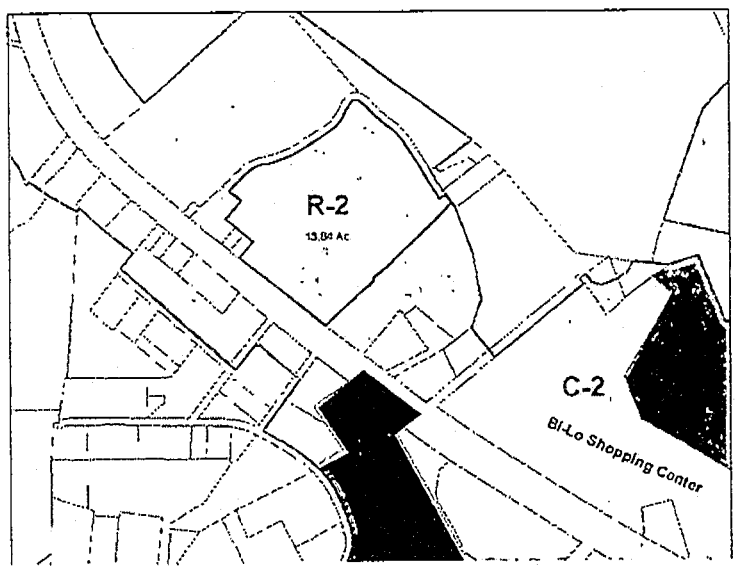
ATTEST:

J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-11-03-22-6

PUBLIC HEARING – ZONING MAP AMENDMENT – REZONING OF PROPERTY ON NORTH MAIN STREET: Planning and Development Director Heather Cotton advised that a request had been received from the Pendergraph Company to rezone a 13+ acre property on North Main Street, adjacent to the Main Street Car Wash, from C-2 General Business to R-2 General Residential. Ms. Cotton stated that the purpose of proposed ordinance is to amend the current zoning designation for the purpose of developing the property as multi-family residential. The R-2 General Residential district will be most compatible with the proposed use for the property and provide a mechanism to regulate such uses. Based on Marion City Code, the proposed use is most compatible with Section 21-203(3) *R-2 General Residential Zoning District*, Planned Unit Development. The R-2 General Residential Zoning District is established as a district where the principal use of land is for residential purposes. R-2 General Residential allows eight (8) dwelling units or less per parcel. Staff has received an application from the applicant to develop 48-units, two buildings with 8-units each and one building with 16 units.

Staff has received a number of inquiries from adjacent property owners regarding plans for the site, but no one has expressed opposition towards those plans. Staff finds that the proposed rezoning will not have a negative impact on the surrounding area and that is compatible with adjacent land uses. The rezoning will allow for new, code complaint affordable workforce housing opportunities in close proximity to employment areas.



Ms. Cotton advised that the Planning Board recommended approval of an ordinance to rezone the property to R-2in a

AA.000001083 (24)

5-0 vote at their regularly scheduled meeting on March 3, 2011.

Mayor Little opened the Public Hearing.

Mr. Paige Gibson, an adjoining property owner to the property requested for rezoning, asked if the streets into the proposed apartment complex would be public or private. Ms. Cotton stated that the developer had stated so far that the roads into the apartment complex would be private.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Martin, seconded by Council Member Clark, Council voted unanimously to adopt the following Ordinance to
amend the *Official Zoning District Map* by changing a 13.84 acre vacant parcel from C-2 General Business to R-2 General Residential:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map from C-2 General Business to R-2 General Residential for property located on North Main Street/Highway 221 Business and having the Parcel Identification Number 1702.03-30-6307.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing on March 3, 2011.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective upon its adoption.

Adopted this the 22nd day of March 2011.

Stephen R. Little
Mayor

ATTEST:

J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-11-03-22-8

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

APPROVE RESOLUTION REGARDING TREATMENT OF SMALL REFUNDS OF WATER AND SEWER DEPOSITS: Finance Director Harriett Thomas advised that, as

AA.0000010B4 (24)

previously reported, staff had discussed a few months ago the idea of eliminating refunds of small water and sewer deposits, since it costs more to process such refunds than the amount of the refund itself. Ms. Thomas noted that some cities and counties have adopted policies not to issue refunds of less than $5.00. This matter was discussed at the February 8 Council Planning Session, at which time Council stated that such a resolution would be acceptable as long as the City would still issue refunds of less than $5.00 if requested to do so by the customer.

Ms. Thomas said that she revised the resolution to state that refunds of less than $5.00 will not be issued, unless requested by the customer.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Doggett, Council voted unanimously to adopt the following resolution regarding the treatment of small refunds by the City:

RESOLUTION
REGARDING TREATMENT OF SMALL REFUNDS OF
WATER & SEWER DEPOSITS

WHEREAS, the finance office has determined certain Water & Sewer customer accounts may have an overpayment of less than five dollars ($5.00); and

WHEREAS, these payments are usually the result of the remaining Water & Sewer security deposit after applying such deposit to a final bill; and

WHEREAS, the cost to the finance office of making a refund is usually larger than the amount of the refund itself; and

WHEREAS, a significant number of these small deposit amounts are never cashed and must be escheated to the state after one year; and

WHEREAS, accurate records of all deposit refunds, by customer and amount, is maintained by the finance office for audit purposes.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Marion does hereby adopts this resolution permitting the finance office to treat overpayments of five dollars ($5.00) or less as nonrefundable unless the customer specifically requests a refund.

ADOPTED this the 22nd day of March, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-11-03-22-1

ADOPT RESOLUTION OF INTENT – STREET CLOSING – UNNAMED ALLEYWAY OF OLD WEST HENDERSON STREET: The City Manager advised that, as shown in information presented to Council, the City had received a request from Gurley Properties, LLC to close an unnamed alleyway off of Old West Henderson Street next to the McDonald's property. This alleyway does not appear on County tax maps, but is shown on old plats of the area. Mr. Gurley owns all property around the alleyway and wants the alleyway eliminated to create a larger commercial site. The first step in the street closing process is the adoption of a Resolution of Intent by Council. After adoption of the resolution, notice of the proposed street closing will be published in the newspaper and posted on the property.

AA.000001085 (24)

The City Manager advised that a public hearing would need to be held on the request at the May 3 meeting, after which time Council may take action to close the street. No other properties, other than the property owned by Gurley Properties, are affected by the street closing. A copy of Mr. Gurley's application to close this street and excerpts of the North Carolina General Statutes pertaining to street closing were presented for Council's review.

Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to adopt the following Resolution of intent to close an unnamed alleyway off of Old West Henderson Street.

RESOLUTION OF MARION CITY COUNCIL
INTENT TO CLOSE AN UNNAMED ALLEYWAY OFF OF OLD WEST HENDERSON STREET

BE IT RESOLVED THAT, Pursuant to the provisions of North Carolina General Statutes 160A-299, the Marion City Council, hereby declares its intent to permanently close an unnamed alleyway off of Old West Henderson Street, as requested by the applicant, Gurley Properties, LLC. The alleyway in question is surrounded by property owned by the applicant.

A public hearing is called to be held in the City Council Chamber at the City Hall, Marion, North Carolina at 7:00 P.M. on May 3, 2011, at which hearing any person may be heard on the question of determining whether or not the closing of said portion of said street would be detrimental of the public interest or the property rights of any individual.

BE IT FURTHER RESOLVED that a copy of this resolution shall be published once a week for four (4) successive weeks in the McDowell News, Marion, North Carolina, prior to the date of said public hearing, and that a copy of the same shall be sent by registered or certified mail to Gurley Properties, LLC, 380 Holly Hill Drive, Marion NC 28752, who is the owner of property adjoining said portion of said street as shown on the McDowell County tax records.

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

ADOPTED this the 22nd day of March, 2011.

Stephen R. Little
Mayor

ATTEST:

J. Robert Boyette
City Manager/Clerk

RESOLUTION NUMBER: R-11-03-22-2

CONSIDER APPROVAL OF INTERLOCAL AGREEMENT WITH MCDOWELL COUNTY – DISPATCHING CONSOLIDATION: The City Manager advised that, as previously reported, City and County staff have worked to prepare the attached draft Interlocal Agreement between the City and County to consolidate dispatching services. Under the agreement, the consolidated dispatching operation will be housed, starting July 1, 2011, in the basement of the Police Department, allowing the Police Department to remain open 24 hours per day. The City will pay for two dispatchers, saving the City a considerable amount of money estimated to be about $90,000 or more per year, since the City now funds four full-time dispatchers plus two reserve dispatchers. Using 911 funds, the County will reimburse the City for dispatching software and maintenance already paid for by the City, as well as a proportionate share of overhead expenses, to the degree allowed by State law. The County will also use 911 funds to make all physical improvements needed to house the dispatching operation in the Police Department basement, subject to City approval of all such changes.

A.A.000001086 (24)

The City Manager stated that the City and County will probably need 60 to 90 days to prepare for the consolidation. The County Commissioners will likely approve this agreement at their April 11 meeting.

The City Manager commended Police Chief Mark Brooks for amount of time he had put into this proposal and for working with County Emergency Management Director Terry Young on the draft agreement.

Mayor Pro Tem Cuthbertson asked what the first year savings would be.

The City Manager stated that the City should save about $90,000 per year in personnel expenses, about $5,000 to $10,000 per year in over head expenses and receive close to $80,000 in one-time money by selling the City's dispatching software and remaining four years of a maintenance contract to the County. Therefore, he estimated the first year saving to be $170,000 to $180,000 and recurring savings of $90,000 to $100,000 in subsequent years. He noted that this is a moving target and subject to some change.

Council Member Clark asked what value the City would be getting for the building. The City Manager stated that he inquired about rent for the building, but was told by the County that 911 funds cannot be used for rent or debt service on buildings. He said that this fact was verified by Finance Director Harriett Thomas.

Council Member Clark stated that he understands that the County only wants to use 911 funds to pay the City, but noted that the County could use other funds as well. He stated that, if the County truly wanted to save money, the Sheriff's Department dispatchers should be part of the consolidation. Council Member Clark showed information that the per capita cost for City residents for law enforcement was several times higher than that of County residents.

Mayor Little stated that the proposal could perhaps be a more perfect arrangement; however, that does not mean that the proposed agreement is not good for the City.

Council Member Doggett stated that she feels that this is a win-win proposal for the City and the County.

Council Member Clark stated that he feels the City need a study of this proposal to see what is fair and equitable to everyone. He said that the City does not need to be short-sighted with this matter and that he feels that this proposal does not properly benefit City residents. Council Member Clark stated that he likes knowing who he is talking to when he calls the Police Department.

Council Member Doggett stated that she would not know who she was talking to if she called the Police Department and neither would the average person. She said that what matters is whether the call is handled properly.

Police Chief Mark Brooks stated that it is important to note the time delay involved when someone calls 911 needing law enforcement. He said that such calls must be transferred to the Police Department or Sheriff's Department, which may take 15-20 seconds. Chief Brooks stated that seconds count in an emergency.

Mayor Little stated that the per capita cost of law enforcement will always be higher for City residents, not just in Marion, but in every city in North Carolina, due to City residents receiving a higher level of service.

AA.000001087 (24)

Mayor Little stated that this agreement addresses the concerns expressed by Council at the February 8 Planning Session. He said that he personally has enough confidence in a County employee handling an emergency call as he does a City employee.

Upon a motion by Council Member Martin, seconded by Council Member Doggett, Council voted 4 to 1 to approve the following Interlocal Agreement between McDowell County and the City of Marion, consolidating dispatching services as of July 1, 2011.

The vote was as follows:

Mayor Pro Tem Cuthbertson	Yes
Council Member Doggett	Yes
Council Member Martin	Yes
Council Member Owenby	Yes
Council Member Clark	No

The City Manager asked for authority to make minor changes, not affecting the content of the agreement, in the event the County made minor changes to the document during approval.

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL

AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____ 2011 by and between the County of McDowell, a North Carolina Municipal Corporation, hereinafter referred to as "the County", and the City of Marion, a North Carolina Municipal Corporation, hereinafter referred to as "the City".

WITNESSETH

WHEREAS, McDowell County and the City of Marion are political subdivisions of the State of North Carolina, both having the power and authority to enter into this agreement and the signatories hereto have been authorized to execute this document on behalf of the McDowell County Board of Commissioners and Marion City Council; and

WHEREAS, the City and County have discussed consolidation of dispatching in order to improve efficiency, enhance service and reduce costs; and

WHEREAS, the County is willing to provide law enforcement dispatching and after hours non-emergency dispatching for the City of Marion, with the combined dispatching operation taking place in the lower level of the City of Marion's Police Department building at 270 South Main Street, subject to the execution of an Agreement.

NOW, THEREFORE, the parties wish to reduce their agreement to writing and agree to the following:

1. The County and the City mutually agree that this Contract shall become effective at 12:00 a.m. on July 1, 2011 and it shall continue in effect until terminated by the consent of both parties, as discussed in more detail below.

2. The County agrees to assume all operational responsibility for law enforcement dispatching for the City's Police Department. The County, through its Emergency Management Department, shall exercise all law enforcement dispatching duties for the City. In addition, the County Emergency Management Department will continue to dispatch the McDowell County Emergency Medical Service, County Volunteer and Municipal Fire Departments in McDowell County, the McDowell County Rescue Squad and Emergency Management calls.

3. The County and the City mutually agree that the combined dispatching operation will be managed by McDowell County, with input provided through the appointment of a County 911 Advisory Committee, as detailed in a separate Memorandum of Understanding.

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4. The County and the City mutually agree that the combined dispatching operation will be housed in the lower level of the City Police Department building at 270 South Main Street, unless a different location is agreed to by both parties.

5. The County further agrees to assume all operational responsibility for non-emergency calls and visits to the Police Department when Police Department personnel are unavailable. This responsibility shall include dispatching City water, wastewater and street crews as necessary and dispatching City personnel for non-emergency duties including, but not limited to, opening and closing the Marion Community Building and Depot.

6. The City agrees to pay the County for salary and benefits for two full time dispatchers. In calculating the costs to be paid by the City, the City shall not be required to pay more for salary and benefits for two positions than the County does for positions it directly funds, provided that the City will pay for periodic salary and benefit increases for the two positions for which it pays the County, as long as said increases are not greater than that provided to other dispatchers and other County employees.

7. The County shall send a quarterly billing statement to the City for dispatching services. Said statement shall itemize the salary and benefits for the two positions for which the City is charged. The City agrees to remit payment to County within 30 days of receipt.

8. As of the effective date of this agreement, the County agrees to hire three of the City's current four full-time dispatchers and will consider hiring the City's fourth full-time dispatcher, as long as said dispatchers meet the minimum qualifications set by the County. Any of the City's full-time dispatchers hired by the County will be paid no less than their City paid compensation, will receive the same benefits as other County employees, will have their sick leave balance transferred to the County and will have their years of service with the City considered as County service for purposes of calculating longevity pay, vacation leave, sick leave or other benefits.

9. The County agrees to cross train all dispatchers to handle fire, emergency medical service, rescue squad, emergency management and law enforcement calls and to require all dispatchers to obtain in a timely manner any certifications required to allow said personnel to handle fire, emergency medical service and law enforcement calls.

10. The City further agrees to provide space for the County Addressing Coordinator/Dispatching Supervisor and Emergency Management Director, to allow the public to have access to the Addressing Coordinator as needed on a daily basis and to allow a City/County Emergency Operations Center to be established in the Police Department Training Room. It is acknowledged that the Training Room shall be used by the City at all times as it sees fit, except when needed for emergency situations, in which case it shall serve as a joint City/County Emergency Operations Center.

11. The County agrees to make physical improvements needed to the Police Department building to accommodate the dispatching operations, the space needed for the County Addressing Coordinator/Dispatching Supervisor, Emergency Management Director and for the City/County Emergency Operations Center. All such improvements will be approved by the City prior to being made.

12. To the extent allowed utilizing 911 funds and subject to the availability of said funds, the County further agrees to reimburse the City for a proportionate share of all overhead expenses related to the dispatching operation, the space needed for the County Addressing Coordinator/Dispatching Supervisor and the Emergency Management Director. This proportionate share shall be based on the square footage of building used for County operations and on the number of telephone lines used for County operations. Items to be reimbursed proportionally include, but are not limited to utility (electrical, water, sewer and natural gas) costs, garbage collection expenses, document shredding expenses, telephone expenses, computer maintenance costs, cable television charges, Internet charges, property insurance, building maintenance and generator operations and maintenance costs.

13. To the extent allowed by 911 Fund guidelines, the County further agrees to reimburse the City for law enforcement dispatching software expenses previously incurred by the City, as well as for the remaining years on the pre-paid maintenance contract for said software.

14. The County agrees that a Committee shall be formed, with representation from the City, to provide input and make recommendations regarding the combined dispatching operation.

15. This Agreement may be modified by mutual, written agreement of the parties. Any termination of this Agreement must be made in writing and delivered no later than December 31 of any year prior to the July

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1 effective date of the termination; however no termination may be made until this agreement has been in place at least two (2) years. This six month notice of termination must be sent via first class mail or facsimile to the following:

For County:

Charles Abernathy
County Manager
60 East Court Street
Marion North Carolina 28752

For City:

Bob Boyette
City Manager
PO Drawer 700
Marion, NC 28752

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first above written.

COUNTY OF MCDOWELL, NORTH CAROLINA

BY:_____
David Walker, Chairman
McDowell County Board of Commissioners

(SEAL)

ATTEST:

BY:_____
Carrie Padgett, Clerk to the Board

CITY OF MARION, NORTH CAROLINA

BY:_____
Stephen R. Little, Mayor

(SEAL)

ATTEST:

BY:_____
J. Robert Boyette, City Manager/Clerk

CONSIDER AWARD OF CONTRACTS FOR VEHICLE PURCHASES: Finance Director Harriett Thomas advised that eight bid packets were sent out for a small Sport Utility Vehicle for the Water Plant. Four bids were received and opened on Tuesday, March 8, 2011 at 10:00 a.m. as follows:

Crossroads Ford Morganton, NC	Escape 4x4 - 4 Cylinder	$19,294.00
Stamey Chrysler-Jeep-Dodge Marion, NC	Liberty 4x4 - 6 Cylinder	$20,805.50
Jim Barkley Toyota Marion, NC	Rav4 4x4 - 4 Cylinder	$22,812.00
Everett Chevrolet Hickory, NC	Equinox AWD - 4 Cylinder	$22,819.00

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Ms. Thomas stated that Crossroads Ford in Morganton submitted the low bid for a 2011 Ford Escape 4X4 in the amount of $19,294.00. She noted that this was the only bid below the City's $20,000 budget for this vehicle. Ms. Thomas stated that Stamey Chrysler Jeep Dodge of Marion submitted the next low bid in the amount of $20,805, but that this bid was $1,511 higher than the low bid and was for a vehicle with worse gas mileage (5 mpg lower).

The City Manager stated that the City always gives local dealerships the opportunity to bid, but sometimes they choose not to do so.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Martin, Council voted unanimously to award the contract for the purchase of a Sport Utility Vehicle for the Water Plant to Crossroads ford for a 2011 Ford Escape 4X4 in the amount of $19,294.

Finance Director Harriett Thomas stated that fifteen bid packets were sent out for a 4X2 and a 4X4 pickup truck to be used in the Street Department.

The following bids were received and opened on Tuesday, March 8, 2011 at 11:00 am:

4X2 Truck

Bobby Jones Ford, Augusta, GA	2011 F-150 XL	$15,349.35
Jim Cook Chevrolet, Marion, NC	2011 Silverado	$15,599.00
Crossroads Ford, Morganton, NC	2011 F-150 XL	$15,746.00
Everett Chevrolet, Hickory, NC	2011 Silverado	$16,442.80
Stamey, Chry-Jeep-Dodge, Marion, NC	2011 Dodge Ram 1500	$18,278.50

4X4 Truck

Bobby Jones Ford, Augusta, GA	2011 F-150 XL	$18,296.35
Jim Cook Chevrolet, Marion, NC	2011Silverado	$18,400.00
Crossroads Ford, Morganton, NC	2011 F-150 XL	$18,310.35
Everett Chevrolet, Hickory, NC	2011 Silverado	$19,132.25
Stamey, Chry-Jeep-Dodge, Marion, NC	2011 Dodge Ram 1500	$20,904.50

Ms. Thomas stated that, for the Street Department 4X2 truck, the low bid came in from Bobby Jones Ford in Augusta, GA in the amount of $15,349.35 for a Ford F-150. However, the next lowest bid from Jim Cook Chevrolet in Marion in the amount of $15,599 for a 2011 Chevrolet Silverado, which is only $249.65 higher than the low bid.

Ms. Thomas stated that, for the Street Department 4X4 truck, the low bid came in from Bobby Jones Ford in Augusta, GA in the amount of $18,296.35 for a Ford F-150. However, the next lowest bid from Jim Cook Chevrolet in Marion in the amount of $18,400 for a 2011 Chevrolet Silverado, which is only $103.65 higher than the low bid.

The City Manager stated that staff felt that the City could certainly justify paying a combined $353.30 more for these two trucks from Jim Cook Chevrolet due to savings over the life of the truck if the City has to take the vehicle into the dealership for service. The City Manager noted that Council has gone with a local dealership previously when the difference in price was a few hundred dollars.

Upon a motion by Council Member Owenby, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to award the contract for the purchase of a Street Department 4X2 truck to Jim Cook Chevrolet in the amount of $15,599 for a 2011 Chevrolet Silverado and to award the contract for the purchase of a Street Department 4X4 truck to Jim Cook Chevrolet in the amount of $18,400 for a 2011 Chevrolet Silverado.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

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The City Manager advised that he had received a letter from DOT on March 10, advising that DOT had changed their rules on the blue logo signs to allow such signs at signalized intersections adjacent to the end of controlled access highways, such as the US 221 Bypass. This is a result of close to 18 months of efforts by the City to convince DOT to change the rules. It appears that DOT will now accept applications for such logo signs. The City Manager stated that he sent Ricky Williams of the Steakhouse and Rob Noyes of Countryside Barbeque/Hook and Anchor Seafood a letter notifying them of this change, since they had initiated this matter. The City Manager also stated that he also called and left Mr. Williams and Mr. Noyes a message to make them aware of this change. The City Manager stated that Mr. Williams left a return message and advised that he truly appreciated the City's efforts to bring about this change.

The City Manager stated that this is at least the third change in Statewide policy brought on as a direct result of requests of the City of Marion.

The City Manager advised that, as previously reported, the Asheville chapter of SCORE (Service Corps of Retired Executives) wants to begin doing free small business counseling in Marion and McDowell County. The City Manager advised that he, Freddie Killough, Rod Birdsong, and County Manager Chuck Abernathy met a few weeks ago with SCORE representatives to discuss how the program will work. Bill Mance, a volunteer with SCORE and formerly with Baxter Healthcare, will be the lead person on this project. The City Manager presented Council with a draft marketing plan prepared by SCORE for this project. The Chamber will initially host the counseling sessions.

The City Manager advised that he sent an e-mail to the offices of Senator Burr, Senator Hagan and Congressman Shuler on March 14, asking them to oppose plans to divert postal carriers and services from the Nebo Post Office to the Marion Post Office. He also asked them to seek a new Post Office for Marion. The City Manager stated that the senate and congressional staffs had indicated that they would try to assist with this matter, to the best of their ability, although they said that they could not guarantee that anything would be done by the Postal Service, but they would try to advance our requests.

The City Manager advised that Public Works Director Chris Hollifield had worked out a better plan to prevent vehicles from blocking the driveway into the overflow parking area at the Greenway, as requested by Mayor Pro Tem Cuthbertson. City crews made a more prominent driveway into the overflow parking area.

The City Manager advised that he anticipates having the Community Building floors refinished by the end of March, as had been requested by Council Member Clark.

The City Manager advised that Administrative Assistant Debi Sherlin had scheduled the City Open House for the 3rd Graders to take place on Friday, April 15. He noted that all public elementary schools in the County would participate, along with New Manna Christian Academy.

Mayor Little urged Council Members to participate in the Open House if at all possible.

The City Manager stated that Duke Energy had planned a scheduled power outage from 12:00 Midnight until 3:00 A.M. late Saturday night/early Sunday morning on April 3. The power outage will affect the North Main Street, Highway 221 North Business, Highway 221 North, Highway 70 West and Highway 80 areas. The outage is being scheduled to repair damage to some transmission lines in the area.

The City Manager advised that City crews were nearly complete with the curb and sidewalk project on Robert Street near Marion Elementary School. Public Works Director Chris Hollifield is evaluating how best to proceed with the City's next two scheduled large projects, a curb replacement on Crescent Drive and a curb and sidewalk replacement on Park Drive. The

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City Manager stated that he hopes to have recommendations ready to present to Council on these projects, along with street resurfacing recommendations, in April.

The City Manager advised that City crews will next work on construction of a Shade Shelter at the Community Building Park Splash Pad, after the Robert Street curb/sidewalk project is completed. The City wants to have the Shade Shelter completed before the Splash Pad opens in May, if possible. Public Works Director Chris Hollifield advised that the Shade Shelter will essentially be a mini picnic shelter inside the fence at the Splash Pad and provide for room for parents and grandparents to watch children, while staying out of the sun.

The City Manager stated that, without objection from Council the Street Committee needs to look at a drainage issue on Ann Street. The Mayor and Council Members expressed no objection to the Street Committee looking at this drainage issue.

The City Manger advised that McGill Associates had resubmitted information to USDA for the Appalachian Regional Commission (ARC) grant for the Sugar Hill Road water and sewer project. The City will have to re-bid the project, but he anticipates having bids come in before the end of March, which should allow the City to award construction contracts at the April 5 Council meeting. The N.C. Local Government Commission (LGC) should also approve the financing of this project on April 5.

As previously reported, the Rural Center will allow the City to expand the project to include the water and sewer extensions to the Stamey Chrysler and West Marion Business Park areas. This will provide the City an additional $300,000 in grant funding over what would have been received, depending on the amount of the second bids.

The City Manager reported that the City can hopefully be underway with the water and sewer construction by mid-April.

The City Manager further advised that Wal-Mart has signed a contract to begin construction on the Supercenter building. The developer has advised that construction on the retail shops will begin in mid-April. Both the Wal-Mart Supercenter and retail shops are scheduled to open between September 15 and early October.

The City Manager advised that the City's contractor had started grading the Clinchfield Park and implementing the approved Erosion Control Plan for the property, as has been required by the State.

Mr. Hollifield gave a brief report on the recent water tank inspection. This is the 15 year inspection. He noted that only some very minor issues were found. The next inspection will take place in five years.

The City Manager stated that on a final note, he wished he had time to mention everything that City staff works on each day. He specifically cited great work performed by Police Chief Mark Brooks, Finance Director Harriett Thomas, Public Works Director Chris Hollifield and Planning Director Heather Cotton. The City Manager stated that the City is fortunate to have such a dedicated and hard-working staff and commended the staff present for all they do.

Mayor Little echoed what Mr. Boyette said, stating that since he has lived here, the long term top quality leadership that former Mayor Everette Clark and former City Manager Earl Daniels has continued.

Council Member Clark stated that if there was one thing he could say about this Council, it is that they sometimes have their differences but always agree to disagree and then move forward in a civil manner, something that many boards have a difficult time doing.

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Council Member Martin stated that he agrees with Council Member Clark. In the 16 years he has served the City of Marion, Council has from time to time disagreed on specific issues, but has always gotten along as one body.

Council Member Owenby stated that if everyone thought like he did, they would be wrong a good part of the time.

COUNCIL MEMBER COMMENTS:

Mayor Pro Tem Cuthbertson stated that he would like to send a thank you letter to Randy Hollifield for donating the trees that were planted on Arbor Day at the Joseph McDowell Historical Catawba Greenway. The City Manager stated that such a letter would be sent.

Mayor Pro Tem Cuthbertson also stated that he would like to invite the School Superintendent, Associate Superintendents, Principals and School Board to the City of Marion Open House set for April 15. The City Manager stated that staff would send such an invitation.

Council Member Clark stated that Mr. Lawrence Moore had recently become a Certified Arborist and that he would like to see the City acknowledge him at a Council meeting. The City Manager stated that staff would invite Mr. Moore to a Council meeting for recognition.

Council Member Clark stated that Council Member Doggett had mentioned at one point being involved with an Advisory Committee with high school students. He said that the City of Newton has a leadership class that contains approximately 25 students. The City brings in business and civic leaders, along with governmental officials, to talk to and work with the students. It has proven to be a great committee.

Council Member Doggett stated that the Chamber of Commerce has started a Youth LINC program for rising High School Seniors and that approximately 60 names have been submitted to participate. The High School is now working to narrow this list.

ADJOURNMENT: Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Doggett, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

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STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, April 5, 2011 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Steve Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members Everette Clark, Juanita Doggett, Billy Martin and Cecil Owenby.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Mark Brooks, Police Chief; Chris Hollifield, Public Works Director; Jim Neal, Fire Chief; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Aiden & Peaches Freeman 106 North Wood Court, Morganton, NC; Lee & Harriett Freeman, 20 West High Street, Marion, NC; Adrianna & Jared Freeman, 106 North Wood Court, Morganton, NC; Larry & Gloria Boyce, 107 Edgewood Drive, Marion, NC; Robert Hawkins, 527 East Oak Street, Marion, NC; Ryan Freeman, 50 Sheppard Drive, Asheville, NC, 28806.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

CITIZEN OF THE MONTH – SELECTED BY COUNCIL MEMBER MARTIN: Council Member Billy Martin selected the Citizen of the Month for April 2011.

Lee & Harriett Boyce Freeman

Council Member Martin stated that the Lee and Harriett Freeman had been married for 54 years and he chose to present them together, because that is who they are. They have three children Aiden, Cindy and Ryan, and they have six grandchildren. Mr. Freeman is the son of Columbus and Onie Freeman and grew up in Lake Lure. Mrs. Freeman is the daughter of Adam and Lizzie Boyce and grew up in Marion.

The Freemans are anchors in their community and have been excellent examples of the importance of family and the value of working hard to achieve one's goals. They have always demonstrated love, devotion and respect for one another. They have always shown kindness and always willing to help others in need of assistance.

Council Member Billy Martin stated that it was a privilege to present Lee & Harriett Boyce Freeman as his Citizens of the Month.

Mayor Little and Council Members all shared kind words about Lee and Harriett Freeman.

CONSENT AGENDA: Upon a motion by Council Member Owenby, seconded by Mayor Pro Tem Cuthbertson , Council voted unanimously to approve the consent agenda as follows:

A . Approval of Minutes – March 22, 2011 Regular City Council Meeting Minutes

B . Approve Waiver of Civil Citation - Council waived the $10.00 penalty for a handicapped parking citation for Karen Buchanan for parking in a handicapped space in the Lowe's parking lot without a handicapped placard being displayed. Ms. Buchanan provided evidence that she possesses a valid handicapped placard and stated that she simply failed to display the handicapped placard.

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C. Approve McDowell Trails Association "Discover the Park" Event at Joseph McDowell Historical Catawba Greenway on Thursday, May 12" - Council approved the McDowell Trails Association (MTA) proposed "Discover the Park" event to be held at the Joseph McDowell Historical Catawba Greenway on May 12, 2011 from 3:00 p.m. to 6:00 p.m. The purpose of the event is to raise awareness about the Greenway, to increase MTA membership and to raise funds toward Phase Two of the Greenway.

PUBLIC COMMENT PERIOD: Mr. Robert Hawkins stated that he was proud of the City Council and that he felt that City Council does a great job for the City.

APPROVE HOUSE BURNING TRAINING EXERCISE BY FIRE DEPARTMENT: Fire Chief Jim Neal advised that McDowell Technical Community College, in conjunction with the Marion Fire Department, is planning to conduct a live burn exercise on three houses located at 150, 160 and 170 Perry Street. The exercise is scheduled for April 29 and 30 and will be open to all county departments. Chief Neal noted that these three houses are on the City's dilapidated housing list.

Chief Neal stated that all proper notifications with the State and the surrounding neighborhood will be handled through McDowell Technical Community College.

Chief Neal stated that most likely a small section of adjacent streets will need to be closed to traffic during the exercise because of the location of the hydrant. Chief Neal stated that the Police Department will be notified prior to the live burn.

Mayor Pro Tem Cuthbertson asked how many firefighters would be participating in the training exercise. Chief Neal stated that approximately 20 to 30 firefighters would likely participate.

Upon a motion by Council Member Owenby, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to approve the live burn training exercise at 150, 160 and 170 Perry Street as requested by the Fire Department and McDowell Technical Community College, contingent upon all State and Federal requirements being met with the exercise.

ADOPT RESOLUTION APPROVING REGIONAL HAZARD MITIGATION PLAN: Fire Chief Jim Neal advised that, as reported last year, the City, McDowell County and the Town of Old Fort, partnered with Mitchell, Avery and Yancey Counties to complete a Regional Hazard Mitigation Plan. The Plan is called the Toe River Regional Hazard Mitigation Plan. Hazard mitigation plans are required to be prepared and adopted by local governments periodically in order for the local government and citizens to be eligible to receive Federal and State aid in the event of a declared disaster. The State has mandated that hazard mitigation plans be prepared on a regional basis, unless jurisdictions wish to pay for the plan preparation themselves. McDowell County was combined with Mitchell, Avery and Yancey Counties for purposes of this plan. The City did not have to spend any money on preparation of this plan. Having this plan in place will allow the City to apply for grants for which the City might not otherwise be eligible.

The City Manager stated that he presented Council with a copy of the 354 page proposed plan in their Council agenda packet last Friday for their review. He noted that he realized that this was a huge document and that Council may need more time to review the document.

The City Manager stated that Chief Neal had been the City's main representative on the Regional Hazard Mitigation Plan Committee.

The City Manager asked Chief Neal if this plan would put any requirements or compulsory actions on the City. Chief Neal stated that the plan would not; instead, it was mainly a document describing hazards in the region and the best way for dealing with said hazards.

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Council Member Clark stated that he did not like to rubber stamp anything and that he would like a chance to review the document further. He added that it is curious that McDowell County was linked with the mountain counties to the north, counties to which McDowell County rarely has much connection.

After a brief discussion, Council agreed by consensus to take no action on this item and to discuss the proposed plan further at the May 3 Council meeting.

REJECT INITIAL BIDS FOR SUGAR HILL ROAD CONSTRUCTION CONTRACT ONE AND PUMP AND GENERATOR PURCHASE: The City Manager advised that, as previously reported, the City opened bids on February 15, 2011 for the Sugar Hill Road Water and Sewer Improvements Construction Contract One. The bid information was presented to Council. The low bid was received from Davis Grading, Inc. in the amount of $932,652.42.

The City Manager stated that the City received informal bids in February for the purchase of pumping equipment for the Sugar Hill Road Water and Sewer Improvements. The bid information was presented to Council. The low bid was received from Carolina Pumpworks in the amount of $78,159.00.

The City Manager reported that the City received informal bids in February for the purchase of generator equipment for the Sugar Hill Road Water and Sewer Improvements. The bid information was presented to Council. The low bid was received from Nixon Power Services in the amount of $65,461.00.

The City Manager stated that, as Council was aware, the United Stated Department of Agriculture (USDA), administrator of the City's Appalachian Regional Commission (ARC) grant for the Sugar Hill Road Water and Sewer Improvements Project, directed that the City rebid the contracts listed above. Therefore, Council action is needed to reject all initial bids received in February for the Sugar Hill Road Water and Sewer Improvements Construction Contract One, Pumping Equipment Purchase and Generator Equipment Purchase.

Upon a motion by Council Member Clark, seconded by Council Member Owenby, Council voted unanimously to reject all initial bids received in February for the Sugar Hill Road Water and Sewer Improvements Construction Contract One, Pumping Equipment Purchase and the Generator Equipment Purchase.

CONSIDER AWARD OF SUGAR HILL ROAD WATER AND SEWER EXTENSION CONSTRUCTION CONTRACTS ONE AND TWO AND PUMP AND GENERATOR PURCHASE: The City Manager stated that, as Council is aware, the City recently sought bids for the Sugar Hill Road Water and Sewer Extension Project, including formal bids for Construction Contracts One and Two and informal bids for the purchase of pumping equipment and generator equipment. Four memos from McGill Associates containing the bids and recommendations were presented to Council for their information.

The City Manager reported that a total of four bids were received for the Construction Contract One re-bid on March 29, 2011. This contract involves the extension of water and sewer service on Sugar Hill Road to the Wal-Mart Supercenter site. The low bid was submitted by Buckeye Construction, Inc. of Canton, in the amount of $876,231.50 (which is $56,420.92 lower than the initial low bid). The price listed above includes the use of ductile iron pipe, which the City is requesting the United States Department of Agriculture (USDA) to allow the Appalachian Regional Commission (ARC) grant for the project to fund. Ductile iron has proven to be a sturdier material for the City, but is a few dollars more per linear foot. If USDA does not allow the use of ductile iron pipe, PVC pipe, which was bid as an alternate, will be used. McGill has worked successfully with Buckeye Construction in the past and recommends that this contract be awarded to them.

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The City Manager stated that a total of 14 bids were received for Construction Contract Two on February 15. This contract involves the extension of water and sewer service to the West Marion Business Park and the Stamey Chrysler Dodge Jeep areas. The low bid was submitted by T&K Utilities, Inc. of Asheville in the amount of $232,905.00. This contract is not being funded by ARC, so ductile iron pipe only was bid. McGill has worked successfully with T & K Utilities in the past and recommends that this contract be awarded to them.

The City Manager reported that a total of four bids were received informally in March for the pumping equipment re-bid. The low bid was received from The 419 Group of Myrtle Beach, South Carolina in the amount of $67,141.00 (which is $11,018.00 lower than the initial low bid). McGill has not previously worked with The 419 Group, but is familiar with the Homa pumping equipment to be provided by The 419 Group. McGill checked into this company and believes that they have the experience and capability to provide the equipment specified for the project. Therefore, McGill recommends that this contract be awarded to The 419 Group.

The City Manager advised that a total of three bids were received informally in March for the generator equipment re-bid. The low bid was received from Cummins Atlantic of Charlotte in the amount of $65,000.00 (which is $461.00 lower than the initial low bid). McGill has worked successfully with Cummins Atlantic in the past and recommends that this contract be awarded to them.

Mayor Little noted that the cumulative effect of the re-bidding of Construction Contract One, the pumping equipment and the generator equipment is a reduction in project costs of $67,899.92.

The City Manager reported that the total estimated project cost is now $1,969,546.50, which is much lower than the estimated project budget of $2,402,225. This means that the City can either reduce the amount of debt service needed from $1.1 million down to around $800,000 or less, or the City could use the entire loan amount and pursue additional project, such as looking at extending water service south of I-40 to Marion Travel Plaza, along with extending sewer service to that location as well if the City receives a State Revolving Fund grant for which an application has already been submitted. If the full loan amount is chosen, the County would still pay 40 percent of the debt service.

Based on the bidding process and McGill's recommendations as shown above, the City Manager stated that he would recommend that:

A. Council award the contract for Sugar Hill Road Water and Sewer Improvements Construction Contract One to Buckeye Construction, Inc. of Canton, in the amount of $876,231.50.

B. Council award the contract for Sugar Hill Road Water and Sewer Improvements Construction Contract Two to T & K Utilities, Inc. of Asheville in the amount of $232,905.00.

C. Council award the contract for Sugar Hill Road Water and Sewer Improvement Pumping Equipment Purchase to The 419 Group of Myrtle Beach, South Carolina in the amount of $67,141.00.

D. Council award the contract for Sugar Hill Road Water and Sewer Improvement Generator Equipment Purchase to Cummins Atlantic of Charlotte in the amount of $65,000.00.

The City Manager noted that the North Carolina Local Government Commission approved the City's financing of the project through a loan with BB&T earlier that day. He noted that the USDA was still completing its review of the bids, but had no objection to Council awarding the bids, contingent on USDA approval of the bids.

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Upon a motion by Council Member Clark, seconded by Council Member Owenby, Council voted unanimously to:

A. Award the contract for Sugar Hill Road Water and Sewer Improvements Construction Contract One to Buckeye Construction, Inc. of Canton, in the amount of $876,231.50, contingent upon USDA review and approval.

B. Council award the contract for Sugar Hill Road Water and Sewer Improvements Construction Contract Two to T & K Utilities, Inc. of Asheville in the amount of $232,905.00, , contingent upon USDA review and approval.

C. Council award the contract for Sugar Hill Road Water and Sewer Improvement Pumping Equipment Purchase to The 419 Group of Myrtle Beach, South Carolina in the amount of $67,141.00, contingent upon USDA review and approval.

D. Council award the contract for Sugar Hill Road Water and Sewer Improvement Generator Equipment Purchase to Cummins Atlantic of Charlotte in the amount of $65,000.00, contingent upon USDA review and approval.

Council Member Clark stated that it was a great situation for the City to come in over $400,000 under budget on this project. He stated that he felt it would be best for Council to defer action on whether to use the additional loan funds to fund further extensions until the City was further along with the 2011-12 budget process.

Council Member Clark asked about details of the BB&T loan. The City Manager stated that the loan was for a maximum of $1,102,225 for a 10 year term at 3.31 percent. The City's annual debt payments will be $129,920. 12, with McDowell County paying 40 percent or $51,968.05 of the annual debt service, for a net annual debt service cost to the City of $77,952.05.

CONSIDER ADOPTION OF RESOLUTION AUTHORIZING THE SALE OF CITY PROPERTY ON OLD WEST HENDERSON STREET BY NEGOTIATED OFFER AND UPSET BID: The City Manager advised that McDonald's USA submitted an offer to purchase 0.133 acres of excess right of way owned by the City on Old West Henderson Street for $14,706. The City has a 100 foot right of way on Old West Henderson Street, which is much more than is needed.

The City Manager presented Council with a copy of a map showing the property to be purchased. The purchase price is based on a recent appraisal from Brent Anderson, a copy of which was also presented for Council's information. The appraisal of $12,000 was based on a 0.109 acre purchase. After talking with McDonald's officials, the purchase area was increased to 0.133 acres and the offer increased proportionately based on the appraisal.

The City Manager stated that to accept the offer of McDonald's USA, action is needed to adopt a resolution, in which case the City would publish notice of Council's acceptance of the offer and allow the public ten days to submit an upset bid. He noted that Council may also reject the offer or make a counteroffer.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Owenby, Council voted unanimously to adopt the following Resolution accepting the offer of McDonald's USA to purchase 0.133 acres of excess right of way owned by the City on Old West Henderson Street for $14,706, subject to upset bid.

Resolution Authorizing the Sale of Certain Property Owned by the City of Marion by Negotiated Offer and Upset Bid

WHEREAS, the City Council of the City of Marion desires to dispose of certain surplus property of the City; and

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WHEREAS, N.C.G.S. 160A-269 authorizes a city to convey by negotiated offer and upset bid any real or personal property; and

WHEREAS, McDonald's USA has submitted a bid in the amount of $14,706 for the purchase of 0.133 acres of excess right of way owned by the City of Marion located on Old West Henderson Street, as shown in the attached Exhibit A.

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

1. The right of way owned by the City of Marion on Old West Henderson Street, as shown in the attached Exhibit A that is approximately 0.133 acres in size is hereby declared to be surplus to the needs of the City of Marion.

2. The City Council accepts the offer of McDonald's USA to purchase the above described property for $14,706, subject to the upset bid process being followed as required by N.C.G.S. 160A-269.

3. The City Clerk shall notify McDonald's USA of the acceptance of this offer, receive a five percent bid deposit from the bidder, and cause a notice of this resolution to be published in accordance with G.S. 160A-269. Such notice shall state that prospective bidders have ten days from the date the notice is published to offer an upset bid, pursuant to G.S. 160A-269.

4. Once the upset bid process is completed, in accordance with G.S. 160A-269, the City Manager is designated to dispose of the above described property to the bidder selected by City Council, for a minimum price of $14,706.

Adopted this the 5th day of April, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-11-04-05-1

The City Manager stated that the City may soon also receive an offer to purchase City right of way from the proposed developer on the parcel next to the McDonald's property on Old West Henderson Street. He asked if the sale of adjacent property should also be based on the appraisal commissioned by McDonald's. Council agreed by consensus that sale of adjacent property should also be based on the appraisal commissioned by McDonald's.

Council Member Clark stated that he has concerns about some of the things that McDonald's USA was asking the City to do, in their proposed contract. The City Manager stated that he would not suggest that the City sign the McDonald's contract, since it required environmental assurances and the City to provide Phase 1 and Phase 2 Environmental Assessments. He noted that the offer of McDonald's to purchase the property simply came in the form of their proposed contract, but the City was under no obligation to sign the contract.

Mayor Little said that the City could simply sell the property on an "as is" basis. Council Members expressed no objection to this suggestion.

REVIEW STREET COMMITTEE RECOMMENDATION: The City Manager advised that the Street Committee met on March 25 and looked at a drainage situation at a property at the corner of Ann Street and State Street, roughly located across from East McDowell Junior High School. The property owner, Jeff Barnes, needs to take care of drainage coming from adjacent properties that are higher in elevation than his. He is proposing to buy materials if the City will install a catch basis and storm drainage pipe to take stormwater from Ann Street, and to which he can tie his drainage system, to State Street.

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The City Manager stated that Mayor Pro Tem Cuthbertson, Council Member Clark and staff recommend approval of this request, since the City will receive some benefit. This would be a construction project of less than one week, according to Public Works Director Chris Hollifield. Mr. Hollifield is currently working up the cost of materials to present to Mr. Barnes.

Mr. Hollifield gave a description of the proposed project and the benefit to the City.

Upon a motion by Council Member Owenby, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to approve the Street Committee recommendation for the City to install catch basins and drainage pipe on Ann Street, conditioned on the purchase of materials by the neighboring property owner, Mr. Jeff Barnes.

The City Manager stated that Mr. Barnes has been very complimentary of the City's response to his request. He moved here from a large city and has been impressed with how the City works for its citizens.

CONSIDER REQUEST FROM MOUNTAIN GLORY FESTIVAL COMMITTEE: The City Manager stated that, as shown in a memo presented to Council, the Mountain Glory Festival Committee has recommended the purchase of a 15' x 15' canopy, a 12' x 12' canopy and 48 safety vests, using Mountain Glory Festival restricted funds. The total cost of these items is about $1,500. The Mountain Glory Festival account has been used from time to time in the past to purchase items that are of benefit to the community. The Festival account currently has about $20,000 in it.

The City Manager stated the he would recommend approval of the Mountain Glory Festival Committee request to use Mountain Glory Festival funds to purchase a 15' x 15' canopy, a 12' x 12' canopy and 48 safety vests.

Upon a motion by Council Member Clark, seconded by Council Member Owenby, Council voted unanimously to approve the request from the Mountain Glory Festival Committee to purchase a 15' x 15' canopy, a 12' x 12' canopy and 48 safety vests, using Mountain Glory Festival funds.

CITY MANAGER REPORTS: The City Manager gave a brief report on current projects.

The City Manager advised that the City Open House will be on Friday, April 15 from 9:30 a.m. until 2:00 p.m. and welcomed Council to drop in at any City facility (City Hall, Fire Department, Police Department, Public Works Department, Wastewater Plan or Water Plant) or to join students, teachers and volunteers for lunch at the Community Building between 11:00 a.m. and 1:00 p.m. Baxter Healthcare will once again provide and cook the hot dog lunch. All eight public elementary schools, including Old Fort, are definitely participating, along with New Manna Christian School.

As suggested by Mayor Pro Tem Cuthbertson, Administrative Assistant Debi Sherlin sent a letter to the School System, inviting the School Board, Central Office staff and School principals to come to the Open House.

The City Manager advised that, as authorized by Council in individual polling he did with them, he sent a letter to the State, advising of the City's interest in seeking Community Development Block Grant (CDBG) funds for needed infrastructure for the proposed 56 unit apartment complex off of Highway 70 West behind the Verizon Wireless building. Council will need to formally approve the grant application and hold public hearings at future meetings, but this letter will allow the developer to receive additional points for their N.C. Housing Finance Agency application.

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Council Member Clark asked if the apartment complex in question had been approved for funding yet. The City Manager stated that the developer has indicated that they are almost guaranteed North Carolina Housing Finance Agency funding, if the City supports the CDBG application.

Council Member Clark asked if there were dedicated apartment units in the development for elderly and handicapped individuals. The City Manager stated that it was possible that there were such dedicated units, but that he had not heard for certain.

The City Manager stated that he had not mentioned to Council in great detail the crime mapping and statistics information now available on the City website, as part of the new software purchased for the Police Department last year. He advised that Police Chief Mark Brooks would give a presentation about this information at a future meeting. Chief Brooks gave a brief description of some of the information available to the public on the City website, including crime mapping and statistics and a section where people could provide anonymous tips.

The City Manager stated that Frank Dean recently suggested to him that the City allow "naming rights" to be sold for the two bridges on Phase 1 of the Greenway for $8,000 each. That amount is recommended because Charles and Bunnie Burgin donated $8,000 and have a plaque on the Round Hill Bridge marking their donation. The bridges on the Greenway could also have a plaque or marker noting such a donation. Mayor Little and Council Members expressed no objection to this suggestion.

The City Manager advised that city crews refinished the Community Building floors in late March, as had been requested by Council Member Clark. Public Works Director Chris Hollifield stated that this work had been a collaborative project between City employees and inmates, with the inmates doing the majority of the work. He said that the City hopes to refinish the floors on a more regular basis.

Council Member Clark stated that he had seen the completed work and agreed that the floors look great.

The City Manager stated that he, Marion Business Association Executive Director Freddie Killough, Police Chief Mark Brooks and Fire Chief Jim Neal continue to participate in the planning for the McDowell County Salute to Veterans Celebration. The displays will first travel to the High School ballfield on Wednesday, May 11 for a ceremony, followed by a procession down North Main Street and a short ceremony at the Courthouse. Mayor Little and Council Members, along with other elected officials, are invited to the Courthouse ceremony. The City and County Managers are working on a short program for this ceremony. The display will then travel to the YMCA, where it will be set up and remain until Monday, May 16. There will be scheduled activities on Friday evening, Saturday and Sunday.

The City Manager stated that Mr. Randy Hollifield, Chairperson of the McDowell County Salute to Veterans Committee, was to be applauded for coming up with the idea.

The City Manager advised that Downtown Façade Grant applications were due on March 31. The Façade Grant Review Committee will meet by mid-April and make recommendations on grant awards. The City Manager said that approximately $5,000 in grant funding will likely still be available, even after the initial grants are awarded, so it is likely that another round of grant applications will be held.

COUNCIL MEMBER COMMENTS:

Council Member Doggett stated that she had seen signs in the downtown area concerning "Road Work" and asked if that was related to the milling and resurfacing of Main Street in the

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downtown area. The City Manager stated that the signs were related to the milling and resurfacing of Main Street in the downtown area by DOT, but that DOT has not yet given the City a date when the work will begin.

Mayor Little, Council Member Clark and Mayor Pro Tem Cuthbertson stated that they would not be able to attend the April 19 City Council meeting. Upon a motion by Council Member Martin, seconded by Council Member Owenby, Council voted unanimously to cancel the April 19 City Council meeting.

The City Manager stated that a Special Council Meeting may need to be held before the end of April to approve Appalachian Regional Commission (ARC) grant contracts and documents for the Sugar Hill Road Water and Sewer Extension Project. Mayor Little and Council Members agreed by consensus to call such a Special Meeting, in accordance with State law, as soon as the ARC grant contracts and documents are ready for approval.

ADJOURNMENT: Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Clark, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion held a Special Meeting on Monday evening, May 10, 2010 at 6:00 P.M. in the Conference Room located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Steve Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members A. Everette Clark, Juanita Doggett and Billy Martin.

Council Member Cecil Owenby was not present due to health reasons.

OTHERS PRESENT: Bob Boyette, City Manager; Harriett Thomas, CPA, Finance Director

OPENING OF MEETING: Mayor Little opened the meeting.

PRE-BUDGET WORKSHOP/PLANNING SESSION: The City Manager provided an overview of revenue and expenditure issues related to the 2011-12 City Budget. The City Manager presented several items he planned to recommend to balance the budget, mainly involving expenditure cuts to the General Fund Budget. The City Manager advised that he would propose that the City tax rate remain at $0.51/$100 valuation, marking the 44th year in a row that the City has not increased the tax rate.

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The City Manager reported that he expected the total 2011-12 budget to be less than the total 2010-11 amended budget as of this date. He stated that his goal was to present Council a budget that maintained services at the current level, but did not contain any layoffs if at all possible. The City Manager also reported that he would not recommend any increases to major fees, such as water and sewer charges and commercial garbage rates.

A discussion was held on the purchase of needed large vehicles in the Public Works Department. After discussion, Council directed that the City Manager seek for the City to self-finance such needed vehicles, instead of pursuing outside vehicles. The City Manager stated that he would prioritize such vehicles, based on their condition, their importance to the core services of the City and the speed at which such vehicles could be replaced.

Mayor Little and Council Members expressed their agreement with the general direction of the 2011-12 budget, as expressed by the City Manager.

The City Manager stated that the proposed 2011-12 Budget would be presented to Council by the May 17 Council meeting and that Council had previously agreed to hold a Budget Workshop to review the Budget on Tuesday, May 24 at 6:00 p.m. at City Hall.

The City Manager also noted that modifications would be needed to the City's Wellness Incentive Policy adopted last year, due to conflicts with State and Federal law. A revised policy will be presented for Council consideration at an upcoming meeting.

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to adjourn the meeting.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

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STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, May 17, 2011 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members Everette Clark, Juanita Doggett and Billy Martin.

Council Member Cecil Owenby was absent from this meeting due to illness.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, AICP, Planning and Development Director; Harriett Thomas, CPA, Finance Director; Chris Hollifield, Public Works Director; Rusty Jenkins, Police Patrol Lieutenant; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Lawrence Moore, 1159 Greasy Creek Road, Marion, NC; Pat Brown 435 Montevista Avenue, Marion, NC; Amy Bridges and Teresa Spires, Isothermal Planning and Development Commission Representatives; Frank Dean and Bill Hendley, McDowell Trails Association.

OPEN MEETING: Mayor Little opened the meeting with a moment of silence.

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Clark, those members of Council present voted to approve the consent agenda as follows:

A. Approval of Minutes – May 3, 2011 Regular City Council
Meeting Minutes and May 10, 2011 Council Pre-Budget Workshop/Planning Session Minutes

RECOGNIZE CITY LANDSCAPER LAWRENCE MOORE FOR RECIEPT OF ARBORIST CERTIFICATION: The City Manager stated that the City's contracted landscaper, Lawrence Moore, had recently been named a Certified Arborist by the International Society of Arboriculture. He stated that the Tree Board had encouraged Mr. Moore to obtain this certification. The City Manager recognized Tree Board Member Pat Brown who was in attendance for this meeting.

Mayor Little read the certification plaque and also noted a McDowell News article about Mr. Moore's certification. Mayor Little also mentioned that Mr. Moore being named "Best Lawn Care" in McDowell County in 2010, as part of the McDowell News "Best In McDowell County" promotion.

Mayor Little stated that, as a token of the City's appreciation, he would like to present Mr. Moore with a Tree City USA Cap that the City had received this year.

Mayor Little stated that many people have come through Marion from all over the United States and bragged about Marion's beauty, including the flowers and plantings in the downtown area. Mayor Little stated that he is very proud of Marion and that Mr. Moore has been a large part of its success.

City Council Members and staff congratulated Mr. Moore on his certification and thanked him for his work for the City over the years.

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PUBLIC APPEARANCE – MCDOWELL TRAILS ASSOCIATION: Mr. Frank Dean of the McDowell Trails Association (MTA) appeared before Council and stated that he recently went to a meeting in Tennessee and had the opportunity to walk on a greenway, where he observed beautiful swings in a sturdy frame placed along the greenway.

Mr. Dean presented Council with a photograph of the swings and stated that he thought this type of swing would make a great addition to the Joseph McDowell Historical Catawba Greenway. He asked for Council's permission to sell sponsorships in the amount of $500.00 to cover the cost of building the swing and frame structure. Mr. Dean proposed that High School masonry students could help build the frames.

Upon a motion by Council Member Clark, seconded by Council Member Martin, those members of Council present voted to approve the request by Mr. Dean to allow the McDowell Trails Association to sell sponsorships to cover the cost of placing swings in sturdy frames at various locations along the Joseph McDowell Historical Catawba Greenway.

Mr. Dean commended Planning and Development Director Heather Cotton for the great job she had done for the Greenway and other projects for the City of Marion and stated that the MTA would work with Ms. Cotton to develop promotional and sponsorship materials for the swings.

Mr. Dean stated that he would also like to propose to Council another matter that may be more controversial: restrooms for the Greenway. Mr. Dean stated that the Greenway has exceeded all expectations with its use by the public. He said that the only negative comments he generally heard from people was the need for restrooms. Mr. Dean presented a letter from McDowell County Schools Superintendent Dr. Ira Trollinger requesting restrooms for the Greenway for the many students who visit the trail.

Mr. Dean proposed that Council authorize two portable toilets to be placed in the middle of the Greenway for six months, the maximum time period the Health Department allows, with the MTA and the City splitting the costs. Mr. Dean further proposed that Council authorize City staff and the MTS to explore options and costs for permanent restrooms, which could be constructed by High School masonry students or perhaps inmates.

The City Manager asked Mr. Dean if he had an estimated cost for the portable toilets, since they could be expensive over an extended period of time. Mr. Dean projected the costs to be $100 per month per portable toilet, for a total projected cost of $600 for the City and $600 for the MTA over six months. The City Manager also suggested that the portable toilets, if approved, be located at the parking lot, instead of at the midpoint of the Greenway, for easier servicing. Mr. Dean stated that this was a good point and that the parking lot would make a better location for the portable toilets.

The City Manager stated that the City would likely need to provide the materials for the permanent restrooms and would also need to extend utilities to the site. He stated that Public Works Director Chris Hollifield had estimated the cost of a water extension could be $86,000, if the City extended a 12" water line along Highway 70 West to continue the line size that terminates currently at the High School Road. The City Manager stated that a sewer extension, involving installation of a small pump station, was estimated to cost another $27,000, but noted that a septic tank was also an option.

Council Member Clark stated that he would suggest simply extending a 2" or smaller water service line to the site and the smallest size sewer line possible. Mr. Hollifield provided some details and ideas for the size needed for the water and sewer lines.

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Mayor Little stated that the City has had multiple bad experiences with public restrooms through the years. He noted how public restrooms were virtually destroyed by vandals on Main Street several years ago, causing him great concern.

Mr. Dean stated that the MTA would at least like the opportunity to explore the possibilities of putting permanent restrooms on the Greenway and report back to Council with more information.

Mayor Pro Tem Cuthbertson stated that Mr. Dean should go see the restrooms that were built last year at the Canal Bridge Boat Landing on Lake James.

Council Member Clark said he supported the concept of permanent restrooms on the Greenway, as long as it could be done in the most cost effective manner possible.

Council Member Doggett stated that she also thought Mr. Dean's suggestions were good ideas.

The City Manager noted that the portable toilets, if placed in the Greenway parking lot, would need to be screened in order to comply with the City Code.

A brief discussion was held.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, those members of Council present voted to authorize the City to place two portable toilets in the parking lot of the Joseph McDowell Historical Catawba Greenway for a maximum period of six months, with the City and McDowell Trails Association equally sharing in the cost of the portable toilets, and also to authorize City staff and the McDowell Trails Association to explore options and costs for permanent restrooms at the Greenway and to report back to Council on the options and costs.

Mr. Dean thanked Council for the City's continuing and unwavering support of the MTA and the Greenway.

PUBLIC HEARING – ZONING TEXT AMENDMENT – LIMIT HEIGHT AND SIZE OF FREESTANDING SIGNS IN DO DISTRICT AND INCREASE ALLOWANCES FOR TEMPORARY A-FRAME SIGNS IN DO DISTRICT: Mayor Little opened the Public Hearing.

Planning and Development Director Heather Cotton advised that this proposed zoning text amendment involves amending the sign regulations limiting the height and size of free-standing signs in the Downtown Overlay District and neighborhood commercial areas, and allowing greater flexibility for approving portable signs in the Downtown Overlay when signs of unique artistic quality do not meet the specific requirements for portable signs.

Ms. Cotton stated that staff had concerns with the one size fits all height limits for free-standing signs within the City of Marion and had therefore proposed amending the City Code to avoid additional signs from being installed that detract from the overall appearance of the community. She advised that the City Code is quite lenient in allowances for size, height, and architectural detail of free-standing signs in all commercial zoning districts; and with the exception of lighting, the Code does not regulate signs based on site visibility, architectural consistency, and/or the scale of surrounding buildings, land uses, typography, or other features.

Ms. Cotton stated that, while the current height of free-standing signs is appropriate for a general business district where travel speeds are higher, a 30 foot high sign in the historic downtown or within a neighborhood setting is more obtrusive and out of context with the surrounding area. Ms. Cotton advised that the City's Zoning Administrator is approving applications for signs that have no apparent connection to a site or surrounding area and instead approving applications that

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request approval for the maximum size, height, and number that the Code will allow. In large part, applications often consist of the same 30-foot high 100 square foot internally illuminated sign on a steel post. One example is a recent approval of two new Wells Fargo signs that will replace the existing 17-foot high forty square foot Wachovia Signs on Main and Logan Streets. While Staff was able to convince the company to lower the height of the sign from 30 feet to 26 feet, Wells Fargo still wants close to a 100 square foot sign face, which is more than double the current size of the existing signs or any other sign within the C-1 Central Business District.

Ms. Cotton stated that the Planning Board recommended that the maximum height of free-standing signs within the Downtown Overlay District and B-1 neighborhood District be reduced from 30 feet to 20 feet and that the maximum size of free-standing signs in the same district be reduced in size from 100 square feet to 50 square feet in size, to be consistent with existing signs within the area.

Ms. Cotton reported that the second amendment is to regulations allowing portable signs in the Downtown Overlay District, which will provide greater flexibility for downtown businesses to promote themselves in a creative and attractive manner. Last summer, the City of Marion provided greater flexibility in size and location of portable signs in downtown along with more stringent standards on appearance. While trying to provide flexibility within the City Code that would allow for creative and attractive new signage, the Planning Board did not consider content. Ms. Cotton stated that the City Code allows portable signs for specials and menus only. The signs that the Planning Board had attempted to permit through the ordinance amendment did not meet that requirement. After a discussion with the Marion Business Association (MBA), staff drafted new language that would allow flexibility within the code, but at the same time protect the intent of the regulations. Ms. Cotton stated that the Planning Board recommended new language to allow for approval of any sign that does not comply with the regulations for portable signs within the Downtown Overlay District, if such sign has special artistic qualities, adds to the appearance of downtown, and receives a favorable recommendation from the MBA.

Council Member Clark stated that the artistic signs may cause controversy and asked who would make the final decision. The City Manager stated that the MBA Board would make the final decision if it wished or could delegate that responsibility to a sub-group, such as the Façade Grant Review Committee.

Council Member Doggett stated that she likes the creative and decorative signs that several of the downtown businesses place in front of their businesses.

Mayor Pro Tem Cuthbertson stated that the main thing is that the signs do not interfere with pedestrian traffic.

Council Member Clark stated that he had no problem with the proposed amendments, but noted that is possible that the amendments may require tweaking in the future if certain provisions do not work as well as intended.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, those members of Council present voted to approve the following ordinance amending Chapter 21, Zoning, of the Marion City Code:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE

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

AA.000001108 (24)

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Section 2. Chapter 21 *Zoning*, Article VII. *General Provisions*, Division IV, *Sign Regulations*, is amended by adding the following:

Sec. 21-131.9. Permanent signs.

This subsection shall govern regulations for signs permanently installed on a site and which are required to obtain a sign permit in accordance with subsection 21-131.2. of this chapter.

(1) In the C-1, C-2, B-1, O-I, M-1, DO zoning district the following general regulations shall apply unless otherwise indicated:

(A) *Illuminated signs.* The following regulations shall apply to all illuminated signs:

1. No sign having flashing, intermittent or animated illumination shall be permitted within three hundred (300) feet of property in any residential district unless illumination from such sign is not visible from such property.

2. No illuminated sign shall be permitted within fifty (50) feet of property in any residential district unless the illumination of such sign is so designed that it does not shine or reflect light onto such property. Any illuminated sign that is permitted in a residential district shall not reflect light or shine onto any property in the residential district except the property on which the sign is located.

(B) *Freestanding signs.* The following regulations shall apply to all freestanding signs:

1. No freestanding on-premises sign shall exceed one hundred (100) square feet in sign area as defined in section 21-131.1. of this chapter. If two (2) or more businesses are located on the same property, one (1) freestanding sign shall be permitted an additional six (6) square feet to advertise for each additional business.

2. A freestanding on-premises sign may exceed the one hundred (100) square foot sign area provided the following conditions are met:

a. The scale of the sign is in proportion with the building or site to which it pertains and does not overshadow the building or surrounding area.

b. The sign is consistent with building design and surrounding structures, and is appropriate to the type of use to which it pertains. Design elements, such as the size, shape, materials, lighting, color, lettering style, and arrangement of the sign shall present a professional quality appearance.

c. Special circumstances exist that require deviation from the standard requirements.

d. The sign area is no larger than three hundred (300) square feet.

e. The sign application is approved by the board of adjustment.

3. No free-standing on-premises sign attached to the ground shall be erected to exceed thirty (30) feet in height within the C-2, O-I, and M-1, as defined in section 21-131.1., unless the following conditions are met:

a. The property in which the sign is located shall be zoned C-2 and shall be no less than two (2) acres in size.

b. The sign shall be within a 1,000-foot radius of the center point of the I-40 interchange.

c. The sign height shall be no greater than fifty (50) feet above the street grade of the adjacent interstate.

d. The sign shall be used only for advertising restaurants, lodging, and/or gas

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stations.

e. The sign shall not be located within four hundred (400) feet of another sign that is greater than thirty (30) feet in height.

4. No free-standing on-premises sign attached to the ground shall be erected to exceed twenty (20) feet in height and fifty (50) square feet of face within the DO and B-1 districts.

5. There shall be no more than two (2) freestanding signs permitted per property. If the property has multiple road frontages, one (1) additional sign may be permitted for each additional road frontage.

6. No part of any free-standing on-premises sign shall extend into any street right-of-way. In the event a right-of-way does not exist, the sign shall be placed in conformity with the setback requirements of the district in which it is located.

***

(3) In the DO, downtown overlay district, commercially zoned properties, free-standing portable signs are permitted subject to the following requirements.

(A) Only permitted in the downtown overlay district.

(B) Placement shall be within three (3) feet of the building or no less than two and half (2 ½) feet from the edge of curb and no greater than five (5) feet from the curb to avoid both vehicular and pedestrian obstruction.

(C) Inside during off (closed) hours.

(D) No more than one (1) per entrance.

(E) No greater than three feet (3) wide and six (6) feet in height.

(F) Only used to list specials or menus.

(G) Sign shall be constructed of durable materials to withstand normal weather conditions. Unfinished and/or untreated plywood or other material unsuitable for outdoor conditions shall be prohibited.

(H) Signs shall be constructed utilizing colors and materials that compliment the downtown business décor and give the appearance of being commercially constructed. Spray-painted messages shall be prohibited.

(I) Signs having unique artistic qualities that enhance the appearance of downtown but do not meet the requirements of this section may be approved upon favorable recommendation by the Marion Business Association.

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 17th day of May 2011.

Stephen R. Little
Mayor

ATTEST:

J. Robert Boyette
City Manager/ Clerk

Ordinance Number: O-11-05-17-1

PUBLIC HEARING – ZONING TEXT AMENDMENT: Mayor Little opened the Public Hearing.

Planning and Development Director Heather Cotton advised that this text amendment would provide a distinguishable difference between an auto repair shop and a heavy truck repair center (vehicles over 26,000 lbs) within the C-2 General Business District. Currently, the City Code

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allows for auto repair as a permitted use. This ordinance would add heavy truck repair (26,000 lbs and greater) as a Special Exception to ensure the use complies with conditional requirements as set for in Section 21-302.2 *Special Exceptions*.

Ms. Cotton advised that auto repair is a permitted use in the C-2 General Business District. Staff determined that a commercial truck service center, servicing heavy duty trucks rated a Class 7 or higher and having a Gross Vehicle Weight Rating (GVWR) of 26,001 lbs or greater, is substantially different than an automotive repair service center in size and impact; and that greater care should be given to compatibility with existing uses both on and off-site; internal traffic circulation on-site including the maneuverability of large commercial trucks to access service bays without impeding traffic circulation; and general accessibility without the need for backing onto a public road or causing traffic to stack on a public road as a result of poor internal traffic circulation.

Ms. Cotton stated that this ordinance amendment would allow such uses in the future with the ability to provide greater guidance over the size, scale, and placement of such development to ensure that the impact of such use does not have a negative impact on adjacent properties as well as traffic flow on public roads.

The Planning Board recommended approval of the ordinance amendment.

Council Member Doggett asked if this amendment would create allowances for heavy truck repair in the downtown area. Ms. Cotton stated that allowances would only be created in the C-2district, which is mainly along highway commercial areas, but also includes property in the downtown area. Ms. Cotton stated that heavy truck repair would only be allowed in the C-2 district upon approval of a Special Exception, requiring case by case review. Ms. Cotton stated that it was very unlikely that a downtown property would have the space to allow for heavy truck repair.

A brief discussion was held.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, those members of Council present voted to adopt the following ordinance amending Chapter 21, Zoning, of the Marion City Code:

ORDINANCE
AMENDING CHAPTER 21
ZONING
MARION CITY CODE

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, is amended by adding the following:

Section 2. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina is amended by adding the following to the C-2 General Business District.

Sec. 21-205 (3) Special exceptions. The following uses are permitted as special exceptions as provided for in article XIII, section 21-302.2 of this ordinance.

(1) Tire recapping centers and heavy duty truck repair having a Class 7 or greater rating (Gross Vehicle Weight Rating (GVWR) of 26,001 pounds or greater). Provided all recapping and other repair activities are conducted completely within an enclosed building and in such a manner that noise, odor, smoke, and other debris associated with this type of operation, will not be offensive to adjoining property owners. Further provided that there will be no outside storage of any materials, including tires, old or new. It is not the intent of this section to prohibit tire displays. Tire displays shall be limited to no more than ten (10) tires.

(A) Tires may be temporarily located outside, only during business hours of the recapping operations, for the purpose of loading and unloading tires.

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 17th day of May 2011.

Stephen R. Little
Mayor

ATTEST:

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AA.00000112 (24)

J. Robert Boyette
City Manager/ Clerk

Ordinance Number: O-11-05-17-2

PUBLIC HEARING – NORTH CAROLINA ADOPT A TRAIL GRANT FOR ADDITION OF GRAVEL ON PEAVINE TRAIL: Planning and Development Director Heather Cotton stated that staff is proposing to apply for a State Adopt a Trail Grant to add gravel to part of the Peavine Trail. This grant has a maximum award of $5,000. This amount would allow the City to place gravel on about 1,600 linear feet of the Peavine Trail, starting at State Street and moving southward to Virginia Avenue. No City match is required.

Mayor Little opened the Public Hearing.

No one spoke during the public hearing.

Mayor Little closed the Public Hearing.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Martin, those members of Council present voted to approve the following Resolution authorizing the City to submit a State Adopt a Trail grant application to add gravel to part of the Peavine Trail as follows:

RESOLUTION BY THE CITY OF MARION CITY COUNCIL
AUTHORIZING A NORTH CAROLINA PARKS & RECREATION GRANT APPLICATION

WHEREAS, the North Carolina Department of Environment and Natural Resources, Division of Parks and Recreation has been authorized by the North Carolina General Assembly to award grant funds to eligible park, recreation and open space projects including recreational trails.

WHEREAS, the City of Marion purchased 3.5 miles (33.3 acres) from the Norfolk Southern Railway Company known as the Peavine Line September for the purpose of providing a public shared-use recreational trail.

WHEREAS, The City of Marion seeks to develop 1600 linear feet of the Peavine from State Street to Virginia Avenue.

WHEREAS, The City of Marion projects the total cost of construction for this section of the Peavine Trail at an estimated $5,000.

WHEREAS, the City of Marion intends to request $5,000 in funding from the Division of Parks and Recreation Adopt-A-Trails (AAT) grant offered through the N.C. Trails Program.

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

Section 1. The City Council agrees to make available funds towards the Peavine Trail Project when the Adopt-A-Trail grant is awarded, and request reimbursement not to exceed $5,000 from the N.C. Trails Program once construction of the project is complete no later than March 31, 2012.

Section 2. The City Council will provide for the efficient operation and maintenance of the project on completion of the Peavine trail.

Section 3. J. Robert Boyette, City Manager, and successors so titled is hereby authorized to submit an application to the Division of Parks and Recreation for the N.C. Trails Program and directed to provide such information as the appropriate State agency may request in connection with the City's application.

Section 4. The City of Marion has substantially compiled or will substantially comply with all Federal, State and local laws, rules, regulations and ordinances applicable to the project and to the Federal and State grants and loans pertaining thereto.

Section 5. This resolution shall be effective upon its adoption.

Adopted this the 17th day of May, 2011.

Stephen R. Little, Mayor

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-11-05-17-3

APPROVAL OF RESOLUTION AUTHORIZING ACCEPTANCE OF COMMUNITY DEVELOPMENT BLOCK GRANT – EASTFIELD AREA SIDEWALKS: The City Manager advised that Council action is needed to approve the resolution authorizing acceptance of the City's $606,970 Community Development Block Grant (CDBG) for Eastfield Area sidewalks, to authorize execution of the grant documents, to approve the administrative contract with Isothermal Planning and Development Commission for this project, to approve signatories for the grant and to approve various plans and policies for this project.

Ms. Teresa Spires of Isothermal Planning and Development Commission appeared before Council and went over specifics of the project and required approvals. Ms. Spires stated that no City match is required for the grant and the grant will cover the administrative costs. There is a short time frame for implementation of this grant. Ms. Spires went over the plans to be adopted as part of the approvals. She noted that the City already has all of the plans in place, but that each must be updated for a new CDBG project. Ms. Spires also noted that Council will need to appoint a Citizen Committee in the grant area within the next few months.

Ms. Spires stated that adoption of the resolution will allow IPDC to get started with procuring an engineer for the project and other necessary steps.

Council Member Clark noted some typographical errors in the administrative agreement that need to be corrected. Ms. Spires stated that she would correct the errors. Council Member Clark asked if IPDC would be paid $50,000 to administer the grant. Ms. Spires stated that this figure was correct.

Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Cuthbertson, those members of Council present voted to approve the following resolution authorizing acceptance of the City's $606,970 Community Development Block Grant (CDBG) for the Eastfield Area Sidewalk and Drainage Project, to authorize execution of the grant documents, to approve the administrative contract with Isothermal Planning and Development Commission for this project, to approve signatories for the grant and to approve various plans and policies for the grant:

RESOLUTION AUTHORIZING ACCEPTANCE OF COMMUNITY DEVELOPMENT BLOCK GRANT, EXECUTION OF GRANT DOCUMENTS, APPROVING ADMINISTRATIVE CONTRACT, AUTHORIZING SIGNATORIES FOR GRANT DOCUMENTS AND APPROVING VARIOUS POLICIES RELATED TO THE GRANT

BE IT RESOLVED, that the City of Marion has authorized the acceptance of a Community Development Block Grant, Community Revitalization category from the Department of Commerce to address drainage needs in the Yancey Street and Perry Street area of town. Activities involved include drainage improvements and the installation of sidewalks along Perry and Yancey Streets, as well as a portion of Baldwin Avenue.

BE IT FURTHER RESOLVED that the Marion City Council approves the administrative contract with the Isothermal Planning & Development Commission.

BE IT FURTHER RESOLVED that the Marion City Council authorizes the City Manager to sign any and all documents related to the Grant.

BE IT FURTHER RESOLVED that the Marion City Council approves the following policies as required by the Department of Commerce for the CDBG program:

AA.00000114 (24)

- Fair Housing Plan and Complaint Procedure
- Section 504 Survey and Grievance Procedure
- Section 3 plan
- Equal Employment Opportunity Plan
- Code of Conduct
- Citizen Participation Plan and the Citizen Advisory Committee
- Anti-displacement and Voluntary Temporary Relocation Plan
- Language Access Plan

BE IT FURTHER RESOLVED that the City Council approves all signers listed on the official signatory card.

Adopted this the 17th day of May 2011.

Stephen R. Little
Mayor

ATTEST:

ANOTHER PAGE BREAK (DWS) SORRY

AA.000001115 (24)

J. Robert Boyette
City Manager/Clerk

Resolution Number: R-11-05-17-1

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present for this meeting wishing to speak to Council.

ADOPT RESOLUTION APPROVING REGIONAL HAZARD MITIGATION PLAN: The City Manager advised that, as previously reported, the City of Marion, McDowell County and the Town of Old Fort partnered with Mitchell, Avery and Yancey Counties to complete a Regional Hazard Mitigation Plan called the Toe River Regional Hazard Mitigation Plan. The City Manager advised that, as Council may recall, hazard mitigation plans are required to be prepared and adopted by local governments periodically in order for the local government and citizens to be eligible to receive Federal and State aid in the event of a declared disaster. The State has mandated that hazard mitigation plans be prepared on a regional basis, unless jurisdictions wish to pay for the plan preparation themselves. The City Manager stated that McDowell County was combined with Mitchell, Avery and Yancey Counties for purposes of this plan.

The City Manager advised that Council had a copy of the plan for their review. The City did not have to spend any money on preparation of this plan.

The City Manager advised that Council had briefly discussed this plan at the April 5 Council meeting and asked for more time to review the large document. Unless Council has major questions or concerns, the City Manager stated that he would recommend that Council adopt the resolution approving the Regional Hazard Mitigation Plan.

Council Member Clark noted that he had gone through the document and found several factual errors in the plan. He suggested that the City Manager identify any errors and report them to the County, as part of the approval.

Upon a motion by Council Member Clark, seconded by Council Member Martin, those members of Council present voted to adopt the following Resolution approving the Regional Hazard Mitigation Plan and direct the City Manager to identify any factual errors in the plan and to report them to McDowell County Emergency Management for correction in the final version of the document:

RESOLUTION TO ADOPT THE
TOE RIVER REGIONAL HAZARD MITIGATION PLAN

WHEREAS, the City of Marion is vulnerable to an array of natural hazards that can cause loss of life and damages to public and private property; and

WHEREAS, the City of Marion desires to seek ways to mitigate situations that may aggravate such circumstances; and

WHEREAS, the development and implementation of a hazard mitigation plan can result in actions that reduce the long-term risk to life and property from natural hazards; and

WHEREAS, it is the intent of the City Council to protect its citizens and property from the effects of natural hazards by preparing and maintaining a local hazard mitigation plan; and

WHEREAS, it is also the intent of the City Council to fulfill its obligation under North Carolina General Statutes, Chapter 166A: North Carolina Emergency Management Act and Section 322: Mitigation Planning, of the Robert T. Stafford Disaster Relief and Emergency Assistance Act to remain eligible to receive state and federal assistance in the event of a declared disaster affecting the City of Marion; and

WHEREAS, the City of Marion, in coordination with Avery County, Banner Elk, Crossnore, Elk Park, Grandfather Village, Sugar Mountain, Newland, McDowell County, Old Fort, Mitchell County, Bakersville, Spruce Pine, Yancey County and Burnsville, has prepared a multi-jurisdictional hazard mitigation plan with input from the appropriate local and state officials;

WHEREAS, the North Carolina Division of Emergency Management and the Federal Emergency Management Agency have reviewed the Toe River Regional Hazard Mitigation Plan for legislative compliance and has approved the plan pending the completion of local adoption procedures;

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

1. Adopts the Toe River Regional Hazard Mitigation Plan; and

2. Agrees to take such other official action as may be reasonably necessary to carry out the proposed actions of the Plan.

Adopted this the 17th day of May, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-11-05-17-2

APPALACHIAN REGIONAL COMMISSION GRANT – SUGAR HILL ROAD WATER AND SEWER EXTENSION: The City Manager advised that the United State Department of Agriculture has directed that formal approval of the City's Appalachian Regional Commission (ARC) grant for the Sugar Hill Road Water and Sewer Extension Project is needed.

The City Manager presented Council with a list of conditions and gave an overview of the conditions, policies and plans which must be understood and agreed to by Council before further consideration may be given to the application. These conditions, policies and plans include:

1. Organization
2. Equal Opportunity and Assurance Agreements
3. Debarment Certification
4. Drug Free Workplace Certification
5. Insurance and Bonding
6. Applicant Contribution
7. Final Plans and Specifications
8. Contract Documents
9. Procurement of Construction Services and Supplies/Equipment
10. Errors and Omissions
11. Davis-Bacon Act Requirements
12. Mitigation Measures
13. Fund Disbursement and Reporting
14. Excess Funds
15. Audits and Accounting Methods
16. Grant Administration and Memorandum of Agreement
17. Other Conditions

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, those members of Council present voted to accept the $300,000 Appalachian Regional Commission grant for the Sugar Hill Road Water and Sewer extension Project and to approve the package of documents related to the grant, including the following items:

1. Organization
2. Equal Opportunity and Assurance Agreements
3. Debarment Certification
4. Drug Free Workplace Certification
5. Insurance and Bonding
6. Applicant Contribution

AA.000001117 (24)

7. Final Plans and Specifications
8. Contract Documents
9. Procurement of Construction Services and Supplies/Equipment
10. Errors and Omissions
11. Davis-Bacon Act Requirements
12. Mitigation Measures
13. Fund Disbursement and Reporting
14. Excess Funds
15. Audits and Accounting Methods
16. Grant Administration and Memorandum of Agreement
17. Other Conditions

ADD ON – RESOLUTION AUTHORIZING FINAL SALE OF CITY RIGHT OS WAY ON OLD WEST HENDERSON STREET TO FDFEE DEVELOPMENT, LLC: The City Manager advised that the 10 day upset bid period for the proposed sale of 0.07 acres of City right of way on Old West Henderson Street to FDFEE Development, LLC for $7,750 ended on May 16, with no upset bids being received. Therefore, Council may adopt a resolution authorizing the final sale of the property.

The City Manager stated that no Public Hearing is required for this approval.

Upon a motion by Council Member Clark, seconded by Council Member Doggett, those members of Council present voted to adopt the following
resolution authorizing the final sale of 0.07 acres of City right of way on Old West Henderson Street to FDFEE Development, LLC for $7,750.

Resolution Authorizing Final Acceptance of Offer to Purchase Certain Property Owned by the City of Marion After Solicitation of Upset Bids

WHEREAS, N.C.G.S. 160A-269 authorizes a city to convey by negotiated offer and upset bid any real or personal property; and

WHEREAS, FDFEE Development, LLC has submitted a bid in the amount of $7,750 for the purchase of approximately 0.07 acres of excess right of way owned by the City of Marion located on Old West Henderson Street, as shown in the attached Exhibit A.

WHEREAS, the City Council of the City of Marion adopted a resolution on May 3, 2011, in accordance with N.C.G.S. 160A-269, accepting the offer of FDFEE Development, LLC to purchase the property, as described below, for a sum of $7,750; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion received a five percent bid deposit from FDFEE Development, LLC; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion, on May 6, 2011, caused notice of the proposed sale of the property, as described below, to be published in The McDowell News; and

WHEREAS, the City of Marion has completed the ten day upset bid period required by N.C.G.S. 160A-269, without the receipt of any upset bids; and

WHEREAS, the City Council of the City of Marion desires to complete the sale of the property described below to FDFEE Development, LLC.

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

1. The right of way owned by the City of Marion on Old West Henderson Street, as shown in the attached Exhibit A that is approximately 0.07 acres in size is hereby declared to be surplus to the needs of the City of Marion.

AA.00000118 (24)

2. The City Council accepts the offer of FDFEE Development, LLC to purchase the above described property for $7,750 and directs the City Manager to proceed with the sale of said property, as authorized by N.C.G.S. 160A-269.

Adopted this the 17th day of May, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-11-05-17-4

CITY MANAGER REPORTS: The City Manager gave a brief report on current projects.

The City Manager advised that City crews have completed work on the Community Building Park Splash Pad Shade Shelter. The Splash Pad is scheduled to open on Friday, May 20. Public Works Director Chris Hollifield gave details on the Shade Shelter.

The City Manager advised that staff had received a request involving designation of a no-parking area on Tremont Street and would request permission to review the request with the Street Committee. Mayor Little and City Council Members agreed by consensus for the City Manager to review this request with the Street Committee and to forward any recommendations to Council for review at a future meeting.

The City Manager stated that the timing of final implementation of the Downtown Streetscape Plan keeps changing, but for the better. He advised that a DOT contractor was scheduled to begin the milling of Main Street in the downtown area and spot milling on North Main Street to Legendary Ford and on East Court Street to the City Limits in early June. The DOT contractor was then to have resurfaced the streets listed above, except for the parking lanes of Main Street in the downtown area. The City would have then had a contractor come in and construct the concrete bumpouts and decorative crosswalks in the downtown area and then resurface the parking lanes. However, to avoid Main Street being torn up for a long period of time, City staff has convinced DOT to administer and inspect the entire scope of work as one project. DOT will fund the milling, resurfacing and striping and provide $50,000 of Federal funding for the bumpouts. The City will have to pay for the striping of parking spaces and the cost of the bumpouts and decorative crosswalks, less the $50,000 of Federal funding to go toward this work.

The City Manager stated that receipt of Federal money by DOT will delay the start of the project until about August. The DOT contractor will then mill and resurface Main Street in the downtown area, North Main and East Court Streets and resurface and restripe the three travel lanes Main Street in the downtown area. The contractor will also construct the bumpouts and decorative crosswalks and restripe the parking spaces. The project will likely take until November to be completed, meaning that the construction work will still be taking place during the Mountain Glory Festival in October.

The City Manager stated that the City will have the opportunity to review bids to make sure they fit within the City's budget for the components the City will have to fund.

AA.000001119 (24)

The City Manager stated that the Wastewater Improvements Project should be completed by mid-May, with paving at the Corpening Creek Wastewater Plant and some add-on items involving repairs to the primary and secondary clarifiers at the Corpening Creek Plant, to allow every dollar of the City's $5.3 million in grants for this project to be spent.

The City Manager stated that as authorized at the May 3 Council meeting, City staff is seeking bids for the resurfacing of six streets, for the curb replacement on North Garden Street and Crescent Drive and for the curb and sidewalk replacement on Park Avenue. Staff will bring the bids to Council for review once they are received.

The City Manager stated that the Façade grant applications were due on March 31. Five applications were received. The Façade Grant Review Committee met in mid April and recommended five grant awards to the Marion Business Association and McDowell Economic Development Association Boards. The five approved projects include one repainting and awning installation and four awning projects. The five grants will use a little less than $10,000 of the $15,000 in grant funding. Therefore, a new announcement is being made of a second round of funding to give out
the remaining $5,000 in grants. The second round of funding will be due on May 19. The Marion Business Association expects at least $5,000 grant application to be received by the May 19 deadline.

The City Manager stated that the McDowell County Salute to Veterans Celebration was held from May 11-16. He noted that the event was a great success, with many thousands of people visiting the American Veterans Traveling Tribute displays at the YMCA during this time.

The City Manager thanked Patrol Lieutenant Rusty Jenkins for the great job he and the Police Department staff did in coordinating the procession of the displays from the High School to downtown and then to the YMCA on May 11 and handling traffic control on North Main Street and downtown on Wednesday and on Sugar Hill Road adjacent to the YMCA throughout the event. The Fire Department displayed a large American flag on the City's tower truck. The Public Works Department provided a stage, canopy and folding chairs for the event, along with safety vests for volunteers.

The City Manager stated that the annual Health Fair for City employees will be held on Wednesday, May 18 at the Depot.

Public Works Director Chris Hollifield advised that the Utility Maintenance Division would be flushing fire hydrants throughout the water distribution system in order to clean main water lines beginning at 11:00 p.m. each night until approximately 5:00 a.m. each morning from Monday, May through Friday, May 27.

COUNCIL MEMBER COMMENTS:

Council Member Clark stated that he has concerns about the 31 percent water loss shown in the monthly report of the Water Plant. The City Manager stated that this figure was definitely higher than the City wants. Public Works Director Chris Hollifield noted that the water loss figure is an estimate and can involve some combination of poor estimating of non-metered water usage and actual water leaks. The City Manager stated that staff could explore again the completion of a Water Audit for the City.

Mayor Pro Tem Cuthbert son asked if the speed trailer recently placed on Broad Street took traffic counts. Patrol Lieutenant Rusty Jenkins stated that the speed trailer sign has some age on it and no longer is capable of recording information such as traffic counts.

AA.000001120 (24)

Council Member Doggett stated that she had spoken with Ms. Ann Harley of Broad Street, who had commended the City Police Department for placing the speed trailer on Broad Street, which had a great effect on reducing speeding on the street.

2011-12 BUDGET OVERVIEWS:

The City Manager gave a presentation of his recommended 2011-12 City Budget, as follows:

Proposed City of Marion
Budget
2011-12

May 17, 2011

2011-12 Budget Overview

- Total proposed budget of $9,739,776
- Reduction of $52,957, or 0.54%, from 2010-11 budget as of this date
- Budget reduction would have been more if not for the need for several vehicle replacements, particularly in the Public Works Department, and if the City had chosen to finance vehicles, which would cost more in the long run

2

2011-12 Revenues

- Budget contains very conservative estimates for revenues
- Assumes reductions in sales tax and utility franchise tax revenue and only modest gains in other revenues
- No increases in water and sewer rates or connection fees, commercial garbage fees or building permit fees are proposed

3

AA.000001121 (24)

2011-12 Revenues

- Tax rate proposed to remain at $.51 per $100 valuation. This is the 44th consecutive year with no tax increase in the City

2011-12 Expenditures

- One position proposed for elimination later in Fiscal Year. Some offset possible if grant funding is received.
- No cost of living increases for City employees.
- Continued reductions in travel and training expenditures.
- Some investment in capital outlay spending for projects and vehicle and equipment replacement.

5

Current City of Marion Projects

- Completion of Wastewater Improvements Project ($6.5 million), including elimination of Catawba River Wastewater Plant and improvements to Corpening Creek Plant
- Working with developers on industrial, commercial and residential development projects in various locations around City
- Participating in planning for future McDowell House renovations
- Completion of Pedestrian Plan for City
- Working on completion of Comprehensive/Land Use Plan
- Sugar Hill Road Water and Sewer Extension ($2 million)
- Working to improve cost effectiveness of recycling program.

6

Current City of Marion Projects

- Catawba River Greenway Phase 1 and 2
- Mt. Ida future trail development
- Eastfield Park
- Clinchfield Park
- Downtown Streetscape Plan/Wayfinding signage implementation
- Improved snow plowing and removal procedures
- Shade shelter for Community Building Park Splash Pad/other improvements planned
- Various sidewalk replacements and extensions
- Peavine Trail acquisition and improvements
- Traffic flow improvements at Marion Elementary School

7

Current City of Marion Projects

- Enhancement of Downtown Façade Grant Program
- Annual street resurfacing
- City website improvements
- Efficiency improvements for ABC Board
- Planning drainage and appearance improvements at Oak Grove Cemetery
- Continued promotion of and enhancements to Farmer's Market
- Padgett Drive Sewer Extension
- Energy Grant implementation with County to reduce energy costs

8

Current City of Marion Projects

- Continued replacement of fire apparatus, including a tower truck and a brush truck
- Continuing to stress residential police patrols and business visits and checks
- Continued replacement of old valves and equipment at Water Plant
- Security enhancements at Water Plant and water intakes
- Buck Creek Watershed Planning
- Paving private and DOT roads in City

9

Current City of Marion Projects

- Wellness Program enhancements to improve employee health/reduce health insurance costs
- Start of Marion 101 Citizens Academy
- 9th Annual City Open House for 3rd Grade
- Grant for creek clean-up/stabilization off South Main Street
- 911/Dispatching consolidation with County
- Working on Comprehensive Transportation Plan for County, in conjunction with County and Town of Old Fort
- Beginning Police Department accreditation process

10

Current City of Marion Projects

- Scott Road Water Extension
- Highway 226 South/Fairview Road Sewer Extension
- Tunnel Road Water Extension
- Several water line replacements
- Planning for large street projects - Park Avenue curb/sidewalk replacement and North Garden/Crescent curb replacement
- CDBG Grant – Eastfield Area Sidewalks

11

AA.000001123 (24)

Grants

- Since 2001, the City has received 95 separate grants totaling over $13.8 million
- These grants have involved every City department and nearly every City service or function and allowed many projects and activities to take place that the City could have otherwise not afforded to undertake

12

Summary

- City has worked on all these and other projects and has grown by 62 percent since 2000 with no growth in full-time staff. The City will have 92 full-time positions effective July 1, 2011, the exact same number that the City had in the 2000-01 Fiscal Year.

13

The City Manager advised that Council had previously scheduled a Budget Workshop and Planning Session to be held at City Hall on Tuesday, May 24 at 6:00 p.m., at which time more details could be discussed about the proposed 2011-12 budget.

ADJOURNMENT: Upon a motion by Council Member Doggett, seconded by Mayor Pro Tem Cuthbertson, those members of Council present voted to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion held a Special Meeting on Tuesday evening, May 24, 2011 at 6:00 P.M. in the Conference Room located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Steve Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members Juanita Doggett and Billy Martin.

Council Member Everette Clark could not attend this meeting due to being out of town.

Council Member Cecil Owenby could not attend this meeting due to illness.

OTHERS PRESENT: Bob Boyette, City Manager

AA.0000011124 (24)

BUDGET WORKSHOP/PLANNING SESSION: The City Manager provided an overview of his proposed 2011-12 City budget. The budget was reviewed in detail by the Mayor and City Council and the City Manager presented the City's current financial picture and outlook.

After discussion and review, Council directed no changes to be made to the budget as presented by the City Manager.

The public hearing on the budget and consideration of adoption of the 2011-12 City budget will be held on Tuesday, June 21, 2011 at 7:00 p.m. at City Hall.

The City Council also held a Planning Session and discussed the following items:

A. Recreation

B. Amendments to Planning and Development Department Fee Schedule Ordinance

C. Idea of Downtown Appearance Standards

D. Requested Infrastructure Extensions/Possible Growth Areas

E. Sewer Only Customers

F. Speed Humps

G. Advisory Board Appointments

H. Civil Citation Appeals Ordinance

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Council Member Doggett, Council voted unanimously to adjourn the meeting.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

AA.000001125 (24)

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 7, 2011at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members A. Everette Clark, Juanita Doggett and Billy Martin.

Council Member Cecil Owenby was not present for this meeting due to illness.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Jamie Harklerode, Patrol Lieutenant; Chris Hollifield, Public Works Director; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: David Deal, 203 Shamrock Drive, Morganton, NC

OPEN MEETING: Mayor Little opened the meeting with a moment of silence.

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Martin, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – May 17, 2011 Regular City Council Meeting Minutes and May 24, 2011 Planning Session/Budget Workshop Minutes

B. Approval of Revised Wellness Incentive Policy:

CITY OF MARION WELLNESS INCENTIVE POLICY

The City of Marion provides medical insurance to its employees. Recognizing that the key to improving an employee's overall health is by promoting wellness and increasing awareness, the City has provided for its employees a wellness program, "Wellness for Life".

As of July 1, 2011 the City will begin charging each employee 5% of the total medical insurance premium (employee only portion) with the option of discounting that fee. To exercise this option and for an employee to receive a discount, he/she must actively participate in the following program(s) offered through the "Wellness for Life" program.

- To qualify, the employee must participate in the following wellness activities offered through "Wellness for Life".

  a) Complete annual blood screenings done either at the employee annual Health Fair or by a personal physician by or before May 31 of each year. By doing so and upon receipt of verification, the premium will be Discounted by 3%.

  b) Attend two Lunch 'n Learn sessions coordinated by the Wellness Program beginning in July of the current fiscal year. For each session attended, an employee will receive a 1% discount, OR

  c) In the event an individual is unable to attend one of the Lunch 'n Learn sessions, he/she may complete the online Health Assessment offered through the City's insurance provider. Complete information on the program is available through the Personnel Office.

TOBACCO CESSATION

In an effort to assist employees in their long term goal of tobacco use cessation, the City of Marion's wellness program, Wellness for Life, is providing City employees with assistance in accomplishing their goals.

AA.000001126 (24)

Wellness for Life provides for assistance in the form of a tobacco cessation program. This program offered through the McDowell County Health Department offers employees the option of attending meetings in a group setting where individuals are provided with literature and information to help them through the transition period and to re-learn life without tobacco. This program is offered at no cost to employees. In order to provide an individual program for City employees, a total of eight (8) individuals are needed. However, individuals may attend sessions already provided by the Health Department.

The City will further assist employees financially in reaching these goals. The City's insurance provider will pay the cost of the prescription tobacco cessation aids such as Chantix, etc. The employee pays a co-pay on these prescriptions. Over-the-counter aids are also available with no assistance by insurance. The City will assist employees by paying one half (1/2) of the cost of either the prescription (co-pay) or over-the-counter product. Sufficient verification will need to be provided by the employee. Further details are available through the City Personnel Office.

This policy replaces the Wellness Incentive Policy adopted by the City Council on September 7, 2010.

Adopted by the City Council of the City of Marion this the 7th day of June, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

POLICY NUMBER: P-11-06-07-1

C. Adopt Planning and Development Fee Schedule

AN ORDINANCE ESTABLISHING FEES
FOR THE PLANNING AND DEVELOPMENT DEPARTMENT

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

SECTION 1. CERTIFICATE OF OCCUPANCY/COMPLIANCE. The City of Marion shall charge a $60.00 fee for a certificate of occupancy (C.O.) for a change of use for a building, land, or structure in the City of Marion if a building permit is required. The fee for the certificate of occupancy can be credited to the building permit. This fee includes Zoning and Building Code review as well as an initial and final inspection.

SECTION 2. SIGN PERMITS. This section shall apply to all signs regulated pursuant of Section 706 *Signs, billboards and other advertising structures* of Chapter 21 *Zoning* of the Code of the City of Marion.

On Premise Signs. The permit fee for an on-premise sign that is twenty-four (24) square feet or less that does not require a footing and/or an electrical inspection shall be $30.00 plus $1.00 for each additional square foot over 24 square feet. An on-premise sign that is twenty-four (24) square feet or less that does require a footing and/or an electrical inspection shall be $60.00 plus $1.00 for each additional square foot over 24 square feet. The fee for a temporary two (2) week spectacular sign or directional sign permit and all other thirty (30) day temporary sign permits shall be $20.00. No fee shall be charged for a temporary sign permit for non-profit organizations with offices or locations within the City Limits.

Off-Premise Signs. The initial fee for an off-premise sign permit shall be $250.00 plus $1.00 for each additional square foot over one hundred square feet. The fee shall include footing and/or an electrical inspection. An annual renewal fee shall be charged for all off-premise advertising signs. Failure to renew an off-premise sign shall result in a revocation of permit. The annual off-premise sign fee will be as follows:

OFF-PREMISE SIGN FEE SCHEDULE	
Sign Face	**Annual Renewal Fee**
0-100 square feet	$125.00

AA.00001127 (24)

101-200 square feet	$125.00 + $0.25 per square foot
201-300 square feet	$125.00 + $0.50 per square foot

SECTION 3. FEES FOR APPLICATION TO THE BOARD OF ADJUSTMENT, PLANNING COMMISSION AND CITY COUNCIL. A fee of $200.00 will be charged for each application processed through the Planning and Inspections Department that requires action by the Board of Adjustment, Planning Commission and/or City Council excluding cell tower applications and subdivision review applications. This fee includes administrative processing, staff analysis, advertising, and public notice.

SECTION 4. CELL TOWERS. A Cell tower permit application fee shall be $2,500.

SECTION 5. SUBDIVISION REVIEW. The following fees shall apply to subdivision review applications.

SUBDIVISION REVIEW FEE SCHEDULE	
Review Process	**Application Fee**
Sketch Plan/Preliminary Plat	$100.00
Minor Subdivision Plat	$50.00
Major Subdivision Plat No Infrastructure	$150.00 + $2.00 per lot
Major Subdivision Plat Infrastructure	$200 + $2.00 per lot

SECTION 6. GIS MAPS. The following fees shall apply for the production of a city map.

GIS MAP PRODUCTION FEES			
Size	**Black and White**	**Color**	**Aerial**
8.5" x 11"	$2.00	$4.00	$6.00
11" x 17"	$6.00	$8.00	$14.00
17" x 22"	$8.00	$10.00	$20.00
22" x 34"	$12.00	$16.00	-------
34" x 44"	$16.00	$24.00	-------

SECTION 7. COPIES OF CITY CODE AND ORDINANCES. The following fees shall apply for requested copies of the Zoning Regulations, Subdivision Regulations, and all other sections of the Code and Ordinances:

DOCUMENT REPRODUCTION FEES	
Document	**Fee**
City Code Chapter 21 Zoning	$15.00
City Code Chapter 16 Subdivision	$10.00
Sections of Code & Ordinances	$0.20 per page
City Code on CD	$5.00

SECTION 8. BUILDING PERMITS. Building permit fees for all new buildings and additions to existing buildings constructed in the City of Marion will be based on the total number of square feet in the building, addition or structure by using the permit chart below. There will be a minimum fee of $100.00 per trade for commercial and $60.00 for residential. Dwelling units in a multi-family structure are calculated individually. Building permit fees includes plan review for zoning compliance.

Building permit fees shall be determined by using the following formula:
A x B = Fee
A= Total gross building floor area
B= Fee per square foot (see fee table below)

SECTION 9. HOMEOWNERS RECOVERY FUND: The City shall charge all licensed general contractors a $10.00 fee for the construction and/or alteration of a single-family residential dwelling unit, including townhouses and condominiums. The fee will be collected for each dwelling unit and will be in addition to the City's regular

AA.00001128 (24)

building permit. The City will forward $4.00 of each fee collected to the North Carolina Licensing Board for General Contractors. (G.S. 87-15.6)

SECTION 10. RENOVATION TO EXISTING BUILDINGS. Renovation and/or alteration permits will be required for renovation to existing buildings, and for enclosing porches or carports, installing or removing structural supports. Building permit fees will be based on the Permit Chart with a minimum fee per trade of $100.00 for commercial and $60.00 for residential.

Building permit fees shall be determined by using the following formula:
A x B x 0.20 = Fee
A= Total gross building floor area
B= Fee per square foot (see fee table below)

SECTION 11. ELECTRICAL INSPECTIONS. Fees for electrical inspections shall be determined by the Permit Chart.

SECTION 12. PLUMBING INSPECTIONS. Fees for plumbing inspections shall be determined by the Permit Chart.

SECTION 13. MECHANICAL INSPECTIONS. Fees for mechanical inspections shall be determined by the Permit Chart.

PERMIT CHART:

BUILDING PERMIT FEE SCHEDULE							
SIZE	**BUILDING**	**ELECTRIC**	**PLUMBING**	**HEATING**	**A/C**	**INSUL.**	**TOTAL**
Assembly							
0-10,000sf	0.14025	0.0759	0.06435	0.01155	0.033	0.033	0.35805
10,001-50,000sf	0.12375	0.05445	0.00429	0.02475	0.02475	0.02475	0.25674
Above 50,000sf	0.10725	0.0429	0.033	0.0165	0.0165	0.0165	0.23265
Business							
0-10,000sf	0.14025	0.0759	0.05775	0.0495	0.0495	0.033	0.4059
10,001-50,000sf	0.1287	0.066	0.0495	0.0429	0.0363	0.02475	0.34815
Above 50,000sf	0.11715	0.0495	0.0462	0.03795	0.03795	0.0165	0.30525
Educational							
0-10,000sf	0.14025	0.06435	0.06435	0.02475	0.02475	0.033	0.35145
10,001-50,000sf	0.10725	0.0429	0.0429	0.0165	0.0165	0.02475	0.2508
Above 50,000sf	0.09735	0.03795	0.03795	0.01155	0.01155	0.0165	0.21285
Factory/Industrial							
0-10,000sf	0.1287	0.0495	0.033	0.033	0.033	0.02475	0.30195
10,001-50,000sf	0.10725	0.033	0.02475	0.0165	0.0165	0.02145	0.21945
Above 50,000sf	0.099	0.02145	0.0165	0.01155	0.01155	0.0165	0.17655
Hazardous							
0-5,000sf	0.0825	0.04125	0.0165	0.0165	0.0165	0.033	0.20625
5,001 &: Above	0.06435	0.033	0.0132	0.0132	0.0132	0.02145	0.1584
Institution							
0-10,000sf	0.2904	0.099	0.1188	0.06435	0.06435	0.033	0.6699
10,001-50,000sf	0.22605	0.07425	0.07095	0.0429	0.0429	0.02145	0.4785
Above 50,000sf	0.18315	0.06435	0.0429	0.033	0.033	0.0165	0.3729
Mercantile							
0-10,000sf	0.1518	0.0429	0.0429	0.0495	0.0495	0.033	0.3696
10,001-50,000sf	0.14355	0.03795	0.033	0.033	0.033	0.02475	0.30525
Above 50,000sf	0.12375	0.0363	0.02805	0.02805	0.02805	0.0165	0.2607
Storage							
0-10,000sf	0.09735	0.033	0.02475	0.02475	0.02475	0.0165	0.2211
10,001-50,000sf	0.08745	0.0165	0.0165	0.0165	0.0165	0.00825	0.1617
Above 50,000sf	0.0759	0.00825	0.00825	0.00825	0.00825	0.0066	0.1155
Residential							
All Units	0.10094	0.0504	0.0504	0.03234	0.03234	0.01288	0.27944

SECTION 14. MANUFACTURED HOMES. The permit fee for a manufactured home shall be $150.00. The mobile home permit will include all trades. Modular home fees shall not be considered a manufactured home.

AA.00000112B (24)

SECTION 15. MISCELLANEOUS INSPECTIONS. Fees for miscellaneous inspections will be as follows:

MISCELLANEOUS INSPECTION PERMITS	
Inspection Type	**Fee**
Fuel Storage Tank	$60.00
Swimming Pools	$60.00
Insulation	$60.00
Demolition	$60.00
Other Required Inspection	$60.00
Return Inspection	$60.00
ABC INSPECTION PERMITS	
Inspection Type (Size of Establishment)	**Fee**
0-50,000 Square Feet	$100.00
50,001-100,000 Square Feet	$400.00
100,001 and Larger	$600.00

Section 16. WORK WITHOUT PERMIT. The City of Marion shall charge a penalty double the standard permit fee for all activities requiring a zoning or building permit and/or inspection.

Section 17. FIRE INSPECTIONS. Fees for fire inspections will be as follows:

FIRE INSPECTION FEES	
Inspection Type	**Fee**
First Inspection	$0.00
First Re-Inspection	$0.00
Second Re-Inspection	$25.00
Third Re-Inspection	$50.00
Fourth Re-Inspection	$75.00
Fifth Re-Inspection	$100.00

Section 18. This ordinance shall become effective on July 1, 2011.

Adopted this 7th day of June, 2011.

Stephen R. Little
Mayor

ATTEST:

J. Robert Boyette
City Manager/ Clerk

Ordinance Number: O-11-06-07-4

PUBLIC HEARING – ADOPTION OF ANNEXATION ORDINANCE – WALL/HIGHWAY 226 SOUTH PROERPTY: Mayor Little opened the Public Hearing.

The City Manager advised that this public hearing is required on the requested annexation of the 2.68 acre Wall property on Highway 226 South. This industrial property contains the Walco building. If adopted, the annexation would become effective June 30, 2011.

There were no citizens present to discuss this Annexation.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Cuthbertson, seconded by Council Member Martin, those members of Council present voted to adopt the following Ordinance to annex the Wall property on Highway 226 South effective June 30, 2011.

AA.00001130 (24)

**AN ORDINANCE TO EXTEND
THE CORPORATE LIMITS OF THE
CITY OF MARION, NORTH CAROLINA –
HIGHWAY 226 SOUTH/WALL PROPERTY-2011**

WHEREAS, the City Council has been petitioned under G.S. 160A-31 to annex the area described below; and

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

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at City Hall at 7:00 P.M. on Tuesday, June 7, 2011, after due notice by publication on Wednesday, May 25, 2011; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-31;

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

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the City of Marion as of June 30, 2011:

BEGINNING at a point under the center of the culvert on North Carolina Highway #26, under which culvert Muddy Creek (sometimes referred to as Young's Creek) flows through the G.P. Poteat, Sr. land, and runs thence with the meanders of Muddy Creek and with the center of the same, North 12 degrees West 69 feet to a stake in the creek; thence continuing with the center of said creek, North 41 degrees and 30 minutes West 119 feet to a stake in the center of said creek; then with the center of said creek North 20 degrees 110 feet to a stake; thence with the center of said creek North 3 degrees East 86 feet to a stake in said creek; thence with the center of said creek North 39 degrees West 177 feet to a stake in said creek; thence with the center of said creek North 74 degrees and 30 minutes West 76 feet to a stake in said creek; thence with the center of said creek North 36 degrees West, 46 feet to a stake in said creek; thence with the center of said creek North 19 degrees and 15 minutes West 128 feet to a stake in said creek; thence with the center of said creek North 74 degrees West 74 feet to a stake in said creek; thence with the center of said creek North 58 degrees West 73 feet to a stake in said creek; thence with the center of said creek North 42 degrees and 30 minutes West 59 feet to a stake in said creek; thence with the center of said creek North 0 degrees and 15 minutes West 68 feet to a stake in said creek; thence North 45 degrees West 144 feet to an iron stake in said creek; thence North 15 degrees West 47 feet to an iron stake; thence North 44 degrees East 178 feet to the center of the Southern Railroad tracts; thence with and along the center of the Southern Railroad tract, South 51 degrees East 884 feet to a stake in the center of said tracts; thence South 8 degrees and 30 minutes West 625 feet to a point in the center of the hard surface pavement on North Carolina Highway # 26; thence with the center line of the hard surface or pavement of North Carolina Highway #26, 73 feet to the BEGINNING.

Section 2. Upon and after June 30, 2011, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City of Marion. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Marion shall cause to be recorded in the office of the Register of Deeds of McDowell County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the McDowell County Board of Elections, as required by G.S. 163-288.1.

ADOPTED this the 7th day of June, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Approved As To Form:

City Attorney

AA.00000131 (24)

Ordinance Number: O-11-06-07-2

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

CIVIL CITATION APPEAL: The City Manager advised that Ms. Meaghan Nicole Bartlett received two citations for improper parking and overtime parking on February 28 for parking in an unmarked space on East Court Street adjacent to the County Administration Building. The City Manager presented Council with information showing that Ms. Bartlett had served as a juror on the date of the citation and apparently did not read her materials or understand where she was supposed to park. Council has traditionally waived the penalty for parking citation written to jurors; however, Ms. Bartlett did not park in a legal space and did not submit her appeal for more than two months. The City Manager stated that the City Code technically requires appeals to be submitted within two months.

The City Manager stated that, since Ms. Bartlett was parked in an illegal space, he would propose that Council waive the $10.00 citation for overtime parking and uphold the $10.00 citation for improper parking. The City could then give Ms. Bartlett seven days to pay this citation or else incur late penalties.

Upon a motion by Council Member Martin, seconded by Council Member Doggett, those members of Council present voted to waive the $10.00 citation for overtime parking and all late charges, and to uphold the $10.00 citation for improper parking, for citations issued to Ms. Meaghan Nicole Bartlett on February 28 for parking in an unmarked space on East Court Street adjacent to the County Administration Building.

CONSIDER ADOPTION OF NO PARKING ORDINANCE – END OF TREMONT STREET: The City Manager advised that, as shown on information presented to Council, Ms. Patricia Barnes of 90 Tremont Street recently contacted the Police Department about issues getting in and out of her driveway at the end of the street due to vehicles parked in front of 89 Tremont Street across from her house.

The City Manager stated that Police Administrative Lieutenant Gaye Noblitt had looked at the location and submitted information and photos for Council's review. She verified the parking issue and stated that Ms. Barnes had requested that a no parking area be designated across from her house.

The City Manager stated that the Street Committee met with Ms. Barnes on May 23 and that after review, the Street Committee recommended that the north side of Tremont Street from a point across from the edge of Ms. Barnes' driveway to the end of City maintenance on Tremont Street be designated as a no parking area. This will still leave room for one vehicle to park in front of 89 Tremont Street, in addition to the two driveways that are located at that house. Ms. Barnes said that this action would likely solve her problem.

The City Manager stated that if compliance is not achieved, the entire area in front of 89 Tremont Street could be designated as a no parking area in the future.

Upon a motion by Council Member Clark, seconded by Council Member Martin, those members of Council present voted to adopt the following Ordinance amending Section 18 of the Traffic Schedule:

ORDINANCE
AMENDING SECTION 18
TRAFFIC SCHEDULE
MARION CITY CODE

AA.000001132 (24)

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 18-239 is amended by adding the following:

STREET NAME	REGULATION	REG. APPLICATION	
TREMONT STREET	PARKING	NORTH SIDE, BEGINNING 155 FT. EAST OF THE SE CORNER OF TREMONT STREET AND ALABAMA AVENUE CONTINUING TO END OF CITY MAINTENANCE ON TREMONT STREET	PROHIBITED

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 7th day of June, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-11-06-07-3

CONSIDER APPROVAL OF SPRING 2011 STREET RESURFACING/PAVING CONTRACT: The City Manager advised that, as shown in information from Public Works Director Chris Hollifield, the City recently sought bids for the resurfacing of six streets (Circle and Cross Street EM, Holly Hill Drive, State Street, Hillside Drive, Virginia Road and Woodvine Drive), as previously authorized by Council. Three paving companies responded with bids. Maymead of Mountain City, Tennessee submitted the low bid in the amount of $82,772.48 for 1.25" paving on the six streets to be resurfaced. The City Manager stated that the City normally goes with 1.25" asphalt for our resurfacing. Five of the streets would be resurfaced using Powell Bill Funds ($80,835.52) and one street, Woodvine Drive, would be resurfaced using Street Department funds ($1,942.96) since Woodvine is not wide enough to use Powell Bill funding. The City Manager reported that the City currently has over $196,000 in our Powell Bill account and could handle this expenditure, while still hopefully being able to complete a contracted project in 2011-12. He also noted that the recent sinkhole repair on Burgin Street ended up costing about $7,000, less than staff feared it might cost.

The City Manager reported that the City is currently seeking bids for the North Garden Street/Crescent Drive curb replacement and the Park Avenue sidewalk/curb replacement, as previously authorized by Council, and hope to be able to present bids to Council for consideration at the June 21 Council meeting.

The City Manager advised that State law directs cities to accept the lowest responsible bidder. A City generally needs some firm reasons to not award a contract to the low bidder. In this case, the low bid from Maymead is $16,110.08 lower than the second low bid and the City does not have any specific negative experiences with Maymead related to street resurfacing that can be cited.

The City Manager stated that Mr. Hollifield had estimated a cost of $100,979 ($98,537 Powell Bill/$2,442 General Fund) for this resurfacing work, so the Maymead bid will come in

AA.000001133 (24)

$18,206.52 under this amount, making it more likely that the City could complete a contracted project such as Park Avenue in 2011-12.

The bids received for the 2011 Resurfacing Project were as follows:

Maymead	1.25" inch resurfacing of streets	$ 82,772.48
Mountain City, TN	1.5" inch resurfacing of streets	$ 97,077.12
J.T. Russell & Sons	1.25" asphalt resurfacing	$ 98,882.56
Conover, NC	1.5" asphalt resurfacing	$115,964.80
Johnson Paving	1.25" asphalt	$ 99,924.52
Marion, NC	1.5" asphalt	$117,780.14

Council Member Clark stated that he has concerns about the difference in this price between Maymead and the other bidders. He said that he would like to know what asphalt plant Maymead proposed to use and whether Maymead would use recycled materials.

Mr. Hollifield said that he suspects that Maymead may propose the use of some recycled materials, since DOT now allows such use. He stated that he assumed that Maymead would obtain asphalt from the local plant, but that he could find out plans for use of recycled materials and the asphalt plant to be used from Maymead.
Council Member Clark stated that the quality of the material is very important, as is the location of the asphalt plant. He noted that Maymead's quality has improved in recent years and said he has no problem awarding Maymead the contract, assuming that the materials are sufficient and the asphalt is not cold by the time it reaches Marion.

The City Manager stated that, in fairness to all bidders, he would suggest asking all three bidders for this information. Mayor Little and Council Members expressed no opposition to the City Manager's recommendation.

Council Member Martin asked if the City would suffer any harm by delaying action on the contract award. The City Manager stated that the work would not take place until July 1; therefore, there would be no problem in obtaining the requested information from the bidders.

Upon a motion by Council Member Martin, seconded by Council Member Doggett, those members of Council present voted to defer action on the award of the street resurfacing contract until the June 21, and to direct staff to obtain information from all three bidders regarding the location of the asphalt plant to be used and whether recycled materials would be used for the street resurfacing.

CONSIDER ADOPTION OF REVISED PRIVILEGE LICENSE ORDINANCE: The City Manager advised that, as shown on information from Finance Director Harriett Thomas, staff is proposing some adjustments to business privilege license taxes for 2011-12. The City Manager stated that the changes are found in the license tax schedule at the end of the ordinance and involve achieving greater separation between small and large businesses.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, those members of Council present voted to adopt the following Ordinance amending Chapter 10 of the Licenses, Permits and Business Regulations as follows:

CITY OF MARION, NORTH CAROLINA
ORDINANCE AMENDING CHAPTER 10
LICENSES, PERMITS AND BUSINESS REGULATIONS

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

Section 1. That Chapter 10, Licenses, Permits and Business Regulations, of the Code of Ordinances, City of Marion, North Carolina,is amended as follows:

AA.00001134 (24)

Section 2.. Chapter 10 is amended by repealing Article II, Business License Tax, in its entirety and replacing it with the following:

ARTICLE II
BUSINESS LICENSE TAX

DIVISION 1.
GENERAL

Sec. 10-1.Definitions.

When used in this ordinance (unless the context requires a different meaning):

a) "Business" includes each trade, occupation, profession, business and franchise taxed under this ordinance.

b) "Person" includes any individual, trustee, executor, other fiduciary, corporation, unincorporated association, partnership, sole proprietorship, company, firm, or other legal entity.

c) "Seasonal in Nature" a business is seasonal in nature when it is operated within the City for less than six months of the year.

Sec. 10-2.Construction of this ordinance.

This ordinance is enacted for revenue purposes only. Therefore, it should be construed to require payment of the maximum tax permitted under its terms. In addition issuance of a license in accordance with this ordinance does not excuse a licensee from compliance with any other applicable ordinance or statute. This ordinance does not prevent the City from imposing license taxes on additional businesses, from increasing or decreasing the amount of any license tax or from regulating any business taxed.

DIVISION 2.
LEVY

Sec. 10-3. Levy of tax.

An annual privilege license tax is hereby levied on each business conducted within this City listed in the schedule of taxes contained in Section 10-32 of this ordinance in the amounts set forth in those sections.

Sec.10-4. Who must pay tax.

Each person who conducts a business within this City is subject to this ordinance. A person "conducts business: when he or she engages in one act of business taxed under this ordinance, he or she conducts the business "within the City" if he or she maintains a business location within the City; or if, either personally or through agents, he or she (1) solicits business within the City limits or (2) picks up or delivers goods or services within the City limits.

Sec. 10-5.Period of license; due date.

a) Annual license. Unless the section of this ordinance levying the privilege license tax applicable to a particular business provides otherwise, a license issued in accordance with this ordinance is good for the twelve-month period beginning July 1 and ending June 30. The tax is due on July 1 of each year. However, if a person begins a business after July 1 of a year, the tax for that year is due before the business is begun.

b) Licenses for periods shorter than one year. If the section of this ordinance levying the privilege license tax applicable to a particular business so provides, a license may be issued for a period of one day, one week, or some comparable period of less than a full license year. A person may not commence a business conducted within the City and taxed under such a provision until the privilege license tax due is paid and may not continue such a business beyond the period for which the license is issued.

Sec.10-6.Proration of tax.

AA.000001135 (24)

If a business is begun after January 31 and before July 1, the amount of tax due is half the amount otherwise due. If a business is seasonal in nature and if the amount of tax is not based on gross receipts, the amount of tax due is half the amount otherwise due.

Sec. 10-7.Refunds.

If for any reason a licensee discontinues his or her business during the license year, he or she is not entitled to a refund.

Sec. 10-8.Separate businesses.

A separate license is required and a separate privilege license tax must be paid for each place of business unless two or more places of business under common ownership are contiguous to each other, communicate directly with and open into each other, and are operated as a unit. In addition a separate privilege license tax must be paid for each business taxable under this ordinance conducted by the taxpayer at any one location; however, the tax collector may issue a single license for all taxable business conducted at one location by a single taxpayer.

Sec. 10-9.Exemptions.

a) Generally. Except as otherwise provided in this section or by state law, no person is exempt from the payment of a privilege license tax levied by this ordinance.

b) Charitable organizations. A person who operates a business for a religious, educational, civic, patriotic, charitable, or fraternal purpose, when the entire gross income of the business is used for such a purpose, is exempt from paying any privilege license tax levied by this ordinance.

c) Blind persons and members of the armed forces and merchant marine. Blind persons and persons who serve in the United States armed forces or the merchant marine are exempt from paying any privilege license tax levied by this ordinance to the extent provided by G.S. 105-249 and G.S. 105-249.1.

d) Must obtain license. A person exempt from paying a privilege license tax levied by this ordinance shall nevertheless obtain a license from the tax collector. The license shall state that the licensee is exempt from paying the privilege license tax.

DIVISION 3.
LICENSES

Sec. 10-10.Application.

A person shall apply to the tax collector for each license required by this ordinance no less than thirty days before the date the tax is due. The application, which shall be submitted on forms proved by the tax collector, shall contain:

a) The name of the applicant and whether the applicant is an individual, a partnership, a corporation, or some other entity.

b) The nature of the business.

c) Where the business is conducted.
d) An address where notices and statements may be mailed to as required by this ordinance.
e) Whether the business is regulated by a state occupational licensing board subject to G.S. Chapter 93B, and if so, the serial number of the state license the applicant currently holds.

f) Any other information the tax collector determines to be necessary to compute the amount of the tax due.

Sec. 10-11.Reasons for refusal or revocation of a license.

The tax collector shall refuse to issue a license or shall revoke a license for either of the following reasons:

a) The applicant misrepresents a fact relevant to the amount of tax due or his or her qualifications for a license.

b) The applicant refuses to provide information necessary to compute the amount of tax due.

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Sec. 10-12.Unqualified applicants; right to a conference.

After receipt of the completed application, if the tax collector believes that a reason exists for refusing a license under Section 10-11 of this ordinance, the tax collector shall refuse to accept payment of the tax and shall not issue the license. At the applicant's request, the tax collector shall, in accordance with Section 10-21 of this ordinance, give the applicant a written statement of the reason for refusing the license. The applicant may, within ten days after the day the statement is received, request a conference to discuss the refusal. In the request, the applicant shall specify why the application for a license should not be refused. The tax collector shall arrange the conference within a reasonable time.

If the collector refuses to issue a license, the applicant may reapply for a license at any time thereafter. If the reason for which the application was refused no longer exists, and if no other reason exists for refusing to issue a license, the tax collector shall issue the license in compliance with Section 10-13 of this ordinance.

Sec. 10-13.Tax collector to issue license; payment of tax a prerequisite.

After receipt of the complete application, if the tax collector believes that no reason exists for refusal of a license under Section 10-11 of this ordinance, the tax collector shall determine the amount of tax due and notify the applicant of that amount. The tax collector shall not issue a license until the tax is paid.

Sec. 10-14.Amount of tax disputed.

If disputes arise over the amount the tax collector determines to be due, the applicant may either refuse to pay and request a conference with the tax collector to discuss the determination or pay the amount and request a conference to discuss the right to a refund. If a conference is requested, the tax collector shall arrange it within a reasonable time.

Sec. 10-15.Revocation.

The tax collector shall revoke a license if a reason exists to revoke it as set forth in Section 10-11 of this ordinance. Before revoking a license, the tax collector shall give the licensee written notice of the grounds for revocation, in accordance with Section 10-21 of this ordinance. The licensee may within ten days after the day on which notice is served request a conference with the tax collector in writing. The request shall specify the reasons why the license should not be revoked. The tax collector shall arrange the conference within a reasonable time.

If the licensee fails to request a conference within ten days after the day on which notice is served, the tax collector shall revoke the license. If the licensee requests a conference, the tax collector may not revoke the license until after the conference.

If the tax collector revokes a license, the former licensee may apply for a new license anytime thereafter. If the reason for which the license was revoked no longer exists and if no other reason exists for refusing to issue a license, the tax collector shall issue the license in accordance with Section 10-13 of this ordinance.

Sec. 10-16.Form and contents of license.

A license shall show the name of the person licensed, the place where the business is conducted (if it is to be conducted at one place), the nature of the business licensed, the period for which the license is issued, and the amount of tax paid. In addition, if a machine is licensed, the license shall show the serial number of the machine. The tax collector shall keep a copy of each license issued.

Sec. 10-17.Assignments.

A license may be assigned if (1) a business licensed under this ordinance and carried on at a fixed place is sold as a unit to any person, and (2) the purchase is to carry on the same business at the same place. Such a change shall be reported to the tax collector in accordance with Section 10-18 of this ordinance. Otherwise, each license issued under this ordinance is a personal privilege and is not assignable.

Sec.10-18. Changes in the business conducted by a licensee during the tax year.

A licensee or an assignee shall report a change in the information contained in the license application to the tax collector within ten days after the change occurs. If information shown on the license itself is affected, the licensee or assignee shall surrender the license to the tax collector when reporting the change.

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a) Changes affecting the amount of tax due. If there are no reasons for revoking the license under Section 10-11 of this ordinance and the change results in the imposition of a separate or additional tax, the tax collector shall reissue a license reflecting the change upon payment of the separate or additional tax.

b) Change not affecting the amount of tax due. If there are no reasons for revoking the license under Section 10-11 of this ordinance and the change does not result in an imposition of a separate or additional tax due, thetax collector shall reissue a license reflecting the change upon payment of a fee of $5.00.

c) Change requiring refusal of a license. If there is a reason for revoking the license under Section 10-11 of this ordinance, the tax collector shall refuse to reissue a license and shall instead begin proceedings to revoke the license in accordance with Section 10-15 of this ordinance.

Sec. 10-19.Tax collector to furnish duplicates.

Upon satisfactory proof that a license has been lost or destroyed, the tax collector shall furnish a duplicate for a fee of $5.00.

Sec. 10-20.Record of conferences.

The tax collector shall maintain for three years a record of each conference held in accordance with this Division. The record shall contain the applicant's or licensee's name, the date of the conference and a brief statement of the issues discussed and the result reached. After three years, the tax collector shall dispose of the record in accordance with G.S. 121-5.

Sec. 10-21.Providing notice to an applicant or licensee.

Whenever this ordinance requires the tax collector to give a written statement or notice to an applicant or a licensee, the tax collector may do so in one of three ways:

a) By personally delivering the statement of notice to the applicant or licensee;

b) By mailing the statement or notice by registered or certified mail and returning the receipt requested to the address specified for that purpose in the license application; or

c) By causing the statement or notice to be served on the applicant or licensee in accordance with the procedures for service of process under Rule 4, North Carolina Rules of Civil Procedure.

DIVISION 4.
ENFORCEMENT AND COLLECTION

Sec. 10-22.Duty to determine whether tax due.

Each person has the duty to determine whether the business he or she conducts is taxed under this ordinance and if so, whether that tax has been paid for the current tax year.

Sec. 10-23.Tax collector to investigate.

If the tax collector has reason to believe that a person is conducting a business in the city in violation of this ordinance, the tax collector shall conduct an investigation to determine the person's tax liability.

Sec. 10-24.Duty to permit inspection.

Each person who conducts business in the city shall permit the tax collector to inspect the business premises during normal business hours to determine the nature of the business conducted there.

Sec. 10-25.Duty to post license.

A licensee shall post the license or licenses conspicuously in the place of business licenses. If the licensee has no regular place of business, the license must be kept where it may be inspected at all times by the proper city officials. If a machine is licensed, the license shall be affixed to the machine. .

Sec.10-26.Notice of deficiency.

AA.000001138 (24)

If the tax collector determines that a person has not paid the full amount of tax due under this ordinance, either for the current license year or for a prior license year, the tax collector shall give the person written notice of deficiency, in accordance with Section 10-21 of this ordinance. The notice of deficiency shall specify the total amount of tax due; the section of this ordinance upon which the tax is based; the amount of tax paid; any interest due; the balance owed; the manner and time period in which the person may respond to the notice of the deficiency; and the consequences of failing to respond as specified.

Sec.10-27.Request for a conference.

The person may, within ten days after the day on which notice is served, request a conference in writing. The request shall specify the person's objections to the notice of deficiency. By way of illustration but not limitation, a person who receives notice of a deficiency may object on the following grounds:

a) That the tax has already been paid;

b) That the tax collector miscalculated the amount of tax due;

c) That the tax collector based his calculation on incorrect or insufficient information concerning the nature of business conducted;

d) That the tax collector based the determination on an erroneous interpretation of a section of this ordinance that establishes a category of business subject to a particular tax.

Sec.10-28.Deficiency to become final.

If the taxpayer fails to request a conference under Section 10-27 of this ordinance, the deficiency becomes final and the tax collector shall proceed to collect the deficiency.

Sec. 10-29.Conference held.

If the taxpayer requests a conference, the tax collector shall not proceed to collect the deficiency until hearing the taxpayer's objections and determining that the deficiency should become final. The tax collector shall maintain a record of each conference held for three years in accordance with Section 10-27 of this ordinance. The record shall contain the name of the taxpayer, the date of the conference, a brief statement of the issues discussed, and the results of the discussion. After three years, the tax collector shall dispose of the record in compliance with G.S. 121-5.

Sec.10-30.Collection of deficiency.

a) The tax collector may use any of the following methods to collect a deficiency:
   1) Criminal prosecution in accordance with Section 10-31(a) of this ordinance; or
   2) Equitable relief in accordance with Section 10-31(b) of this ordinance; or
   3) The remedies of levy, sale, attachment and garnishment in accordance with G.S. 160A-207.

b) Any person who continues to conduct a business taxed under this ordinance without payment of the tax is liable for the additional tax of five (5) percent every thirty days as imposed by G.S. 105-109.

Sec.10-31.Enforcement of ordinance.

a) Criminal Remedies. Conducting business within this City without having paid the privilege license tax imposed by this ordinance, or without a valid license issued in accordance with this ordinance, or without posting a license in compliance with Section 10-25 of this ordinance is a misdemeanor, punishable as provided in G.S.105-109 or 14-4. Each day that a person conducts business in violation of this ordinance is a separate offense. Payment of a fine imposed in criminal proceedings in accordance with this section does not relieve a person of the liability for taxes imposed under this ordinance.

b) Equitable Remedies. In addition to the criminal remedies set forth in subsection (a) of this section and in compliance with G.S. 160A-175(d), the City may seek an injunction against any person who conducts a business in violation of this ordinance.

Sec.10-32. Schedule of license taxes.

A license tax shall be levied and collected for the privilege of engaging in the businesses on the attached schedule within the municipal limits of the City of Marion, North Carolina.

Section 3. This Ordinance shall become effective on July 1, 2011.

Adopted this the 7th day of June 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-11-06-07-6

Schedule of Privilege License Taxes

On the following businesses, the taxes set forth herein shall be levied and collected:

City License Taxes – Prohibited by Law:

Business	General Statute
Alcoholic Beverage Businesses:	
Malt beverages, brewery	105-113.70(d)
Unfortified wines, winery	105-113.70(d)
Fortified wines, winery	105-113.70(d)
Amusements:	
Motion pictures; manufacture, sale, lease, furnishing, and distribution	105-36
Dealers in Various Types of Merchandise:	
Automatic machines	105-102.5
Burglar alarms, dealers	105-51.1
Household appliances, dealers	105-102.5
Office equipment, dealers	
Occupations/Professions Subject to Licensing Boards:	
Accountants, Architects, Attorneys, Chiropodists, Chiropractors, Dentists, Embalmers, Engineers-professional, Healers – professional, Land surveyors, Landscape architects, Massage therapists, Morticians, Ophthalmologists, Opticians, Optometrists, Osteopaths, Photographers, Physicians, Real estate agents, Real estate appraisers, Surgeons, Veterinarians	105-41
Auctioneers	85B-6
Pest control applicators	106-65.40
Utilities:	
Bus companies	105-120.1
Telephone companies	105-120(d)
Trucking companies licensed by the state	20-97(b)
Other Businesses and Occupations:	
Banks	105-102.3
Bondsmen	58-71-190
Cooperative marketing associations	105-102.1
Corporations, domestic and foreign (NC G.S. 105-122 prohibits taxing the "franchise" of corporations, that is, the right to engage in business in the corporate form. It does not prohibit the levy of license taxes on corporations because of the business in which they engage, as for example, a tax on a corporation that operates a motel)	105-122(g)
Insurance companies	105-228.10
Motor fuel, wholesale sale or distribution	105-99
Production credit associations	105-102.1

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Savings and loan associations	105-228.24(b)
Soft drinks, manufacture, production, bottling, and/or distribution	105-113.50A
Vending machines, including weighing machines	105-65.1

City License Taxes – Allowed by Law:

ABC Licenses:
Each person who obtains a permit from the state Alcoholic Beverage Control (ABC) Commission to sell alcoholic beverages – malt beverages, fortified and unfortified wine – must also purchase a local ABC license to engage in that business. And to obtain the license, the permit holder must pay a tax to the local governments in which the business is conducted. Once the applicant for a license holds the appropriate ABC permit and tenders the correct amount of payment for the tax, issuance of the local government license is mandatory, a tax collector may no withhold issuance of an ABC license because the applicant has failed to comply with a local zoning or other regulatory requirement:

Per year:	
On-premises malt beverage	$ 15.00
Off-premises malt beverage	$ 5.00
On-premises unfortified wine, fortified wine or both	$ 15.00
Off-premises unfortified wine, fortified wine or both	$ 10.00

In addition, tax may be levied on a beer or wine wholesaler located in the City. The wholesaler tax may not be charged to a business located outside the City:

Per year:	
Beer	$ 37.50
Wine	$ 37.50
Both	$ 62.50

Advertising:
a) Engaging in the business of soliciting or contracting for advertisings, or engaged in the business of advertising or agents distributing advertising matter, circulars, and flyers , other than resident merchants, and is not specifically classified and taxes by this Division and is not prohibited by State Statutes:

Per year	$35.00

b) Engaging in the business of outdoor advertising by placing, erecting or maintaining one or more outdoor advertising signs or structures of any nature by means of signboards, poster boards, painted bulletins, or other painted matter; or any other outdoor advertising devices, erected up the grounds, wall or roofs of buildings:

Per year	$35.00

c) In addition, the person, firm or corporation owning or maintaining signboards, poster boards, painted bulletins, or other outdoor advertisements of any nature shall comply with the City of Marion Ordinance entitled "Off-Premise Advertising". Each signboard, poster board, painted bulletin, or other outdoor advertisement shall have imprinted on the same the name of such person, firm or corporation in sufficient size to be plainly visible and permanently affixed thereto.
d) This shall not apply to newspapers or periodicals published within the City.
e) No person, firm or corporation may operate a motor vehicle or other conveyance equipped with radio, phonograph, loudspeaker or other sound magnifying device to produce sound effects for advertising purposes.
f) Distribution in the City of Marion, sign tacking, posting on poles, trees, buildings, fences, or other structures except licensed billboards is prohibited.

Agricultural, Implements & Machinery:
Engaging in the business of selling agricultural implements and machinery:

Per year	$25.00

Amusements – General:
1. Giving, offering, or managing any form of entertainment or amusement for which an admission is charged and that is not otherwise taxed or specifically exempted:

AA.000001141 (24)

Per year	$25.00

2. Circuses and Animal Shows – exhibiting performances, such as a circus or dog show, or any other similar show, exhibition or performance not taxed in other sections:

Per day	$25.00

3. Dances and Athletic Contests – giving or managing any dance or athletic contest of any kind that charges an admission in excess of fifty cents:

Per year	$25.00

4. Electronic video games and pinball machines - owning or operating machines that play electronic video games or pinball when a coin is deposited in the machine. A person or firm is deemed to be owning or operating an electronic video game machine or pinball machine if he has a machine located at his own place of business or if he places or exhibits machines at business locations other than his own:

Per year – video games	$ 5.00 per machine
Per year – pinball machines	$ 25.00

5. Movie Theaters – operation of a movie theater for compensation. The license tax levied under this section is on each "room" used for screening movies, therefore, movie theatres that operate two, three, or more screening rooms must pay a separate tax for each room. For any movie theater operated three days or less each week, the maximum city tax is half the tax otherwise allowed:

Per year	$200.00

6. Outdoor (drive-in) Theatres –operating an outdoor or drive-in theatre for compensation:

Per year	$100.00

7. Music Machines – operating, maintaining, or placing on location any machine or machines that play records or produce music:

Per year	$5.00 per machine

8. Pool Tables – operating billiard or pool tables, whether by slot (coin) or otherwise:

Per year	$ 25.00

9. Riding and amusement devices such as Ferris wheels, merry-go-rounds, shooting galleries, skating rinks and swimming pools:

Per year	$ 25.00

10. Traveling theatrical company engaged in giving exhibitions or performances in a tent, hall or other similar place:

Per day	$ 25.00

11. Exemptions and special provisions – G.S. 105-40 exempts from the tax levied by this section the following organizations and activities:
    a) All exhibitions, performances, and entertainments, except as expressly provided as being taxable produced by local talent exclusively, for the benefit of religious, charitable, benevolent, or educational purposes, as long as no compensation is paid to the local talent;
    b) the North Carolina Symphony;
    c) all exhibits, shows, attractions, and amusements operated by a society or association organized under the provisions of G.S. Chapter 106 (agricultural organizations) where a permit has been obtained from the Secretary of Revenue to operate without paying a license tax;
    d) outdoor historical dramas
    e) elementary and secondary school athletic contests, dances, and other amusements;
    f) dances and other amusements promoted and managed by a qualifying corporation that operates a center for the performing and visual arts if the dance or other amusement is held at the center;
    g) a person exempt from NC income tax who operates a teen center;
    h) arts festivals held by a person exempt from NC income tax provide the following conditions are met (1) the person holds no more than two arts festivals a year, (2) each of the arts festivals lasts

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no more than seven days, (3) the community festival involves a variety of exhibitions and activities, the majority of which are held outdoors and are open to the public.

Antique Dealers:
Engaged in the business of selling or dealing, either in a permanent or itinerant location, in what is commonly known as antiques:

Per year	$ 35.00

Art Dealers:
Engaged in the business of selling art goods:

Permanent – per year	$ 35.00
Itinerant – per year	$100.00

Asphalt or Asphalt Supplies – Dealers, Sellers or Distributors:
Engaged in the business of selling, dealing or distributing asphalt or asphalt supplies:

Per year	$ 50.00

Provided, however, where a "building materials" tax is paid, this tax shall not be collected.

Athletic Events and Contests:
See Amusements Section

Athletic Supplies and Sporting Goods:
Engaging in selling or distributing athletic supplies or sporting goods, or fishing tackle:

Per year	$ 35.00

Automobile Dealers:
Engaging in the business of buying, selling, distributing, servicing, storing, or exchanging motor vehicles, trailers, semitrailers, tires, tools, batteries, electrical equipment, lubricants or automotive equipment, radios designed for exclusive use in automobiles, and supplies:

Permanent – per year	$ 25.00
Itinerant, seasonal or temporary temporary	$300.00

Premises on which cars are stored or sold, if owned or operated by a licensed dealer under the same name, shall no be considered a separate place of business when this business is conducted within the corporate limits of any city in which the licensed business is conducted.

Automobile Rentals:
See Rental Service Section.

Automobile Repairs and Service Stations:
Engaging in the business of servicing, storing, painting, repairing, welding, or upholstering motor vehicles, trailers, and semi trailers; or retail selling or delivering of any tires, tools, batteries, electrical equipment, automotive accessories, radios designed for exclusive use in automobiles, supplies, motor fuels, lubricants, or any such commodities.

Per year	$ 12.50

Automotive Retail and Wholesale Supply Dealers:
Engaging in the business of buying, selling, distributing, exchanging, or delivering automotive accessories, including radios designed for exclusive use in automobiles, parts, tires, tools, batteries, or other automotive equipment or supplies, or any such commodities at retail or wholesale.

Per year	$ 37.50

Provided, any person engaged in the business in the section and having no located place of business, but selling to retail dealers by use of some form of vehicle, shall pay a license tax for each vehicle used in carrying on such business:

Per year	$ 37.50 per vehicle

AA.000001143 (24)

Automotive Washing and Waxing:
Engaging in the business of washing and/or waxing of automobiles:

Per year	$ 50.00

Automotive Wrecker / Towing Service:
Engaging in the business of operating an automotive wrecker / towing service:

Per year	$ 50.00

Bakery Products – Manufacturing, Selling and Delivery:
Engaging in the business of operating a bakery or preparing or manufacturing breads, cakes, crackers or doughnuts, offering such products for sale at wholesale or delivery of bakery products within the City:

Per year	$ 35.00

Provided, however, that this tax shall no apply to merchants selling bakery products, bread, cakes, crackers or doughnuts as a part of their regular merchandise unless a separate bakery department is in the same building. In addition, the tax shall not be collected from restaurants on which the restaurant tax has been paid.

Barber Shops, Beauty Shops and Manicurists:
Engaging in the business of conducting a barber shop or engaged in the business of cosmetology for each barber, manicurist, beautician or beauty shop operator:

Per year	$ 2.50 per chair or Manicurist

Beer:
See ABC License Section

Bicycle Dealer and Repair:
Engaging in the business of selling or repairing bicycles:

Per year – selling	$ 25.00
Per year – repairing	$ 25.00

Billiard and/or Pool Tables:
See Amusements Section.

Boats and Boat Supplies:
Engaging in the business of selling boats or boat supplies:

Per year	$ 35.00

Book Stores and Stationers
Engaging in the business of selling books and stationary items:

Per year	$ 35.00

Bowling Alleys:
Engaging in the business of operating a bowling alley:

Per year	$ 10.00 per lane

Building Materials:
Engaging in the business of selling lumber and/or other building materials, includes glass, paints and cabinet makers:

Per year	$ 35.00

Every firm, person or corporation located outside the City limits but which deliver products or services inside the City to customers procured in the regular course of
business unless the business is covered by some other license tax levied herein:

Per year	$ 35.00

Cafes and Cafeterias:
See Restaurant section

AA.000001144 (24)

Campgrounds, Trailer Parks and Tent Camping Areas:
Engaging in the business of operating a for profit campground, trailer park, tent-camping area, or similar place and advertising or soliciting transient patronage. It is irrelevant whether rental to patrons is on a daily, weekly, biweekly, or monthly basis:

Per year	$ 12.50

Candy Manufacturing:
Engaging in the business of manufacturing candy or other confectioneries:

Per year	$ 35.00

Carpet and Rug Cleaning:
Engaging in the business of cleaning carpets and rugs:

Per year	$ 35.00

Caterers:
Engaging in the business of catering:

Per year	$ 35.00

Cement – Ready Mixed:
See Building Materials section.

Christmas Trees:
See Peddler Section.

Chain Stores and/or Branch Stores:
Engaging in the business of operating or maintaining in this state, under the same management, supervision or ownership, with two or more stores, or mercantile

establishments where goods, wares or merchandise are sold or offered for sale, or
from which such are sold or distributed at wholesale or retail, or controlling by lease, either as lessor or lessee or by contract, the manner in which any such store or stores are operated, or the varieties, character, or brands of merchandise which are sold therein.

Per year	$ 50.00

Excluded from the tax are those stores that are operated on a franchise basis where the varieties of goods sold are controlled by contract, but the ownership of each store is separate. Moreover, the store that is designated the principal office of the chain is not subject to the tax levied by this section.
A store is still a chain store within the meaning of this section, even though the various stores in the chain are operated under separate charters of incorporation, if there is common ownership of a majority of stock in such separately incorporated companies. In like manner the section applies to any group of stores a majority interest in which is owned by an individual or partnership.

Check-Cashing Businesses:
See Loan Agencies, Pawnbrokers, and Check-Cashing Businesses.

Cigar, Cigarette and Tobacco Retailers and Wholesalers:
Engaging in the business of selling, either as a retailer or as a jobber, cigars, cigarettes, chewing tobacco, smoking tobacco, snuff, or any other tobacco product:

Per year	$ 35.00

This tax shall not apply to the sale of any tobacco products through a vending machine.

Circuses:
See Amusements section.

Cleaner, Renovator:
Engaging in the business of cleaning of premises, septic tanks and similar items:

Per year	$ 35.00

AA.000001145 (24)

Clothing Merchants:
See Merchants section.

Clothing Rental:
Engaging in the business of clothing rental:

Per year	$ 35.00

Coin Dealers:
Engaging in the business of a coin dealer:

Per year	$ 35.00

Collection Agencies:
Engaging in the business of operating a collecting agency, defined as collecting for a profit, claims, accounts, bills, notes, or other money obligations for others:

Per year	$ 50.00

Contractors:
Engaging in the business of offering or bidding for a fixed price, commission, fee, or wage to construct any building, highway, street, sidewalk, bridge, culvert, sewer or water system, drainage or dredging system, electric or stem railway, reservoir or dam, hydraulic or power plant, transmission line, tower, dock, wharf, excavation, grading, or other improvement or structure:

Per year	$ 10.00

Dances:
See Amusements section.

Dance Studios:
See Instruction section.

Day Care Facility:
Engaging in the business of operating a day care facility including day care facilities operated by churches or other non-profit organizations:

Less than 30 children	$50.00
30-49 children	120.00
50-99 children	200.00
100-149 children	400.00
150-200 children	600.00
More than 200 children	800.00

Delicatessen:
See Restaurant section

Delivery Companies:
Parcel or delivery companies shall pay a license tax where autos or trucks are used. Provided, however, that the person or firm delivering the packages or other items charge for such services.

Per year	$ 35.00

Dental Laboratory:
Engaging in the business of operating a dental laboratory that manufactures dentures:

Per year	$ 35.00

Department Stores:
Engaging in the business of a department store:

Per year	$ 35.00

Directories:
Engaging in the business of compiling, selling or delivering directories of any type, including "City Directories":

AA.00000146 (24)

Per year	$ 35.00

Drive-In Theatres:
See Amusements section.

Dry Cleaners:
Engaging in the business of a dry cleaning or pressing business:

Per year (solicits only inside City)	$ 50.00 per location
Per year (solicits outside City)	100.00 per location

Drug Store:
See Merchants section.

Electrical Equipment, Fixtures or Supplies:
Engaging in the business of selling or distributing any electrical equipment, supplies or fixtures at retail where the principal business is selling such supplies:

Per year	$ 35.00

Engaging in the business of selling or distributing any electrical equipment, supplies or fixtures at retail where the principal business is not selling such supplies:

Per year	$ 20.00

Electricians:
See Plumbers, Heating Contractors and Electricians.

Elevators and Automatic Sprinkler Systems:
Engaging in the business of selling and installing elevators or sprinkler systems, provided the principle office or branch office is location within the City limits:

Per year	$100.00

Engaging in the business of repairing or servicing elevators or sprinkler systems, provided the principle office or branch office is location within the City limits:

Per year	$ 35.00

This tax shall not be collected if a license has been obtained under the Plumbers, Heating Contractors and Electricians.

Employment Agents:
Engaging in the business of soliciting, hiring, or contracting with laborers for employment out of state or engaging in the business of securing employment for a person or persons and charging a fee, commission, or other compensation:

Per year	$ 100.00

An employment agency is liable for the tax regardless of whether the person who seeks employment or his employer pays the fee.

Exempt from the tax levied by this section: federal, state and local government agencies; agencies whose sole business is procuring employees for work in the production and harvesting of farm crops within North Carolina; and nonprofit registries for registered and licensed practical nurses.

Engravers and Lithographers:
Engaging in the business of an engraver or lithographer:

Per year	$ 35.00

Exhibitions and Exhibits:
Engaging in the business of operating an exhibition or exhibit not otherwise taxed herein:

Per year	$ 35.00

Fabric Shops:
Engaging in the business of operating a fabric shop:

Per year	$ 35.00

Farm Machinery:
Engaging in the business of selling or offering for sale, at retail or wholesale farm equipment:

Per year	$ 35.00

Feed Stores:
Engaging in the business of operating a feed store at retail or wholesale:

Per year	$ 35.00

Fertilizer Dealers and Manufacturers:
Engaging in the business of selling or offering fertilizer for sale or engaging in the business of manufacturing fertilizer:

Per year – dealers	$ 35.00
Per year – manufacturers	250.00

Firearms and Other Weapons Dealers:
Engaging in the business of selling or offering firearms for sale:

Per year	$ 50.00

Dealers in antique firearms and weapons of mass death and destruction, as those terms defined in G.S. 14-409-11 and G.S. 14-288.8, are exempt. Also, persons who make occasional sales, purchases, or exchanges for the enhancement of a personal collection of firearms are exempt.

Engaging in the business of selling of offering for sale bowie knives, dirks, daggers, leaded canes, iron or metallic knuckles, or similar weapons:

Per year	$ 200.00

Flea Markets:
Engaging in the business of operating a permanent outdoor place of business or the enclosed area of a mall, shopping center or other area where space is rented to others for the purpose of selling goods:

Per year – Operator	$ 200.00
Per year – Vendor	35.00

Floor Finishers:
Engaging in the business of finishing floors:

Per year	$ 35.00

Florist:
Engaging in the business of a florist or offering arrangements of fresh or artificial flowers for sale:

Per year	$ 35.00

Fortune Tellers:
Engaging in the business of telling or pretending to tell fortunes, practicing the art of palmistry, clairvoyance, and other crafts of a similar kind for a reward:

Per year	$250.00

Frame Shops:
Engaging in the business of operating a framing shop:

Per year	$ 35.00

Fruits and Produce Stand:
Engaging in the business of maintaining a permanent place of business for the purpose of selling fruit, vegetables, or produce, whose principal business is selling such items:

Per year	$ 35.00

AA.000001148 (24)

Engaging in the business of who offers for sale fruit, vegetables or produce, whose principle business is not selling such items:

Per year	$ 10.00

Funeral Homes:
See Undertaker section.

Furniture Stores:
Engaging in the business of selling or offering for sale furniture at wholesale or retail:

Per year	$ 35.00

Garages:
See Automobile Repairs and Service Stations section.

Gasoline, Benzene, Grease and lubricating Oil Dealers:
Engaging in the business of selling, illuminating or lubricating oil or greases, benzene, naphtha, gasoline or other similar products.

Per year	$ 35.00

Gifts and Souvenir Shop:
Engaging in the business of offering for sale gifts or souvenirs:

Per year	$ 35.00

Glass – Wholesale and Retail:
Engaging in the business of offering for sales, either wholesale or retail, glass:

Per year	$ 35.00

Golf Courses and Driving Ranges:
Engaging in the business of operating a golf course, driving range or miniature golf course:

Per year	$ 35.00

Groceries:
Engaging in the business of offering for sale groceries or similar items:

Per year	$ 35.00

Gravestones:
SeeMonuments or Tombstones Section.

Greenhouses:
See Nurseries Section.

Guard and Patrol Services:
Engaging in the business of offering guard and/or patrol services:

Per year	$ 35.00

Gun Dealers:
See Firearms and Other Dealers Section.

Hair Dressers:
See Barber or Beauty Shop Sections.

Hardware Dealers:
Engaging in the business of operating a hardware store:

Per year	$ 35.00

Health Spas, Weight Watchers, Physical Fitness and Like Businesses:

AA.00000149 (24)

Engaging in the business of operating a health spa, Weight Watchers, physical fitness centers or like businesses:

Per year	$ 35.00

Heating Contractors:
See Plumbers, Heating Contractors and Electricians.

Hobby and Craft Shops:
Engaging in the business of operating a hobby and/or craft shop:

Per year	$ 35.00

Horse and Mule Dealers:
Engaging in the business of buying for the purpose of resale, either at wholesale or retail, horses and mules:

Per year	$ 35.00

Hotels and Motels:
Engaging in the business of operating a hotel, motel, bed and breakfast, boarding house our similar place advertising in any manner or soliciting for transient patronage:

Per year per room	$ 1.00
Minimum per year	$ 25.00

The principal test in deciding whether this section applies is the use of such places for temporary abode by transient patrons. It is immaterial whether a particular room is occupied by a permanent guest or whether it is rented on a daily, weekly or monthly basis.

In computing the number of rooms, the lobby, the clubroom, the office, the dining room, the kitchen, and the rooms occupied by the owner or lessee of the business for his private use or the use of his family shall no be counted.

Any tax on the sale of food is separate from and in addition to the tax levied under this section.

Ice Cream Manufacturers and Sellers:
Engaging in the business of manufacturing or selling ice cream, the words "ice cream" shall apply to ice cream, frozen custards, sherbets, water ices, yogurts, or similar frozen products.

Manufacturers using equipment of the continuous freezer type, the tax is $ .37 per gallon capacity based on the rated capacity in gallons per hour, with a minimum tax of $12.50 per freezer; if the equipment is not of the continuous freezer type, the tax is $1.25 per gallon capacity, with a minimum tax of $12.50 per freezer; if the freezer is not a standard freezer with a rated capacity, the tax is $50.00.

Manufacturers using counter freezer equipment and selling at retail only:

Per year	$ 2.50

Trucks or other vehicles selling or delivering ice cream on which the tax has not been paid as outline above:

Per year, per truck	$ 35.00

Retail sellers of ice cream purchased from a manufacture or distributor who has not paid a license tax as imposed by this section:

Per year	$ 2.50

Interior Decorator:
Engaging in the business of interior decorating or wallpaper hanging:

Per year	$ 35.00

Instruction:

AA.000001150 (24)

Engaging in the business of offering music, voice, fine arts, dance, gymnastics, swimming, tennis or similar instruction:

Per year:	
3 to 5 students	$ 35.00
6 to 9 students	$ 50.00
10 or more students	$ 100.00

Insulating Companies:
Engaging in the business of offering for sale and laying insulation:

Per year	$ 35.00

Itinerant Merchant:
Engaging in the business of itinerant merchant defined as "a merchant, other than a merchant with an established retail store in the City, who transports an inventory of goods to a building, vacant lot, or other location and who, at that location, displays the goods for sale and sells the goods at retail or offers the goods for sale at retail. A merchant who sells goods, other than farm products, in a City for less than six consecutive months is considered an itinerant merchant unless he stopped selling goods in the City because of his death or disablement, the insolvency of his business, or destruction of his inventory by fire or other catastrophe."

Per year	$ 100.00

Janitorial Service, Window and House Cleaners and Similar Operations:
Engaging in the business of operating a janitorial services, window and/or house cleaning service:

Per year	$ 35.00

Jewelers and Watch Shops:
Engaging in the business of operating a jewelry store or shop, selling plated and silverware:

Per year	$ 35.00

Engaging in the business of operating a jewelry department selling plated or silverware or what is commonly know as costume or ornamental jewelry and not engaged principally in the sale of such items:

Per year	$ 20.00

A tax shall not be collected for the jewelry or watch repair if a jeweler's license has been obtained.

Junk Dealers:
Engaging in the business of buying or selling what is commonly known as junk, including scrap metals, waste paper, or waste material of any nature:

Per year	$ 100.00

This tax applies whether or not an established place of business is maintained.

Kennels and Pet Shops:
Engaging in the business of buying, selling or offering for sale dogs or other pets:

Per year	$ 35.00

Boarding dogs or animals for a fee:

Per year	$ 35.00

Operating a dog or animal obedience school:

Per year	$ 35.00

Grooming of animals:

Per year	$ 35.00

AA.000001151 (24)

Knitting Mills:
Engaging in the business of operating a knitting mill:

Per year	$ 35.00

Knives:
See Firearms and Other Dealers Section.

Lawn and GardenCenter:
See Nursery and GardenCenter and/or Lawn and GardenCenter Section.

Laundries:
Engaging in the business of operating a laundry, including wet-or-damp-wash laundries and businesses know as launderettes, laundermats and similar types of businesses; or engaging in the business of supplying or renting clean linen or towels or wearing apparel:

Per year (solicits only inside County)	$ 50.00 per location
Per year (solicits outside County)	100.00 per location

Loan Agencies, Pawnbrokers, and Check-Cashing Businesses:
Engaging in the business of making loans or lending money, accepting liens on or contracts of assignment of salaries, wages, or any part thereof, or other security or evidence of debt for repayment of such loans in installment payment or otherwise; and maintaining in connection with such activity any office or established place for the conduct, negotiation, or transaction of such business, or advertising or soliciting such business in any manner;

Per year	$ 100.00

Tax levied by this section does not apply to banks, industrial banks, the negotiation of loans on real estate, credit unions, trust companies, and savings and loan associations.

Engaging in the business of a pawnbroker, as regulated by Chapter 91A of the General Statutes:

Per year	$ 100.00

Engaging in the business of check cashing, as regulated under Division 22 of Chapter 53 of the General Statutes:

Per year	$ 100.00

Locksmiths:
Engaging in the business of a locksmith:

Per year	$ 35.00

Lumber Brokers;
Engaging in the business of a lumber broker:

Per year	$ 35.00

Machine Shops:
Engaging in the business of a machine shop:

Per year	$ 35.00

Mail Order:
Engaging in the business of operating a business where items are ordered and then shipped by US mail or a parcel service:

Per year	$ 35.00

Manufacturing Companies:
Engaging in the business of a manufacturing company:

Per year:	
15 or less employees	$100.00
16 to 50 employees	150.00

AA.0000011152 (24)

51 to 100 employees	200.00
101 to 200 employees	250.00
201 to 300 employees	300.00
301 to 400 employees	400.00
401 to 500 employees	500.00

For companies with employees over 500, add an additional $50.00 per one hundred employees.

Meats:
Engaging in the business of offering meats for sale:

Per year, retail	$ 35.00
Per year, wholesale	35.00
Per year, packing house	200.00

Merchant:
Engaging in a business which could be termed as merchant, either as wholesale or retail:

2 or less employees	$ 35.00
3 to 10 employees	50.00
11 to 20 employees	100.00
21 to 25 employees	250.00
26 to 50 employees	700.00
51 to 100 employees	1,500.00
101 to 200 employees	3,500.00
201 or more employees	5,000.00

This section shall include "goodwill" type stores.

Miscellaneous Activities, Not Otherwise Taxed:
Engaging in miscellaneous activities not otherwise taxed herein:

Per day	$ 10.00
Per week	20.00
Per year	35.00

Monuments or Tombstones:
Engaging in the business of erecting, manufacturing, jobbing, selling, or offering for sale monuments, marble tablets, gravestones or Divisions of the like:

Per year	$ 35.00

Solicitors, in addition to above, an additional tax shall be paid by each person soliciting sales of monuments or gravestones:

Per year	$ 20.00

Motels:
See Hotels and Motels section.

Movie Theatres:
See Amusements section.

Motorcycle Dealers:
See Automobile Dealers.

Motor Vehicle Dealers:
See Automobile Dealers.

Movers or Transfer Companies:
Engaging in the business of a mover or transfer company:

Per year	$ 35.00

Music Machines:
Engaging in the business of operating, maintaining, or placing on location, any machine which plays records or produces music:

AA.000001153 (24)

Per year, per machine	$ 5.00

License should be attached to the machine so they can be easily seen for enforcement purposes.

Musical Instruments and Equipment:
Engaging in the business of selling or offering for sales, pianos, organs, other musical instruments, stereo equipment and accessories, television sets and accessories, and repair parts:

Per year	$ 5.00

Newsstands and/or Magazines:
Engaging in the business of operating a newsstand for newspapers or magazines:

Per year	$ 35.00

Nursery and GardenCenter and/or Lawn and GardenCenter:
Engaging in the business of operating nursery, garden center or lawn and garden center or selling or displaying for the purpose of advertisement for sale of nursery products:

Per year	$ 35.00

Nursing Homes, Convalescent Homes and/or Retirement Homes:
Engaging in the business of operating a nursing, convalescent or retirement home:

Per year, 10 beds or less	$ 50.00
Per year, 10 beds or more	100.00

Office Supply – Retail or Wholesale:
Engaging in the business of offering for sale office supplies at retail or wholesale:

Per year	$ 35.00

Patent Rights and Formulas:
Engaging in the business of selling a patent right or formula:

Per year	$ 35.00

Parking Lots:
Engaging in the business of operating a parking lot and/or parking place used for public parking for a profit:

Per year	$ 35.00

Pawn Brokers:
See Loan Agencies, Pawnbrokers, and Check-Cashing Businesses.

Peddler:
Engaging in the business of a peddler, defined as "a person who travels from place to place with an inventory of goods, who sells the goods at retail or offers the goods for sale at retail, and who delivers the identical goods he carries with him."

Per year, farm products only	$ 25.00
Per year, peddler on foot	10.00
Per year, peddler with vehicle	25.00

Exempt from this tax are: sellers of farm, nursery products, crafts or other goods they produced; nonprofit charitable, educational, religious, scientific or civic organizations; sellers of printed material, food for fuel, ice, seafood, meat, poultry, livestock, eggs, dairy products, bread, cakes or pies; licensed automobile dealers; peddlers who maintain a fixed permanent location from which they make at least 90% of their sales; and peddlers who comply with G.S. 25A-38 (consumer credit sales at residences with right to cancel) or G.S. 14-401.13 (off-premises sales of consumer goods or services of $25 or more).

Perfumes, Toilet Divisions and Cosmetics:
Engaging in the business of selling perfume, cologne, bath Divisions, cosmetics and other similar Divisions:

AA.000001154 (24)

Per year, principle business	$	35.00
Per year, not principle business		20.00

Photographic Equipment and Supplies:
Engaging in the business of dealing in photographic equipment or supplies:

Per year, principle business	$	35.00
Per year, not principle business		20.00

Pinball Machines:
See Amusements Section.

Plumbers, Heating Contractors and Electricians:
Engaging in the business of a plumber, heating contractor or electrician, installing plumbing fixtures, piping or equipment, steam or gas fitter, hot-air heating systems, electrical equipment, or offering to perform such services.

Per year	$	50.00

With respect to electricians and electrical contractors, this license covers the installation of electrical equipment, fixtures and wiring in or on the consumer's premises, or on the "customer's side" of the point of delivery of electric service, but it does not cover the installation of service to transmission or distribution lines or work on the "distributor's side" of the point of delivery of electric service.

With respect to plumbers and plumbing contractors, al license procured under this section covers plumbing work and plumbing installation in buildings and on the premises where the building are situated and up to the connection with the sewer or water mains, but it does not cove r the construction of or work on the water and sewer systems or mains.

Pool Tables:
See Amusements Section.

Printing Establishments or Plants:
Engaging in the business of operating a printing establishment or plant:

Per year	$	35.00

Refreshment Trucks, Snack Bars and Concession Stands:
Engaging in the business of operating a refreshment truck, offering for sale soft drinks, snacks and similar items:

Per year	$	35.00

Restaurants:
Engaging in the business of operating a restaurant, café, cafeteria,hotel with dining service, drugstore or other place where prepared food is sold:

Per year, 4 or less seats	$	25.00
Per year, 5 or more seats		85.00

Cafes or cafeterias in industrial plants that are maintained for the convenience of employees and are nonprofit are exempt from the tax. Food items sold through vending machines are not taxable under this section.

Refuse Haulers:
Engaging in the business of collecting refuse or garbage for a profit:

Per year	$	35.00

Rental Service:
Engaging in the business of operating a rental business of any type, such as clothing, equipment, furniture or automobiles:

Per year	$	35.00

Riding Devices:

AA.000001155 (24)

See Amusements Section.

Repair Shop:
Engaging in the business of operating a repair shop not otherwise specified within:

Per year, 3 or less employees	$ 35.00
Per year, 4 or more employees	50.00
Per day, Itinerant	25.00

Salesmen:
See Itinerant Merchant and Peddler Sections.

Salvage Dealers:
Engaging in the business of buying, selling and/or dealing in bankrupt stocks, factory job lots and second hand materials of all kinds:

Per year	$ 35.00

Sand, Stone and Gravel Dealers:
Engaging in the business of selling or delivering into the City, sand, stone and/or gravel:

Per year	$ 35.00

Security Dealers:
Engaging in the business of in the business of dealing in securities; buying, selling or brokering stocks or bonds; or maintaining a stock or bond house:

Per year	$ 100.00

Seeds and Plants:
Engaging in the business of selling or distributing at wholesale or retail bulk and packaged farm and garden seeds, plants, bulb roots, etc.:

Per year	$ 35.00

Service Station:
See Automobile Repairs and Service Stations Section.

Sewing and Alteration:
Engaging in the business of making and selling garments, curtain, or similar items and/or repair or mending to such Divisions:

Per year	$ 35.00

Shoe Repairs:
Engaging in the business of repairing shoes:

Per year, 1 person	$ 35.00
Per year, 2 persons	$ 50.00

Signs:
See Advertising Section.

Skating Rinks:
See Amusement Section.

Snack Bars:
See Refreshment Trucks, Snack Bars and Concession Stands Section.

Storage Warehouses:
Engaging in the business of operating a storage service:

Per year	$ 35.00

Sundries:
Engaging in the business of selling sandwiches in drugstores or other stands or places not licensed and taxed at a restaurant under G.S. 105-62; operating, maintaining, or placing on location fewer than five of

AA.0000011 56 (24)

the following types of dispensers or machines: cigarette or other tobacco, soft drinks, food or other merchandise, or weighing machines; retailing soft drinks; or retailing or jobbing cigarettes or other tobacco products:

Per year	$ 4.00

Under this provision a single tax is levied on each location at which any one or more of the listed activities is undertaken.

Swimming Pools:
See Amusements Section.

Taxi Cabs:
Engaging in the business of operating taxi cabs:

Per year, per vehicle	$ 15.00

Theatres and Shows:
See Amusements Section.

Tile Setter:
Engaging in the business of setting tiles:

Per year	$ 35.00

Tobacco Warehouses:
Engaging in the business of operating a warehouse for the sale of leaf tobacco upon commission:

Per year, per warehouse	$ 50.00

Tombstones:
SeeMonuments or Tombstones Section.

Toys:
Engaging in the business of selling toys:

Per year, principle business	$ 35.00
Per year, not principle business	$ 20.00

Trailer Parks:
See Campgrounds, Trailer Parks and Tent Camping Areas.

Travel Bureaus / Agencies:
Engaging in the business of conduction a travel or transportation bureau or agency:

Per year	$ 35.00

Tree Trimmers:
Engaging in the business of trimming trees:

Per year	$ 35.00

Trophy Shops:
Engaging in the business of operating a trophy shop:

Per year	$ 35.00

U - Drive It Companies:
See Rental Service Section.

Upholstery Shops:
Engaging in the business of operating an upholstery shop or repair shop for furniture or automobile upholstery:

Per year	$ 35.00

AA.000001157 (24)

Undertakers and Coffin Retailers:
Engaging in the business of burying the dead or the retail sale of coffins:

Per year	$ 50.00

Video Games:
See Amusements Section

Video Rental:
Engaging in the business of operating a video rental store or rental of video games:

Per year	$ 25.00

Weapons Dealers:
See Firearms and Other Weapons Dealers Section.

Welders:
Engaging in the business of welding:

Per year	$ 35.00

Wine Sales:
See ABC License Section.

CONSIDER ACCEPTANCE OF STREET LEADING TO MAPLE LEAF BALLFIELDS AND ACTION TO NAME THE STREET MAPLE LEAF DRIVE: The City Manager advised that, as discussed at recent Joint Utility Committee meetings and at the May 24 Council Budget Workshop/Planning Session, McDowell County has requested that the City accept maintenance of the street leading to the Maple Leaf Ballfields. If this action is taken, Council would also need to name the street. The City Manager stated that City and County staff recommend naming the street "Maple Leaf Drive", although Council could certainly give the street another name if so desired.

The City Manager stated that the street would be accepted until the point it widens out into the parking lot, a distance of approximately 608 feet. The street is wide enough to be placed on the City's Powell Bill map effective for the 2011-12 Fiscal Year, which will generate a few hundred additional dollars of annual Powell Bill revenue for the City. If accepted, the City would likely complete some spot patching on the street in 2011-12 and then consider it for resurfacing in 2012-13.

The City Manager presented Council with a copy of a map of the proposed street to be accepted by the City for their review.

Mayor Little stated that it had been suggested to him that the City should first seek to have DOT take over maintenance of the street. He asked if such a request could be made.

The City Manager stated that the City could certainly make such a request; however, DOT seems to be shying away from taking over streets inside municipal limits.

Council Member Clark asked how much Powell Bill money the City would get from this street each year.

The City Manager stated that the City could possibly get another $400 in Powell Bill revenues. However, it would probably cost $10,000 to resurface the street.

Council Member Clark stated that it was nice to want to help, but that the return on the City taking over this street would be terrible. He said it would take 25 to 30 years for the City to recoup its investment. Council Member Clark stated that the City has to watch every penny, given the current budget situation. He said that he agreed that the City should first ask DOT to

AA.000001158 (24)

take over maintenance of the street or to resurface the street. If DOT refuses, then the City can take over the street.

Mayor Pro Tem Cuthbertson asked if the Maple Leaf Ballfields are in the City Limits. The City Manager stated that the property is in the City Limits.

Council Member Martin stated that he has no problem with Council Member Clark's suggestion to ask DOT to take over maintenance of the street. However, he said that virtually every child in the County uses the Maple Leaf Ballfield and the City maintenance and improvement of the street would be a greater good for everyone. Council Member Martin stated that he would like to see the City patch the major potholes on the street, while the City is discussing maintenance of the street with DOT, since the County has a major tournament taking place at Maple Leaf in early July. Council Member Martin stated that it was not going to hurt the City to take over this road.

Council Member Clark stated that it is going to hurt the City when 8,000 taxpayers pay for the resurfacing and maintenance of the street, instead of all of the taxpayers in the County.

It was the consensus of Mayor Little and Council Members to direct staff to request that DOT take over maintenance of the street leading to the Maple Leaf ballfields, or that DOT at least resurface the street. If DOT will not accept maintenance of the street or resurface it, then Council will consider having the City assume maintenance of the street.

The City Manager asked if Council was agreeable to the concept of naming the street Maple Leaf Drive. Mayor Little and Council Members indicated by consensus that they had no problem with naming the street Maple Leaf Drive, but asked the City Manager to advise the property owner of Ivan's Restaurant and Lightning Strike Sports Center of the proposed change, so that the property owner can have an opportunity to provide input.

The City Manager said that he would bring information back to Council on the request to DOT and the naming of the street at the June 21 Council meeting.

CONSIDER REAPPOINTMENTS TO CITY ADVISORY BOARDS:

The City Manager advised that, as shown on information presented to Council, there are several terms on City advisory boards that will expire on June 30. On the Planning Board/Board of Adjustment/Historic Preservation Commission, the terms of Bob Elledge and Kit Alverson as Regular Members will expire. The City Manager stated that there are still two vacant Alternate Positions on the Planning Board/Board of Adjustment/Historic Preservation Commission. Mr. Elledge and Mr. Alverson are both willing to be reappointed for new three year terms.

The term of Bill Smith will expire on June 30. Mr. Smith is willing to be reappointed for a new three year term.

The terms of Joan Hensley and Steve Brown on the Tree Board will expire on June 30. Ms. Hensley and Mr. Brown are both willing to be reappointed for new three year terms.

The City Manager noted that Council could also choose a new ABC Board Chairman if they so desired. Jim Isaacs currently serves as the ABC Board Chairman.

The City Manager presented Council with a list of current advisory board members.

Upon a motion by Council Member Doggett, seconded by Council Member Martin, those members of Council present voted to make the following advisory board appointments:

AA.000001159 (24)

1. To reappoint Kit Alverson and Bob Elledge to three year terms on the Planning Board/Board of Adjustment/Historic Preservation Commission, said terms to expire June 30, 2014.

2. To reappoint Bill Smith to a three year term on the ABC Board, said term to expire June 30, 2014.

3. To reappoint Joan Hensley and Steve Brown to three year terms on the Tree Board, said terms to expire June 30, 2014.

4. To appoint Robert Ayers as the Chairman of the ABC Board, effective July 1, 2011.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that the City had recently received a glowing inspection report from Ray McCall of the North Carolina Department of Environment and Natural Resources concerning the Water Plant. The City Manager stated that he had come to expect such great performance from Water Plant Superintendent Steve Miller and the Water Plant staff, but it is always nice to hear how well the Water Plant complies with the sanitary, operations and maintenance standards of the State. The City Manager stated that he had commended Mr. Miller on the efforts of the Water Plant staff.

The City Manager stated that City crews recently completed some needed work to the bank above Cross Mill Park, which provided for better drainage and an improved disc golf course on the site. Public Works Director Chris Hollifield stated that there was a huge valley developing on the property due to drainage. Staff had to remove the bridge and slope the entire back side of the park. It looks much better and can now be mowed and maintained. There is now a small drainage pond on this property.

The City Manager advised that DOT has gone out to bid for the implementation of the Downtown Streetscape Plan, to include installation of concrete bumpouts on Main Street and decorative crosswalks on Main Street and side streets, along with milling and resurfacing work on Main Street in the downtown area. DOT will soon have for the City an agreement to execute for this project, stating their engineer's estimate and that DOT will contribute $50,000 in Federal funding toward the project.

The City Manager reported that DOT anticipates the Downtown Streetscape work starting around mid-August and concluding by November. Unfortunately, the project will still be underway during Mountain Glory in October. DOT will administer and inspect the concrete bumpouts and decorative crosswalk work, along with the milling and resurfacing of Main Street in the downtown area and spot milling on North Main Street to Legendary Ford and on East Court Street to the City Limits. This will minimize the time that Main Street is torn up during the project.

The City will have to pay for the striping of parking spaces and the cost of the bumpouts and decorative crosswalks, less the $50,000 of Federal funding to go toward this work. DOT will allow the City to see the bids before they are awarded, to make sure the project is within the City's budget.

The City Manager stated that the Wastewater Improvements Project should be completed by early June. Patching of asphalt at the Corpening Creek Wastewater Plant damaged during the renovation project was completed in late May and final work to repair the primary and secondary clarifiers at Corpening Creek is scheduled to wrap up in early June, to allow every dollar of the $5.3 million in grants to be spent.

AA.000001160 (24)

The City Manager stated that he and Mayor Little have discussed the idea of holding a ribbon cutting or dedication for the Wastewater Plant, to recognize funding agencies and State and Federal officials who helped the City with the project. The City Manager suggested scheduling such a ceremony to take place after the project has been completed.

Mayor Pro Tem Cuthbertson stated that City staff needs to look at the driveway entrance leading into Jim Cook's Chevrolet. A section of the road is sinking, due to the Wastewater Improvements Project. Public Works Director Chris Hollifield said that he would look at the location and make sure that corrective action was taken.

The City Manager advised that in April, the Façade Grant Review Committee recommended five Façade Grant awards to the MBA and MEDA Boards. The five approved projects included one repainting and awning installation and four awning projects. The five grants will use a little less than $10,000 of the $15,000 in grant funding. Therefore, a new announcement was made of a second round of funding to give out the remaining $5,000 or so in grants. Applications for the second round of funding were due on May 19. Two applications were received, one for a building repainting (Russell Neighbors) and one for a sign replacement (Joel Austin). The Review Committee had stated early in the process that they would not consider a sign replacement, unless it was part of a larger application. Therefore, the Review Committee recommended approval of the building repainting by Mr. Neighbors. This project will take the remaining $5,000 in Façade Grant funding for 2010-11. The six approved Façade Grant projects will be completed over the next six months.

County Manager Chuck Abernathy has already expressed interest in MEDA funding a second phase of Façade Grant next year, something the MBA seems to want to do as well.

The City Manager stated that City contractors are making good progress with the extension of water and sewer service on Sugar Hill Road to I-40. The City hopes to meet the desired service dates of Wal-Mart, but should be prepared to provide pump and haul service if sewer service is not in place by the time Wal-Mart needs sewer service.

The City Manager advised that, as discussed at the May 24 Council Budget Workshop/Planning Session, the City may have $200,000 to $300,000 left over after the Sugar Hill Road water and sewer extension is completed. The City has discussed with the County the idea of using excess loan funds to extend water and/or sewer service under I-40 to the south side of Sugar Hill Road to serve the Ashworth Road Industrial Park and Marion Travel Plaza. $200,000 to $300,000 will not come close to funding this extension, so the excess loan funds would need to be combined with funding from other sources.

Public Works Director Chris Hollifield gave a brief update on the Oak Grove Cemetery stream restoration project. Contractors have begin work on this project, with City crews providing in-kind services.

The City Manager advised that, last year, Council Member Doggett suggested that the City and YMCA work to develop a map/brochure of downtown walking trails of varying difficulty, in an effort to promote fitness. The Planning Department has an additional intern that will be able to work 1-2 days a week for the City this summer, at no charge. The intern will work on developing 4-5 walking routes of varying difficulty.

The City Manager advised that he and Police Chief Mark Brooks had recently discussed the concept of revising the City's Noise Ordinance, to be based on specific decibel levels, as had been requested by a local business. The City Manager asked for Council's permission for staff to develop such recommendation to present back to Council at a future meeting. Mayor Little said

AA.000001161 (24)

that he thought such an approach would be a great idea. Council Members expressed no opposition to the City Manager's proposal.

had mentioned to Council at the May 24 Budget Workshop/Planning Session a recent issue with noise at the Main Street Pub and Deli that will soon open in the former Bridal Showcase location at Main and Henderson Streets. The business owner in question wanted something that could better define what level of noise is allowed and subsequently spoke to Freddie Killough and Heather Cotton. Freddie advocated on behalf of the business to Heather.

COUNCIL MEMBER COMMENTS:

Mayor Little stated that. for information only, today is the 64th wedding anniversary for his father-in-law and mother-in-law, Rev. Dewey and Virginia Hobbs.

Council Member Clark stated that he is thrilled to hear that Council Member Owenby is doing much better and is recovering from recent illness. Mayor Little and Council Members all expressed their desire for Council Member Owenby's quick recovery.

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Council Member Doggett, those members of council present voted to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, June 21, 2011at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members A. Everette Clark, Juanita Doggett, Billy Martin and Cecil Owenby.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Harriett Thomas, CPA, Finance Director; Jamie Harklerode , Patrol Lieutenant; Chris Hollifield, Public Works Director; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Carla Payne 247 Snyder Road, Marion, NC; Robbie Price 35 Circle C Street, Marion, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence. Mayor Little welcomed back Council Member Cecil Owenby, who had been unable to attend recent meetings due to illness.

AA.00000162 (24)

CONSENT AGENDA: Upon a motion by Council Member Owenby, seconded by Council Member Martin, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – June 7, 2011 Regular City Council Meeting Minutes

B. Approval of Budget Ordinance Amendments

CITY OF MARION, NORTH CAROLINA
2010-2011 BUDGET ORDINANCE
(Fourth Amendment)

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

Section 1: That the Budget Ordinance for the City of Marion, North Carolina for the fiscal year 2010-11 as adopted by the Marion City Council on the 15th day of June, 2010 is hereby amended as follows:

GENERAL FUND

a. General Fund Expenditures, Administration, Account Number 10-420-2600, Advertising is increased from $9,200 to $11,000.

b. General Fund Expenditures, Police, Account Number 10-510-1700, Maintenance & Repairs - Vehicles is increased from $52,000 to $58,420.

c. General Fund Expenditures, Police, Account Number 10-510-7400, Capital Outlay is increased from $123,284 to $125,258.

d. General Fund Expenditures, Fire, Account Number 10-530-1600, Maintenance & Repairs - Equipment is increased from $12,600 to $19,750.

e. General Fund Expenditures, Sanitation, Account Number 10-580-7400, Capital Outlay is increased from $3,000 to $4,520.

f. General Fund Expenditures, Recreation, Account Number 10-620-6000, Mountain Glory Expenses is increased from $20,000 to $21,325.

g. General Fund Expenditures, Recreation, Account Number 10-620-7400, Capital Outlay is increased from $64,000 to $78,000.

h. General Fund Revenues, Account Number 10-321-0000, Privilege License Revenue is increased from $41,500 to $43,500.

i. General Fund Revenues, Account Number 10-334-1300, COPS Grant Revenue is increased from $-0- to $6,657.

j. General Fund Revenues, Account Number 10-334-1700, State Controlled Substance Revenue is increased from $38,000 to $39,974.

k. General Fund Revenues, Account Number 10-335-0300, Mountain Glory Revenue is increased from $22,600 to $24,673.

l. General Fund Revenues, Account Number 10-341-0500, Refunds/Reimbursements Revenue is increased from $8,050 to $14,193.

m. General Fund Revenues, Account Number 10-370-0000, Powell Bill Allocation is increased from $188,441 to $196,333.

m. General Fund Revenues, Account Number 10-392-1100, Sale of Surplus Equipment is increased from $12,000 to $15,000.

n. General Fund Revenues, Account Number 10-392-2000, Property Insurance Reimbursement is increased from $9,873 to $18,571.

AA.000001163 (24)

o. General Fund Revenues, Account Number 10-399-0000, Fund Balance Appropriated is decreased from $572,597 to $568,349.

INTERNAL SERVICE FUND

a. Internal Service Fund Expenses, Account Number 35-660-3300, Inventory Purchases, is increased from $180,000 to $195,000.

b. Internal Service Fund Expenses, Account Number 35-660-4500, Contracted Services, is increased from $1,000 to $2,000.

c. Internal Service Fund Revenues, Account Number 35-399-0000, Fund Balance Appropriated is increased from $61,949 to $77,949.

GENERAL FUND CAPITAL RESERVE FUND

a. General Fund Capital Reserve Fund Expenditures, Account Number 75-491-0000, Transfer to General Fund Capital Projects – Streetscape, is increased from $72,000 to $75,000.

b. General Fund Capital Reserve Fund Expenditures, Account Number 75-999-0000, Future Expenses, is decreased from $697,471 to $694,471.

GENERAL FUND CAPITAL PROJECT FUND

a. General Fund Capital Project Fund Expenditures, Account Number 11-500-0000, Greenway Building Costs is increased from $272,000 to $300,000.

b. General Fund Capital Project Fund Expenditures, Account Number 11-500-0100, Greenway Contingency Costs is decreased from $13,600 to $8,500.

c. General Fund Capital Project Fund Expenditures, Account Number 11-500-0300, Greenway Engineering Costs is increased from $41,000 to $72,200.

d. General Fund Capital Project Fund Expenditures, Account Number 11-500-0100, Greenway Flood Study is decreased from $8,000 to $3,500.

e. General Fund Capital Project Fund Revenues, Account Number 11-370-0200, Greenway In-Kind Fishing Pier is decreased from $10,000 to $-0-.

f. General Fund Capital Project Fund Revenues, Account Number 11-370-0400, Greenway Matching Funds is increased from $10,000 to $34,550.

g. General Fund Capital Project Fund Revenues, Account Number 11-381-0100, Greenway Transfer from General Fund is increased from $72,300 to $107,350.

h. General Fund Capital Project Fund Revenues, Account Number 11-360-0000, Mt. Ida – PARTF Grant is decreased from $165,000 to $131,442.

i. General Fund Capital Project Fund Revenues, Account Number 11-362-0000, Mt. Ida – Tower Reimbursements is increased from $-0- to $20,481.

j. General Fund Capital Project Fund Revenues, Account Number 11-381-0000, Mt. Ida – Transfer from General Fund is increased from $82,500 to $95,577.

WATER AND SEWER CAPITAL PROJECT FUND

a. Water and Sewer Capital Project Fund Expenditures, Account Number 31-815-0400, Sugar Hill – Construction Costs is decreased from $1,954,200 to $1,340,606.

b. Water and Sewer Capital Project Fund Expenditures, Account Number 31-815-0410, Sugar Hill – Construction Extension is increased from $-0- to $440,298.

c. Water and Sewer Capital Project Fund Expenditures, Account Number 31-815-0425, Sugar Hill - Equipment is increased from $-0- to $132,141.

AA.00001164 (24)

d. Water and Sewer Capital Project Fund Expenditures, Account Number 31-815-0450, Sugar Hill - Construction Contingency is increased from $-0- to $55,600.

e. Water and Sewer Capital Project Fund Expenditures, Account Number 31-815-0475, Sugar Hill – Testing During Construction is increased from $-0- to $15,000.

f. Water and Sewer Capital Project Fund Expenditures, Account Number 31-815-0500, Sugar Hill – Preliminary Engineering is increased from $-0- to $17,500.

g. Water and Sewer Capital Project Fund Expenditures, Account Number 31-815-0550, Sugar Hill – Design & Permitting is increased from $-0- to $122,700.

h. Water and Sewer Capital Project Fund Expenditures, Account Number 31-815-0575, Sugar Hill – Property Acquisition is increased from $-0- to $75,000.

i. Water and Sewer Capital Project Fund Expenditures, Account Number 31-815-0700, Sugar Hill – Legal & Administrative is increased from $-0- to $33,900.

j. Water and Sewer Capital Project Fund Expenditures, Account Number 31-815-0725, Sugar Hill – Construction Administration is increased from $-0- to $177,100.

k. Water and Sewer Capital Project Fund Revenues, Account Number 31-375-0100, Loan Proceeds - Sugar Hill is increased from $977,100 to $1,102,225.

l. Water and Sewer Capital Project Fund Revenues, Account Number 31-377-0200, ARC Grant – Sugar Hill is increased from $-0- to $300,000.

m. Water and Sewer Capital Project Fund Revenues, Account Number 31-375-0300, County Reimbursement - Sugar Hill is increased from $-0- to $30,520.

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 21st day of June 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–11–06–21–1

C. Approval of Ordinance Amendment – Health and Sanitation

ORDINANCE
AMENDING CHAPTER 9
HEALTH AND SANITATION
MARION CITY CODE

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

Section 1. That Chapter 9, Health and Sanitation, of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Section 2. Chapter 9 is amended by repealing Section 9-34 in its entirety and replacing it with the following:

Sec. 9-34. Regulation of metal containers (dumpsters) for businesses.

(a) Each business, commercial establishment, or industry, that generates more than three (3) thirty-five-gallon containers of solid waste per week, shall be required to use a metal container (dumpster).

AA.000001165 (24)

(b) The city will provide an eight-cubic-yard container (dumpster) for each business requesting solid waste pick-up services by the city. The city shall own and maintain the container (dumpster). The city council shall set a monthly rental charge for use of each container. In addition, a monthly service fee, based on per container pickup, will be charged each business. The service fee shall be at such rates as may be established from time to time by the city council. Each business must enter a contract with the city or provide for removal of its own solid waste.

(1) All accounts shall be paid by the due date shall be printed on the bill.

(2) Customers who fail to pay the amount charged for solid waste services by 5:00 p.m. local time, the fifteenth day of the month in which the statement is received shall be charged a late penalty in the amount stated in the current ordinance establishing commercial garbage/recycling collection rates. Customers who fail to pay the amount charged for solid waste services by 5:00 p.m. local time the twenty-fifth day of the month in which the statement is received shall be charged an additional late penalty in the amount stated in the current ordinance establishing commercial garbage/recycling collection rates and solid waste service to the premises shall be terminated.

(3) Delinquent accounts where solid waste service has been terminated shall not have such services restored until such delinquent account, including all penalties, has been paid in full.

(c) It shall be unlawful to pile garbage or trash on or around a container. The lid to each container must remain closed at all times except when trash or garbage is being placed in the container, the container is being cleaned or repaired, or when the container is being emptied. If the establishment is producing more garbage or trash than can be adequately handled by the container the public works director or his designee can require added pickups.

(d) The public works director or his designee shall determine the location or placement of each container.
(Ord. of 6-25-87, §§ 3.1--3.4; Ord. of 4-19-88, § 1; Ord. of 6-20-00, § 1)

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 21st day of June, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-11-06-21-3

D. Approve Resolution Consenting to Use of City Travel Policy by ABC Board

RESOLUTION
REGARDING ABC BOARD TRAVEL POLI CY

WHEREAS, the City of Marion is the appointing authority of the local ABC Board; and

WHEREAS, in accordance with G.S. 18B-700(g2) the local ABC Board is required to adopt either the state's or appointing authority's travel policy and such policy is approved by the appointing authority ; and

WHEREAS, the appointing authority, the City of Marion, has such an approved travel policy; and

WHEREAS, the local ABC Board has requested to adopt this travel policy as their travel policy; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Marion does hereby approve the adoption of the City of Marion's travel policy as the travel policy of the local ABC Board.

ADOPTED this the 21st day of June 2011.

Stephen R. Little, Mayor

AA.0000011166 (24)

ATTEST:

J. Robert Boyette, City Manager/Clerk

Resolution Number: R-11-06-21-1

PUBLIC HEARING – ADOPTION OF 2011-12 BUDGET ORDINANCE: Mayor Little opened the Public Hearing.

The City Manager advised that a public hearing is required on the proposed 2011-12 City Budget. The proposed budget totals $9,739,776 which represents a decrease of 0.54 percent, or $52,957, over the amended 2010-11 budget and an increase of 2.32 percent, or $220,757, over the original 2010-11 budget. The City Manager stated that the proposed budget calls for no property tax increase and no increases in water and sewer rates, commercial garbage rates and most fees. At the May 24 Budget Workshop, Council directed no changes to the proposed budget.

There was no one present wishing to speak during this public hearing.

Mayor Little closed the Public Hearing.

Council Member Clark stated that he would vote for the budget; however, he did have some concerns. He said that the City is in a revaluation year and that property tax revenues will be flat or see a modest increase at best. Council Member Clark said that the City's revenues are on a downward spiral. He noted that the 2011-12 budget will involve a transfer from the Water and Sewer Fund to the General Fund to balance the budget, which is a big concern.

Council Member Clark stated that it also bothers him that there is no raise for City employees in this year's budget, especially when next year will be an even tougher year in his opinion. He stated that he feels that Council needs to be very concerned about the City's finances and watch every dollar carefully.

Council Member Owenby stated that he is glad the City has not had to lay off any employees this year. He said that most people are thankful to have a job these days and said that he believes the proposed budget is the best the City could do.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Doggett, Council voted unanimously to adopt the 2011-12 Budget Ordinance as follows:

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, 2011 and ending June 30, 2012 in accordance with the chart of accounts heretofore established by the City:

Administration	$ 394,322
Planning and Development	209,177
Police	1,720,501
Fire	447,289
Public Works Administration	88,786
Fleet Maintenance	70,090
Street	841,657
Powell Bill	234,000
Sanitation	779,495
Recreation	98,600
Cemetery	21,500
Non-Departmental	486,963
Total	**$ 5,392,380**

AA.000001167 (24)

Section 2. It is estimated that the following revenues will be available in the General Fund for the fiscal year beginning July 1, 2011 and ending June 30, 2012:

Prior Year's Taxes	$ 40,000
Vehicle Tax-Collected by County	147,700
City Vehicle License	20,000
Current Taxes	1,798,457
Tax Penalties & Interest	20,000
Privilege License Sales	45,000
Peddler's Permit	50
Interest Earned	20,000
Powell Bill Interest Earned	1,500
Rents and Concessions	38,920
Misc. Revenues	1,020
Drink Commissions	1,500
Bad Check Fees	50
P/D Copies/Fingerprints	400
Refunds/ Reimbursements	6,000
Utilities Franchise Tax	460,000
Beer/Wine Revenue	35,000
Powell Bill Allocation	200,000
Sales Tax Distribution	980,000
ABC Revenues	60,000
ABC Officer Revenues	2,400
Court Costs, Fees & Charges	2,500
Parking Violations	5,000
County Fire Protection	300,000
COPS Grant	42,000
National Night Out Contributions	1,700
State Fire Protection Reimbursement	2,706
Recycling Bin Deposit	200
Cemetery	6,000
DOT Reimbursement Grass Mowing	2,500
Garbage Fees	159,000
Zoning Income - Inspection Fees	25,000
Sale of Garbage/Leaf/Recycling Bags	200
Cable TV Revenues	75,000
Sales of Surplus Equipment	84,000
McDowell County Schools	24,000
Hold Harmless Revenue	65,000
Wellness Grant	1,750
Mountain Glory Revenues	21,000
County Recycling Contribution	4,500
Solid Waste Disposal Tax	5,300
Dispatching Fees – Water and Sewer	8,000
GIS Mapping Fees – Water and Sewer	2,500
Powell Bill Fund Balance	50,000
Fund Balance	426,527
	5,192,380
Transfer from Water and Sewer Fund	**200,000**
TOTAL	$ 5,392,380

Section 3. The following amounts are hereby appropriated in the Capital Reserve Fund – General for the fiscal year beginning July 1, 2011 and ending June 30, 2012:

Reserve for Future Appropriations	$ 220,647
Transfer to General Fund Capital Projects – Streetscape Project	271,251
TOTAL	**$ 491,898**

Section 4. It is estimated that the following revenues will be available in the Capital Reserve Fund – General for the fiscal year beginning July 1, 2011 and ending June 30, 2012:

Fund Balance Appropriated	$ 475,898
Parking Lot Repayment	12,500
Interest on Investments	3,500
TOTAL	**$ 491,898**

AA.000001168 (24)

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, 2011 and ending on June 30, 2012 in accordance with the accounts heretofore approved for the City:

Utility Line Operation	$ 1,345,788
Water Filter Plant	601,787
Waste Treatment Plant	960,845
Non-Departmental	420,145
	3,328,565
Transfer to General Fund	200,000
	TOTAL
$	**3,528,565**

Section 6. It is estimated that the following revenues will be available in the Water / Sewer Fund for the fiscal year beginning July 1, 2011 and ending June 30, 2012:

Fund Balance	$ 345,737	
Interest Earned	6,000	
Miscellaneous Income	300	
Bad Check Fees	1,000	
Time Payment Interest	1,000	
Fire Protection Taps	1,000	
Reconnect / Transfer Fee	6,000	
Reimbursement – Septic	6,000	Reimbursement -
Pump Stations	1,400	
Reimbursement – Pretreatment	2,400	
Owner Temporary Sales	260	
Water Sales	995,000	
Cut on Fees/Late Penalties	70,000	
Sewer Service	627,000	
Water Taps	60,000	
Sewer Taps	20,000	
Delinquent Accounts Collected	500	
Tank Truck Charges	2,000	
Water Service Charge	873,000	
Sewer Service Charge	457,000	County
Reimbursement – Sugar Hill Road	51,968	
Gain(Loss) on Sale of Assets	1,000	
TOTAL	**$ 3,528,565**	

Section 7. The following amounts are hereby appropriated in the Capital Reserve Fund – Water/Sewer for the fiscal year beginning July 1, 2011 and ending June 30, 2012:

Reserve for Future Appropriations:	$ 249,147
TOTAL	**$ 249,147**

Section 8. It is estimated that the following revenues will be available in the Capital Reserve Fund – Water/Sewer for the fiscal year beginning July 1, 2011 and ending June 30, 2012:

Fund Balance Appropriated	$ 246,647
Interest on Investments	2,500
TOTAL	**$ 249,147**

Section 9. The following amounts are hereby appropriated in the Internal Service Fund for the fiscal year beginning July 1, 2011 and ending June 30, 2012:

Inventory (Supplies)	$ 180,000
Warehouse and Purchasing Operations	97,786
TOTAL	**$ 277,786**

Section 10. It is estimated that the following revenues will be available in the Internal Service Fund for the fiscal year beginning July 1, 2011 and ending June 30, 2012:

Purchase by Other Funds	$ 215,000
Fund Balance Appropriated	62,786
TOTAL	**$ 277,786**

Section 11. There is hereby levied a tax at the rate of fifty-one ($ .51) per one hundred ($100) valuation of property as listed for taxes as of January 1, 2011 for the purpose of raising the revenue listed as "Current Year

AA.000001169 (24)

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 $368,659,678 and estimated rate of collection of 96%.

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 21st day of June, 2011

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–11–06–21–2

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

REQUEST BY MS. CARLA PAYNE FOR A LICENSE TO OPERATE A PLACE OF AMUSEMENTS AT 84 SOUTH MAIN STREET – (MAIN STREET PUB & DELI) : The City Manager advised that Ms. Carla Payne was present for this meeting and had submitted an application for a license to operate a place of amusements, with a pool table, as part of Main Street Pub and Deli in the former Bridal Showcase location at the corner of Main and Henderson Streets.

The City Manager stated that, on May 3, Council approved an ordinance lifting restrictions on selling liquor in places of amusements. As required by the City Code, and as shown in information presented to Council, the Police Department had completed a background check and determined that Ms. Payne does not have a criminal record. The City Code states that Council shall not issue a license for a place of amusement to any person who:

(1) Has been convicted of unlawfully selling intoxicating liquors or narcotic drugs; or

(2) Is not a citizen or resident of this state; or

(3) Is an excessive user of intoxicating liquor or narcotic drugs; or

(4) As a result of the criminal background check, is deemed by the City Council to be unfit to conduct a business for which the license is applied.

The City Manager reported that the criminal background check indicates that Ms. Payne appears to satisfy the requirements listed above. Therefore, the City Manager stated that he sees no reason to justify Council denying the request for a license and recommended that Council approve a license for Ms. Payne.

Ms. Payne stated that she appreciated the professionalism and assistance provided by City staff and the Marion Business Association during the renovation process.

AA.000001170 (24)

Mayor Little commended Ms. Payne on undertaking this business endeavor.
Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to approve the request for a license to operate a place of amusements, with a pool table, as part of Main Street Pub and Deli at 84 South Main Street.

REQUEST BY ROBBIE PRICE FOR A LICENSE TO OPERATE A PLACE OF AMUNSEMENTS AT 500 NORTH MAIN STREET SUITE 13 (JB's FAMILY FUN LAND) IN THE MARION CITY SQUARE (BI-LO) SHOPPING CENTER: The City Manager advised that Mr. Robbie Price was present for this meeting and had submitted an application for a license to operate a place of amusements, with 10 to 20 video games and 5 to 10 pool tables, as part of JB's Family Fun Land to be located at 500 North Main Street Suite 13 in the Marion City Square (Bi-Lo) Shopping Center.

As required by the City Code, and as shown in information presented to Council, the Police Department completed a background check and determined that Mr. Price does not have a criminal record. The City Code states that Council shall not issue a license for a place of amusement to any person who:

(1) Has been convicted of unlawfully selling intoxicating liquors or narcotic drugs; or

(2) Is not a citizen or resident of this state; or

(3) Is an excessive user of intoxicating liquor or narcotic drugs; or

(4) As a result of the criminal background check, is deemed by the City Council to be unfit to conduct a business for which the license is applied.

The City Manager stated that the criminal background check indicates that Mr. Price appears to satisfy the requirements listed above. Therefore, the City Manager said that he saw no reason to justify Council denying the request for a license and recommended that Council approve a license for Mr. Price.

Council Member Martin stated that he knows Mr. Price and feels he will do the right thing with this business.

Upon a motion by Council Member Martin, seconded by Council Member Owenby, Council voted unanimously to approve the request for Mr. Robbie Price for a license to operate a place of amusements, with 10 to 20 video games and 5 to 10 pool tables, as part of JB's Family Fun Land to be located at 500 North Main Street Suite 13 in the Marion City Square (Bi-Lo) Shopping Center.

CONSIDER APPROVAL OF SPRING 2011 STREET RESURFACING/PAVING CONTRACT: The City Manager advised that, as shown in the information presented to Council from Public Works Director Chris Hollifield, the City recently sought bids for the resurfacing of six streets (Circle and Cross Street EM, Holly Hill Drive, State Street, Hillside Drive, Virginia Road and Woodvine Drive), as previously authorized by Council. Three paving companies responded with bids. Maymead of Mountain City, Tennessee submitted the low bid in the amount of $82,772.48 for 1.25" paving on the six streets to be resurfaced. The City Manager stated that the City normally goes with 1.25" asphalt for our resurfacing. Five of the streets would be resurfaced using Powell Bill Funds ($80,835.52) and one street, Woodvine Drive, would be resurfaced using Street Department funds ($1,942.96) since Woodvine is not wide enough to use Powell Bill funding. The City Manager advised that the City currently has over $196,000 in our Powell Bill account and could handle this expenditure, while still hopefully being able to complete a contracted project in 2011-12.

AA.000001171 (24)

The City Manager stated that State law directs cities to accept the lowest responsible bidder. A City generally needs some firm reasons to not award a contract to the low bidder. In this case, the low bid from Maymead is $16,110.08 lower than the second low bid.

The City Manager reported that, at the June 7 Council meeting, Council directed that staff obtain information from each of the three bidders regarding where each paver would obtain asphalt and whether each would use recycled materials.

Public Works Director Chris Hollifield reported that Maymead and Johnson Paving planned to use asphalt plants in Woodlawn, while J.T. Russell proposed using an asphalt plant in Catawba County. Mr. Hollifield stated that Johnson Paving would not use any recycled materials, while Maymead proposed to use a mixture of 15 percent recycled material, while J.T. Russell proposed the use of 20 percent recycled material. Mr. Hollifield further advised that DOT allowed the use of up to 50 percent recycle material.

Council Member Clark asked if the use of recycled materials led to issues with the durability of the asphalt, citing streets such as Robert Street, which has potholes, as an example.

Mr. Hollifield said that he had not had any discussions with DOT or any of the paving companies about whether the use of recycled materials caused problems with the durability of asphalt.

A brief discussion followed.

Council Member Clark stated that the City had no choice but to award the contract to Maymead, but that he would stress the need for close, constant inspections of the resurfacing work.

Mayor Pro Tem Cuthbertson asked if Council should go with 1.5" resurfacing, since that bid was within the City's original budget.

Council Member Clark stated that he would suggest that the City stay with the normal 1.25" resurfacing.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to award the contract for 2011 Street Resurfacing to Maymead in the amount of $82,772.48 for 1.25" paving on the six streets to be resurfaced (Circle and Cross Street EM, Holly Hill Drive, State Street, Hillside Drive, Virginia Road and Woodvine Drive), with the direction given to staff to provide close inspections of the resurfacing work.

REVIEW STREET PROJECT BIDS/CONSIDER CONTRACT AWARD: The City Manager advised that, as authorized by Council in May, staff sought bids for a curb replacement on North Garden Street and Crescent Drive and for a curb and sidewalk replacement on Park Avenue. These bids were received on Friday, June 17. The bid information was presented to Council at this meeting. The City Manager advised that the City will have sufficient Powell Bill funds to contract only one of these projects and that he would recommend that the contracted project be Park Avenue, based on need and citizen feedback.

Public Works Director Chris Hollifield stated that he sent out bids and received five bids back for a curb replacement on North Garden Street and Crescent Drive and for a curb and sidewalk replacement on Park Avenue, as follows:

North Garden Street/Crescent Drive

	Street/Cement	Utility
Steppe Construction	$169,176.25	$91,612.50
Evans Construction	$293,424.60	NO BID

AA.00000172 (24)

Iron Mtn Construction	$212,609.89	$91,250
F&S Contractors	NO BID	**$81,317.44**
Harris Grading	**$153,426.78**	NO BID

Harris Grading is the low bidder for the Street portion of North Garden/Crescent with a bid of $153,426.78. F&S Contractors is the low bidder for the Utility portion of North Garden/Crescent with a bid of $81,317.44.

Park Avenue

	Street Cement	**Utility**
Steppe Construction	$215,019.10	$125,650
Evans Construction	$427,826.80	NO BID
Iron Mtn Construction	$292,346.92	$126,850
F&S Contractors	NO BID	**$121,971.30**
Harris Grading	**$172,895.86**	NO BID

Harris Grading is the low bidder for the Street portion of Park Avenue with a bid of $172,895.86. F&S Contractors is the low bidder for the Utility portion of Park Avenue with a bid of $121,971.30.

The City Manager presented Council with a project cost analysis.

Park Avenue and North Garden Street/Crescent Drive Street and Utility Project Cost Analysis

Powell Bill Fund Balance – June 17, 2011	**$182,412.95**
Revenues: Estimated 2011-12 Powell bill revenues (Oct. and Jan. Distributions)	$200,000.00
Expenditures: 2011 Powell Bill Map Preparation (R.L. Greene)	-&500.00
2011-12 Powell Bill Reimbursement to General Fund for use of Street Dept. Labor on Powell Bill Streets	-$50,000.00
2011 Street Resurfacing (Maymead bid for Resurfacing is included in Park Avenue project bid)	-$80,835.52
Miscellaneous/Unexpected Costs	-$10,000.00
Amount Potentially Available for Powell Bill Contracted Project(s)	**$171,077.43**
Harris Grading Park Avenue Project Bid (Includes $39,500 bid for Park Avenue Street resurfacing, which could be separately bid)	**$172,895.56**
Potential Amount to cut from Harris Grading Park Avenue Bid by City completing part of project (Turner Street to Robert Street)	**$20,000.00**
Harris Grading North Garden Street/Crescent Drive Project Bid	$153,426.78
F & S Contractors Park avenue Water Line Replacement Bid	**$121,971.30**
Potential Amount to cut from F& S Contractors Park Avenue Water Line Replacement Bid by City Completing part of project (Turner Street to Robert Street)	**$30,000.00**
F & S Contractors North Garden Street/crescent Drive Water Line Replacement Bid	$81,317.44

Mr. Hollifield stated that he had looked at ways to save $20,000 on the street portion of Park Avenue and $30,000 on the utility portion of Park Avenue, as requested by the City Manager.

AA.000001173 (24)

Mr. Hollifield advised that, if City crews complete the curb and sidewalk work on Park Avenue between Turner and Robert Street, approximately $21,000 can be saved. If City crews complete about 800 linear feet of the water line installation, from Robert Street to a point between Turner Street and Cardinal Lane, approximately $30,000 can be saved. He advised that the City had considerable experience working with the low bidder for the street portion of the project, Harris Grading, and the low bidder for the utility portion of the project, F & S Contractors, and that both contractors had no issue splitting the project with City crews.

The City Manager stated that he realized that staff had presented a lot of numbers to Council and that no decision was expected tonight.

Council Member Clark stated that he agreed that Park Avenue should be the top project to contract. He said that he was comfortable that the City had enough Powell Bill funding to do the street portion of the project, but would like to hear more information about the City's ability to afford the utility part of the project.

The City Manager stated that the utility part of the project was vital, since Park Avenue had old unlined cast iron and asbestos cement water lines that were long past their expected lives. He said that spending $90,000 on the utility part of the project was his recommended limit, but that he could have additional information for Council to review at the July 19 Council meeting.

Council Member Clark noted that the City will soon need to address potholes on Fern Avenue.

Council agreed by consensus for this item to be put on the July 19 Council meeting agenda for further discussion.

ADOPT REVISED COMMERCIAL GARBAGE RATE ORDINANCE: Finance Director Harriett Thomas stated that ,while there would be no commercial garbage rate increase this year, the City does need to amend the Commercial Garbage Rate Ordinance to clarify late fees.

Ms. Thomas advised that commercial garbage accounts are billed through the City's water and sewer billing system, whenever possible. The billing system cannot have multiple late fees, so Ms. Thomas stated that she drafted an amendment to the Commercial Garbage Rate Ordinance to apply the water and sewer late fees to commercial garbage accounts.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following Commercial Garbage/Recycling Ordinance:

ORDINANCE
COMMERCIAL GARBAGE / RECYCLING COLLECTION RATES

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

Section 1. That new rates for Commercial Garbage / Recycling Collections are hereby established as follows:

Plan "A"
Industrial / Commercial Dumpsters

Pickups per Week	Monthly Charge
1	$ 125
2	302
3	482
4	660
5	840

Pickups per Month	Monthly Charge
1	$ 35
2	60

AA.00001174 (24)

	3	88

Plan "B"
Apartment Complexes

Pickups per Week	Monthly Charge	
1	$ 9	(minimum charge)
2	70	
3	131	
4	191	
5	255	

Plan "C"
Commercial Can Services (3 – 35 gallon cans)

Pickups per Week	Monthly Charge	
1	$ 16	(minimum charge)

Plan "D"
Commercial Recycling Services (see description in contract)

Flat Monthly Charge	$	16

OTHER MISCELLANEOUS CHARGES

FIRST LATE PENALTY:	$	5.00
SECOND LATE PENALTY:		
1 - 3 OCCURANCES	$	15.00
4 OR MORE OCCURANCES	$	25.00

Section 2. The Ordinance adopted on June 15th 2010 is rescinded upon the effective date of this Ordinance.

Section 3. All other ordinances, in conflict with this Ordinance, are rescinded upon the effective date of this Ordinance.

Section 4. This Ordinance shall become effective July 1, 2011.

Adopted this the 21st day of June 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–11–06–21-4

UPDATE ON REQUEST FOR CITY ACCEPTANCE OF STREET LEADING TO MAPLE LEAF BALLFIELDS: The City Manager advised that, at the June 7 City Council meeting, Council directed him to request that DOT assume maintenance of or resurface the road leading to the Maple Leaf Ballfields. The City Manager stated he met with Public Works Director Chris Hollifield met with Doug McNeal with DOT on June 9 to look at the street. Mr. McNeal stated that DOT would investigate the request and said that he certainly could not make a commitment. The City Manager stated that, at DOT request, he had the Isothermal RPO place a traffic counter on the street, since traffic counts may be one way for DOT to justify taking over the road, especially since there are not the minimum number of property owners on the road to justify DOT acceptance. The City Manager stated that it may take some time to receive the DOT answer. The City Manager stated that he had advised Chuck Abernathy of the City's request to DOT and he said he understood. In the meantime, the City Manager reported that he had

AA.000001175 (24)

authorized Mr. Hollifield to patch two potholes on the road for the County, in preparation for a large tournament to be played at Maple Leaf in early July.

The City Manager stated that Council could go ahead and take action to name the street "Maple Leaf Drive", regardless of whether the City takes over the road immediately or not. The City Manager reported that he had sent a letter to Asta Enterprises, owner of Ivan's and Lightning Lanes and the only private property owner affected by a street name change, advising of the proposed naming of Maple Leaf Drive (which would require an address change for both businesses) and asking for input by the time of tonight's meeting. The City Manager stated that he had received no objections from Mr. Asta as of the time of the meeting.

Mayor Little suggested that Council go ahead and name the street Maple Leaf Drive.

Council Member Clark asked if any consideration had been given to naming the street Bill Kehler Drive. The City Manager stated that this name had not come up in any discussions so far.

Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to name the road leading to the Maple Leaf Ballfields off of Finley Road as Maple Leaf Drive.

DOWNTOWN STREETSCAPE PROJECT UPDATE: The City Manager advised that DOT had developed estimates for the Downtown Streetscape Project that were more than $200,000 over the City's budget for the project. The City Manager stated that the main differences between the estimate and the original budget are the costs for storm drainage and wheelchair ramps, which were not adequately accounted for in the City's budget.

The City Manager reported that DOT opened bids for the project earlier today in Asheville and that he did not have definite numbers yet. He suggested that Council adjourn this meeting until Friday morning, June 24 at 9:00 A.M. at City Hall, at which time Council can meet with DOT District Engineer Doug McNeal and City staff and determine ways to cut project costs, if necessary.

Mayor Little stated that Council definitely needs to receive the bid totals and discuss the project in more detail before a decision can be made.

It was the consensus of council to resume this discussion on Friday morning at 9 A.M. in the conference room at City Hall.

CONSIDER RESCHEDULING OF AUGUST 2 COUNCIL MEETING: The City Manager advised that, each year, the first City Council meeting conflicts with the National Night Out Event, which begins at 6:00 p.m. The City Manager wanted to see if Council wished to reschedule the August 2 Council meeting to another night or consider cancelling the meeting, so as to allow Council to attend the National Night Out Event.

Upon a motion by Council Member Owenby seconded Mayor Pro Tem Cuthbertson, Council voted unanimously to cancel the August 2, 2011 City Council Meeting. It was agreed that a special Council meeting could be scheduled, if necessary.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager stated that Planning Board Chairman Kit Alverson submitted a letter, proposing that speed limits be decreased on various DOT streets and highways in and around the City. Mr. Alverson stated that this was an "unofficial" recommendation from the Planning Board, gathered through informal discussions he had with most Planning Board members.

AA.00000176 (24)

The City Manager stated that Council may want to refer this matter to the Street Committee or back to the Planning Board for an official recommendation, or choose to take no action.

Neither Mayor Little nor any Council Member expressed a desire to take any action regarding this letter.

The City Manager advised that he had received a letter from the N.C. Parks and Recreation Trust Fund (PARTF), advising that the City's PARTF grant for Phase 2 of the Greenway was not approved. The application will automatically be considered for PARTF funding in September and December.

The City Manager advised that Public Works Director Chris Hollifield had worked out a great deal with Appalachian Outhouses to place two portable toilets at the Greenway parking lot for six months, as had been authorized by Council at a previous meeting. The City will have one regular and one ADA accessible toilet, serviced weekly, for a total cost of about $934. The cost will be split between the City and the McDowell Trails Association, meaning that each organization will be responsible for paying about $467 total over six months, which is less than what had been projected. The toilets should be in place within the next month.

The City Manager noted that Council Member Doggett had suggested that the City and YMCA work together to develop a map and brochure of downtown walking trails of varying difficulty, in an effort to promote fitness. The City Manager stated that Planning and Development Director Heather Cotton had an intern from Appalachian State University working on this project this summer and that a map and proposed brochure would be developed by the end of the summer.

The City Manager advised that the annual July 4th Celebration will take place on Monday, July 4. The event will begin, as usual with a parade on Main Street at 6:00 p.m. The Parade line-up will be in the Bank of America. City staff will have the City van decorated and at City Hall until 5:30 p.m., when it will be moved to the Bank of America parking lot, if the Mayor and Council wish to ride in the Parade. Randy Hollifield, a Vietnam veteran and Chairman of the McDowell County Salute to Veterans Committee will lead the Parade, with all veterans wishing to participate serving as Grand Marshals. A street dance will then follow, with some vendors on the street. The fireworks show will begin at 9:45 p.m.

The City Manager advised that the Wastewater Improvements Project should be completed by mid-June. Patching of asphalt at the Corpening Creek Wastewater Plant damaged during the renovation project was completed in late May and final work to repair the primary and secondary clarifiers at Corpening Creek is scheduled to wrap up in early June, to allow every dollar of the $5.3 million in grants to be spent.

The City Manager stated that Mayor Little and he had discussed the idea of holding a ribbon cutting or dedication for the Wastewater Plant, to recognize funding agencies and State and Federal officials who helped with the project.

Council Member Clark stated that the patching at the Wastewater Plant did not look good and that all of the asphalt needs to be resurfaced. Council Member Clark also said that the whole Plant needs attention. He advised that weeds needs to be trimmed, the basins and buildings need to be pressure washed and equipment that is not working needs to be removed.

The City Manager stated that City staff had not stressed the appearance of the Wastewater Plant while it was under construction, but that he would see that appearance issues were addressed. The City Manager stated that there should be no equipment not working at the Plant, once construction concluded.

AA.000001177 (24)

The City Manager asked if Council wished to set a date for the City's annual Advisory Board/Volunteer Dinner. It was agreed for staff to select a date in August for the dinner. Mayor Little stated that the dinner is a good thing for the City to do and would like to see all Council Members attend when the date is scheduled.

Public Works Director Chris Hollifield gave an overview of the Sugar Hill Road water and sewer extension. He advised that the water line is complete and is now being tested, so that it can be placed in service. Good progress is being made on the sewer line and pump station construction and City staff and McGill Associates are optimistic that sewer service may be in place or close to being in place by August 1.

Mr. Hollifield advised that construction had been completed on the grant funded project to clean up the creek between Oak Grove Cemetery and the Duke Energy substation on Rutherford Road. As part of the project, underbrush was removed, the creek was stabilized and the area's appearance was improved.

The City Manager advised that contractors recently installed new lights in most City buildings, along with one County building, as part of a $59,000 State Energy Grant received by the City and County. Planning and Development Director Heather Cotton estimates that the relamping will save about $13,000 for the City in annual energy costs.

COUNCIL MEMBER COMMENTS:

Council Member Doggett stated that she attended earlier in the afternoon and evening a tour held by the N.C. Cooperative Extension Service of various sites in McDowell County, including the Joseph McDowell Historical Catawba Greenway. She noted that the group made many positive comments about the Greenway.

Council Member Doggett commended the City Manager on how he handled the recent visit of Governor Perdue at the Depot, at which the announcement of the Rock Tenn expansion was made.

Mayor Pro Tem Cuthbertson stated that he would suggest that something be put on the City Channel, advising that the City is not doing tree trimming currently taking place in the City and that a contractor for Duke Energy is doing the work. He further suggested that the message state that the City has no control over what Duke Energy or its contractors do. Mayor Pro Tem Cuthbertson stated that the City is getting a black eye over the tree trimming.

Council Member Clark stated that the National League of Cities recently celebrated the 10th Anniversary of Small Cities Week. He noted that the first Small Cities week started in Marion in June 2001.

Council Member Clark stated that he would like to see Council start a monthly recognition program for students at Marion and Eastfield Elementary Schools and for the Mayor and/or a Council Member to go each month and present the awards.

Council Member Owenby thanked Mayor Little and Council Members for cards, encouragement and prayers during his recent illness. He said that he is doing well and is expecting a complete recovery.

The City Manager thanked Patrol Lieutenant Jamie Harklerode for filling in tonight in place of Chief Brooks, who is with his son while he undergoes surgery.

AA.000001178 (24)

ADJOURN MEETING UNITL FRIDAY, JUNE 24: Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Martin, Council to adjourn this meeting until 9:00 A.M. on Friday, June 24, 2011 at City Hall, located at 194 North Main Street in Marion.

RECONVENING OF TUESDAY, JUNE 21 CITY COUNCIL MEETING:

Mayor Little opened the meeting, reconvened from the June 21, 2011 Council Meeting.

COUNCIL MEMBERS PERSENT: Mayor Little, Mayor Pro Tem Cuthbertson, Council Members Everette Clark, Juanita Doggett, Billy Martin and Cecil Owenby.

OTHERES PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, AICP, Planning and Development Director, Harriett Thomas, CPA, Finance Director; Chris Hollifield, Public Works Director; Freddie Killough, Executive Director, Marion Business Association, Margaret Love and Lou Godfrey, Downtown Business Owners/Operators; Doug McNeal and Scott Killough, North Carolina Department of Transportation.

DOWNTOWN STREETSCAPE PROJECT UPDATE: The City Manager gave an overview of the proposed Downtown Streetscape Project, including revised traffic flow on Main Street and the installation of concrete bumpouts and decorative crosswalks, in addition to new street trees and wayfinding signs that have already been installed.

The City Manager advised that he had reported on Tuesday evening that DOT estimates called for the Project to be more than $200,000 below the City's project budget. DOT opened bids on Tuesday and the project is within the City's budget. The City's share of the project will be $315,000. The City Manager presented Council with a Municipal Agreement that DOT is requesting that the City adopt. The City Manager stated that he would suggest, if Council wishes to undertake the project, that Council authorize the agreement to be executed on or after July 1, 2011.

Mayor Little thanked the City Manager for the overview and welcomed Doug McNeal and Scott Killough from DOT. Mr. McNeal provided details on the bid and the project. The low bidder for the project is Maymead.

The City Manager stated that he wanted to make sure that the City had input regarding change orders. Mr. McNeal stated that the City could certainly have input and that change orders would be avoided wherever possible. He noted the $315,000 to be paid by the City includes a 10 percent contingency amount, so he hopes to refund the City money at the end of the project.

Council Member Doggett asked why the City must pay for the project up front.

Mr. McNeal stated that DOT has recently directed that cities pay up front for recent projects, since State finances are so tight.

The City Manager stated that Maymead would be using 15 percent recycled material for street resurfacing for the City and asked if a similar amount would be used by Maymead for the Downtown Streetscape Project.

Mr. McNeal stated that DOT does not notice a difference in recycled materials until it is over 30 percent and that he expects the percentage to be around 15 percent for this project.

Council Member Clark stated that he would like to go back to Council Member Doggett's question. Through the years, DOT has done projects on a reimbursement basis and he thinks that should continue to be the case. Council Member Clark noted that the Municipal Agreement from DOT calls for the City to pay $461,500 toward the project.

AA.000001179 (24)

Mr. McNeal stated that the correct figure is $315,000 and that a new Municipal Agreement, with the correct figure, will be provided to the City for execution. He said that the original Municipal Agreement was based on estimates, but that the executed agreement could be based on the actual bids.

Council Member Clark stated that he also has issues with paragraph four in the agreement, regarding the City providing right of way and relocating any utilities.

Mr. McNeal stated that right of way is in place for the project and no utilities will need to be relocated, other than the standard raising of valves and manholes in the street. He said that these are standard clauses in all DOT agreements.

Council Member Clark stated that the City does have underground lines and conduits and asked if the project could create any problems with this underground lines.

Public Works Director Chris Hollifield stated that all these lines had been located and marked, so no problems are anticipated.

Mayor Little ask if there would be any unforeseen costs with the project, beyond the $315,000 the City must pay up front to DOT.

Mr. McNeal stated that 8 percent of the cost is for engineering and 10 percent is contingency.

Council Member Clark asked if the $315,000 figure therefore covers everything.

Mr. McNeal stated that the $315,000 was all inclusive.

Council Member Clark stated that he felt that DOT should reimburse the City any leftover contingency funds within 30 days after the project is completed.

Ms. Lou Godfrey asked questions about details of the project and the completion date, which Mr. McNeal answered.

Council Member Clark made a motion to approve a Municipal Agreement with DOT to complete the Downtown Streetscape Project, providing for the City to pay DOT $315,000, with the understanding that the Mayor is authorized to execute the agreement on or after July 1, 2011, and with the stipulation that DOT reimburse the City for any unused funds within 30 days after the project is completed. The motion was seconded by Council Member Martin and unanimously approved by Council.

DISCUSSION – MAPLE LEAF DRIVE: Council Member Doggett asked if Mr. McNeal felt that DOT would be willing to assume maintenance of or resurface Maple Leaf Drive, as previously requested by the City.

Mr. McNeal stated that no, he does not feel that DOT will take over the road, given its very poor condition. However, he has made the request and it is being reviewed.

Council Member Doggett asked if the door would be closed on DOT taking over the street if the City Council voted for the City to take over the streets and authorize the City to repave the street, if DOT would not do so.

Mr. McNeal stated that such an action would have no negative impact on the prospect of DOT assuming maintenance of or resurfacing the street.

AA.000001180 (24)

Council Member Doggett stated that she would therefore move that Council accept maintenance of Maple Leaf Drive and appropriate funding to resurface the street in 2011-12, if DOT does not agree to assume maintenance of or resurface the street. She said that she believed that resurfacing the street would be an economic boost to the City, as the Maple Leaf Ballfields are now hosting large tournaments, bringing in people from outside the community. Council Member Martin seconded the motion.

Council Member Clark stated that he felt that Council should let DOT look at the street and finish the study. He said that it would take $10,000 - $15,000 to resurface the street and that the City would only receive about $300 per year in Powell Bill funding. Council Member Clark said that the City paying for the resurfacing of the street would not be a good deal for City taxpayers and that he does not see why City money should be used to improve a road that is used by the entire county.

Council Member Doggett stated that she disagrees and feels that the tournaments the Maple Leaf Ballfields can host will bring money into the City, such as to offset the cost of the resurfacing.

Council Member Owenby stated that he agrees with Council Member Clark.

The City Manager stated that the City could go ahead and place Maple Leaf Drive on the City's Powell Bill Map, if so desired by Council.

Mayor Pro Tem Cuthbertson asked if the City added the street to the Powell Bill Map now, would the City start receiving Powell Bill funding for the street in 2011-12. The City Manager stated that the City would receive Powell Bill funding for the street if the street is added to the Powell Bill Map now.

The motion failed with a 3 to 2 vote as follows:

Doggett	Yes
Martin	Yes
Clark	No
Owenby	No
Cuthbertson	No

Mayor Pro Tem Cuthbertson stated that his vote is based strictly on the City's finances.

Council Member Clark stated that if the County would pay for the resurfacing of the street, he would support the City assuming maintenance of the street.

Mayor Little stated that he would convey this message to the County.

ADJOURNMENT: Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.000001181 (24)

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 19, 2011 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Pro Tem Lloyd Cuthbertson, Council Members A. Everette Clark, Juanita Doggett, Billy Martin and Cecil Owenby.

Mayor Stephen R. Little was not present for this meeting due to being out of town.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, AICP, Planning and Development Director; Jamie Harklerode , Patrol Lieutenant; Chris Hollifield, Public Works Director; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: None

OPENING OF MEETING: Mayor Pro Tem Cuthbertson opened the meeting.

CONSENT AGENDA: Upon a motion by Council Member Martin, seconded by Council Member Owenby, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – June 21, 2011 Regular City Council Meeting Minutes

B. Approve 2010-11 Fiscal year Tax Adjustments:

TAX ADJUSTMENTS
JULY 1, 2010 – JUNE 30, 2011

YEAR	REAL ESTATE	PRESONAL	LATE LIST	PENALTY & INT	TOTAL
2000 & prior	$ 51.65	$ -	$ -	$ 65.36	$ 117.01
2001	1.00	3.85	-	6.46	11.31
2002	-	-	-	-	-
2003	-	-	-	-	-
2004	-	-	-	-	-
2005	-	-	-	-	-
2006	-	-	-	-	-
2007	76.50	7.65	1.00	26.82	111.97
2008	-	-	-	-	-
2009	167.23	-	4.61	17.38	189.22
2010	1,902.76	60.61	4.61	228.55	2,196.53
TOTAL	**$ 2,199.14**	**$ 72.11**	**$ 10.22**	**$ 344.57**	**$2,626.04**

C. Approve Street Closure Request:

Council approved a request from the Marion Firefighters Association request to hold its annual car show on Sunday, September 4, 2011 on Main Street. Main Street will be closed from Fort to Henderson Streets between 12:00 P.M. and 5:00 P.M.

D. Approve Resolution Directing the Clerk to Investigate the Sufficiency of a Petition for Annexation – Garden Creek Road/O'Malley Property:

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-31 – O'MALLEY-GARDEN CREEK ROAD PROPERTY - 2011

AA.000001182 (24)

WHEREAS, a petition requesting annexation of an area described in said petition was received on June 28, 2011 by the City of Marion; and

WHEREAS, 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 of his investigation.

Adopted this the 19th day of July, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

RESOLUTION NUMBER: R-11-07-19-1

E. Adoption of Revised Pay Grade Assignments:

GRADE	CLASSIFICATION	HIRING RATE	MAXIMUM
7	Equipment Operator I Maintenance Worker Receptionist	21,213	32,617
8	Animal Control and Parking Officer Billing and Collections Clerk Collection/Distribution Technician Equipment Operator II Inventory Specialist Meter Reader Telecommunicator Treatment Plant Operator Trainee	22,832	34,248
9	Administrative Support Specialist Treatment Plant Operator	23,974	35,961
10	Maintenance Technician/Plant Operator	25,172	37,760
11	Crew Leader/Equipment Operator Fire Inspector Fleet Mechanic Laboratory Technician Lead Telecommunicator Senior Treatment Plant Operator Tax Collector	26,432	39,646
12	Accounting Technician Administrative Assistant Fire Equipment Officer / Field Supervisor Police Officer Purchasing Agent Zoning Administrator/Codes Enforcement Officer	27,752	41,629
13	Fleet Maintenance Supervisor/Mechanic		43,711

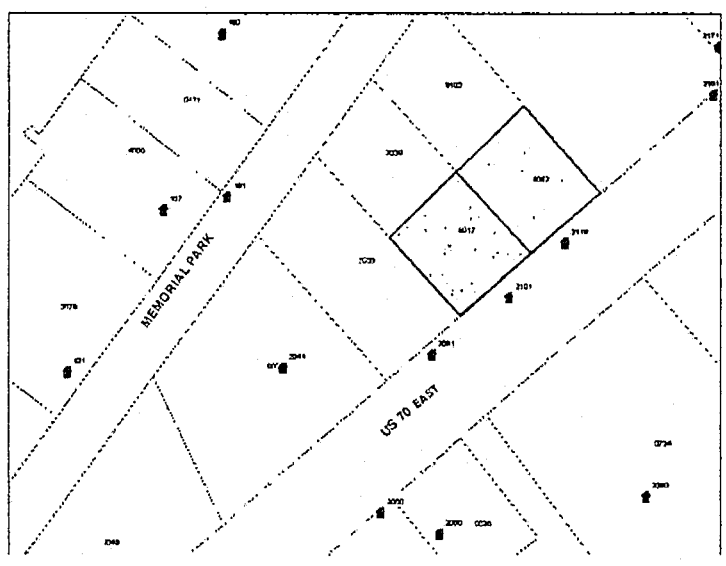
AA.0000011 83 (24)

		29,141	
	Payroll and Personnel Technician Streets Crew Leader I /Maintenance Technician		
14	Crew Leader/ Equipment Operator II Laboratory Supervisor Police Assistant Shift Supervisor Police Officer - Special Assignment Streets Crew Leader II /Maintenance Technician	30,597	45,897
15	Administrative Officer Assistant Public Works Superintendent Assistant Water Utility Maintenance Superintendent Police Investigator Police Shift Supervisor Sanitation Superintendent	32,129	48,192
16	Assistant Fire Chief	33,735	49,367
17	Investigations Supervisor Public Works Superintendent Water Utility Maintenance Superintendent	35,421	53,131
18	Building Codes Inspector Water Treatment Plant Superintendent	37,192	55,790
19	Patrol Commander Wastewater Collection/Treatment Superintendent Planning & Development Director	39,053	58,579
20	Public Utilities/Projects Director	41,005	61,508
22	Fire Chief	45,209	67,812
24	Police Chief Finance Director Public Works Director	49,842	74,764

PUBLIC HEARING – ZONING MAP AMENDMENT – ASSIGN ZONING TO HARRIS/US 70 EAST ANEXATION AREA: Mayor Pro Tem Cuthbertson opened the Public Hearing.

Planning and Development Director Heather Cotton advised that a public hearing was held by City Council on June 7, 2011 adopting the annexation (Ordinance No. O-11-06-07-1) for the Harris/US 70 East annexation area, which includes an existing single-family home.

Ms. Cotton stated that the purpose of this ordinance would be to assign an appropriate zoning designation to the annexation area that is most compatible with the existing uses within the area and to provide a mechanism to regulate such uses. Based on Marion City Code, the subject area is most compatible with Section 21-202, *R-2 General Residential* zoning district. The R-2 General Residential Zoning District is established as a district where the principal use of land is for residential purposes, and which allows some flexibility for commercial uses. While the property includes one single-family residence,



AA.00000184 (24)

it is located in an area that includes a mixture of land uses. Therefore, Staff recommended the R-2 General Residential designation

Ms. Cotton stated that the Planning Board unanimously voted to recommend assigning R-2 General Residential zoning to this property at their regularly scheduled meeting on July 7, 2011.

There were no citizens present to discuss this item.

Mayor Pro Tem Cuthbertson closed the Public Hearing.

Upon a motion by Council Member Martin, seconded by Council Member Owenby, Council voted unanimously to adopt the following Ordinance assigning R-2 General Residential zoning to the Harris/US 70 East annexation area:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
ASSIGN ZONING TO HARRIS/ HIGHWAY 70 EAST ANNEXATION

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to include the Harris/Highway 70 East Annexation Territory, as adopted by City Council Ordinance Number O-11-06-07-1, assigning the property to the R-2 General Residential Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing July 7, 2011.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective upon approval.

Adopted this the 19th day of July 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

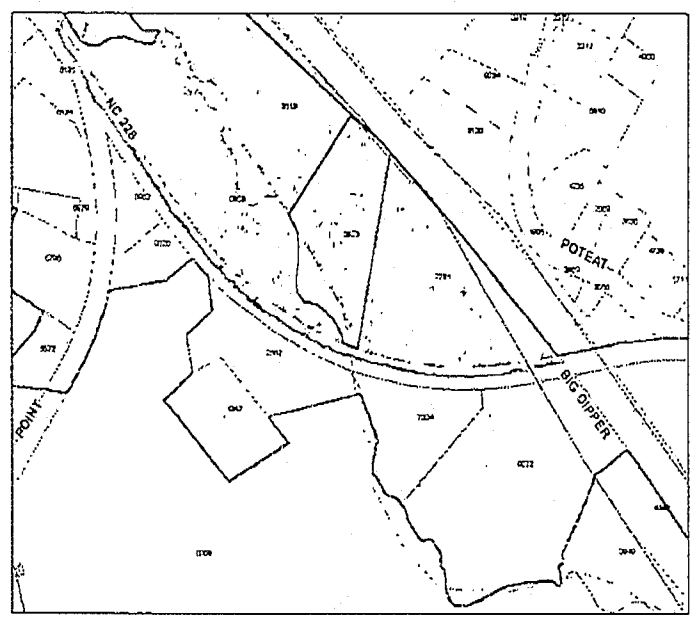
Ordinance Number: O-11-07-19-1

PUBLIC HEARING – ZONING MAP AMENDMENT – ASSIGN ZONING TO WALL/HIGHWAY 226 SOUTH ANNEXATION AREA:

Mayor Pro Tem Cuthbertson opened the Public Hearing.

Planning and Development Director Heather Cotton advised that a public hearing was held by City Council on June 7, 2011 approving the annexation, (Ordinance No. O-11-06-07-2) for the Harris/US 70 East annexation area, which includes an existing industrial building.

Ms. Cotton stated that the purpose of this ordinance would be to assign an appropriate zoning designation to the annexation area that is most compatible with the existing uses within the area and to provide a mechanism to regulate such uses. Based on Marion City Code, the subject area is most compatible with Section 21-206, *M-1 Industrial* Zoning District, which is established as a district to provide areas for manufacturing, warehousing, and other similar uses. The property includes a commercial building approximately 8,000 square feet in size which has been utilized for industrial purposes. In addition, the property is located between two other industrially zoned properties. Therefore, Staff recommended the M-1 Industrial designation.



Ms. Cotton reported that the Planning Board unanimously recommend assigning M-1 Industrial zoning to this property at their regularly scheduled meeting on July 7, 2011.

Mayor Pro Tem Cuthbertson closed the Public Hearing.

There were no citizens present to discuss this item.

Mayor Pro Tem Cuthbertson stated that the business at this property has several portable signs along Highway 226 South.

Ms. Cotton stated that she was aware of these signs and would have City staff pick them up the next day, if they had not already been removed earlier in the day.

Upon a motion by Council Member Owenby, seconded by Council Member Martin, Council voted unanimously to adopt the following Ordinance assigning M-1Industrial zoning to the Wall/Highway 226 South annexation area:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
ASSIGN ZONING TO HIGHWAY 226 SOUTH/WALL ANNEXATION

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to include the Highway 226 South/Wall Property Annexation Territory, as adopted by City Council Ordinance Number O-11-06-07-2, assigning the property to the M-1 Industrial Zoning District.

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing July 7, 2011.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

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Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective upon approval.

Adopted this the 19th day of July 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-11-07-19-2

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

APPROVE 2010-11 FISCAL YEAR TAX SETTLEMENT: The City Manager advised that, under State Law, at the end of each Fiscal Year, Council must review and approve the year end Property Tax Settlement.

The City Manager presented Council with a copy of the 2010-11 Tax Settlement prepared by the Tax Collector for Council's review. The settlement shows that charges and credits for taxes balance, as required by law. The City Manager stated that the City ended up collecting 96 percent of 2010-11 property taxes by June 30. This document must be approved by Council before the current year tax bills can be mailed.

2010 TAX SETTLEMENT
JULY 1, 2010 - JUNE 30, 2011

CHARGES	
Real Property	$ 1,465,071.51
Less: Exemptions	(37,619.10)
Personal Property	247,593.34
Utilities	75,562.03
Discoveries	6,086.13
Late Listing	1,355.05
Total Tax	1,708,049.80
Interest & Penalties	7,737.59
Total Charges	$ 1,707,787.30

CREDITS	
Tax Revenue	$ 1,715,441.64
Less: 1% Discount	(6,341.05)
Refunds - Principal	(108.04)
Late Listing	719.46
Interest & Penalties	7,509.04
Total Revenue	1,717,220.15
ADJUSTMENTS	
1% Discount	6,341.05
Tax Releases: Principal	1,983.37
Late Listing	4.61
Interest	228.58
Tax Refunds: Principal	108.04
Uncollected Late Listing	635.59
Uncollected Tax: Real	60,795.10
Personal	10,488.07
Total Credits & Adjustments	$ 1,707,787.30

Upon a motion by Council Member Martin, seconded by Council Member Owenby, Council voted unanimously to approve the 2010 City of Marion Property Tax Settlement as prepared and presented.

AA.000001187 (24)

APPROVE ORDER OF COLLECTION FOR 2011 PROEPRTY TAXES: The City Manager advised that ,under state law, after the prior year property tax adjustments and tax settlement have been approved, Council action to order the collection of current year taxes is required before tax bills can be mailed.

The City Manager presented Council with a copy of the Order of Collection for 2011 Property Taxes for approval. He stated that City staff anticipate mailing City tax bills by the middle of August, if not sooner.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to approve the following order of collection for 2011 City of Marion property taxes:

ORDER OF COLLECTION OF TAXES

STATE OF NORTH CAROLINA

CITY OF MARION

To the Tax Collector of the City of Marion:

You are hereby authorized, empowered and commanded to collect the taxes set forth in the tax records for the year 2011 filed in the office of the Tax Collector and in the tax receipts herewith delivered to you, in the amounts and from the taxpayers likewise therein set forth. Such taxes are hereby declared to be a first lien upon all real property of the respective taxpayers in the City of Marion, and this order shall be a full and sufficient authority to direct, require, and enable you to levy on and sell any real or personal property of such taxpayers, for and on account thereof, in accordance with law.

Witness my hand, and official seal, this 19th day of July, 2011.

(Seal)

Stephen R. Little
Mayor
City of Marion

ATTEST:

J. Robert Boyette
City Manager/Clerk
City of Marion

REVIEW STREET PROJECT BIDS/CONSIDER CONTRACT AWARD: The City Manager advised that, as authorized by Council in May, staff sought bids for a curb replacement on North Garden Street and Crescent Drive and for a curb and sidewalk replacement on Park Avenue. These bids were discussed by Council at the June 21 Council meeting and were presented to Council again for review, along with an analysis of the bids and available Powell Bill money. The City Manager stated that, on the street side, Council seemed fairly comfortable with the recommendation of Public Works Director Chris Hollifield for the low bid contractor, Harris Grading, to complete the sidewalk and curb replacement on Park Avenue from East Court to Turner Streets and having City crews complete the sidewalk and curb replacement from Turner to Robert Streets (and also on the very short dead end block of Park Avenue past Robert Street if necessary). This approach would save about $21,000 off of the contract price, reducing the contract price to about $132,000. The City Manager reported that, as discussed at the June 21 Council meeting, this would still leave the City with a cushion of about $30,000 in the Powell Bill account and possibly more, if Council decides not to spend $70,000 on street resurfacing in addition to the Park Avenue resurfacing work, which was bid at $39,500 as part of Harris + Grading's overall Park Avenue bid.

AA.000001188 (24)

On the water side, the City Manager advised that Mr. Hollifield has recommended City crews installing the last 800 feet of water line between Robert Street and a point between Turner Street and Cardinal Lane. The low bid contractor, F & S Contractors, would install the remainder of the water line. This approach would reduce the contract price by $29,000, down to $92,000. The City Manager recommended that Council authorize staff to spend up to $90,000 on the contracted water line project. He stated that the City has $128,000 budgeted for contracted projects in Utility Maintenance in the Water and Sewer Fund for 2011-12 and spent about $70,000 in 2010-11. This line item pays for temporary labor in Utility Maintenance and contracted labor for needed projects. The City Manager said that he believed that the City's Water and Sewer Fund could handle an expenditure of $90,000 in this line item, but not any more.

Council Member Clark asked if the City's completion of part of the water and street projects would hold up the contractors. Mr. Hollifield stated that both low bid contractors had extensive experience working with the City and understood how this project would take place, so there should be no issues.

Council Member Clark asked some questions about the details of the sidewalk construction, which Mr. Hollifield answered.

The City Manager stated that this project involves a great deal of money; however, Park Avenue has a lot of needs.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to award the following contracts:

1. For Harris Grading, the low bid contractor for the sidewalk, curb and street resurfacing project, to complete the sidewalk and curb replacement on Park Avenue from East Court to Turner Streets and to complete street resurfacing on Park Avenue from East Court to Robert Streets, for an amount of $132,000. City crews will complete the sidewalk and curb replacement from Turner to Robert Streets and also on the very short dead end block of Park Avenue past Robert Street, if necessary.
2. For F&S Contractors, the low bid contractor for the water line project, to complete a water line replacement on Park Avenue between East Court Street and a point located between Cardinal Lane and Turner Street, for an amount of $90,000. City crews will complete the water line installation between the end of the F&S Contractors project and Robert Street.

REVIEW SIDEWALK/STOP SIGN REQUESTS: The City Manager advised that he received a letter from Linda and Jim Cable of 669 Oak Street, requesting additional stop signs at the East Oak Street/Lamar Street intersection. This area already has speed humps. The City Manager presented Council with a map of the East Oak/Lamar intersection, indicating where the Cables live in proximity to the intersection.

The City Manager further reported that Mr. Lloyd Burleson of School Street called on June 20 to request a sidewalk on Ridge Road between School Street and East Court Street. The City Manager advised Mr. Burleson that the City was aware of the interest in Clinchfield in sidewalks, but that the installation of sidewalks would be difficult or impossible on most streets in the mill village, due to houses being so close to the street. Ridge Road is an exception to this pattern, since houses on that street are set back a good distance from the street. Mr. Burleson was told that the City had asked DOT to fund, as a first step, a sidewalk extension along East Court from Branch Street (at Dr. Hensley's dental office) to Yancey Street at Clinchfield Baptist. The City Manager stated that he told Mr. Burleson that he would pass on his request to Council, but that the City had a backlog of sidewalk requests.

The City Manager presented Council with a copy of the current Street, Sidewalk and Park Priority List. The City Manager advised that this priority list could be reviewed and modified by

AA.000001189 (24)

Council in any way they desire. The City Manager stated that, if Council agrees that the Ridge Road sidewalk should be a priority, guidance would be appreciated regarding where Council wished the project placed on the priority list.

Council Member Doggett stated that she would request that these requests be referred to the Street Committee. She asked if the Ridge Road sidewalk should be added to the Street, Sidewalk and Park Priority List. The City Manager suggested that Council allow the Street Committee to make a recommendation regarding whether a sidewalk on Ridge Road should be added to the priority list and then Council could make the final determination.

Council Member Clark stated that referring them to the Street Committee would be fine. He said he knew these locations well. He stated that it may be a stretch to approve a three-way stop sign at East Oak and Lamar Streets. Council Member Clark stated that he agreed that a sidewalk on Ridge Road was needed, as he often sees people walking on the side of the road. He suggested that an asphalt path would be a much cheaper alternative to installing curbing and a concrete sidewalk.

By consensus, Council agreed to refer these requests to the Street Committee. The Street Committee will review the request and present a recommendation back to Council at a future Council meeting.

REQUEST FOR A LICENSE TO OPERATE A PLACE OF AMUSEMENTS: The City Manager advised that Mr. Jacob Asta submitted an application for a license to operate a place of amusements, with 20 video games and 16 bowling lanes, at Ivan's Restaurant & Bar and Lightning Lanes on Maple Leaf Drive. The Police Department recently determined that Mr. Asta did not currently possess such a license for these establishments.

The City Manager reported that, on May 3, Council approved an ordinance lifting restrictions on selling liquor in places of amusements. Therefore, consideration may be given of Mr. Asta's request for a place of amusements license. As required by the City Code, the Police Department completed a background check and determined that Mr. Asta does not have a criminal record. The City Manager reported that the City Code states that Council shall not issue a license for a place of amusement to any person who:

(1) Has been convicted of unlawfully selling intoxicating liquors or narcotic drugs; or

(2) Is not a citizen or resident of this state; or

(3) Is an excessive user of intoxicating liquor or narcotic drugs; or

(4) As a result of the criminal background check, is deemed by the City Council to be unfit to conduct a business for which the license is applied.

The City Manager advised that the criminal background check indicates that Mr. Asta appears to satisfy the requirements listed above. The City Manager stated that, therefore, Council could approve a license for Mr. Jacob Asta to operate a place of amusements at Ivan's Restaurant & Bar and Lightning Lanes on Maple Leaf Drive if they so desired.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to approve the request of Mr. Jacob Asta for a license to operate a place of amusements, with 20 video games and 16 bowling lanes, at Ivan's Restaurant & Bar and Lightning Lanes on Maple Leaf Drive.

SCHEDLE PLANNING SESSION: The City Manager advised that he would recommend that Council schedule a Planning Session for late July or August to review the draft Comprehensive/Land Use Plan and to discuss other items as necessary.

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Council agreed by consensus to schedule the Planning Session for Tuesday, August 9 at 7:00 P.M. at City Hall.

Council Member Clark stated that he wanted to make sure adequate time was given in advance of the meeting and at the Planning Session to review the proposed Plan, which he said was vital to shape the future growth and development of the City. Council Members agreed that they would devote the time at the Planning Session to adequately review and discuss the document.

Planning and Development Director Heather Cotton stated that she would have the draft Comprehensive/Land Use Plan ready for Council to review one week before the August 9 Planning Session.

ADD ON ITEM–CONSIDER APPROVAL OF MOBILE FOOD VENDOR APPLICATION: Planning and Development Director Heather Cotton advised that she had received an application from Mr. Jon Hartman of Holly's Deli & Desserts to operate a mobile food vendor cart in the West Henderson Street Parking Lot in front of the Farmer's Market. Mr. Hartman has recently purchased the hot dog cart formerly operated in front of the Gazebo on North Main Street by Lisa Miller. Mr. Hartman will operate the cart in the same way as Ms. Miller, except for having a different location. Ms. Cotton stated that Mr. Hartman has met all of the requirements, of the new ordinance, except for obtaining the necessary liability insurance, signing a City Release and Hold Harmless Form and paying the application fee.

Ms. Cotton stated that Council action is needed to approve the application.

Upon a motion by Council Member Clark, seconded by Council Member Doggett, Council voted unanimously to approve the application of Mr. Jon Hartman of Holly's Deli & Desserts to operate a mobile food vendor cart in the West Henderson Street Parking Lot in front of the Farmer's Market, subject to Mr. Hartman meeting all City Code requirements including, but not limited to, the following:

1. Obtaining the necessary liability insurance
2. Signing a City Release and Hold Harmless Form
3. Paying the required application and license fee.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that the City would be holding the annual Advisory Board/Volunteer Dinner on Thursday, August 11, at 6:30 p.m. in the Community Building. Invitations will be sent to advisory board members and volunteers. Council was invited to attend this dinner if at all possible and to bring a guest.

The City Manager advised that Ms. Jennifer Fox of Tremont Street had called him on July 6 and later sent an e-mail. Ms. Fox believes that Council should adopt an ordinance to fine people who do not recycle and also not allow people to leave their garbage cans out by the street at all times. The City Manager advised that Council could discuss these ideas more at the next Planning Session is they so desired. Council expressed no objection to discussing this matter at the next Planning Session.

The City Manager reminded Council that the August 2 Council meeting had been cancelled. This will give Council the opportunity to attend the National Night Out event, scheduled for 6:00 p.m. that evening on Main Street. The next Council meeting will be held on August 16.

The City Manager advised that the MACA reception/tour has been scheduled for Thursday, July 28 at 5:30 p.m. at MACA.

AA.000001191 (24)

The City Manager advised that the $6.6 million Wastewater Improvements Project was completed in late June. Everything is now operational at the Wastewater Plant. The City Manager advised that he had directed Larry Carver to work on addressing weedeating, pressure washing and painting at the Wastewater Plant as soon as possible. The weed control and landscaping were addressed immediately. The pressure washing and painting will be scheduled and completed as soon as possible.

The City Manager reported that, regarding the resurfacing of roads at the Wastewater Plant, Public Works Director Chris Hollifield had estimated that it would cost about $40,000 to complete this work. While City staff had identified the resurfacing as a future need, the resurfacing work was not included in the 2011-12 budget. The City Manager suggested that this expenditure will need to worked into a future budget, unless Council wishes to direct that the resurfacing work be completed sooner.

The City Manager advised that two portable toilets have been installed at the Joseph McDowell Historic Catawba Greenway.

The City Manager advised that the City's contractors were making great progress with the extension of water and sewer service on Sugar Hill Road to I-40. Water service was available to the Wal-Mart Supercenter prior to July 1, but the developer was not ready on their side of the connection. There is an outside chance that sewer service may be available by the desired date of August 1, although it is more likely that service will be available by September 1. The City will be in a position to provide pump and haul sewer service, if necessary, to the Wal-Mart Supercenter development on or around August 1.

The City Manager reported that the City signed the contract with DOT on July 1 for the implementation of the Downtown Streetscape Project and paid the $315,000 up front contract amount to DOT later in July. DOT's contractor, Maymead, should start work in mid-July on the implementation of the Downtown Streetscape Project, to include installation of concrete bumpouts and decorative crosswalks on Main Street, along with milling and resurfacing of Main Street in the downtown area. Maymead is making great progress with spot milling and resurfacing of East Court Street to the City Limits and on North Main Street to Legendary Ford.

Council Member Doggett stated that she had never seen DOT move so fast as they have on the North Main Street milling and resurfacing project.

The City Manager stated that, without objection from Council, he was looking at holding the Second Annual Marion 101 Citizens Academy in September and October. Council Member Doggett suggested that facility tours be held as early as possible in the schedule, to take advantage of daylight hours. The City Manager stated that he agreed and would seek to schedule the tours accordingly.

The City Manager stated that he would like to personally thank Administrative Assistant Debi Sherlin, the Public Works Department and the Police Department for their work during the Coach Roy Williams Historic Marker Dedication and visit the previous day.

The City Manager advised that Chief Brooks is attending a conference and thanked Patrol Lieutenant Jamie Harklerode for attending the meeting.

The City Manager stated that it was with great sadness he advised that Public Works Director Chris Hollifield is leaving the City of Marion to take a position with the City of Durham. Mr. Hollifield advised that he was moving to be closer to his wife's family. Council Members stated that they were sorry to see Mr. Hollifield leave Marion, but wished him well with the move and new job.

AA.000001192 (24)

COUNCIL MEMBER COMMENTS:

Council Member Doggett stated that the City's contracted street right of way mowers were missing areas of grass near the curb and trees on North Garden Street.

Mayor Pro Tem Cuthbertson stated that Council Member Clark stated that mowers on Rutherford Road are going too fast and missing areas of grass as well. He also advised that grass between the rock wall and fence on the Fleming Avenue side of Marion Elementary school has not been mowed.

The City Manager stated that City staff would address the right of way mowing issues with the City's contractors. He advised that Marion Elementary School had always mowed the area between the rock wall and fence and that he would address this issue with the School.

Mayor Pro Tem Cuthbertson stated that he had been contacted about an abandoned house on 185 Circle Street in Clinchfield. He said that the property needs mowing and that the house needs to be looked at for possible demolition. The City Manager stated that City staff would look at the location and take necessary action.

ADJOURNMENT: Upon a motion by Council Member Doggett, seconded by Council Member Martin, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion held a Special Meeting at the McDowell Arts Council Association building at 50 South Main Street on Thursday, July 28, 2011 at 5:30 P.M.

BOARD MEMBERS PRESENT: Mayor Steve Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members Everette Clark, Juanita Doggett, Billy Martin and Cecil Owenby.

OTHERS PRESENT: Bob Boyette, City Manager; Ms. Jean Mackey; Susan Pyatt, Executive Director and Board Members, McDowell Arts Council Association.

OPENING OF MEETING: Mayor Little opened the meeting at 5:30 p.m.

MACA TOUR: McDowell Arts Council Association (MACA) Executive Director Susan Pyatt welcomed City Council. She led City Council on a tour of the MACA building and discussed MACA plans for expansion and renovation. MACA is planning a multi-phase renovation of their 22,000 square foot building. Ms. Pyatt stated that the total renovation cost could approach $3 million. She outlined possible funding sources for the renovation, including the upcoming Golden Leaf Foundation Community Investment Initiative and other grant sources.

Ms. Pyatt described efforts that MACA has made in recent years to improve the building. She thanked the City for help with providing N.C. STEP funding to assist with preparation of the renovation plans and for help with cleaning out the building in the past. Ms. Pyatt also updated Council on current and planned MACA programs and initiatives.

AA.0000011 93 (24)

Council Members asked questions about the renovation plans and costs, which Ms. Pyatt answered.

Mayor Little and Council Members thanked Ms. Pyatt and MACA Board members for the reception and tour and commended MACA on their plans to renovate the building, their efforts to establish a gift shop in the building and for all the programs held and added in recent years.
No action was taken by Council.

ADJOURNMENT: Mayor Little adjourned the meeting at 6:45 P.M.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion held a Special Meeting on Tuesday evening, August 9, 2011 at 7:00 P.M. in the Conference Room located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Steve Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members Everette Clark, Juanita Doggett, Billy Martin and Cecil Owenby

OTHERS PRESENT: Bob Boyette, City Manager; Heather Cotton, AICP, Planning and Development Director

PLANNING SESSION: The City Council held a Planning Session and discussed the following items:

1. Eastfield Area Sidewalks Community Development Block Grant
2. Idea of Elementary School Student Recognition
3. Possible Mountain Street/Pinecrest Drive/Garden Creek Road Sewer Extension
4. Recycling/Garbage Issues
5. Speed Limits
6. Police Programs
7. Comprehensive/Land Use Plan

No action was taken by City Council on any of these issues. All matters requiring Council action will be placed on the agenda of a future City Council meeting for consideration or included in a future Budget Ordinance Amendment or future budget.

AA.000001194 (24)

Council agreed to schedule the next Planning Session for later in the fall.

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Council Member Owenby, Council voted unanimously to adjourn the meeting.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, 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 16, 2011at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members A. Everette Clark, Juanita Doggett, Billy Martin and Cecil Owenby.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Harriett Thomas, CPA, Finance Director; Mark Brooks, Police Chief; Boyd Phillips, President, Marion Business Association; Freddie Killough, Executive Director, Marion Business Association; Sgt. Rick Gutierrez, Police Investigative Sergeant; Brett Moore, Tax Collector; Jon Padgett, Police Officer.

GUESTS PRESENT: Cynthia Rush, 219 Catawba Drive, Marion, NC; Lawrence Moore 1159 Greasy Creek Road, Marion, NC; Malinda, Ivan and Victoria Gutierrez, 863 Centennial Road, Union Mills, NC; John Reese, 85 Vine Street, Marion, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a 60 second moment of silence.

CONSENT AGENDA: Upon a motion by Council Member Owenby, seconded by Council Member Martin, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – July 19, 2011 Regular City Council Meeting Minutes, July 28, 2011 City Council Special Meeting Minutes and August 9, 2011 City Council Planning Session Minutes

B. Receive Certificate of Sufficiency – Garden Creek Road/O'Malley Property Annexation

CERTIFICATE OF SUFFICIENCY – O'MALLEY – GARDEN CREEK ROAD PROPERTY ANNEXATION – 2011

To the City Council of the City of Marion:

I, J. Robert Boyette, City Clerk, do hereby certify that I have 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.

AA.000001195 (24)

In witness whereof, I have hereunto set my hand and affixed the seal of the City of Marion this the 20th day of July, 2011.

(SEAL)

J. Robert Boyette, City Clerk

C. Adopt Resolution Fixing the Date of Public Hearing on the Question of Annexation – Garden Creek Road/O'Malley Property Annexation

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31 – O'MALLEY/GARDEN CREEK ROAD

WHEREAS, a petition requesting annexation of the contiguous 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 contiguous area described herein will be held at City Hall at 7:00 P.M. on Tuesday, September 6, 2011.

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

TRACT ONE
BEING lots Nos. 42, 43, 44, 45, 46, 47 and 48 in Block C, Map 4, of the J.L. Morgan Pleasant Garden Farm.

Each of the above numbered lots front 25 feet on the West side of the old Macadam Highway and runs back to the center of Garden Creek according to a map of the above described property which is recorded in the Office of the Register of Deeds for McDowell County, North Carolina, in Map Book 1, at page 54, reference is here made to that certain deed dated June 27, 1968, by Annie May Nunnally, widow, to Matthew A. Nunnally, Jr., and recorded in Book 199 at page 513 of the McDowell County Public Registry.

AND BEING THE SAME LANDS described in and conveyed by deed dated July 26, 1976, from Charles Otto Nunnally and wife, Madeline Nunnally, et als to Buddy Biggerstaff and wife, Marjorie Biggerstaff, the same being duly recorded in the Office of the Register of Deeds for McDowell County, to which reference is hereby made.

TRACT TWO
BEING LOTS Nos. 39, 40, and 41 in Block C, Map Four of the J.L. Morgan Pleasant Gardens Farm, each of the above lots fronting 25 feet on the West side of the old Macadam Highway and running back to the center of Garden Creek, according to map of the above described property which is recorded in Map Book 1, at page 54, of McDowell County Deed and Map Records, to which said map reference is here made for a full and complete description of the property herein conveyed.

AND BEING the same lots of land described in that certain Deed from R. Earl Freeman and wife, Helen Louise Freeman, to A. Bryant Hoyle and wife, Mary Rena Hoyle, dated December 8, 1946, and which appears of record in the Office of the Register of Deeds for McDowell County, North Carolina, in Book 100, at page 455, to which said deed reference is herein made.

Reference is also herein made to the Last Will and Testament of Rena M. Hoyle which appears of record in the Office of the Superior Court of McDowell County, North Carolina.

Reference is also herein made to that Deed given by Ellen J. Crawford to Mrs. Rena M. Hoyle, dated December 4, 1947, and recorded in Deed book 100, page 435, in the McDowell County Registry.

Section 3. Notice of the public hearing shall be published once 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 the 16th day of August, 2011.

Stephen R. Little, Mayor

AA.000001196 (24)

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-11-08-16-1

D. Approve Records Retention and Disposition Schedule

MUNICIPAL
Records Retention and Disposition Schedule

The record retention and disposition schedule and retention governing the records series listed herein are hereby approved. In accordance with the provision of Chapters 121 and 132 of the General Statutes of North Carolina, it is agreed that the records do not and will not have further use or value for official business, research, or reference purposes after the respective retention periods specified herein and are authorized to be destroyed or otherwise disposed of by the agency or official having custody of them without further reference to or approval of either party to this agreement. It is further agreed that these records may not be destroyed prior to the time periods stated: however, for sufficient reason they may be retained for longer periods. This schedule is to remain in effect from the date of approval until it is reviewed and updated.

APPROVAL RECOMMENDED

City/Town Clerk

Chief Administrative Officer/
City Manger

David Brook, Director
Division of Historical Resources

Mayor

APPROVED

Linda A. Carlisle, Secretary
Department of Cultural Resources

Municipality:_____

EXECUTIVE SUMMARY

According to G.S. 121-5 and G.S. 132-3, you may only destroy public records with the consent of the Department of Cultural Resources. This schedule is the primary way DCR gives its consent. Without approving this schedule, your municipality is obligated to obtain the Department's permission to destroy any record, no matter how insignificant.

Each record series listed on this schedule has specific disposition instructions which will indicate how long that series must be kept in your offices. In some cases, the disposition instructions are simply "Retain in office permanently," which means that those records must be kept in your offices forever.

The Department of Cultural Resources provides microfilming of the minutes of major decision-making boards and commissions in a municipality. Once those records are filmed, we will store the silver negative (the original) in our security vault.

AA.000001197 (24)

There is a nominal fee for filming and duplicate film. Contact the analyst assigned to your municipality for the most current information.

E. Approve Amendment to City Financial Plan for Internal Service Fund

CITY OF MARION, NORTH CAROLINA
2010-2011BUDGET ORDINANCE
(Fifth Amendment)

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

Section 1. That the Budget Ordinance for the City of Marion, North Carolina for the fiscal year 2010-11 as adopted by the Marion City Council on the 15th day of June, 2010 is hereby amended as follows:

INTERNAL SERVICE FUND

a. Internal Service Fund Expenses, Account Number 35-660-3300, Inventory Purchases, is increased from $195,000 to $206,000.

b. Internal Service Fund Revenues, Account Number 35-399-0000, Fund Balance Appropriated is increased from $77,949to $88,949.

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 16th day of August, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–11–08–16–2

F. Receive Report of Disposal of City Property

AA.0000011198 (24)

Sold Asset Report

Marion, NC
Date range: 07/01/2010 - 08/30/2011

Description	Sold Amount
1999 CHEVROLET C3500 UTILITY TRUCK	$3,505.00
Sectional Rodder	$2,000.00
Lot of 5 Navman GPS Trackers	$14.00
Navman GPS Trackers	$53.99
Navman GPS Trackers	$10.00
Motorola Mobile Radio Modem	$723.21
Motorola Mobile Radio Modem	$18.99
Chairs	$11.00
Laptop Cases	$11.00
Speakers and Amp	$260.00
Assorted Computer Parts	$17.00
Kerosene Heater	$21.00
Patrol Car Cages	$18.00
Closed Circuit TV Cameras	$511.50
Slide Projector	$16.00
Canon EOS 650 35mm SLR	$74.00
3 Camcorders	$51.00
Spalding Outbound 3 Bike Carrier	$8.00
Closed Circuit TV System	$55.00
Riot Helmets	$70.00
Assorted Electronics	$5.00
Assorted Obsolete Items	$5.00
Lifestyler CardioFit Plus	$33.00
Stationary Bike	$21.00
Stair Stepper	$22.00
Canon PowerShot S1-IS	$92.00
	$7,608.69

PRESENTATION OF COMMENDATION: Police Chief Mark Brooks advised that it is with great pleasure that he present a commendation to Investigative Sergeant Sgt. Rick Gutierrez for his great work with a recent case. Chief Brooks stated that, on October 21, 2009, Sgt. Gutierrez met with U.S. Postal Inspector Chris Davis at the Police Department. That day, a former employee of the American Boosters had filed a complaint with Sgt. Gutierrez about the business practices of American Boosters owner, Mimi Clark. Just prior to this time, Sgt. Gutierrez had accumulated a complaint from an orthodontist in Oklahoma against American Booster and Clark. American Boosters owed the orthodontist money for products not shipped. Sgt. Gutierrez provided a copy of the orthodontist's complaints along with supporting documentation to Inspector Davis. Sgt. Gutierrez interviewed the former employee which helped attain a Federal search warrant for the business. Sgt. Gutierrez answered many other customer complaints and relayed that information to Inspector Davis. Sgt. Gutierrez helped with the preparation of the search warrant, which was executed on November 23, 2009 at the American Booster Club business located at 675 East Court Street in Marion. On June 8, 2011, a Grand Jury indicted Mimi Wyatt Clark with six counts of Wire fraud. Clark was arrested by agents on June 10, 2011. Sgt. Gutierrez assisted agents in the arrest of Clark that day. Over 700 victims have been identified, with a total loss over $1.1 million dollars from 2006 through 2009. Chief Brooks stated that the actions of Sgt. Gutierrez bring great honor to the City of Marion, the Marion Police Department and to himself.

Chief Brooks also described the work of Sgt. Gutierrez in improving the Police Department's ability to investigate child abuse cases. He noted that Sgt. Gutierrez has formed a great working relationship with the Gingerbread House, a non-profit organization that assists with such cases. Chief Brooks stated that Sgt. Gutierrez has attended many training classes on child abuse investigations and is becoming nationally known as a bilingual investigator.

Mayor Little, Council Members and the City Manager thanked Sgt. Gutierrez for his great work and congratulated him on receiving this commendation.

AA.000001199 (24)

INTRODUCTION OF NEW EMPLOYEES: Chief Brooks introduced the City's newest Police Officer Mr. Jon Padgett. Jon recently filled a vacant Police Officer position and has been working for about two weeks. He is a native of Marion.

Chief Brooks said that he told Jon that if he would treat every citizen like he would want his family to be treated, he would do a great job for the City of Marion.

Mayor Little, Council Members and the City Manager welcomed Jon to the City staff.

Finance Director Harriett Thomas introduced the City's new Tax Collector, Ms. Brett Moore. Brett is also a native of McDowell County and lives in Marion. She has 15 years of experience in tax collection with the McDowell County Tax Department, plus several additional years of experience with the McDowell and Burke County Departments of Social Services. Ms. Thomas stated that Brett is off to a great start with the City.

Mayor Little stated that Brett has many skills. He said he was aware of many people she helped while working with the Department of Social Services and also noted that Brett ran for City Council many years ago.

The City Manager stated that Brett had been a great fit with the City staff and that he has no doubt she will do a great job.

Ms. Thomas added that Brett's familiarity with the County Tax Department is working well for the City. She noted that Brett was working hard to get City tax bills out in the next week, despite being late receiving the City's tax scroll from the County due to the recent revaluation.

Mayor Little, Council Members and the City Manager welcomed Brett to the City staff.

PUBLIC APPEARANCE – MS. CYNTHIA RUSH – DISCUSS EMERGENCY PREPAREDNESS OPEN HOUSE ON AUGUST 20: Ms. Cynthia Rush appeared before Council representing the Church of Jesus Christ of Latter Day Saints on Airport Road.

Ms. Rush stated that her church is having an Emergency Preparedness Open House on Saturday, August 20 from10:00 A.M. to 1:00 P.M. The Open House will focus on many areas of emergency preparedness and the Church is very excited about the event.

Topics will include Shelter in Place, Sheltering your Flock, 72 Hour Kits, Family Evacuation, Water Storage, Financial Planning, Electronic Planning, Gardening in Place and Communications.

Ms. Rush presented Mayor, Council Members and the City Manager with an invitation to the event.

Mayor Little thanked Ms. Rush for coming to the meeting and advised that he planned to attend the event.

PRESENTATION – PROPOSED DOWNTOWN WALKING TRAIL BROCHURE: The City Manager advised that this item is not yet ready to present to Council and will be placed on a future Council agenda.

DISCUSSION OF TREE CONDITIONS ON CITY PROPERTY – LAWRENCE MOORE: The City Manager and the City's contracted landscaper, Lawrence Moore, gave Council a presentation on various Tree Board recommendations, as follows:

AA.000001200 (24)

Tree Board Recommendations

August 16, 2011

Community Building Park

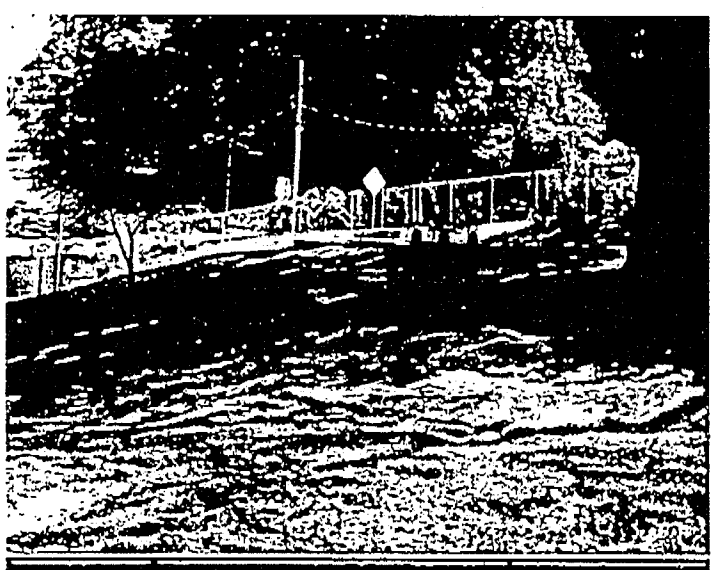
- Remove large oak tree deemed safety hazard
- Estimate of $1,400 to remove
- Schedule removal and announce through news release – park will need to be closed while tree is removed



Community Building Park

- Plant as many as three medium to large trees in place of oak tree
- Fundraising campaign may be pursued to lessen City costs
- Plant trees after Community Building Park improvements are done, including grading work and retaining wall

AA.00001201 (24)



Community Building Park

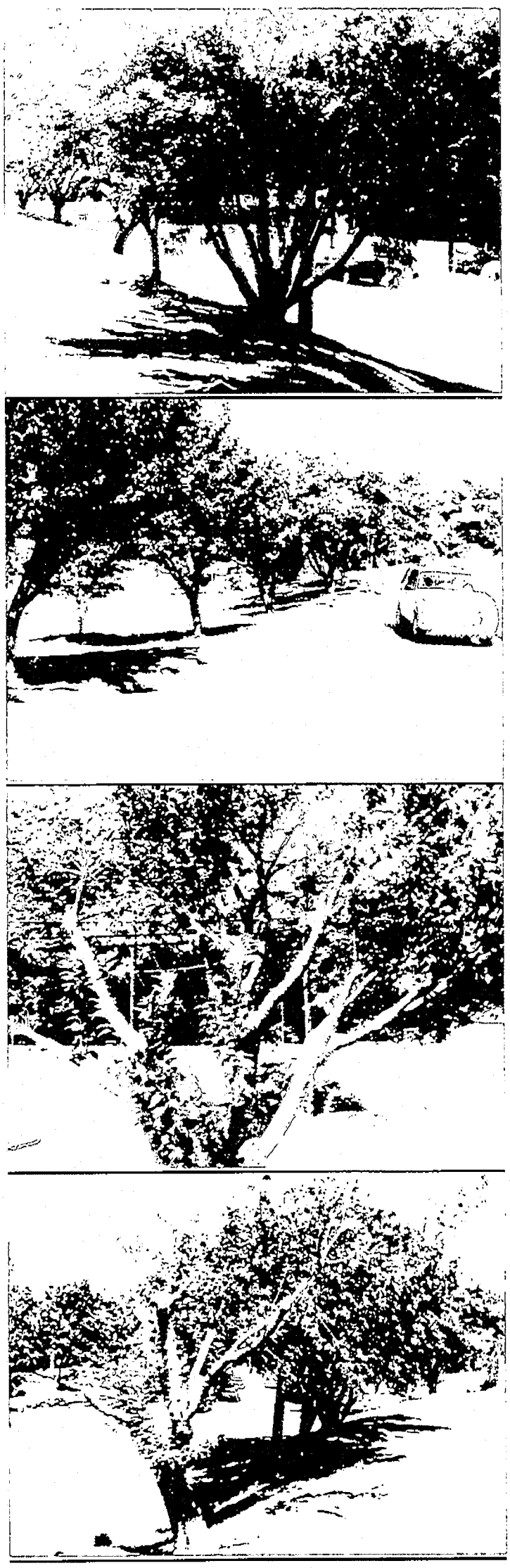
- Complete major pruning of two poplar trees
- Estimate of $500 for this work
- Goal is to preserve these trees for as long as possible, since they appear to be healthy



Oak Grove Cemetery

- 10-12 cherry trees in Cemetery next to Rutherford Road are dead or dying
- City has attempted to save these trees in past, but trees are planted too close together and compete with each other for water
- Recommendation is to remove every other tree to reduce replacement costs and to improve health of remaining trees

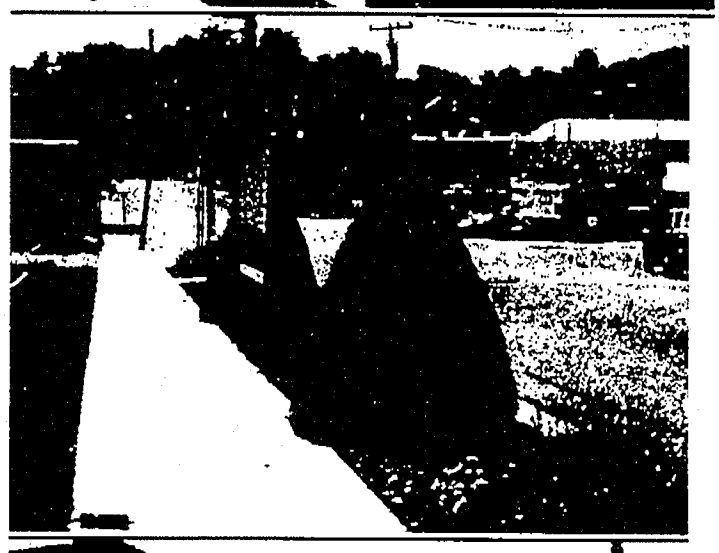
AA.000001202 (24)



Foster Holly Trees

- Pursue different style of pruning similar to what Lawrence Moore has started doing in West Henderson Street Parking Lot
- New pruning style could be used for trees behind Farmer's Market Shelter, on West Henderson, Logan, East Court and South Garden Streets
- Look at lighting trees for Christmas, if feasible



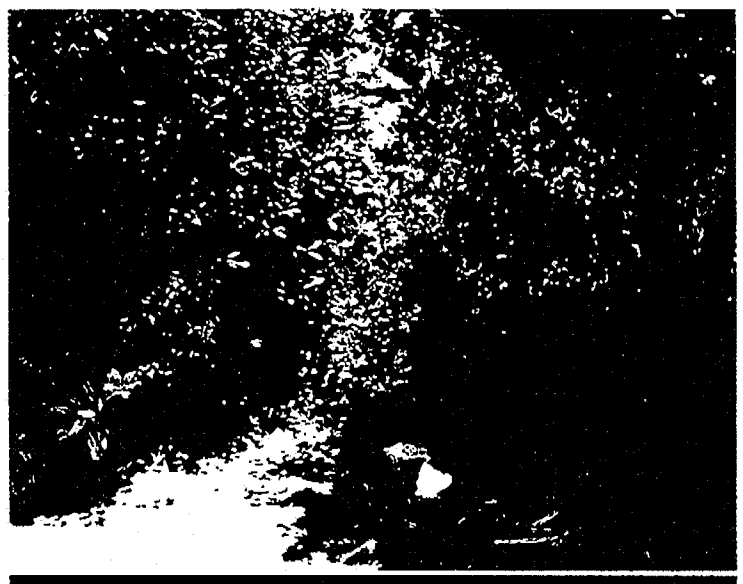


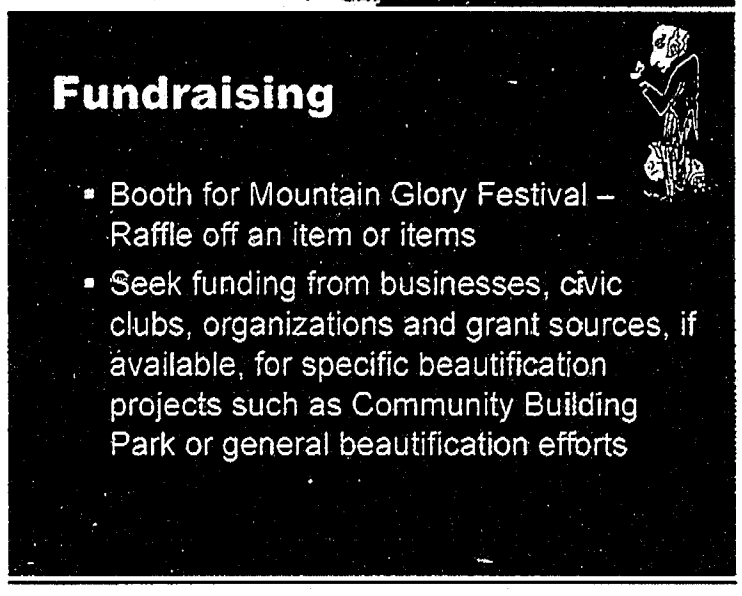


AA.000001204 (24)



AA.000001205 (24)





Mr. Moore and Tree Board Member John Reese provided details about the conditions of the trees listed in the recommendations.

A discussion was held about the recommendations.

Council discussed giving the wood from the oak tree to be removed in the Community Building Park to McDowell Mission Ministries, an organization to which the City can legally donate money or property.

Council Member Clark made a motion that the oak tree in the Community Building Park be removed and the two poplar trees in the Park be pruned, as recommended by the Tree Board, with the wood from the oak tree being authorized for donation to an organization to which the City can legally donate property, with all debris being promptly cleaned up and with the direction being given that future trees will be planted in place of the oak tree at a future time, after needed construction work in the Park takes place. Mayor Pro Tem Cuthbertson seconded the motion. All members voted in favor and the motion passed.

Mayor Pro Tem Cuthbertson stated that Tree Board Members do not ever want trees to be cut down without good reason, but it is evident that the oak tree in the Community Building Park is a hazard and needs to be removed.

Council Member Clark stated that, years ago, City Council talked about creating a beautification committee. He advised that the Tree Board did not wish to fill that role at that time, but that he feels there are areas in the City that need beautification. Council Member Clark said he appreciates the initiative of the Tree Board to want to replant trees at the Community Building Park to replace the oak tree to be removed.

AA.00001206 (24)

Mayor Little stated that it is, because of good ideas like has been discussed tonight, that he would love to see Council have a Planning Session, with no agenda, so that there could be discussion about Council's vision for the City in the future.

Council Member Clark stated that he would like to see the holly trees left like they are, especially along sidewalks. Council Member Doggett stated that she would also like to see the holly trees left as they are.

No action was taken on the foster holly trees.

Upon a motion by Council Member Doggett, seconded by Council Member Clark, Council voted unanimously to approve the recommendation of the Tree Board to remove every other cherry trees from the front of Oak Grove Cemetery.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

PUBLIC APPEARANCE – MARION BUSINESS ASSOCIATION:
Mr. Boyd Phillips, President of the Marion Business Association (MBA), presented the following reports of MBA activities for the past quarter and for Fiscal Year 2010-11 to Council:

Marion Business Association, Inc.
Where Main St. Meets The Mountains

(828) 652-2215 PO Drawer 700, Marion, North Carolina, 28752

July, 2010 - June 2011
Annual Report to Marion Business Association Membership

Economic Development Report

19- New Businesses Opened –
Dreamline Fashions
Open Flame
Eddie's Burrito
Low Country Dining
King Law Office
Elizabeth's Special Finds
McDowell OB/GYN and Sugar Hill Primary Care
Voices of McDowell Center
What's Kicking
Audrey's Thrift Shop
Alterations Shop
Open Door to Health
Antique Treasures
2nd Chance Diner
Z&R Cabinet
Catawba Vale Cafe
Donut Shop
Eddie's After 5
Frosty's IceCream

Scheduled to Open:
Main Street Pub
Tractor Supply
Hernandez Ice Cream

12- Businesses Closed – McDowell House Tea Room, Hwy 70 West
2 Angels Thrift Shop
Delites – North Main Street
Bridal Showcase
KT's Bargains

Active MBA Committees
MBA Board of Directors
Events & Promotion Committee
Economic Development Committee
Community Innovators
Mountain Glory Festival Committee
Historic Marion Tailgate Market
Business for Breakfast

Other Committees MBA Supports -
MEDA
McDowell House
Veterans Memorial Wall

AA.00001207 (24)

Affordable Tractor
Audrey's Thrift Shop
Antique Treasures
Domino's Pizza
Natural Wood
Caffeined Underground – West Henderson Street
Dreamline Fashions

Business Opportunity Inquiries - 9
Business Loan Inquiries – 7
Business Grant Inquiries – 10
Business Visits – 177
Property Referral Inquiries – 5
Property Owner Contacts w/ available bldgs - 5
Contacts with interested Commercial Developers – 3
New Businesses Breaking Ground – 0
Façade Grant Inquires – 18
Façade Grant Awarded – 6 (MBA & MEDA Historic Marion Façade Grant Program)

Other Economic Activity:

6 Successful Breakfast Roundtable Meetings
Historic Marion Façade Grants – Awarded 6 grants to downtown businesses located in City. Funded from MBA and MEDA.
Roundtable Meetings sponsored by Community Innovators. Very good meetings.
Partnered with MTCC Small Biz Center for REAL class. Had 18 participants finish the entrepreneur class with a completed business plan.
Attended Micro Loan training at NC Rural Center. The MBA is an intake office for Rural Center Micro Loans.
MBA worked with local veterans on McDowell County Salute to Veterans, May 11-16
Historic Marion Tailgate Market opened May 17.
MBA continues to meet with the WNC Rail Committee to promote passenger rail service to WNC.
MBA continues to maintain listing of commercial properties in the City of Marion.

Special Events Report

July 4th – Great crowd, great event. Very well attended!!
August 7 – Sidewalk Yard Sale
August 6 – First Friday Concert
September 6 – Labor Day Concert @ Depot
October 9, 27th Annual Mountain Glory Festival
October 26 – Historic Marion Tailgate Market Fall Festival = Trick or Treating for the kids
November 21 – Marion Christmas Parade. Very well attended and good entry participation.
December 2 – Melodies on Main – Live Santa for the children, craft-making Christmas presents
December 31 – Rotary of Marion's New Year's Eve Celebration – 2nd great event!
January – March is Events' planning time.
April 22 – Easter Egg Hunt with YMCA. The children had a great time and loved Mr. & Mrs. Bunny
May 7 – Sidewalk Yard Sale – Great Day!!!
June 3 – 5th Livermush Festival – Great event!! "It's a Squeal!"

Volunteer Hours Committed – 557

Business for Breakfast

All Small Businesses are Welcome! For more information call - 652-2215
Marion Business Association and MTCC Small Business Center
Future Breakfast for Business Dates
Friday, July 15, 2011
Friday, September 16, 2011
Friday, November 18, 2011
Friday, January 20, 2012
2010 Friday, March 16, 2012
Friday, May 18, 2012

AA.000001208 (24)

April - June, 2011 Quarterly Report to Marion City Council
August 9, 2011

Economic Development Report:

New Businesses Opened – 1
Dunk & Grind
New Owners or Relocations - 0
Businesses Closed – 6 (Caffiend Underground, Dreamline Antique Treasures, Audrey's Thrift, Affordable Tractor, Second Chance Diner)
Business Opportunity Inquiries – 10
Business Technical Assistance Request – 1
Referred to REAL or SCORE - 5
Business Loan Inquiries – 3
Business Grant Inquiries – 1
Business Visits - 59
Property Referral Inquiries – 3
Property Owner Contacts w/ available bldgs. – 3
Contacts with interested Commercial Developers – 0
New Businesses Breaking Ground - 0
Façade Grant Inquires – 2
Façade Grant Awarded – 1
Sign Grant Inquires – 1
Sign Grant Awarded - 0

Active MBA Committees
MBA Board of Directors
Events & Promotion Committee
Economic Development Committee
Community Innovators
Mountain Glory Festival Committee
Historic Marion Tailgate Market
Business for Breakfast

Other Committees MBA Supports -
MEDA
McDowell House
Veterans Memorial Wall

Other Economic Activity:

MBA sponsored and conducted to one Business for Breakfast, a small business networking event held bi-monthly. Participation is a cross-mix of the business community and open to all small businesses. Business to business tour of downtown.
MBA continues to work with the WNC Rail Committee & Rep Ray Rapp to restore passenger rail service to WNC.
MBA maintains listings of commercial properties in the City of Marion.
MBA collaborated with McDowell County, MEDA and City of Marion to create the Historic Marion Façade Grant program for downtown property owners. Extended grant into May. All funds have been granted out.
Downtown retailers reported very good sale day for the May 7 Sidewalk Yard Sale. Downtown promotions continue to attract shoppers.

Special Events Report

April – Partnered with YMCA for Easter Egg Hunt.
May – Sidewalk Yard Sale. Historic Marion Tailgate Market opened.
June – Livermush Festival. Annual MBA Membership meeting.

Volunteer Hours Committed – 266.50

Marion 2011 Calendar of Events

Saturday, April 23 – Easter Bonnet Parade @ YMCA
Saturday, May 7 – Sidewalk Yard Sale – Main Street
Tuesday, May 17 – Historic Marion Tailgate Market opens @ 3:00 PM
Friday, June 3 - First Friday Concert & Livermush Festival – Main Street
Monday, July 4 – Independence Day Celebration
Monday, July 25 – Folkmoot @ East Junior High
Tuesday, August 2 – National Night Out – Main Street
Friday, August 5 – First Friday Concert
Saturday, August 6 – Sidewalk Yard Sale – Main Street
Monday, September 5 - Labor Day Concert @ Historic Depot – Terry McKinney
Saturday, October 8 – Mountain Glory Festival - Main Street
Tuesday, October 25 – Fall Festival @ Tailgate Market
Sunday, November 20 – Christmas Parade - Main Street
Thursday, December 1 – "Melodies on Main" Christmas Celebration
December – Blue Ridge Craftshow @ MACA
December 31 - Marion Rotary New Year's Eve Celebration

Every Thursday Night, 7:00 PM - Bluegrass Music Jam @ Depot

AA.000001209 (24)

Historic Marion Tailgate Market
Tuesdays, May 17 – October 25, 3:00 PM – 6:00 PM
Saturdays, July – August, 9:00 AM – 12 Noon

Business for Breakfast
Friday, February 4
Friday, March 18
Friday, May 20
Friday, July 15
Friday, September 16
Friday, November 18

Mayor Little thanked Mr. Phillips for his reports and for the continued efforts of the MBA.

STREET COMMITTEE RECOMMENDATIONS: The City Manager advised that he Street Committee met on July 28 and looked at the request for a three way stop at the Lamar Street/East Oak Street/Virginia Road intersection. As indicated on a map presented to Council, traffic on Lamar Street currently has to stop at this intersection. The Street Committee recommended the placement of a stop sign to require traffic coming from Virginia Road to stop at the intersection. According to a long time resident who lives at this intersection, this was the traffic pattern in place for many years. This gentleman felt that the placement of this stop sign would help with speed and safety issues. Traffic coming from East Oak Street toward the intersection would not need to stop. Traffic going in this direction must go over a speed hump not far from the intersection, which cuts down on speeding in this direction. The City Manager presented Council an ordinance that Council could adopt to authorize the placement of a stop sign on Virginia Road at East Oak Street.

Upon a motion by Council Member Owenby, seconded by Council Member Martin, Council voted unanimously to accept the recommendation of the Street Committee and to adopt the following Ordinance approving the
placement of a stop sign on Virginia Road at Lamar Street:

ORDINANCE
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 3. Section 18-239 is amended by adding the following:

STREET NAME	**REGULATION**	**REG. APPLICATION**
VIRGINIA ROAD	STOP SIGN	AT LAMAR STREET(CF)

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 16th day of August, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-11-08-16-1

AA.000001210 (24)

The City Manager reported that the Street Committee also looked at the request for a sidewalk on Ridge Road. As suggested by Council Member Clark at the July 19 Council meeting, the Street Committee liked the concept of adding a five to six foot wide bicycle/pedestrian lane paved in asphalt to the side of Ridge Road. Such an asphalt strip would be much less expensive than adding concrete curb and sidewalk and would be fairly easy to construct along Ridge Road and Church Street to East Court Street. City staff are developing some cost estimates comparing an asphalt strip to a concrete curb and sidewalk. The City Manager said that he would present these estimates to Council when they are prepared. He added that DOT would still need to construct and/or fund a sidewalk on East Court Street from Branch to Church Streets. The City Manager stated that he met with Doug McNeal with DOT on August 5, who thought that such a sidewalk could be feasible. Doug is developing an estimate for this project.

REQEUST FOR USE OF FARMER'S MARKET SHELTER: The City Manager advised that Mr. Ronnie Taylor, on behalf of the band SideStreet, which has played the July 4th Celebration and other local events on multiple occasions, submitted a letter requesting use of the Farmer's Market Shelter on Saturday, April 28, 2012 for a concert featuring local entertainment. The event would be open to the public, but donations would be taken to support local charities. Mr. Taylor requests that City stages be set up for this event. The stages could be set up on Friday and removed on Monday, to avoid any overtime.

Mr. Taylor has spoken with Freddie and has confirmed that there would be no conflict with the Farmer's Market on the proposed date.

The City Manager said that this sounds like a good opportunity to have a free concert that the public could enjoy, to showcase local talent and to help local charities. Mr. Taylor states in his letter that he hopes this could become an annual event. Approval of Council is needed to authorize the use of the Farmer's Market Shelter and City stages for this event.

Council Member Doggett stated that this is a good opportunity to bring people downtown.

Mayor Little stated that he sees this as a positive thing.

Council Member Clark stated that if his only concern was setting a precedent for other people who may wish to use the City stage. He suggested that the City needs guidelines for the use of the stage and may need a fee for such use.

A discussion was held regarding having guidelines for the use of the City stage and a set up and tear down fee charged.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Martin, Council voted unanimously to direct the City Manager to develop recommended guidelines for the use of the stage, to include a set up and tear down fee, for presentation to Council at a future meeting.

DISCUSSION OF WATER AND SEWER CONNECTION – FOOTHILLS PILOT PLANT – AG SERVICES DRIVE: The City Manager advised that, last year, Council agreed to delay billing the water and sewer connection for the Foothills Pilot Plant on Ag Services Drive off of Highway 226 South until six months after the facility opened. The facility was projected to open earlier in 2011, but the construction was delayed due to issues the County had getting a sewer easement across the State's Minimum Security Prison property. Therefore, the billing for the water and sewer connection was to have started this month.

The City Manager presented Council with a copy of an e-mail from Smithson Mills of Mars Hill College, who is overseeing this project, requesting that the water and sewer connection fee billing be delayed until April 1, 2012, which will still be about six months after the facility opens in September or October. This time line is consistent with Council's prior approval to start the

AA.00000121 (24)

billing six months after the opening of the facility, so the City Manager stated that he would recommend Council approval of this request.

Mayor Pro Tem Cuthbertson asked if the approval should be worded to extend until six months after the facility opens. It was the consensus of Council to follow the request, which asked for an extension until April 1, 2012.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to approve the request of Smithson Mills of Mars Hills College to delay the billing for the water and sewer connection for the Foothills Pilot Plant on Ag Services Drive off of Highway 226 South until April 1, 2012.

CONSIDER ADOPTION OF RESOLUTION OPPOSING PROPOSED DUKE ENERGY RATE INCREASE: The City Manager advised that, as previously reported, Duke Energy is seeking permission from the N.C. Utilities Commission for a considerable rate increase. The highest rate increase is proposed for residential customers, at 17 percent. Rates will also increase by 14 percent for industrial customers and government facilities and by 8 percent for outdoor lighting. The total impact of the rate increases on the City would be substantial, not to mention the impacts on individuals and businesses. City Council adopted a resolution opposing the last Duke Energy rate increase in 2009. The City Manager advised that he had prepared a resolution opposing the latest rate increase for Council consideration and would recommend approval and authorize the submission of written comments to the N.C. Utilities Commission opposing the rate increases. As shown on information presented to Council, the N.C. Utilities Commission has scheduled a series of public hearings on the proposed rate increases, including one to be held at the McDowell County Courthouse on Thursday, October 27 at 7:00 p.m.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Doggett, Council voted unanimously to approve the following Resolution opposing the Duke Energy rate increase:

CITY OF MARION
RESOLUTION
OPPOSING VARIOUS ELECTRICITY RATE INCREASES
FOR NORTH CAROLINA

WHEREAS, the City of Marion recognizes the importance of an adequate and reliable supply of electricity at lowest reasonable cost; and

WHEREAS, on July 1, 2011, Duke Energy Carolinas, LLC filed Docket No, E-7, Sub 989 with the N.C. Utilities Commission for a general rate increase to be effective February, 2012; and

WHEREAS, as stated in the filing, the average North Carolina residential bill -- for 1,000 kilowatt-hours of electricity -- would increase approximately 17 percent, or $19 a month; general service rates (non-residential and non-industrial customers) would increase by approximately 14 percent; industrial customers' bills would go up approximately 14 percent; and outdoor lighting rates would increase by approximately 8 percent; and

WHEREAS, Duke Energy acknowledges that seeking a rate increase during extraordinarily difficult economic times could pose hardship to its customers; and

WHEREAS, despite Duke Energy's proposal to decrease its desired return on equity from 11.5% to 10.7% to mitigate the impact of a rate increase on customers, the proposed rate increases are substantial and ill-timed; and

WHEREAS, public outdoor lighting provided by local governments is important to public safety and benefits all citizens of the State; and

WHEREAS, substantial rate increases for public lighting will reduce the ability of local governments to pay for this service; and

WHEREAS, public lighting consumes electricity in off peak hours to the benefit and increasing the efficiency of power generation facilities; and

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WHEREAS, the rate increases proposed by Duke Energy to recover costs for increased capacity should not be assigned to the public lighting tariff since such lighting cost increases would disproportionately impact municipal residents; and

WHEREAS, current industrial electrical consumption is severely decreased, the proposed rate increase places a disproportion burden upon the unemployed and underemployed in an effort to build more capacity when capacity is not necessary;

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

Section 1. The North Carolina Utilities Commission is urged to reduce Duke Energy's rate increase request to the lowest amount reasonable under applicable law, and rate increases should be spread out over time to minimize customer impact.

Section 2. The creation of a new and substantially more expensive Governmental Lighting tariff in lieu of the existing Public Lighting tariff should be disapproved for the benefit of public safety.

Section 3. Should any rate increase for Public Lighting or Governmental Lighting be approved, the tariff should require Duke Energy to perform regular inspection and maintenance of such lighting as a part of the service without requiring outage reporting by the customer or additional charges for such service.

Section 4. Given the difficult local and State budget circumstances, any rate increases should be made effective in the future at the beginning of governmental fiscal years to assist in budget planning.

Section 5. The City Manager is authorized to convey this resolution to the North Carolina Utilities Commission, and to submit written comments as appropriate in support of this resolution.

Section 6. This resolution shall be effective upon passage.

Adopted this the 16th day of August, 2011.

Stephen. R. Little, Mayor

Attest:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-11-08-16-2

CONSIDER APPROVAL OF BRIDGE INSPECTION AGREEMENT WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION: The City Manager advised that, as shown in the information presented to Council, the City of Marion and all cities owning or maintaining bridges are required to inspect said bridges every two years. The City owns three bridges, one on Claremont Street and two at the Public Works Department, and also maintains a bridge leading to the Prison Wastewater Pump Station and adjacent property off of Highway 226 South. Maps were presented by the City Manager showing the location of these bridges.

The City Manager reported that DOT provides three options for bridge inspections. The City has always chosen to have DOT complete the inspections. The City Manager presented a proposed agreement for bridge inspections between the City and DOT, providing for DOT to inspect City bridges. The City is responsible for 20 percent of the cost of the inspections. The City Manager stated that he would recommend Council approval of this agreement, to authorize DOT to inspect City bridges.

A discussion followed.

Council Member Clark asked why the two bridges at the Public Works Department were included, since he thought they should be considered culverts. The City Manager stated that

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these bridges had been included on the City's bridge inspection list since he had been here, but that he would check to see if these bridges could be considered culverts and removed from the list.

Council Member Owenby asked about the approximate cost of the bridge inspections. The City Manager stated that the City's share of the bridge inspections ran a little over $1,000 two years ago, but would be higher this inspection cycle.

Upon a motion by Council Member Clark, seconded by Council Member Doggett, Council voted to approve the agreement allowing DOT to inspect City bridges, with the City covering 20 percent of the cost.

The vote was as follows:

Council Member Clark	Yes
Council Member Doggett	Yes
Council Member Martin	Yes
Council Member Owenby	Yes
Council Member Cuthbertson	No

The motion passed 4-1. Mayor Little stated that he had voted against these bridge inspections for 24 years as a Council Member, because he saw the inspections as an unnecessary Federal mandate.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that he had developed the schedule for the Marion 101 Citizens Academy. Marion 101 will take place on seven consecutive Thursdays from September 8 until October 20. Council is requested to attend the first and last sessions to meet the class participants. All sessions will take place from 6:00 p.m. until 8:30 p.m., except for the final session, which will begin at 5:30 p.m.

The City Manager advised that the City Code currently restricts construction activity from 7:00 a.m. to 6:00 p.m. on weekdays. The Building Inspector may authorize extended hours for up to three days in "emergency" situations. Until recently, the City Manager stated that he had only heard one complaint during his time in Marion about construction activity and that involved the night time roof work at the Bi-Lo Shopping Center several years ago. With the temperatures being so high this summer, the City has had some contractors wanting to start work as early as possible in the morning, which has led to some complaints.

Council Member Clark recently asked the City Manager a question about the restrictions the City has on construction activity and suggested that the City may need exceptions to allow contractors to start work earlier in hot weather. In looking at the days and hours in which construction activity is allowed, the City Manager stated that he thought at first glance that the City's ordinance was too restrictive. Therefore, he surveyed other cities to see if they had restrictions. He compiled examples from 13 other cities and presented the information to Council.

The City Manager stated that, while many cities seem to have the exact same ordinance that Marion does, or something very similar, Council may wish to consider allowing construction activity until later in the evening and on weekends, perhaps in the same manner as Waynesville and Hendersonville (7:00 a.m. to 9:00 p.m. on weekdays and 8:00 a.m. to 9:00 p.m. on weekends). That would seem to be a more practical time to allow construction than just 7:00 a.m. to 6:00 p.m. on weekdays. Language could perhaps also be considered to allow the Building Inspector to grant contractors an earlier start with construction activity in hot weather. Language could be kept to allow the building inspector to have the authority to allow construction activity

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at other times, in emergency situations, perhaps subject to revocation in residential districts if surrounding residential properties are disturbed.

The City Manager stated that Council direction concerning this matter would be welcomed. Mayor Little and Council Members stated that they would like the City Manager to present a draft ordinance with revised construction hours for Council consideration at a future meeting.

The City Manager advised that he had received a letter from the State, advising that the City had been selected for a $5,000 grant to place gravel on a portion of the Peavine Trail. No local match is required. The City Manager commended Planning and Development Director Heather Cotton on her work to obtain yet another grant for the City.

The City Manager advised that the annual National Night Out Event on August 2 was a great success, with an excellent crowd despite the extremely hot weather. Sgt. Kellie Duncan and all the Police Department staff did a great job planning the event and having a wide range of activities and food for people of all ages. The City Manager stated that he had commended Chief Brooks and the Police Department staff for their efforts. The City Manager stated that he had also thanked Public Works Superintendent Roger Estes and Fire Chief Jim Neal for the help of Public Works and Fire Department staff with the event.

The City Manager advised that contractors are making great progress with the extension of water and sewer service on Sugar Hill Road to I-40. Water service was available to the Wal-Mart Supercenter prior to July 1, but the developer was not ready on their side of the connection. The contractors had the City in a position to be able to pump and haul as of early August. The City Manager stated that the contractors had been making great progress with the sewer extension, but had recently been slowed to a issue with soils at the pump station being constructed behind the Rutherford Electric truck stop on Sugar Hill Road. He said that he hoped the sewer extension could be completed in September.

The City Manager advised of staff efforts to obtain approval for a pump and haul permit, to allow the City a backup option for sewer service, in case the sewer extension is not completed by the time that businesses need sewer service in September.

The City Manager stated that, at the July 19 Council meeting, Council approved Mr. Jon Hartman of Holly's Deli to operate a mobile food vendor hot dog cart in the City's West Henderson Street Parking Lot in front of the Farmer's Market. Mr. Hartman dropped off a request asking for approval to change his main location to North Main Street in front of the Gazebo Park and also to use any of the five approved locations so long as no one else applies to use them. The City Manager advised that Mr. Hartman had technically already asked for approval to use any of the five locations in his original application, so he was not asked to complete another application.

Council Member Clark noted that allowing Mr. Hartman to use all five vendor spaces could be a problem if someone else wanted to set up a mobile food vendor operation. The City Manager advised that Mr. Hartman had agreed to use only his primary space if another vendor wished to have another space.

Upon a motion by Council Member Martin, seconded by Council Member Doggett, Council voted unanimously to authorize Mr. Jon Hartman of Holly's Deli to change his primary mobile food vendor location for his hot dog cart to North Main Street in front of the Gazebo Park and also to use any of the five approved mobile food vendor locations so long as no one else applies to use them. If another vendor applies to use another space, Mr. Hartman will have to revert to using only his primary space.

The City Manager reported that F&S Contractors began work in early August on the water line replacement on Park Avenue. To stay within the $90,000 contract award for this project, F&S

AA.00000121S (24)

will install the water line and City staff will make the 38 taps needed on the new line. This should speed up the project.

The City Manager advised that the DOT contractor, Maymead, is working on the Downtown Streetscape Project, with a scheduled completion date of October 14. He said that DOT and Maymead had stated their intention to complete the street resurfacing before the Mountain Glory Festival on October 8. Council Member Clark suggested having the Mountain Glory Festival on Logan Street and in the West Henderson and Depot parking lots if Main Street is not resurfaced by the time of the Festival.

COUNCIL MEMBER COMMENTS:

Mayor Pro Tem Cuthbertson stated that County EMS Director William Kehler told him that he is pleased with the traffic changes on Main Street and stated that the new traffic pattern is actually better for emergency vehicles, given the center turn lane.

Mayor Pro Tem Cuthbertson reported tall grass on a lot fronting on Willow Street. The City Manager stated that staff would notify the new owner of the property of this violation.

Mayor Pro Tem Cuthbertson asked Finance Director Harriett Thomas the total of the City's 2011-12 tax billing. Ms. Thomas stated that the County left recent annexations and split properties off of the City's tax scroll, so the final tax billing had not been determined. She said that staff was optimistic that the final billing numbers would exceed the 2011-12 budgeted amount.

Mayor Little invited Council Members to attend the Rural Center grant meeting at the Depot at 8:30 a.m. the following morning and the Golden Lead Foundation Community Investment Initiative meeting at the Depot at 4:00 p.m. the following afternoon.

ADJOURNMENT: Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, September 6, 2011 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Steve Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members A. Everette Clark, Juanita Doggett, Billy Martin and Cecil Owenby.

AA.00001216 (24)

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Mark Brooks, Police Chief; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Rev. & Mrs. Sonny Reeves 260 Fleming Avenue, Marion, NC; Ronnie Burgin, Marion, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

CITIZEN OF THE MONTH – SELECTED BY COUNCIL MEMBER CLARK: Council Member Clark selected the Citizen of the Month for September 2011.

Reverend Sonny Reeves

Council Member Clark stated that it is his honor and privilege to recognize Rev. Sonny Reeves as Citizen for the Month for September.

Rev. Reeves recently retired as Director of the Blue Ridge Baptist Association, which represents 42 Baptist churches in McDowell County. He has been married to his wife, Sandra, for 48 years. They have 2 daughters and one son.

Council Member Clark stated that Rev. Reeves is a genuine person. He grew up Martinsville, Virginia and served in the Marines. Rev. Reeves served several churches as Pastor before coming to Marion.

Council Member Clark asked Rev. Reeves to speak about the Blue Ridge Association and what has been accomplished over the years. Rev. Reeves gave a brief overview of some of the activities of the Association.

Rev. Reeves stated that his plans are to continue to live here in McDowell County when he retires.

Mayor Little and Council Members all shared kind words about Rev. Reeves and congratulated him on his selection as Citizen of the Month.

CONSENT AGENDA: Upon a motion by Council Member Clark, seconded by Council Member Owenby, Council voted unanimously to approve the consent agenda as follows:

A . Approval of Minutes – August 16, 2011 Regular City Council Meeting Minutes

PUBLIC HEARING – ADOPTION OF ANNEXATION ORDINANCE – GARDEN CREEK ROAD/O'MALLEY PROPERTY: Mayor Little opened the Public Hearing.

The City Manager advised that this public hearing is required on the requested annexation of the 0.79 acre O'Malley property on Garden Creek Road. This residential property, located adjacent to the City Limits and across Garden Creek from the Miss Jacie's School of Dance and Berryhill properties, contains five residences. After the public hearing, Council may adopt the ordinance presented to annex the property effective immediately.

There were no citizens present to discuss this annexation.

Mayor Little closed the Public Hearing.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Martin, Council voted unanimously to adopt the following ordinance adopting the Garden Creek Road/ O'Malley Property effective immediately:

AA.00001217 (24)

**AN ORDINANCE TO EXTEND
THE CORPORATE LIMITS OF THE
CITY OF MARION, NORTH CAROLINA –
GARDEN CREEK ROAD/O'MALLEY PROPERTY-2011**

WHEREAS, the City Council has been petitioned under G.S. 160A-31 to annex the area described below; and

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

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at City Hall at 7:00 P.M. on Tuesday, September 6, 2011, after due notice by publication on Wednesday, August 24, 2011; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-31;

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

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the City of Marion as of September 6, 2011:

TRACT ONE
BEING lots Nos. 42, 43, 44, 45, 46, 47 and 48 in Block C, Map 4, of the J.L. Morgan Pleasant Garden Farm.

Each of the above numbered lots front 25 feet on the West side of the old Macadam Highway and runs back to the center of Garden Creek according to a map of the above described property which is recorded in the Office of the Register of Deeds for McDowell County, North Carolina, in Map Book 1, at page 54, reference is here made to that certain deed dated June 27, 1968, by Annie May Nunnally, widow, to Matthew A. Nunnally, Jr., and recorded in Book 199 at page 513 of the McDowell County Public Registry.

AND BEING THE SAME LANDS described in and conveyed by deed dated July 26, 1976, from Charles Otto Nunnally and wife, Madeline Nunnally, et als to Buddy Biggerstaff and wife, Marjorie Biggerstaff, the same being duly recorded in the Office of the Register of Deeds for McDowell County, to which reference is hereby made.

TRACT TWO
BEING LOTS Nos. 39, 40, and 41 in Block C, Map Four of the J.L. Morgan Pleasant Gardens Farm, each of the above lots fronting 25 feet on the West side of the old Macadam Highway and running back to the center of Garden Creek, according to map of the above described property which is recorded in Map Book 1, at page 54, of McDowell County Deed and Map Records, to which said map reference is here made for a full and complete description of the property herein conveyed.

AND BEING the same lots of land described in that certain Deed from R. Earl Freeman and wife, Helen Louise Freeman, to A. Bryant Hoyle and wife, Mary Rena Hoyle, dated December 8, 1946, and which appears of record in the Office of the Register of Deeds for McDowell County, North Carolina, in Book 100, at page 455, to which said deed reference is herein made.

Reference is also herein made to the Last Will and Testament of Rena M. Hoyle which appears of record in the Office of the Superior Court of McDowell County, North Carolina.

Reference is also herein made to that Deed given by Ellen J. Crawford to Mrs. Rena M. Hoyle, dated December 4, 1947, and recorded in Deed book 100, page 435, in the McDowell County Registry.

Section 2. Upon and after September 6, 2011, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City of Marion. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Marion shall cause to be recorded in the office of the Register of Deeds of McDowell County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the McDowell County Board of Elections, as required by G.S. 163-288.1.

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ADOPTED this the 6th day of September, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Approved As To Form:

City Attorney

Ordinance Number: O-11-09-06-1

PUBLIC COMMENT PERIOD: Mr. Ronnie Burgin appeared before Council to discuss his concerns about the Downtown Streetscape Project, particularly involving reducing Main Street from four lanes to three lanes. Mr. Burgin stated that he used to go to the Post Office on South Main Street from his place of business on North Main Street in ten minutes and that today it took him twenty minutes. Mr. Burgin stated that he had concerns about EMS and other emergency vehicles being able to get through traffic on Main Street with the new traffic pattern.

The City Manager advised that County EMS Director William Kehler has stated that the new traffic pattern works well for EMS and is actually an improvement over the old pattern.

The City Manager stated that the main problem with the new traffic pattern is the traffic signal timing. He stated that DOT had not yet adjusted Main Street traffic signals to the new traffic pattern, despite the City asking them to do so.

Mr. Burgin stated that he does not understand why the City would allow the loss of 11 or 12 parking places on Main Street.

Mayor Little stated that the City is losing a few spaces in the Court Street to Henderson Street block on Main Street, but that the overall effect on downtown is neutral, if not resulting in the gain of some marked parking spaces.

Mayor Pro Tem Cuthbertson stated that he feels that part of the problem is that people does not know what to do during the transition period. He noted that the Grand Strand in Myrtle Beach recently changed from a four lane to a three lane traffic pattern and traffic is flowing well.

Mayor Little stated that when the bump outs are finished, traffic cones are removed and pavement is clearly marked, the situation will be much improved. Right now, the construction zone and new traffic pattern feel and look different, which caused people to have some fear and concerns. Mayor Little stated that, when the overall project is completed, the end result should be a better plan for the downtown area.

The City Manager added that years of work and a great deal of citizen input went into the Downtown Streetscape design. Mayor Little stated that DOT had the final say on the design, since Main Street is a U.S. Highway owned and maintained by DOT.

Council Member Clark stated that he feels there is one place that needs to be addressed and that is at the Marion Post Office. Traffic does not have anywhere to go coming out of the post office and it is creating congestion.

Mr. Burgin stated again that he feels this new traffic design is not going to work. He feels the pattern around the Post Office will create wrecks.

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Council Member Doggett stated that she feels that left turn signals need to be installed on Main Street at Court Street, for the protection of pedestrians.

Mr. Burgin stated that he has large trucks that cannot make turns at several locations, especially at State and Main Streets.

Mayor Little noted again that the City does not own or maintain Main Street. However, the City will do all that it can to make Main Street as safe and as business friendly as possible.

Council Member Clark stated that several years ago, the City asked the Post Office to work with the City to buy property adjacent to the Post Office on Main Street to connect some parking issues, which would have solved many issues with the traffic at the Post Office. He advised that the Post Office chose not to work with the City at that time.

CONSIDER ADOPTION OF REVISED CITY POLICY – LOANING OF CITY EQUIPMENT: The City Manager advised that Council directed him at the August 16 meeting to draft a recommended policy concerning the use of City stages, in light of the request by Mr. Ronnie Taylor to use a City stage for a concert at the Farmer's Market Shelter next April to benefit local charities.

Rather than create a new policy, the City Manager stated that he had revised the City's existing policy on loaning of City equipment. In the revised policy, he added McDowell Mission Ministries to the list of agencies to which the City may loan equipment, since the City has had a funding relationship with McDowell Mission Ministries within the past two years. In addition, the City Manager stated that he had added language specific to providing City stages for individuals, businesses, organizations or groups meeting certain criteria. This criteria includes avoiding paying overtime to set up or remove the stages, requiring the stages to be set up on public property in the City, requiring the requester to hold an event of public interest open to the public that has been approved pursuant to City policy, prohibiting an admission fee for such events, allowing donations to be accepted if the donations benefit one of the organizations specifically listed in the policy and requiring a setup and removal fee of $50.00 to be paid to the City. The City Manager stated that Council may consider the $50.00 fee to be too high for events that will be required to be for charitable purposes.

Council Member Owenby stated that he feels the proposed set-up and tear down fee of $50.00 would be appropriate for the work involved.

Mayor Pro Tem Cuthbertson and Council Member Doggett stated that they agreed with Council Member Owenby that $50.00 is a reasonable charge. Mayor Pro Tem Cuthbertson suggested that groups using the stage could pay for the $50.00 fee from donations.

Council Member Clark asked why the ABC Board is on the list of organizations to which the City may loan equipment. The City Manager advised that the ABC Board is technically a separate legal entity. Council Member Clark suggested that the ABC Board be removed from the policy and treated like any other City department in being able to use City equipment at any time.

Mayor Pro Tem Cuthbertson stated that the McDowell House should be added to the list of organizations to which the City may loan equipment, since the Carson House is listed.

After a brief discussion, Council agreed by consensus that the ABC Board should be removed from the list of organizations to which the City may loan equipment and the McDowell House added.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to approve the following policy on Loaning of city equipment:

AA.000001220 (24)

City of Marion
Policy on Loaning of City Equipment

The City of Marion, with the exceptions listed below, strictly prohibits the loaning of City owned supplies or equipment to individuals, businesses, groups or outside agencies. The use of City owned vehicles and equipment by an employee for personal use is also strictly prohibited. With the permission of the City Manager, City owned equipment and supplies such as tables, chairs, stages, the p.a. system and other approved equipment, not to include in any case vehicles or motorized equipment, may be loaned to the following outside agencies:

1. McDowell County
2. Town of Old Fort
3. McDowell County Schools
4. McDowell Technical Community College
5. McDowell House
6. McDowell County Rescue Squad
7. McDowell Arts and Crafts Association
8. McDowell Trails Association
9. Carson House
10. Any non-profit agency with which the City has a funding relationship. As of July 1, 2011, these agencies will be restricted to the Marion Business Association (MBA), the McDowell Chamber of Commerce, McDowell Mission Ministries, the Marion Firefighter's Association and the McDowell Economic Development Association (MEDA).

In addition to the preceding, City stages may be set up for individuals, businesses organizations or groups under the following conditions:

1. The stage(s) will be set up and removed by City employees at such times such as to prevent the City paying overtime.

2. The stage(s) will be set up on public property within the City of Marion.

3. An event of public interest will be held that is open to the public and for which approval has been granted pursuant to City policy.

4. The event will not require the payment of an admission fee, although donations may be requested.

5. Any donations received through the event shall be used to fund one of the organizations specifically listed above.

6. A fee of $50.00 shall be paid to the City by the requesting individual, business, organization or group to offset the costs of the setup and removal of the stage(s).

Prior to any equipment or supplies being loaned under this policy, an employee or representative of the agency borrowing the equipment must sign a statement acknowledging the equipment or supplies that they are borrowing, accepting total responsibility for said equipment or supplies and acknowledging that the agency will immediately pay for any damages sustained by the equipment that is borrowed.

Adopted by the City Council of the City of Marion this the 6th day of September, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Policy Number: P-11-09-06-1

REQUEST FOR USE OF FARMER'S MARKET SHELTER: The City Manager advised that, as discussed at the August 16 Council meeting, Mr. Ronnie Taylor, on behalf of the band SideStreet (which has played the July 4th Celebration and other local events

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on multiple occasions), submitted a letter requesting use of the Farmer's Market Shelter on Saturday, April 28, 2012 for a concert featuring local entertainment. The event would be open to the public, but donations would be taken to support local charities. Mr. Taylor requests that City stages be set up for this event.

The City Manager stated that the stages could be set up on Friday and removed on Monday, to avoid any overtime.

The City Manager advised that Mr. Taylor had spoken with Marion Business Association Executive Director Freddie Killough and had confirmed that there would be no conflict with the Farmer's Market on the proposed date.

The City Manager stated that this sounds like a good opportunity to have a free concert that the public could enjoy, and to showcase local talent and to help local charities. Mr. Taylor stated in his letter that he hopes this could become an annual event.

The City Manager added that use of the City stages could then be approved by staff, pursuant to the Loaning of Equipment Policy earlier approved by Council.

Council Member Clark asked who would review bands that play at such events, to make sure they are appropriate. He said that he had confidence that SideStreet would be fine, but noted that some bands could be considered obscene or objectionable.

Mayor Little stated that it would be hard to judge which bands are appropriate and which are not.

Council Member Martin advised that Council could not make such a decision tonight.

The City Manager proposed that Marion Business Association Executive Director Freddie Killough work with Mr. Taylor and other groups using public property for such events to make sure that bands that played are appropriate.

Upon a motion by Council Member Martin, seconded by Council Member Doggett, Council voted unanimously to approve the request of Mr. Ronnie Taylor, on behalf of the band SideStreet, to use the Farmer's Market Shelter on Saturday, April 28, 2012 for a concert featuring local entertainment, with McDowell Mission Ministries being the beneficiary of donations raised from the event.

CONSIDER APPROVAL OF MUNICIPAL AGREEMENT WITH N.C. DEPARTMENT OF TRANSPORTATION TO CONSTRUCT SIDEWALK ON HIGHWAY 70 WEST BETWEEN WEST McDOWELL JUNIOR HIGH SCHOOL BALLFIELD AND GREENWAY ENTRANCE: The City Manager advised that in February, Council approved the maintenance of a sidewalk to be constructed by DOT on Highway 70 West between the West McDowell Junior High School Ballfield and the Greenway entrance, subject to the following conditions:

A. That liability insurance coverage be provided for this sidewalk on the City's insurance policy – The City Manager noted that the City's property and liability insurance agent, Marsh Dark of Morrow Insurance, informed him after the meeting that there are no issues with insurance coverage for the sidewalk, as long as it is owned and maintained by the City.

B. That the area of the sidewalk can be annexed or donated to the City – The City Manager reported that the sidewalk will be constructed on DOT right of way. The City Manager said that he has discussed with DOT District Engineer Doug McNeal the need for DOT to sign an annexation petition for the Highway 70 West right of

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way between the current City Limits at the western edge of the Lowe's property and the Greenway entrance, a distance of 1,206 feet.

C. That a request be made to DOT to extend the sidewalk eastward along Highway 70 West in the direction of Lowe's – The City Manager advised that he made this request to Mr. McNeal, who told the City Manager that there was not sufficient funding at this time for anything other than the crosswalk and sidewalk from the West Junior High Ballfield to the Greenway entrance.

The City Manager reported that DOT has apparently approved the sidewalk and forwarded the attached Municipal Agreement for approval and execution. DOT will design and construct the sidewalk. In the agreement, the City is responsible for right of way acquisition. However, the sidewalk will be constructed on DOT right of way, so this should not be an issue. If there is any issue with right of way or easements, the Phillips family has already indicated that they will cooperate with the City and provide the necessary property for the sidewalk.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to approve the Municipal Agreement with DOT for the construction of a sidewalk on Highway 70 West between West McDowell Junior High School Ballfield and the Greenway Entrance.

The City Manager stated that he would work with Doug McNeal to obtain the annexation petition for the Highway 70 West right of way from DOT as soon as possible.

CONSIDER ADOPTION OF ORDINANCE TO AMEND CHAPTER 9 OF CITY CODE TO EXTEND DAYS AND HOURS FOR CONSTRUCTION ACTIVITY: The City Manager advised that, as discussed by Council at the August 16 meeting, he drafted an ordinance to expand the days and hours in which construction activity is allowed. The current City Code restricts construction activity to Monday through Friday 7:00 a.m. to 6:00 p.m. and allows the building inspector to grant exceptions from these time periods for up to three days in the case of urgent necessity affecting the public safety.

The City Manager stated that he discussed this with the Building Inspector and would recommend adoption of the proposed ordinance presented to Council, based on other ordinances throughout the region, particularly those in Waynesville and Hendersonville, allowing construction activity 7:00 a.m. to 9:00 p.m. on weekdays and 8:00 a.m. to 9:00 p.m. on weekends. The ordinance would authorize the building inspector to grant exceptions from these time periods for up to three days in emergency situation, in the case or urgent necessity affecting the public safety and in situations involving health or medical reasons (such as extremely hot weather). Exceptions lasting longer than three days would require Council approval.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following Ordinance amending Chapter 9 of the Health and Sanitation Ordinance to extend the days and hours for construction activity in the City:

ORDINANCE
AMENDING CHAPTER 9
HEALTH AND SANITATION
MARION CITY CODE

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

Section 1. That Chapter 9, Health and Sanitation, of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Section 2. Chapter 9 is amended by deleting Section 9-102 (10) in its entirety and replacing it with the following:

AA.000001223 (24)

(10) Construction operations, including excavating, demolition, alteration, or repair of any building in a residential or business district, other than between the hours of 7:00 a.m. to 9:00 p.m. on weekdays and 8:00 a.m. to 9:00 p.m. on weekends. The building inspector is authorized to grant exceptions from these time periods through the issuance of a permit in emergency situations, in the case of urgent necessity in the interest of public safety or in situations necessary for health or medical reasons, which permit may be renewed for a period of three (3) days, or less, while the emergency continues. Exceptions from these time periods for the reasons listed above for a period longer than three (3) days requires the approval of the City Council.

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 6th day of September, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-11-09-06-2

APPROVE AWARD OF ENGINEERING SERVICES CONTRACT FOR EASTFIELD AREA SIDEWALKS COMMUNITY DEVELOPMENT BLOCK GRANT PROJECT: The City Manager advised that the City recently took proposals for engineering services for the Eastfield Area Sidewalks Community Development Block Grant (CDBG) Project. CDBG guidelines require grantees to take proposals for engineering services. The City advertised this opportunity and received proposals from five firms.

The City Manager stated that a staff committee composed of Finance Director Harriett Thomas, Public Works Superintendent Roger Estes and himself reviewed the proposals and unanimously recommend that Council award the contract to McGill Associates. The ranking sheets were presented for Council review. The City Manager advised that McGill Associates has vast experience with similar projects and has great local knowledge about the City and this project.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to award the contract for engineering services for the Eastfield Area Sidewalks Community Development Block Grant Project to McGill Associates.

DISCUSS REPLANTING OF OLD WASTEWATER TREATMENT PROPERTY ON COLLEGE DRIVE: The City Manager advised that Mr. Scott Ellis from the N.C. Forest Service had provided some ideas for replanting the Old Wastewater Treatment property on College Drive. The City Manager presented a report from the Forest Service, indicating that the cost of site preparation and replanting 35-40 acres of the property would be almost $15,000. A less expensive option would be burning the site, which could cut the costs in half. However, the City Manager stated that both Mr. Ellis and himself have concerns about burning in the College Drive location, due to the property's proximity to McDowell Tech, two prisons, I-40 and Highway 226. The City Manager reported that another option is to let the site grow naturally. He said that yellow poplar is prevalent on the property, although natural growth might not result in as good a stand of timber as replanting.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to let the site grow naturally for the foreseeable future.

CITY MANAGER REPORTS: The City Manager gave a brief report on current projects.

The City Manager stated that the Tree Board met this morning and has decided to have a booth at this year's Mountain Glory Festival. The Tree Board will not hold a raffle, due to Mountain

AA.00001224 (24)

Glory Festival rules prohibiting such raffles, but will give out free tree seedlings to the public and provide education about tree pruning.

The City Manager stated that the Tree Board also decided not to recommend planting trees at this time in the Community Building Park, to replace the large oak tree recently removed from the Park. The Tree Board wants to wait a year to see if the City can make progress on needed construction work in the Park. The City Manager stated that staff had estimated the cost of implementing the final phase of the Community Building Park Master Plan, including grading work, construction of a retaining wall near the location of the oak tree recently removed, construction of sidewalks in the Park and installation of benches and adult swings, will be around $10,000. The City has $30,000 budgeted for park improvements this year, which will likely have to be used for the scheduled construction of the new Clinchfield Park, making it unlikely that the City could finish the Community Building Park improvements in the 2011-12 Fiscal Year.

The City Manager further reported that the Tree Board recommended that holly trees on the sidewalks in the downtown area continue to be pruned in the same manner as they have been pruned in the past.

Mayor Little and City Council Members expressed general agreement with all of the Tree Board recommendations.

The City Manager advised that Public Works Superintendent Roger Estes has obtained estimates for an asphalt bike trail/sidewalk on Ridge Road, compared to a concrete curb and gutter and sidewalk. The estimate for the asphalt sidewalk from Johnson Paving was $55,000. The estimate for concrete curb and gutter is $156,800. The City Manager stated that Mr. Estes thinks he could get a better price on the asphalt, but it may be good to plan for a higher price just in case. The City Manager suggested that the $55,000 figure would be more than the City could spend this year, but perhaps this project could be added to the Street and Sidewalk Priority list and worked in over the next couple of years. He recommended that Council see if DOT will construct the needed section of sidewalk on East Court Street between Branch and Church Street and then decide if the Ridge Road asphalt sidewalk should be added to the City's priority list.

The City Manager advised that the City's contractors continue to make great progress on the Sugar Hill Road Water and Sewer Extension. Water service is in place to the Wal-Mart Supercenter and progress was being made on the pump stations and sewer line extensions, until the contractors ran into a soil issue at the pump station behind the old truck stop on Sugar Hill Road. McGill determined in late August that an additional two to three feet of soil would need to be excavated to make the soil stable around the retaining wall to be built at this pump station. This excavation will hopefully be done soon to put the project back on track.

The City Manager reported that the City received a pump and haul permit from the State on August 23 and had to start pumping and hauling on August 29, to allow contractors to test restrooms at the Wal-Mart Supercenter site. Wal-Mart is supposed to take possession of their store around mid-September. The stocking and training process will take 4-5 weeks, putting the opening of the store in early October. Some of the stores in the shopping center may be open in late September.

The City Manager stated that Council Member Clark mentioned a few meetings ago new Federal standards requiring States and local governments to replace street and traffic signs with new signs designed to meet retro-reflectivity standards. The idea was to make the signs easier to read, especially at night, by seniors and others who may have vision problems. As shown on information presented to Council, the Federal government has now scrapped plans to set deadlines for the replacement of most signs, unless in a few cases directly related to public safety. Instead, most signs will be able to be replaced in accordance with normal replacement schedules or as needed. The City Manager stated that City staff is aware of the new standards, so the City

AA.000001225 (24)

will make sure that new signs are compliant. Not having to comply with deadlines will save the City thousands of dollars in needless expenses.

The City Manager advised that Marion 101 will be held on seven consecutive Thursdays from September 8 until October 20. Council is requested to attend the first and last sessions to meet the class participants. All sessions will take place from 6:00 p.m. until 8:30 p.m., except for the final session, which will begin at 5:30 p.m. The City Manager stated that a total of 20 people ended up registering for the class.

The City Manager stated that the $6.6 million Wastewater Improvements Project is being closed out. As previously reported, City staff found that the City had some money leftover in the project, so the City is having contractors complete resurfacing of all roads at the Wastewater Plant and to pressure wash and paint tanks at the Plant. This work will wrap up in September. All of the grant agencies have been very impressed by the final product.

Council Member Clark asked for a copy of the accounting for the Wastewater Improvements Project. The City Manager stated that he would provide this information.

The City Manager advised that Maymead is making good progress on the implementation of the Downtown Streetscape Project. The completion date for the project is October 14, but DOT and Maymead both indicate that they will work to have the Main Street resurfacing completed by the time of the Mountain Glory Festival on October 8.

The City Manager advised that, as previously reported, the City was turned down for State Revolving Fund (SRF) funding for the sewer extension under I-40 to serve Marion Travel Plaza on Sugar Hill Road. The City's application is being resubmitted for the September SRF grant cycle. McGill found some scoring errors the State made with their initial review of this application. In addition, the N.C. Division of Water Quality has provided a letter of support for this project. Therefore, Dennie Martin believes that the City stands a much better chance of having this project funded this grant cycle.

COUNCIL MEMBER COMMENTS:

Council Member Clark gave a report on the Southern Municipal Conference meeting he attended the week before in Lexington, Kentucky. He noted that the N.C. League of Municipalities covered all of his travel expenses.

Council Member Doggett stated that she had noticed benches in front of deli and Pub on Main Street chained to signs and asked if these are some of the City's benches installed as part of the Downtown Streetscape Project.

The City Manager stated that these are not the City's benches and the City can deal with the placement of the benches through an encroachment agreement with the business.

Mayor Pro Tem Cuthbertson stated that he had heard numerous complaints about customers smoking on Main Street in front of the Pub and that pedestrians could not walk through that section of the sidewalk without going through a cloud of smoke.

Council Member Clark stated that he is on the N.C. League of Municipalities Nominating Committee and encouraged the Mayor or any Council Member interested to run for a position on the League Board of Directors.

Council Member Doggett stated that she may be interested in running for the N.C. League Board. The City Manager will get Council Member Doggett information on how to put her name forward for the League Board.

AA.000001226 (24)

The City Manger commended Police Chief Mark Brooks on his efforts for the consolidation of the City and County dispatching operations into the lower level of the Police Department and stated that he appreciates all Chief Brooks has done.

Council Member Owenby asked if all of the City dispatchers are now County employees. The City Manager stated that all of the City's full-time dispatchers became County employees on August 1.

CLOSED SESSION – DISCUSS A MATTER INVOLVING THE LOCATION OF BUSINESS OR INDUSTRY UNDER N.C.G.S. 143-318.11(a)(4): Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Doggett, those members of Council present voted to go into Closed Session under N.C.G.S. 143-318.11(a)(4) to discuss a matter involving the location of business or industry.

REGULAR SESSION: Upon a motion by Council Member Martin, seconded by Council Member Clark, those members of Council present voted to go back into Regular Session.

Mayor Little announced that no action was taken by Council in the Closed Session.

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Council Member Clark, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, September 20, 2011at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members A. Everette Clark, Juanita Doggett, Billy Martin and Cecil Owenby.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, AICP, Planning and Development Director; Mark Brooks, Police Chief.

GUESTS PRESENT: Brandon Davis 90 Cherokee Way, Marion, N.C.; Dave Kehler, 1524 North Main Street, Marion, N.C.

OPENING OF MEETING: Mayor Little opened the meeting.

AA.00001227 (24)

CONSENT AGENDA: Upon a motion by Council Member Owenby, seconded by Council Member Martin, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – September 6, 2011 Regular City Council Meeting Minutes and September 6, 2011 Closed Session Minutes

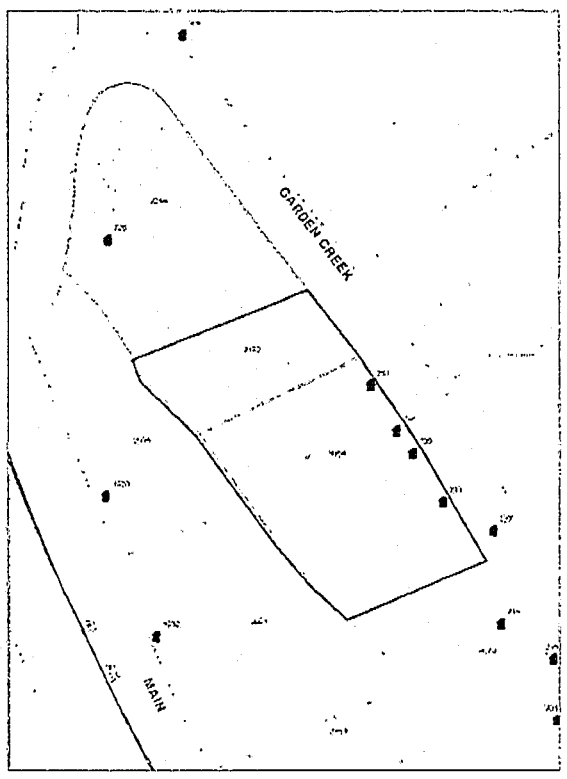
B. Approve Amendment to City Fee Schedule
Council approved amending the City Fee Schedule to establish a $15.00 fee for garnishments and attachments for collection of unpaid taxes or liens, as recommended by Tax Collector Brett Moore

C. Approve Voting Delegate and Alternate for N.C. League of Municipalities Conference

Council Members Everette Clark, Juanita Doggett and City Manager Bob Boyette will be attending the N.C. League of Municipalities Conference. Council designated Council Member Clark to serve as the City's Voting Delegate and City Manager Bob Boyette to serve as the Alternate Voting Delegate.

PUBLIC HEARING – ZONING MAP AMENDMENT – ASSIGN ZONING TO GARDEN CREEK ROAD/O'MALLEY PROPERTY:
Mayor Little opened the Public Hearing.

Planning and Development Director Heather Cotton advised that, on September 6, 2011, Council adopted Ordinance No. O-11-09-06-1, extending the corporate limits to include two parcels of land owned by the O'Malley family on Garden Creek Road. These parcels include one existing single-family home, and a mobile home park with four (4) units.



Ms. Cotton stated that the purpose of this ordinance is to assign an appropriate zoning designation to the annexation area that is most compatible with the existing uses within the area and to provide a mechanism to regulate such uses. Based on Marion City Code, the subject area is most compatible with Section 21-202, *R-2 General Residential*. The R-2 General Residential Zoning District is established as a district where the principal use of land is for residential purposes, and which allows for mobile homes. Therefore, Staff is recommending the R-2 General Residential designation.

Ms. Cotton reported that the Planning Board made a unanimous recommendation for approving Staff's recommendation to assign the R-2 General Residential Zoning District to the Garden Creek Road/O'Malley annexation area.

There were no citizens present to discuss this Public Hearing.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Owenby, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to adopt the following Ordinance amending the *Official Zoning District Map* to assign the R-2 General Residential Zoning District to two residential properties located on Garden Creek:

AA.00001228 (24)

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
ASSIGN ZONING TO O'MALLEY/GARDEN CREEK ROAD ANNEXATION

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to include the O'Malley/Garden Creek Road Annexation Territory, as adopted by City Council Ordinance Number O-11-09-06-1

Section 3. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 4. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing September 1, 2011.

Section 5. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321.1 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 6. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 7. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 8. This ordinance shall become effective upon approval.

Adopted this the 20th day of September 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-11-09-20-4

APPROVAL OF SUBDIVISION PLAT – DAVE KEHLER BULDERS, INC. – VALE STREET: Planning and Development Director Heather Cotton advised that Dave Kehler Builders had submitted an application for a major subdivision approval. Ms. Cotton stated that Mr. Kehler is requesting to subdivide a parcel of land on Vale Street into eight individual lots. The parent tract is located on the corner of Rutherford Road and Vale Street and has the Parcel Identification Number (PIN) 1701.12-85-7319.

Ms. Cotton stated that the property currently contains one single-family residential unit, which also includes a home occupation approved as a Special Exception in December 2009, as well as a private cemetery located in the northeast corner of the property.

Ms. Cotton advised that the property is zoned R-2 General Residential, and no change to the district would be required as a result of this request or make any use or structure non-conforming as a result of this request.

Ms. Cotton further advised that, pursuant to Chapter 21 *Zoning* of the Marion City Code, Section 21-203 General Residential allows for single family, multi-family dwellings of 8 units or less, any additional density or variation from the bulk regulations would require Special Exception approval as a Planned Unit Development. According to the application, the Applicant is requesting to establish seven (7) new parcels that would each contain a single-family residential unit approximately 1,300 square feet in size, and include common areas deeded to a new incorporated home owner association, which would be responsible for all maintenance in

AA.000001229 (24)

perpetuity, including but not limited, to lawn care, shared driveway, and on-going maintenance of other common areas, and privately owned and operated facilities and services provided to future owners and/or their tenants.

Ms. Cotton presented the following information for Council's consideration:

(1) Ownership Control: City Code Section 16-8 *Sale*, requires that no person requesting a subdivision of land transfer or sell with reference to a plat any lot contained within the proposed subdivision nor shall a building permit be issued until approved by the Marion City Council, and such plat has been recorded by the McDowell County Register of Deeds.

(2) Density Requirements: R-2 General Residential allows for one unit per 7,000 square feet which is equivalent to 6.5 units per acre, with the exception that Section 21.203.(2), which allows multi-family dwellings up to eight (8) units. While, the individual lot sizes are slightly smaller than the Code requires, the number of units proposed is less than the maximum allowable density.

(3) Frontage Requirement: The property will have direct access to Vale Street with a shared common drive for all eight individual parcels, which includes the existing single-family residence. As part of the project, the existing driveway on Vale Street will be realigned to provide access to all parcels. The proposed plan provides for a 25-foot setback of all structures from Vale Street.

(4) Minimum Distance:
   a. Building separation: the buildings are more than 20 feet apart to ensure adequate air, light, privacy, and space for emergency vehicles.
   b. Each dwelling shall have access to a public street via a common private driveway. The driveway is proposed to terminate within the development, utilizing a Cal-du-sac design. In addition, while the Applicant is not proposing to request dedication of the driveway as a public street, the driveway has been designed to accommodate two-way traffic and a cul-de-sac with a 40-foot turning radius to allow access for large wheel-based vehicles such as fire trucks or other emergency vehicles.

(5) Utility Requirements: Water and sewer is available to the site, and has sufficient capacity to serve seven new dwelling units and ancillary uses.

(6) Parking Requirements: Two (2) parking spaces are required per dwelling unit, therefore a total of 14 parking spaces is required. The Applicant is providing 14 parking spaces as well as a few additional parking spaces to accommodate visitor parking.

(7) Pedestrian/Bicycle Facilities: The Applicant has not proposed any pedestrian or bicycle facilities as part of the project, and while an existing sidewalk is located on Rutherford Road there is no public sidewalk on Vale Street to tie into nor has any sidewalk improvements been recommended on this residential street. A Planning Board Member made a recommendation that the Applicant install a sidewalk from the entrance of the private drive and connect to the existing sidewalk on Rutherford Rd. The sidewalk would be approximately 150 feet in length. Though not a requirement of the City Code, the Applicant stated that he was not opposed to installing the sidewalk and would work with Mr. Harrison to secure an easement for its installation and work build it to the City's design standards.

(8) Physical Layout: The proposed layout of the development is compatible with adjacent land uses and should not have any adverse impacts as a result of the subdivision and development project. The front entrance of each individual unit will face the private

AA.00001230 (24)

driveway. Though not required, Staff would recommend that the Applicant consider the rear façade of each dwelling unit fronting Vale Street, and provide design elements that eliminate or mitigate a "backyard" appearance from the public right-of-way.

(9) Conveyance: The applicant does not wish to convey any of the public areas of the project to the city for maintenance. The applicant has been advised that any conveyance of roads or infrastructure would have to meet the City and State's specifications at the time of installation.

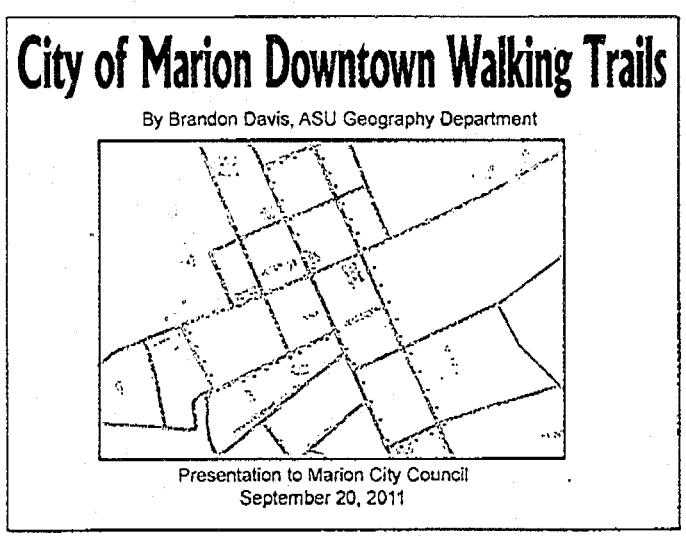
Ms. Cotton stated that the Planning Board, at their meeting on September 6, 2011, had made a unanimous recommendation to approve the major subdivision request.

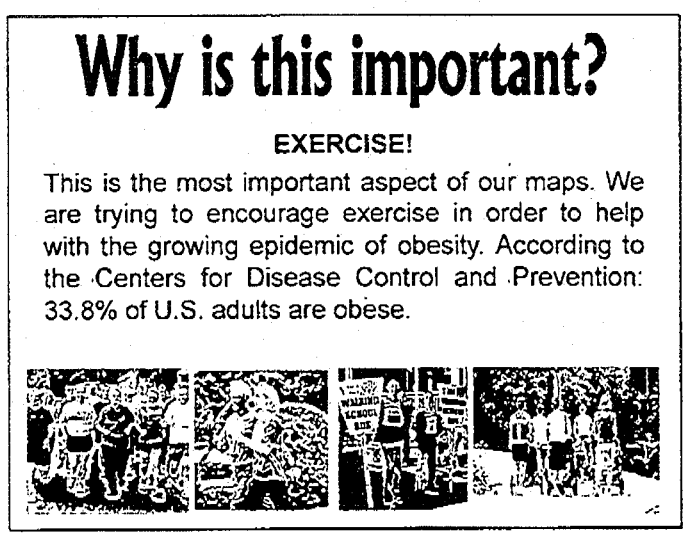
Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to approve the request of Dave Kehler Builders for approval of a major subdivision of McDowell County PIN 1701.12-85-7319, located off of Vale Street.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

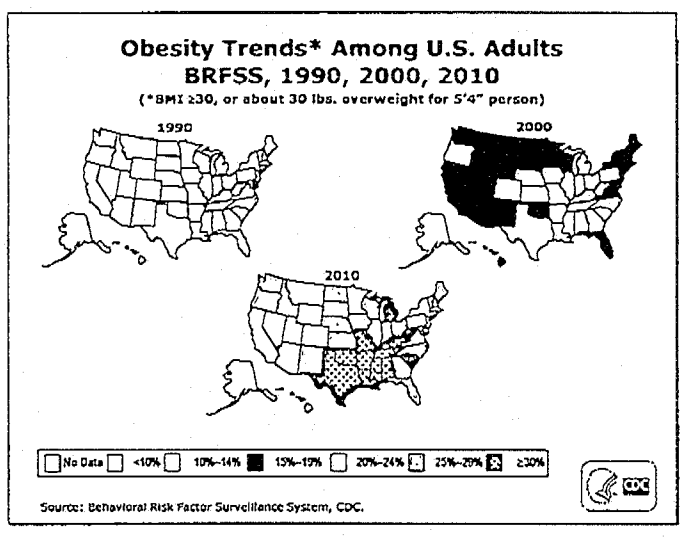
PRESENTATION OF PROPOSED DOWNTOWN WALKING TRAIL BROUCHURE:
Planning and Development Director Heather Cotton stated that she had an intern from Appalachian State University, Brandon Davis, working this summer on a proposed downtown walking trail brochure, as had been suggested by Council Member Doggett.

Mr. Davis presented the following power point presentation and a copy of the proposed draft walking trail brochure to Council and said he welcomed direction on any changes Council may wish to make.





AA.000001231 (24)



More Than Just Fitness



Business. Increasing the number of walkers in the downtown translates into more foot traffic for local businesses. A walker who travels past a shop window is more likely to return to a business if they see something in the window that attracts their attention.



Family. Juggling work, school, and all of life's other demands often leaves little time for family and exercise. Taking a walk downtown not only provides affordable exercise for the whole family, it offers a chance to do something fun together. Many trails pass by playgrounds, historical sites, and shops that offers treats that can be enjoyed by the whole family.

Understanding Your Heart Rate & Improving Your Fitness Regiment



Monitoring heart rate during a fitness routine can be useful in determining how hard your working in order to reach your fitness goals.

For a quick measurement of your heart rate use two fingers on the side of your neck to count the number of heart beats in 10 seconds, multiply that number by six.

For example if you count 10 beats multiply that by 6. You should get 60 bpm (beats per minute).

10 x 6 = 60 heart beats per minute (bpm)

An adult's average resting heart rate is typically between 60 and 80 bpm. Athletes tend to have a lower bpm as a result of physiological changes that occur as a result of regular exercise, while a child's heart rate is based on age.

The American Heart Association recommends exercising somewhere between 50 and 85 percent of your maximum heart rate.

You should always consult your doctor first before starting any new exercise program.

Calculating Target Heart Rate Zone For Men



One of the easiest ways to calculate your maximum heart rate is to subtract your age from 220 and then multiply the total by the desired percentage of maximum bpm.

EXAMPLE:

20 yr old male – 220 = maximum 200 bpm
200 bpm x 0.50 (50%) = 100 bpm and 200 bpm x 0.85 (85%) = 170bpm

A Healthy Target Rate During Exercise Would Equal
100bpm and 170 bpm

30 to 60 minutes of exercise in your target heart rate zone an average of three to four times a week is ideal for maintaining a healthy lifestyle

Some medications and medical conditions can affect your heart rate. You should always consult your doctor first before starting any new exercise program.

AA.0000001232 (24)

Calculating Target Heart Rate Zone For Women



One of the easiest ways to calculate your maximum heart rate is to subtract 88% of your age from 206 and then multiply the total by the desired percentage of maximum bpm.

EXAMPLE:

20 yr old female x 0.88 = 18 – 206 = maximum 188 bpm
188 bpm x 0.50 (50%) = 94 bpm and 188 bpm x 0.85 (85%) = 160bpm

A Healthy Target Rate During Exercise Would Equal
94 bpm and 160 bpm

30 to 60 minutes of exercise in your target heart rate zone an average of three to four times a week is ideal for maintaining a healthy lifestyle

Some medications and medical conditions can affect your heart rate. You should always consult your doctor first before starting any new exercise program.

Other Exercise Tips

1. Before walking or running eat fruits or vegetables that are low in fiber such as bananas, plums, cherries, tomatoes, or peaches. Avoid high fiber foods, high-fat foods, and caffeine, which can all cause stomach and other gastrointestinal problems. Wait at least an hour after eating to avoid cramps during exercise.

2. Consuming water before, during, and after physical activity is necessary to stay hydrated and to maintain performance levels. Likewise too much water can also be harmful. Drinking 8 to 16 ounces of water at least 15 minutes before working out; 4-8 oz. water every 15-20 minutes to replace what is being lost during the workout, and 16-24 oz for every lb. lost after a workout are all recommended. Feeling lightheaded, uncoordinated, or experiencing muscle cramps are all signs of dehydration, which if left untreated could lead to heat exhaustion or heat stroke.

3. A 4:1 ratio carbohydrate (4 grams) to protein (1 gram) diet is recommended within 30 minutes of exercising, measured based on 0.3-0.6 grams of carbohydrate for each pound of body weight. Eating a high carbohydrate and protein meal or snack such as pasta, certain fruits and vegetables, and meat aids greatly in replenishing glycogen within the muscles which aids in recovery and greater ability to maintain a consistent training regiment.



You should always consult your doctor first before starting a new exercise program.

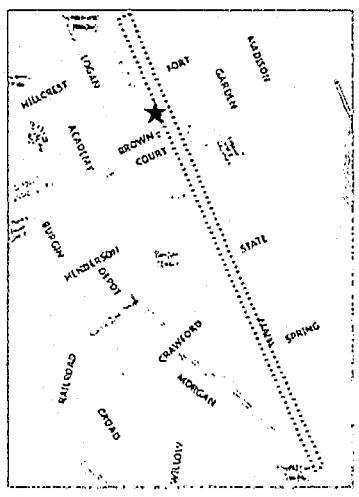
The Main Street Loop

Difficulty Level:
Easy

Length:
1.25 miles

Features:
Wide sidewalks
Signalized crosswalks
Window shopping
Historic architecture

Public Parking Options:
Gazebo parking lot
Brown Drive parking lot
Community Building parking lot
South Main parking lot



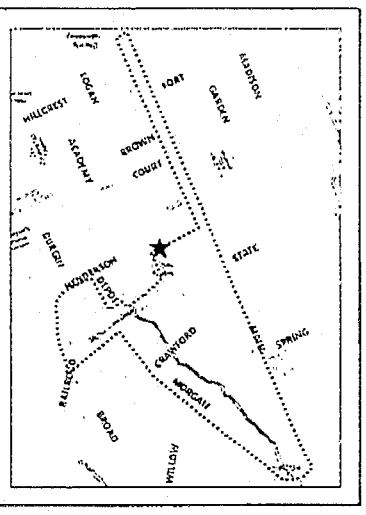
The Market Walk

Difficulty Level:
Medium

Length:
1.75 miles

Features:
Marion Tailgate Market
Historic Marion Train Depot
Window Shopping

Public Parking Options:
Marion Depot parking lot
Tailgate Market parking lot
Logan St parking lot
South Main parking lot
Gazebo/Brown Dr. parking lot
Community Building upper parking lot



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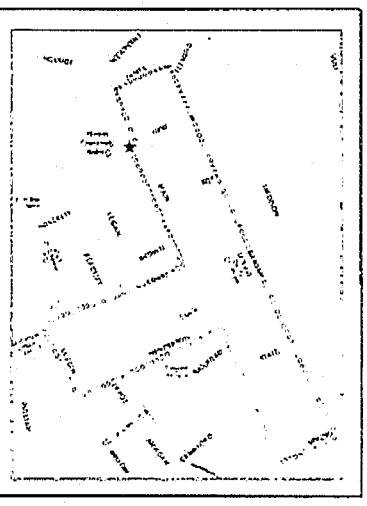
The Big T Trail

Difficulty Level:
Medium

Length:
1.70 miles

Features:
Wide sidewalks
Historic architecture
Tailgate market
Steep slopes for added strength training

Public Parking Options:
Community Building parking lot
Gazebo/Brown Dr. parking lot
Garden St parking lot
Tailgate Market parking lot
Logan St parking lot
South Main parking lot



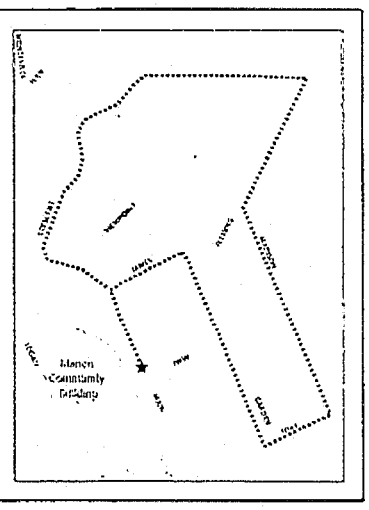
The Roy Williams Walk

Difficulty Level:
Easy

Length:
1 mile

Features:
Passes through quite and shaded residential neighborhoods.
Begins at Roy Williams Historic Marker and travels past his birthplace at the old Marion Hospital.

Public Parking Options:
Community Building upper parking lot.



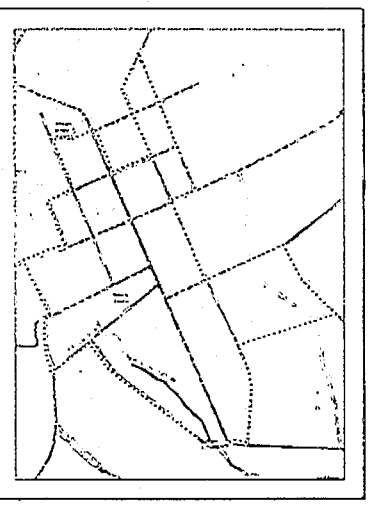
The Downtown 5K

Difficulty Level:
Difficult

Length:
3.11 miles

Features:
Varied terrain and slope
Connects with Peavine Rail Trail
Both signalized and unsignalized crossings

Public Parking Options:
Community Building parking lot
Garden Street parking lot
Designated public parking for Peavine Trail at McDowell Rescue Squad



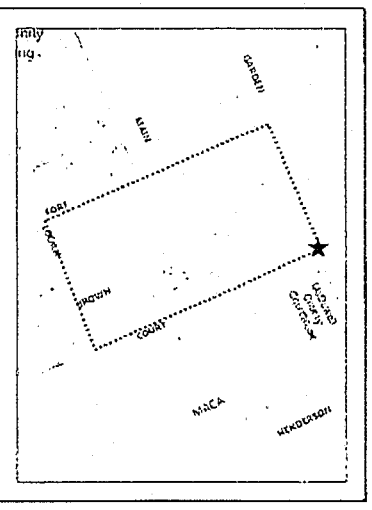
The Courthouse Killer

Difficulty Level:
Difficult

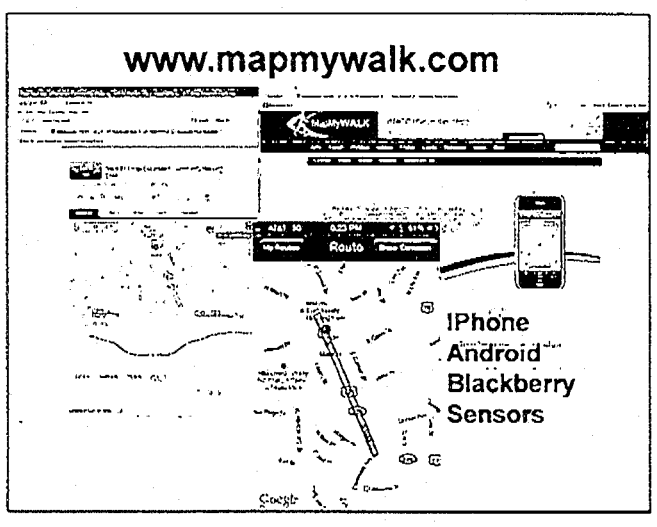
Length:
0.45 miles

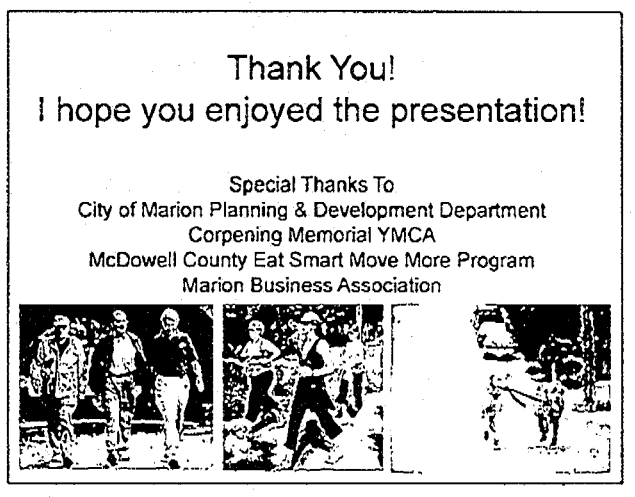
Features:
Strength training and endurance extension trail.
Connects with Main St Loop, Market Walk, Downtown 5K, and Big T trails.
Wide sidewalks
Signalized crosswalks

Public Parking Options:
Gazebo parking lot
Brown Drive parking lot



AA.000001234 (24)





Ms. Cotton thanked Mr. Davis for working for free this summer to complete this brochure and also thanked Council Member Doggett for coming up with the idea.

Council Member Clark stated that staff needs to check some of the trail locations to make sure they are safe, have proper crosswalks and signage in place, etc. before the brochures are printed and the City encourages people to walk the marked routes. Ms. Cotton stated that she would make sure that all safety issues are identified and addressed, prior to printing the brochures.

Mayor Little suggested some formatting changes to make the brochure easier to read.

A discussion followed.

Mayor Pro Tem Cuthbertson stated that the City should write a letter of recommendation and commendation for Mr. Davis, in light of his efforts on this project. Mr. Davis said that he would very appreciative to have the City write such a letter. Ms. Cotton said that she would be happy to do so.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Owenby, Council voted unanimously to approve the downtown walking trail brochure, with the incorporation of corrections and formatting changes as needed and with the direction to staff to identify and correct any safety issues prior to the brochure being printed and distributed.

Council Member Owenby stated that it would be good to have the brochures available by the Mountain Glory Festival, if possible.

AA.000001235 (24)

CONSIDER ADOPTION OF PARKING ORDINANCES: The City Manager advised that as part of the Downtown Streetscape Project, ordinances making the following changes are presented for Council consideration:

A. Ordinance to Amend Parking Near Fire Hydrants and Other Restricted Areas – To preserve as much on-street parking as possible as part of the Downtown Streetscape Project, staff has looked at a possible new parking space or loading zone in front of Main Street Exxon on North Main Street. The new space will be near, but not directly in front of, a fire hydrant. As shown on the enclosed pages, the City Code currently prohibits parking within 15 feet of a fire hydrant. An ordinance has been drafted to amend the City Code to grant exceptions from prohibited parking areas, such as within 15 feet of a fire hydrant, where marked parking spaces are placed on public streets by the City or the North Carolina Department of Transportation. The City Manager said that Council could be certain that neither the City nor DOT would allow marked parking spaces to be located in an unsafe location.

B. Ordinance to Designated Parking Space or Loading Zone in front of Main Street Exxon and to Eliminate Police Parking Only Spaces in front of Courthouse and beside Killough's – As noted above, the City has an opportunity to place a new parking space or loading zone in front of Main Street Exxon. The ordinance presented called for a parking space at this location, based on the input from merchants in the block.

The ordinance also calls for the elimination of two Police Parking Only spaces in front of the Courthouse on South Main Street and beside Killough's on West Henderson Street. The City Manager said that he spoke to Police Chief Mark Brooks, who saw no problem with the removal of these spaces.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Clark, Council voted unanimously to adopt the following Ordinances creating exceptions to restrictions on parking where marked parking spaces are added by the City or the North Carolina Department of Transportation:

ORDINANCE
AMENDING CHAPTER 18
TRAFFIC
MARION CITY CODE

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

Section 1. That Chapter 18, Traffic, of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Section 2. Chapter 18 is amended by deleting Section 18-223 (c) in its entirety and replacing it with the following:

(c) Exceptions to this section shall apply only in cases where a driver of a vehicle is ordered to drive across a sidewalk or curb by a police officer or traffic control device, in situations where emergency or maintenance work is undertaken by the city or authorized by the city through the issuance of a permit by the public works director or where marked parking spaces are placed on public streets by the City or the North Carolina Department of Transportation.

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 20th day of September, 2011.

Stephen R. Little, Mayor

ATTEST:

AA.00001236 (24)

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-11-09-20-1

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following Ordinance amending the Traffic Schedule to add a parking space in front of Main Street Exxon on North Main Street and eliminating Police Parking Only designations on South Main Street and West Henderson Street:

ORDINANCE
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 18-239 is amended by deleting the following:

STREET NAME	REGULATION	REG. APPLICATION
MAIN STREET (SOUTH)	PARKING FOR POLICE VEHICLES ONLY	EAST SIDE BEGIN 15 FEET SOUTH OF THE SE CORNER OF SOUTH MAIN ST. AND EAST COURT ST. EXTENDING 21FT. SOUTHERLY
HENDERSON STREET (WEST)	PARKING FOR POLICE VEHICLES ONLY	SOUTH SIDE BEGIN 35 FEET WEST OF THE SW CORNER OF SOUTH MAIN ST. AND WEST HENDERSON ST. EXTENDING 23 FT. WESTERLY
MAIN STREET (NORTH)	PARKING PROHIBITED FORT AND MAIN	EAST SIDE,BEGIN AT THE SE CORNER OF E. CONTINUING 256 FT. SOUTHERLY

Section 3. Section 18-239 is amended by adding the following:

STREET NAME	REGULATION	REG. APPLICATION
MAIN STREET (NORTH)	PARKING PROHIBITED FORT AND MAIN	EAST SIDE,BEGIN AT THE SE CORNER OF E. CONTINUING 60 FT. SOUTHERLY

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 20th day of September, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-11-09-20-2

AA.000001237 (24)

Council Member Clark stated that he would like to see the City enforce City Code restrictions on parking with the driver's side of the vehicle against the curb, through warnings or educational materials. The City Manager stated that he would work with Chief Brooks to develop a plan for such warnings and education on this matter.

CONSIDER ADOPTION OF ORDINANCE – AUTHORIZE CRIMINAL HISTORY CHECKS FOR PAWNBROKER LICENSE APPLICANTS: The City Manager advised that the North Carolina General Assembly approved new legislation a year ago that passed on an unfunded mandate for Police Departments to be more involved in reviewing the activities of precious metals dealers (gold and silver) and pawnbrokers. Police Departments must attest to the moral character of such businesses. The City Manager stated that Police Chief Mark Brooks has proposed that Council authorize criminal history checks for applicants for pawnbrokers. Precious metals dealers typically can qualify as pawnbrokers.

Chief Brooks gave a brief overview of the proposed ordinance. These background checks are consistent with checks done on applicants for other licenses, such as taxicabs, peddlers, itinerant merchants or places of amusement. The ordinance has been pre-approved by the SBI, since SBI approval is needed for such criminal history checks.

The City Manager noted that the allowance for such criminal history checks was due to the City of Marion requesting such State legislation about ten years ago.

Upon a motion by Council Member Martin, seconded by Council Member Owenby, Council voted unanimously to adopt the following Ordinance authorizing criminal history checks for pawnbroker license applicants:

ORDINANCE
AMENDING CHAPTER 10
LICENSES PERMITS AND BUSINESS REGULATIONS
MARION CITY CODE

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

Section 1. This ordinance adopted by the Marion City Council is to provide a policy and procedures for conducting criminal history checks through SBI/DCI on all applicants for pawnbroker licenses. This ordinance is adopted pursuant to the authority vested in the City of Marion by the General Assembly of the State of North Carolina in Section 160A-11 and 160A-12 of the North Carolina General Statutes.

Section 2. That Chapter 10, Licenses Permits and Business Regulations, of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Section 3. Chapter 10 is amended by adding Section 10-152 as follows:

Sec. 10-152. Criminal history check authorized; disqualifications.

In order to protect the public health, safety and welfare of the citizens of Marion and their properties, the procedures herein are established to provide for fingerprinting and criminal history checks on all applicants for pawnbroker licenses. Subject to subsection (c) of this section, a pawnbroker license may be denied for those persons convicted of any crime against a person, or crimes against property where intent is an element, or any drug or gambling related offense.

(a) The city manager, or designee, shall conduct an investigation of any person applying for a pawnbroker license and it shall be a precondition of a pawnbroker license that an applicant for a pawnbroker license shall, upon request, provide fingerprints and all other necessary personal identification including a birth certificate, social security number and driver's license, if available, so that the city manager, or designee, may cause a thorough search to be made of local and state criminal records to determine if the applicant has a history of criminal convictions or the crimes enumerated above by the use of the Division of Criminal Information Network (DCI).

AA.000001238 (24)

(b) The Marion Police Department shall provide the findings from the use of the DCI to the city manager or designee, provided that all necessary agreements with the State Bureau of Investigations Division of Criminal Information have been executed.

(c) An evaluation of any crime for purposes of issuing a pawnbroker license will take into account the nature and the circumstances of the offense and the time frame of the offense as it relates to the pawnbroker license.

(d) Prior to denial or termination of a pawnbroker license based upon criminal history record information (CHRI) received from the Marion Police Department, the city manager shall verify the existence of a record by either obtaining a certified public record or by submitting a fingerprint card of the individual to the criminal information and identification section for verification that the CHRI record belongs to the individual.

Section 4. If this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions of the ordinance which can be given separate effect and to that end the provisions of this ordinance are declared to be severable.

Section 5. Any ordinance or any part of an ordinance in conflict with this ordinance, to the extent of such conflict, is hereby repealed.

Section 6. This ordinance is adopted in the interest of public health, safety and general welfare of the inhabitants of the City of Marion, North Carolina and shall be in full force and effect from and after its adoption.

Adopted this the 20th day of September, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-11-09-20-3

ADD ON – ENDORSEMENT OF COUNCIL MEMBER DOGGETT'S CANDIDACY FOR N.C. LEAGUE OF MUNICIPALITIES BOARD: The City Manager stated that he would propose that Council take action to endorse the candidacy of Council Member Doggett for the North Carolina League of Municipalities District 11 Board of Directors position or, if that position is not available, for an At-Large position on the League's Board of Directors.

Council Member Clark stated that he is on the League's Nominating Committee and that the public hearing on nominations would be held on Sunday, October 23 in Raleigh during the League's Annual Conference.

Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to endorse the candidacy of Council Member Doggett for the North Carolina League of Municipalities District 11 Board of Directors position or, if that position is not available, for an At-Large position on the League's Board of Directors, and to authorize Mayor Little to send a letter to the League advising of Council's endorsement.

ADD ON – APPROVAL OF PLACE OF AMUSEMENTS LICENSE FOR RONNIE PATEL – MOUNTAINEER PUB & DELI: The City Manager advised that Mr. Ronnie Patel had submitted an application for a license to operate a place of amusements, with two pool tables and several video games, at Mountaineer Pub & Deli, located in the former Carolina Chocolatiers building at 4201 Highway 221 South, next to the Open Flame Restaurant.

The City Manager reported that the Police Department completed a background check and determined that Mr. Patel does not have a criminal record. The City Code states that Council shall not issue a license for a place of amusement to any person who:

AA.000001239 (24)

(1) Has been convicted of unlawfully selling intoxicating liquors or narcotic drugs; or
(2) Is not a citizen of resident of this state; or
(3) Is an excessive user of intoxicating liquor or narcotic drugs; or
(4) As a result of the criminal background check, is deemed by the City Council to be unfit to conduct a business for which the license is applied.

The City Manager stated that the criminal background check indicates that Mr. Patel appears to satisfy the requirements listed.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to approve the request of place of Mr. Ronnie Patel for a license to operate a place of amusements, with two pool tables and several video games, at Mountaineer Pub & Deli, located in the former Carolina Chocolatiers building at 4201 Highway 221 South, next to the Open Flame Restaurant.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager gave an update on the Downtown Streetscape Project. DOT recently adjusted the timing of traffic signals on Main Street in the downtown area to improve traffic flow as part of the Downtown Streetscape Project and will soon install vehicle detection loops at the Main Street/State Street and Main Street/Fort Street intersections. He advised that DOT still believes that the bumpouts and street resurfacing can take place prior to the October 8 Mountain Glory Festival. The City Manager stated that DOT was working to overcome issues with the metal grate that will bridge the gap between the bumpouts and the curbline. Mayor Little advised that he had proposed a solid covering over the trench drain, to avoid the grate being a tripping hazard.

The City Manager stated that he had some questions from Council Members about what will go in the bumpouts. The plans call for brick to be set on a sand base, like we currently have on or brick sidewalks on Main Street. The original plans called for large trees at the bumpouts. DOT did not think that large trees would be a good idea. Since the bricks can be popped out easily, the City could make some planter beds and plant flowers or low shrubs. The City Manager asked for Council direction won what should be planted. After discussion, Council agreed by consensus to have City staff consult with the City's contracted certified arborist, Lawrence Moore, and come back with recommendations on what should be planted in the bumpouts.

Council Member Clark suggested that topsoil be placed in the bumpouts to make it easier for planting. The City Manager stated that this request could be made to DOT.

The City Manager stated that Mr. J.J. Laughridge of Rutherford Road has requested that the City ask DOT again for a traffic signal at the intersection of South Garden Street and Rutherford Road. The City Manager noted that the City had unsuccessfully made this request to DOT in 2000.

Council Member Doggett noted that this was an intersection with poor visibility and that a traffic signal could help improve safety.

Upon a motion by Council Member Doggett, seconded by Council Member Martin, Council voted unanimously to authorize the City Manager to request that DOT install a traffic signal at the intersection of South Garden Street and Rutherford Road.

The City Manager advised that Council Member Clark had suggested that the City ask DOT again to prohibit through trucks on Main Street in the downtown area. This request had also been submitted unsuccessfully to DOT a few years ago during the planning process for the Downtown

AA.000001240 (24)

Streetscape Plan. Council Member Clark said that the prohibition would not affect local deliveries and that trucks simply passing through the downtown area could easily take the Highway 221 Bypass, West Henderson Street and Logan Street.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to authorize the City Manager to request that DOT prohibit through trucks on Main Street in the downtown area.

The City Manager further advised that Council Member Doggett had suggested that DOT install left turn signals on Main Street in both directions at the Court Street intersection, to improve safety for pedestrians. Council Member Doggett stated that the left turn signals would allow traffic turning left from Main Street onto Court Street to clear the intersection, instead of having to race to beat oncoming traffic and thereby endanger pedestrians.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to authorize the City Manager to request that DOT install left turn signals on Main Street in both directions at the Court Street intersection, to improve safety for pedestrians.

The City Manager advised that, as previously reported, the soil issue at the retaining wall for the pump station behind the old truck stop on Sugar Hill Road has been solved and the contractors are back on track with the sewer extension on Sugar Hill Road Water and Sewer Extension. The City Manager stated that he would give Council a projected completion date for the sewer project when one is available. The City Manager stated that the City began accepting wastewater flow from the Wal-Mart Supercenter development on August 29, but had not had to pump and haul due to the wastewater flow being so light. He added that the contractor can hopefully finish up the sewer extension soon and not have to pump and haul for long.

The City Manager advised that Marion 101 will be held on seven consecutive Thursdays from September 8 until October 20. He said that the first two sessions had gone very well.

The City Manager advised that Public Works Superintendent Roger Estes had advised that the City's $30,000 budgeted amount for Parks and Recreation Capital Outlay will need to be used for the Clinchfield Park construction this year. Therefore, the Community Building Park Master Plan final implementation will need to wait until the 2012-13 Fiscal Year. The City Manager stated that the Tree Board had previously recommended that the City wait until the Community Building Park work was completed before planting new trees in the Park.

COUNCIL MEMBER COMMENTS:

Mayor Pro Tem Cuthbertson stated that the sidewalk is separating from curb on Crawford Street near the old Senior Center building. The City Manager stated that staff would address this issue.

Council Member Clark stated that DOT needed to put packing material in the cuts made at Main Street and Court Street and at Main Street and Henderson Street, as part of the Downtown Streetscape Project. The City Manager stated that this problem had previously been reported to DOT, but that he would mention it again. Planning and Development Director Heather Cotton advised that the contractor or DOT had added stone to the holes, but the large volume of traffic on Main Street keeps the holes dug out.

Council Member Doggett asked if the downtown wireless network is operational yet. The City Manager stated that the network needs some repairs and upgrades, especially since the City has basically spent no money on maintenance of the network since it was installed using N.C. STEP grant funds about three years ago. He said that staff was obtaining quotes for the repairs, but that the City would likely need to spend $5,000 to $10,000 to complete this work. The City Manager asked if this amount of expenditure would be acceptable. Mayor Little stated that the City had no

AA.000001241 (24)

choice but to keep the network operational. Council Members expressed no opposition to the repair work being completed as described by the City Manager.

Council Member Clark stated that there is a section of Burgin Street that needs patching. The City Manager stated that Maymead would patch this location when they completed the City's street resurfacing work, hopefully in October.

Council Member Clark asked when the Public Works Director position would be filled. He said that this is a key position and he feels the position needs to be filled by the first of the year. Council Member Doggett stated that she also had concerns about the vacancy creating extra work for the City Manager and other staff. The City Manager stated that he respected these thoughts, but was hoping to leave the position open for a few months to save money in the current budget. He said that staff were coping well with the vacancy.

Mayor Little invited Council Members to the ribbon cutting for the new Tractor Supply store on North Main Street at 8:30 a.m. on Thursday September 29.

Mayor Pro Tem Cuthbertson asked for an update on recent downtown graffiti. Police Chief Mark Brooks stated that his investigators had been working to try to find the culprits responsible for the recent rash of graffiti in the downtown area.

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Council Member Owenby, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, October 4, 2011 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Steve Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members A. Everette Clark, Juanita Doggett, Billy Martin and Cecil Owenby.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Mark Brooks, Police Chief; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: No guests were present for this meeting.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

CITIZEN OF THE MONTH: The Citizen of the Month presentation was held over until the November 1, 2011 City Council Meeting.

AA.000001242 (24)

CONSENT AGENDA: Upon a motion by Council Member Owenby, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to approve the consent agenda as follows:

A . Approval of Minutes – September 20, 2011 Regular City Council Meeting

B . Approve Resolution Directing the Clerk to Investigate the Sufficiency of a Petition for Annexation – Shady Lane/Frisbee Property:

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-31 – FRISBEE-SHADY LANE - 2011

WHEREAS, a petition requesting annexation of an area described in said petition was received on September 23, 2011 by the City of Marion; and

WHEREAS, 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 of his investigation.

Adopted this the 4th day of October, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

RESOLUTION NUMBER: R-11-10-04-1

C. Receive Certificate of Sufficiency – Shady Lane/Frisbee Property Annexation:

Certificate of Sufficiency – Frisbee – Shady Lane Annexation – 2011

To the City Council of the City of Marion:

I, J. Robert Boyette, City Clerk, do hereby certify that I have 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 4th day of October, 2011.

(Seal)

J. Robert Boyette, City Clerk

D. Adopt Resolution Fixing the Date of Public Hearing on the Question of Annexation – Shady Lane/Frisbee Property Annexation:

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31 – FRISBEE/SHADY LANE

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

AA.000001243 (24)

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 contiguous area described herein will be held at City Hall at 7:00 P.M. on Tuesday, October 18, 2011.

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

BEGINNING on an existing iron pin, said point of beginning a common corner of the property conveyed to Bruce Frisbee, et ux., recorded in Deed Book 584, Page 973, and said point of beginning being located North 66° 48" 39" West 304.40 feet from N.C.G.S. Monument "Lukin," whose NAD 1983 coordinates are Northing + 215,775.413 meters; and Easting = 335,689.148 meters; and runs thence from said point of beginning and with the common line of the Frisbee property DB 584 Pg 973, North 25° 13' 57" East 166.05 feet to an existing iron pin, said line also being the existing boundary of the City of Marion Corporate Limits, thence South 86° 46' 11" East 66.86 feet to an iron pin set; thence South 25° 13' 40" West 180.40 feet; North 74° 30' 04" 62.91 feet to the BEGINNING, containing 0.23 acres more or less.

Section 3. Notice of the public hearing shall be published once 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 the 4th day of October, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-11-10-04-2

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present for this meeting.

DISCUSS PARKING LOT IMPROVEMENTS: The City Manager advised that several downtown merchants had proposed some improvements to the parking lot the City leases from Russell Neighbors at the intersection of Logan and Henderson Streets. The City Manager presented Council with a map of this parking lot for their information. The proposed improvements are as follows:

A. The addition of lighting in the parking lot – The City Manager stated that it should not be a major expense to add lighting to enhance safety.

B. The addition of plantings, perhaps involving some trees and/or shrubs, in grassy areas next to the pavement – The City Manager stated that staff thought the parking lot would be a great Arbor Day planting location.

C. Rebuilding the steep steps leading from the parking lot to the West Henderson Street sidewalk – The City Manager advised that City crews could likely undertake this work, but to make the steps less steep, the City would likely have to extend the steps about 10 feet into the parking lot. The material cost would be about $2,000 and the City will need the property owner's permission to undertake such work.

D. Spraying weeds growing up through cracks in the pavement – The City Manager reported that this work has been done and can continue to be done periodically, but is a recurring problem because the pavement is full of cracks.

E. The addition of a trash can in the parking lot – The City Manager stated that a trash can has already been placed in the parking lot and will have to be emptied periodically.

AA.00001244 (24)

F. Cleaning up trash in the parking lot – The City Manager advised that this has not been a problem in the past, but has increased according to surrounding businesses. The addition of a trash can might help this issue.

G. Resurfacing the parking lot and entrance from Logan Street – The City manager reported that this item would be a major expense of $14,829, based on an estimate from a local paver, but could perhaps be budgeted in a future Fiscal Year. The merchants understood that this expenditure would have to be planned.

The City Manager advised that Marion Business Association Director Freddie Killough had checked with the property owner, Russell Neighbors, who has no issue with the City planting trees or shrubs or resurfacing the parking lot.

The City Manager stated that he had looked at the parking lot agreement that the City signed with Mr. and Mrs. Neighbors in 2001. This agreement was for one year, renewable for four additional years. Therefore, the agreement expired in 2006, although the City continues to pay Mr. Neighbors the rent of $325 per month originally agreed to in 2001. The original agreement allowed the City to resurface the parking lot and required Mr. Neighbors to guarantee the City five years use of the parking lot after resurfacing, or else he would have had to repay the City a proportionate share of the resurfacing cost (with 20 percent of the cost reduced for each year the City has use of the parking lot, up to five years). Before considering a major expenditure, such as resurfacing, the City Manager suggested that Council may want the City to sign a new lease or even talk about the purchase of the property. Since the City only pays $325 per month for use of the property, and Mr. Neighbors is likely to want a considerable amount for the property, a new lease may be the way to go.

Council Member Doggett asked why the City would want to build steps on private property. Mayor Little stated that safe steps should be provided on property the City leases, to protect the City from liability.

Council Member Clark asked how many parking lots the City leases. The City Manager stated that this is the only parking lot leased by the City, as all other City parking lots are owned entirely or partially by the City.

Council Member Clark stated that, if new steps are needed, perhaps the City should look at building a ramp to provide better handicapped access.

Council Member Doggett stated that she agreed with Council Member Clark that perhaps a ramp should be considered.

Mayor Little suggested that a new ramp would likely be very expensive and that he would not be interested in spending a large sum of money on a ramp.

Council Member Clark stated that, if the City makes significant investment in the parking lot, a longer lease will be needed to ensure that the City will receive reasonable use of the property.

Mayor Little stated that he thought Mr. Neighbors would be willing to sign a new lease.

Council Member Clark stated that eventually the City may be able to use some of the current Rock Tenn parking lot at Logan and Henderson Streets for public parking, once Rock Tenn relocates from the property in a few months. The City Manager stated that, while the Rock Tenn building is being marketed for industrial uses, it is very likely that a new company occupying the property would employ far fewer people than Rock Tenn's current employment of about 250 people.

A brief discussion followed.

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Council Member Clark made a motion to have City staff compile cost estimates for all proposed work to the parking lot leases by the City at Logan and West Henderson Streets and to contact the property, Russell Neighbors, and determine how much Mr. Neighbors would charge the City for a new five year lease and for a new ten year lease. The motion was seconded by Council Member Martin. All members present voted in favor and the motion was passed.

CONSIDER REQUEST FOR CITY MAINTENANCE OF STREET: The City Manager advised that, as shown in the letter presented to Council, the City received a request from four property owners on Overlook Drive West, off of Lukin Street, asking that the City take over maintenance of and complete the paving of the street. This area was part of the Sugar Hill Road annexation area that was annexed effective January 31, 2011. The City Manager stated that the signed names represent all property owners who access the street.. The McDowell County Board of Education also owns two lots (one house and one vacant lot) that front on the street and Doris Burgin owns a large lot fronting on Overlook Drive West. However, neither the School System nor Ms. Burgin currently use Overlook Drive West for access.

The City Manager presented Council with a map showing the location of Overlook Drive West. The street is privately maintained, but does have a 20 foot right of way, per McDowell County tax maps. Overlook Drive West is approximately 490 feet in length. The City manager noted that property owners indicated in the letter that they would be willing to provide a small amount of property, if necessary, to have the road paved. The City Manager reported that he and Public Works Superintendent Roger Estes have looked at the street and feel that the 20 foot right of way is too narrow to install a 16 foot wide road needed to claim the street for Powell Bill funding. The City Manager stated that at least a 30 foot right of way would be needed. He suggested that the City could ask property owners using Overlook Drive, plus the Board of Education, for 10 feet of additional right of way or the City could ask all property owners fronting on the street, including those who signed the letter, the Board of Education and Ms. Burgin for five feet of right of way each. The City Manager reported that staff is working on an estimated cost to grade and pave the street. This project would be similar to past projects to pave dirt or gravel streets in the Eastfield Community. The property owners understand that no paving could take place until the 2012-13 Fiscal Year, at the earliest. The City Manager added that the City would also likely have to add at least one street light on the road, at minimal cost.

The City Manager stated that council direction is welcomed. Council may wish to refer this request to the Street Committee for review.

Council Member Clark asked if this was a private road. The City Manager stated that it is a private road, but has a dedicated 20 foot right of way. He added that there are trees on one side of the street and a wall on the other side.

Mayor Little stated that he would recommend that this request be referred to the Street Committee.

Upon a motion by Council Member Martin, seconded by Council Member Doggett, Council voted unanimously to refer the request for the City to take over maintenance of and pave Overlook Drive West to the Street Committee for review and a recommendation.

CONSIDER STREET REQUEST: The City Manager advised that he had received a call from Mr. Scott Blake of Park Avenue, requesting the placement of two speed humps as part of the Park Avenue street project. Mr. Blake noted that there are many children living between the last curve on Park Avenue and Robert Street and proposed that two speed humps be placed in this stretch. The City Manager stated that Council has traditionally not considered speed humps until the spring and has not approved speed humps for the last three years, except for one on Burgin Street in 2010. The City Manager added that staff has not completed a technical study on this request,

AA.000001246 (24)

pending initial Council direction. A map showing the location of the requested speed humps on Park Avenue was presented to Council.

Council Member Clark stated that some cities, including the City of Newton, are using portable speed humps, made out of a hard rubber material. These speed humps can be placed and relocated fairly easily. Council Member Clark said that he did not know if such speed humps were cost effective, however.

A discussion followed.

Upon a motion by Council Member Clark, seconded by Council Member Doggett, Council voted unanimously to refer the request for speed humps on Park Avenue and consideration of the City purchasing and placing speed humps to the Street Committee for review and recommendations.

COUNCIL MEMBER COMMENTS: Mayor Pro Tem Cuthbertson stated that Planning and Director Heather Cotton had prepared a map, distributed by the City Manager, showing parking losses and gains by block for the Downtown Streetscape Project. Mayor Pro Tem Cuthbertson commended Ms. Cotton for this work, which clearly shows that the Downtown Streetscape Project will not result in the loss of large numbers of parking spaces.

Mayor Little invited Council Members to participate in the set-up for the Mountain Glory Festival on Saturday morning at 6:30 a.m.

CITY MANAGER REPORTS: The City Manager gave a brief report on current projects.

The City Manager advised that City staff are obtaining quotes for needed repairs and work to the downtown wireless network. The first quote for was more than $10,000, while a second company has estimated that the repair expenses will be less than $2,000. The City Manager stated that the City hopes to have the network operational again by mid-October.

The City Manager advised that the Mountain Glory Festival will be held on Saturday, October 8. The number of vendors is down from the past two years, which were record years for vendors.

The City Manager advised that he had sent a request to DOT Division Traffic Engineer Anna Henderson, requesting that left turn signals be installed on Main Street in both directions at the intersection with Court Street, that a traffic signal be installed at the intersection of South Garden Street and Rutherford Road and that a no through truck designation be established for Main Street in the downtown area. The City Manager reported that DOT District Engineer Doug McNeal had suggested that the City, DOT Division Traffic Engineer Anna Henderson and Mr. McNeal meet to discuss these requests and the City's "big picture" vision for the Downtown area. Unfortunately, Ms. Henderson is on maternity leave, meaning that such a meeting could not take place until late November or early December. The City Manager said that Mr. McNeal indicated his opinion that the City would have a better chance of success with the requests if it waited to meet with Ms. Henderson. The City Manager asked if Council objected to following Mr. McNeal's advice. Neither Mayor Little nor any Council Member objected to the City following Mr. McNeal's advice with this matter.

The City Manager advised that Police Chief Mark Brooks had developed an educational flyer to post on vehicles with the driver's side parked against the curb, in violation of the City Code, as requested by Council Member Clark at the last Council meeting. Police officers will place these flyers on vehicles that are parked left of center, before any tickets are issued.

The City Manager advised that the Golden Leaf Foundation will have their next meeting for the $2 million Community Investment Initiative for McDowell County on Monday, October 17 at

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1:00 p.m. at the YMCA. The City Manager asked that Council Members try to attend this meeting if possible.

The City Manager advised that, as previously reported, the soil issue at the retaining wall for the pump station behind the old truck stop on Sugar Hill Road has been solved and the contractors were cleared to complete work on the Sugar Hill Road sewer extension. He stated that this work was due to be completed on October 13, but that McGill had advised that the general contractor had been waiting on the retaining wall subcontractor to begin work for three weeks. The City Manager stated that this delay will likely cause the City to incur additional wastewater pump and haul costs, especially once the Wal-Mart Supercenter opens on October 26. He said that he had told McGill Associates, the City's consulting engineer, very directly that the City would charge liquidated damages to the contractor for any and all expenses incurred by the City as a result of the delays.

The City Manager advised that DOT continued to advise that Maymead would complete work on the bumpouts and street resurfacing on Main Street, as part of the Downtown Streetscape Project by the time of the Mountain Glory Festival on Saturday, at least within the Festival area between Henderson and New Streets on Main Street. He said that City staff would supplement work done by the contractor, if necessary, to make sure that the streets and sidewalks were safe for the Mountain Glory Festival.

The City Manager added that City staff would soon present to Council recommendations for landscaping in the new bumpouts.

Mayor Little stated that the City paid a lot of money for the Downtown Streetscape Project and that the City wants the project to be done right.

Council Member Doggett suggested that the City send DOT a bill for any work that has to be done by City crews.

Council Member Clark said that he hopes that DOT keeps a close eye on the contractor, since mistakes are often made when a job is rushed.

ADJOURNMENT: Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Martin, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, October 18, 2011 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

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BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members A. Everette Clark, Juanita Doggett, Billy Martin and Cecil Owenby.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Mark Brooks, Police Chief; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Rick & Beverly Watts, 191 Broad Street, Marion, NC; Kevin Watts, 191 Broad Street, Marion, NC; Janet & Paul Kinsey, Spring Island, SC 29909; Anna Talley, 161 E. Glenview Street, Marion, NC; Steve Harrell, General Manager, RockTenn, Marion, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

Mayor Little advised that President Barack Obama visited Marion on Monday, October 17, 2011 as part of his bus tour through North Carolina and Virginia. The President stopped at Countryside Barbeque for lunch and greeted everyone at the restaurant, spending about 45 minutes in Marion. This is perhaps the first visit ever by a sitting President to Marion.

Mayor Little stated that Mayor Pro Tem Cuthbertson, Council Member Doggett, Finance Director Harriett Thomas and City Manager Bob Boyette all were able to meet President Obama. Mayor Little added that Council Member Doggett was shown on MSNBC and was quoted in USA Today, the Wall Street Journal and other publications.

CITIZEN OF THE MONTH – SELECTED BY COUNCIL MEMBER JUANITA DOGGETT: Council Member Juanita Doggett selected the Citizen of the Month for October 2011.

DR. BEVERLY WATTS

Council Member Doggett stated that Dr. Watts and her husband, Rick, moved to Broad Street in Marion in 1986. They have three sons.

Dr. Watts is a mathematics educator. She started tutoring high school students upon arrival in Marion. She taught at Marion Christian Academy for seven years. Most recently, Dr. Watts has been employed by McDowell Technical Community College for fourteen years as a math instructor. She was promoted to Director of Developmental Studies and Quality Enhancement in January. Dr. Watts was a semi-finalist for the Teacher of the Year for the NC Community College System in 2005. She has also taught math classes to local businesses. Dr. Watts served as the advisor of McDowell Tech's chapter of the Phi theta Kappa Honor Society for eight years. Under her guidance, the chapter earned five-star status each year and was ranked as one of the top 100 chapters in the world.

Dr. Watts has been involved in Boy Scouts, serving as Den Leader and Cub Master of Pack 210 at the First United Methodist Church. She started Pack 807 in West Marion and has held various other positions with the Boy Scouts. All three of Dr. Watts' sons earned the rank of Eagle Scout while in Troop 807.

Dr. Watts has also volunteered with the Mountain Glory Festival for over 10 years. She is active in her church, having served many positions there as well.

Mayor Little, Council Members, family and friends all shared kind words about Dr. Watts.

CONSENT AGENDA: Upon a motion by Mayor Pro Cuthbertson, seconded by Council Member Owenby, Council voted unanimously to approve the consent agenda as follows:

AA.000001249 (24)

A. Approval of Minutes – October 4, 2011 Regular City Council Meeting Minutes

PUBLIC APPEARANCE – STEVE HARRELL - GENERAL MANAGER OF THE ROCK TENN FACILITY IN MARION- PRESENTATION OF HISTORIC PHOTOS AND DOCUMENTS FROM FORMER SWIFT GALEY BUILDING: Mr. Steve Harrell, General Manger of the RockTenn facility in Marion, appeared before Council and presented the City of Marion with several large framed historic photos and an album of old historic photos that were found in the former Swift Galey Building that was recently purchased by RockTenn. One of the photos was a panoramic picture of the old Clinchfield Plant from 1937, showing the mill and all its employees. Mr. Harrell stated that RockTenn wanted to ensure that these important pieces of local history were not lost and could be enjoyed by the public for generations to come.

Mr. Harrell also gave a presentation of the work RockTenn is doing to renovate the former Swift Galey building, to allow for Rock Tenn to expand its operations into the building, adding 124 new jobs and investing $25 million. Mr. Harrell said that he hoped the renovation would be completed by early 2012. He thanked the City for its help with the expansion process.

Mayor Little, Council Members and the City Manager thanked Mr. Harrell for RockTenn's confidence in Marion, as indicated by the upcoming expansion.

PUBLIC HEARING – ADOPTION OF ANNEXATION ORDINANCE – SHADY LANE/FRISBEE PROPERTY: The City Manager advised that a public hearing is required on the requested annexation of the 0.23 acre Frisbee property on Shady Lane. The property is located behind the Country Market and Pizza Joint off of Shady Lane. The property is currently vacant, but will be used for the expansion of the Pizza Joint.

Mayor Little opened the Public Hearing.

There were no citizens present to discuss this item.

Mayor Little closed the Public Hearing.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Doggett, Council voted unanimously to adopt the following ordinance to annex the Shady Lane/Frisbee property effective immediately:

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE CITY OF MARION, NORTH CAROLINA – FRISBEE/SHADY LANE PROPERTY-2011

WHEREAS, the City Council has been petitioned under G.S. 160A-31 to annex the area described below; and

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

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at City Hall at 7:00 P.M. on Tuesday, October 18, 2011, after due notice by publication on Thursday, October 6, 2011; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-31;

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

Section 1. By virtue of the authority granted by G.S. 160A-31, the following described territory is hereby annexed and made part of the City of Marion as of October 18, 2011:

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BEGINNING on an existing iron pin, said point of beginning a common corner of the property conveyed to Bruce Frisbee, et ux., recorded in Deed Book 584, Page 973, and said point of beginning being located North 66° 48" 39" West 304.40 feet from N.C.G.S. Monument "Lukin," whose NAD 1983 coordinates are Northing + 215,775.413 meters; and Easting = 335,689.148 meters; and runs thence from said point of beginning and with the common line of the Frisbee property DB 584 Pg 973, North 25° 13' 57" East 166.05 feet to an existing iron pin, said line also being the existing boundary of the City of Marion Corporate Limits, thence South 86° 46' 11" East 66.86 feet to an iron pin set; thence South 25° 13' 40" West 180.40 feet; North 74° 30' 04" 62.91 feet to the BEGINNING, containing 0.23 acres more or less.

Section 2. Upon and after October 18, 2011, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Marion and shall be entitled to the same privileges and benefits as other parts of the City of Marion. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Marion shall cause to be recorded in the office of the Register of Deeds of McDowell County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the McDowell County Board of Elections, as required by G.S. 163-288.1.

ADOPTED this the 18th day of October, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Approved As To Form:

City Attorney

Ordinance Number: O-11-10-18-1

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present for this meeting.

RECEIVE STREET COMMITTEE RECOMMENDTIONS: The City Manager advised that he had talked with the Street Committee members individually and reviewed the requests from four property owners on Overlook Drive West, off of Lukin Street, asking that the City take over maintenance of and complete the paving of the street and from Mr. Scott Blake for two speed humps to be installed on Park Avenue.

A. Overlook Drive West – The City Manager advised that Overlook Drive West was part of the Sugar Hill Road annexation area that was annexed effective January 31, 2011. Four property owners on the street requested that the City take over maintenance of the street and eventually pave the street. The street is privately maintained, but does have a 20 foot right of way, per McDowell County tax maps. Overlook Drive West is approximately 490 feet in length. Property owners indicated in the letter that they would be willing to provide a small amount of property, if necessary, to have the road paved. The City Manager stated that the Street Committee recommended that the City take over maintenance of the street and make plans to pave the street in the future, on the condition that adequate right-of-way can be acquired, as needed. The City Manager stated that Public Works Superintendent Roger Estes and he have looked at the street and are finalizing cost estimates for the construction and paving of the street. The City Manager stated that the existing 30 foot right-of-way may be adequate.

Mayor Little stated that the City should be careful and not take too much of the property for the street but, at the same time, should make sure the City has adequate right-of-way for the street.

AA.00001251 (24)

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Martin, Council voted unanimously to accept the recommendation of the Street Committee that the City take over the maintenance of Overlook Drive West, contingent upon receiving any additional right-of-way needed, with direction given to plan for the future paving of the street.

B. Speed Humps – The City Manager stated that he had previously received a call from Mr. Scott Blake of Park Avenue, requesting the placement of two speed humps as part of the Park Avenue street project. Mr. Blake noted that there are many children living between the last curve on Park Avenue and Robert Street and proposed that two speed humps be placed in this stretch. Council has traditionally not considered speed humps until the spring and has not approved speed humps for the last three years, except for one on Burgin Street in 2010. The City Manager stated that Council Member Clark suggested at the last meeting that City Council authorize the purchase of portable speed humps, which are used in other cities. The City Manager stated that he and Mr. Estes talked with representatives of the City of Newton and learned that such speed humps had been placed successfully in that city, at a cost of around $1,250 each. The City Manager advised that staff was waiting on a cost estimate from a company for such portable speed humps. The Street Committee wanted information on the cost of portable speed humps before reviewing this request.

The City Manager stated that he had also received a request regarding a traffic flow concern from a citizen and another request for a street light from a citizen and that perhaps the Street Committee could look at these issues as well.

Mayor Little asked if the portable speed humps are able to withstand being moved from place to place and if they can be put in place easily. The City Manager advised that the City of Newton indicated that one speed hum had been knocked loose by a snow plow, but had been put back with no problems.
Council Member Martin asked for the cost of permanent speed humps. The City Manager advised that the permanent speed humps cost approximately $1,200 each.

Mayor Pro Tem Cuthbertson asked if the City could use Powell Bill funds for the speed bumps. The City Manager stated that he thought Powell Bill money could be used, but that he would check to make sure this was permissible.

Council Member Doggett reminded Council that Broad Street recently submitted a petition for speed humps. Council Member Clark stated that he thought the advantage of the portable speed humps was that they can be moved easily, allowing the City to fulfill more requests for speed humps, although on a temporary basis.

No action was taken on this matter, as more information will be needed before the Street Committee can make a recommendation.

APPROVE NEW LEASE FOR PARKING LOT AT WEST HENDERSON AND SOUTH LOGAN STREETS: The City Manager advised that, as previously reported, Mr. Russell Neighbors gave his consent for the City to undertake improvements to the parking lot the City leases from him at the intersection of West Henderson and Logan Streets. Mr. Neighbors has further indicated that he is willing to sign a new ten year lease for the City to use this parking lot at the current lease rate of $325 per month. The City Manager stated that Public Works Superintendent Roger Estes has worked on some cost figures for the proposed parking lot improvements, as follows:

A. The addition of lighting in the parking lot – This should be an expense of approximately $16.98 per month for one large floodlight, as is in place at the Community Building.

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B. The addition of plantings, perhaps involving some trees and/or shrubs, in grassy areas next to the pavement – This could be an Arbor Day planting location. There would be no additional cost above what the City normally spends on Arbor Day.

C. Rebuilding the steep steps leading from the parking lot to the West Henderson Street sidewalk – City crews could undertake this work, but to make the steps less steep, the City would likely have to extend the steps about 10 feet into the parking lot. The material cost would be about $2,000.

As an alternative, City staff looked at constructing a ramp coming from the parking lot down to the sidewalk. Given the amount of elevation that would have to be covered, the ramp would be very long and likely require a switchback. The retaining wall would also have to be partially rebuilt. Staff estimates costs of at least $25,000 and probably of close to $50,000.

D. Spraying weeds growing up through cracks in the pavement – Already done by City personnel.

E. The addition of a trash can in the parking lot – Already done by City personnel.

F. Cleaning up trash in the parking lot – Already done by City personnel.

G. Resurfacing the parking lot – The City received a budget estimate of $14,829 for this work.

The City Manager stated that it will be easy to pursue the lighting and planting items this Fiscal Year. Depending on scheduling, the rebuilding of the steps could take place within the next year. The parking lot resurfacing could possibly be worked into next year's budget. At a total capital cost of around $17,000, the City could receive a minimum of 9-10 years use out of the improvements. The City's total investment over 10 years would be as follows:

Rent ($325 per month):	$39,000
Parking Lot Resurfacing:	14,829
Material Cost for Rebuilding Steps:	2,000
Parking Lot Floodlight (1 at $16.98 per month)	2,037
Total Costs over 10 years:	$57,866
Total Costs Per Month:	$ 482

The City Manager advised that he took the City's old parking lot lease with Mr. and Mrs. Neighbors and revised it somewhat. The new lease is for a ten year period at the current lease rate of $325 per month. The City Manager presented the proposed lease to Council, adding that Mr. and Mrs. Neighbors had already reviewed and signed the lease.

Mayor Little and Council Members agreed by consensus that the replacement of the steps was more practical than installing a ramp.

Council Member Clark stated that the City needed to keep in mind the Americans with Disabilities Act requirements when making improvements.

Mayor Pro Tem Cuthbertson stated that this parking lot needs a handicap parking place.

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Council Member Doggett asked if the City could use empty bank parking lots for temporary handicap parking spaces during festivals, particularly the Mountain Glory Festival.

The City Manager stated that the Mountain Glory Festival Committee had recommended that the Wells Fargo parking lot be a handicapped parking area, but added that there would likely need to be a Festival volunteer to enforce the handicapped parking on that day.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following lease agreement for the parking lot located at West Henderson and South Logan Streets:

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL

LEASE

THIS LEASE made and entered into this the 18th day of October, 2011, by and between H. Russell Neighbors Jr. and wife Patricia R. Neighbors, Lessors, and the City of Marion, Lessee, all of McDowell County North Carolina:

WITNESSETH

That subject to the terms and conditions herein set out, said Lessor does hereby let and lease unto the Lessee, and said Lessee does hereby accept as Lessee a certain tract of land used as a parking lot on the corner of West Henderson Street and South Logan Street in Marion, McDowell County, North Carolina being more fully described follows:

> All that certain tract of land as recorded in Book 530 on Page 349 of the McDowell Deed Registry together with that certain easement as recorded in Book 530 on Page 351 of the McDowell Deed Registry copies of which are attached hereto as exhibit "A" and incorporated into the body of this lease by reference as if fully set out herein.

TERMS AND CONDITIONS

1. The lease shall begin as of the 1st day of January, 2012, and shall exist and continue until the 31st day of December, 2021.
2. The rental to be paid by said Lessee for the premises shall be Three Hundred Twenty Five Dollars ($325) per month payable by the Lessee within 30 days after billing by the Lessors.
3. Lessee may erect such signage as Lessee deems necessary and appropriate provided said signage is erected in the soil portions of the premises.
4. Lessee accepts the premises in "as is" condition and shall during the term of this lease or any extension thereof be solely responsible for the maintenance repair and upkeep of the premises and to maintain the premises in at least as good condition as the same presently exists, normal wear and tear excepted.
5. Lessee upon the expiration of this lease shall return the premises to Lessor in as good condition as the same now exists, ordinary wear and tear excepted. Lessee shall not be responsible for the erection of any fencing on the premises upon the termination of this lease.
6. Lessee shall add the premises to any policy of liability insurance Lessee maintains on properties owned or leased by Lessee and add Lessors as additional insured on said policy.
7. This lease may not be sublet without the permission of the Lessors. Further, the premises may only be used for the parking of passenger vehicles. Non passenger vehicles requiring commercial tagging are expressly prohibited from the use of the premises.
8. This lease shall not be transferred or assigned, nor the premises or any part thereof sublet by the Lessee, except with the written consent of the Lessors first had and obtained.
9. This lease is made upon the express condition that if the Lessee shall neglect to make any payment of rent when due, or neglect to keep and fulfill nay of the covenants and agreements herein provided on its part to be kept and fulfilled, and shall remain in default

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thereof for a period of 15 days after notice from the Lessors of any such default, the Lessors, their executors, administrators or assigns may thereupon enter upon the premises and expel the Lessee therefrom, without prejudice to any other remedy which the lessors, their executors, administrators or assigns, may have on account of such default.

10. The Lessors do hereby covenant and agree with Lessee that, subject to the terms and conditions hereinabove set forth, the Lessee shall have and enjoy said premises during the term herein provided for, free from the adverse claims of any and all other persons whomsoever.
11. It is understood and agreed that the rents herein provided to be paid shall be paid to H. Russell and Patricia R. Neighbors Jr., 8 South Main Street, Marion, NC 28752 or at such other address as the said Lessors may, in writing, request the Lessee to pay the same. Lessors shall provide Lessee with Lessor's tax identification number for reporting purposes by separate written communication that shall not be placed in the public record or made accessible to the general public.
12. Lessee may take possession of the premises upon the execution of this lease to begin such alterations as Lessee deems appropriate in accord with the capabilities afforded Lessee herein. Lessee shall be permitted to undertake without prior written consent of the Lessor, the following improvements to the premises: resurfacing of the asphalt area; painting of the asphalt area (e.g. parking lines); drainage work; and subsurface work to the extent necessary to stabilize the parking asphalt. All of the aforementioned work, if undertaken by Lessee, shall be performed at Lessee's expense and performed in a good and workmanlike manner using quality materials, and shall conform to all applicable laws, codes or regulation. Any other improvements to or alterations to the premises shall be conducted with Lessor's prior written consent.
13. This lease shall inure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators, assigns and successors in interest.

In Testimony Whereof, the Lessors have hereunto set their hands and seals, and the Lessee has caused this lease to be executed in the name of the municipality by persons so authorized to do and sealed with its municipal seal all in duplicate, this day ad year first above written.

_____(SEAL)
H. Russell Neighbors Jr.

_____(SEAL)
Patricia R. Neighbors

The City of Marion, North Carolina

(SEAL)

By: _____
Stephen R. Little, Mayor

Attest:

J. Robert Boyette, City Manager/Clerk

CITY MANAGER REPORTS: The City Manager gave a brief report on current projects.

The City Manager stated that he wanted to publicly thank Police Chief Mark Brooks for the great work the Police Department did while working on security for President Barack Obama's visit to Marion yesterday. The City Manager stated that, to his knowledge, this was the first sitting President ever to visit Marion. The Fire Department, the McDowell County EMS, the McDowell

AA.000001255 (24)

County Sheriff's Department, the North Carolina Highway Patrol and the Police Department all worked well with the United Stated Secret Service to make the President's visit to Marion safe.

The City Manager advised that as previously reported, the City was turned down for the March State Revolving Fund (SRF) Wastewater funding for the sewer extension under I-40 to serve Marion Travel Plaza on Sugar Hill Road. The application was resubmitted for the September SRF grant cycle. McGill found some scoring errors the State made with their initial review of this application. In addition, the N.C. Division of Water Quality gave us a letter of support for this project.

In early October, the City received a letter, advising that the City was approved for a low interest loan of about 2.4 percent in the amount of $590,900 for this project. The City Manager reported that the City was hoping for grant funding, rather than a loan. The City has until January 2 to submit an engineering report. The City Manager suggested that the City see how much money is left over from the Sugar Hill Road Water and Sewer Extension loan, an amount he figured to be around $200,000, and then determine if there is any chance for any grant funding for this project. Council could then decide if they want to wait on full grant funding to complete the project, or if they want to proceed with some or all loan funding. The City Manager stated that, since Marion was near the bottom of the list of projects funded, it was unlikely that the City would receive any SRF grant funding this cycle.

Based on the project calendar in the letter, the City would have until July 1, 2013 to execute a construction contract, meaning that any debt would not begin until at least 2013-14, which is the Fiscal Year after our Automated Water Meter debt of $106,190.80 rolls off of the Water and Sewer Fund budget. At 2.4 percent interest, the debt payments on $590,900 over 20 years would be $37,330 per year.

As shown in information presented to Council, McGill also asked the Sugar Hill Road Water and Sewer Extension Contract 2 contractor, T&K Utilities, for an estimate of how much they would charge for the Marion Travel Plaza Sewer Extension. Including design, permitting, construction, construction administration, contingencies and other items, the estimated cost of the project is down to $432,650, since McGill would not have to go through a bidding process and the contractor would not have to remobilize. McGill estimates that the City will have $303,000 left over from the Sugar Hill Road Water and Sewer Extension. However, that number assumes that the City will receive our full $300,000 ARC grant, something that is in doubt since the Contract 1 prices came in well under budget.

The City Manager stated that he had also spoken to Dennie Martin with Martin-McGill, who felt that a Clean Water Management Trust Fund (CWMTF) grant could be a possibility for this project. However, the City may also need to seek Clean Water funding for Phase 2 of the Joseph McDowell Historical Catawba Greenway and may need to choose only one project for which to seek Clean Water funding.

Council Member Clark asked what the Marion Travel Plaza extension would serve. The City Manager stated that it would serve only the Marion Travel Plaza at first, but give the City a foothold on the south side of I-40 for future development.

Council Member Clark stated that he feels that the City should not spend much of any local money, above $25,000 or so, on the project. He said that he believes grant funding eventually be available.

Mayor Little stated that he agrees with Council Member Clark and that the City should focus on the greater good; which would involve seeking CWMTF funding for Phase 2 of the Greenway.

AA.000001256 (24)

Council agreed by consensus for the City to seek CWMTF funding for Phase 2 of the Greenway and to hold out for grant funding for the sewer extension to Marion Travel Plaza.

The City Manager advised that the 28th Annual Mountain Glory Festival was held on Saturday, October 8 and went very well. The number of vendors was down about ten from the past two years, which were record years for vendors. However, the City had great weather and as large a crowd as ever seen at Mountain Glory. The City Manager stated that City Public Works staff worked hard, with the assistance of DOT and Maymead, to make sure that the Downtown Streetscape Project work was completed in the Festival area to allow the Festival to take place safely. The City Manager commended the Marion Business Association (MBA) Board, staff and volunteers, the Public Works Department, the Police Department and the Fire Department for their efforts in making the Festival such a success.

The City Manager advised that he and Mayor Little attended the wrap-up meeting of the Mountain Glory Festival on October 12. The Committee felt that this year's Festival was the best ever. The Committee members suggested several improvements for next year's Festival. The City Manager stated that improvements will be explored and communicated with Council and the MBA Board prior to implementation.

The City Manager advised that it is taking a little more time than first anticipated to assess the six downtown walking trails for needed safety improvements. City staff will seek to finish this assessment in the near future, make improvements needed on City sidewalks and streets (such as crosswalks or sidewalk repairs) and ask DOT for any needed improvements on State maintained streets (such as crosswalks or pedestrian crossing signals). The DOT requests may need to be made as part of the City's planned meeting with DOT Division Traffic Engineer Anna Henderson in early December, after she returns from maternity leave.

The City Manager advised that staff plans to have recommendations ready very soon to present to Council on landscaping in the new bumpouts on Main Street, as part of the Downtown Streetscape Project. By the time of the November 1 meeting, the City anticipates that Maymead's work on the Downtown Streetscape Project should be completed or almost completed, depending on weather.

The City Manager reported that, now that the Mountain Glory Festival is over, City staff will work to make sure the gingko trees are lighted for Christmas. The skirts around the gingko trees will be removed as this work takes place prior to the November 20 Christmas Parade.

The City Manager advised that the public hearing on the proposed Duke Energy rate increase, to be conducted by the North Carolina Utilities Commission, will be held on Tuesday, October 25 at 7:00 p.m. at the Courthouse. He added that it would be helpful to have as much City representation as possible at this public hearing.

The City Manager advised that as previously reported, the soil issue at the retaining wall for the pump station behind the old truck stop on Sugar Hill Road has been solved and the contractors were cleared to finish the retaining wall for the pump station behind the old truck stop, as part of the sewer extension on Sugar Hill Road. The wall subcontractor had been slow in showing up to complete this work, so the City Manger directed McGill to advise the general contractor that the City planned to charge liquidated damages for any added expenses, especially pump and haul service, incurred after the contract completion date plus allowances for weather and our delays with the soil issue.

The City Manager stated that the City started accepting wastewater flow from the Wal-Mart Supercenter development on August 29, to allow contractors to test restrooms. For about one month, the wastewater flow had been very little, meaning that the City really did not have to pump and haul. However, flow increased in late September when Wal-Mart began stocking the

AA.000001257 (24)

new store and training new employees. The City Manager stated that McGill has worked out an agreement with the contractor, whereby the contractor will be responsible for any pump and haul needed as of October 26, the date that the Wal-Mart store opens.

The City Manager advised that Maymead is finishing up work on the resurfacing and patching of City streets.

COUNCIL MEMBER COMMENTS:

Council Member Clark stated that he would like to acknowledge the recent death of Former Police Chief and Volunteer Firefighter John Beck and would like for the City Council to adjourn this meeting in memory of Chief Beck.

Mayor Pro Tem Cuthbertson asked if the Downtown Streetscape Project striping would soon take place. The City Manager advised that the striping should be taking place soon, according to DOT.

Mayor Pro Tem Cuthbertson advised that the City received confirmation of the receipt of a grant for a greenway and stormwater improvements along the creekbank behind the Police Department, Nevant and School Central Office properties on South Main Street.

Council Member Doggett asked if the downtown wireless network was yet operational. The City Manager stated that the network should be operational within a few days, according to the City's contractor. He added that the delays in making the needed repairs were due to the City seeking the best possible price for the work. The City Manager advised that the anticipated cost of the work was less than $1,000.

Council Member Doggett suggested that the City put some type of reflective tape on the Main Street bumpouts, since many are hard to see. The City Manager asked that he would forward this suggestion to DOT.

Council Member Doggett stated that she would like the City to display the photos and documents donated by RockTenn, so that the public could enjoy them. Council Member Clark stated that perhaps the City could display them in the Community Building, Depot or at City Hall. He also asked that the City send RockTenn a thank you note for this donation.

Mayor Little advised that the previous day, October 17, was the nine year anniversary of the death of his brother-in-law and community friend Mr. Warren Hobbs.

ADJOURNMENT: Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adjourn the meeting in memory of former Police Chief John Beck, who passed away the previous week.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.000001258 (24)

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 1, 2011 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Steve Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members A. Everette Clark, Juanita Doggett, Billy Martin and Cecil Owenby.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, AICP, Planning and Development Director; Mark Brooks, Police Chief; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: No guests were present for this meeting.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

CONSENT AGENDA: Upon a motion by Council Member Owenby, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to approve the consent agenda as follows:

A . Approval of Minutes – October 18, 2011 Regular City Council Meeting Minutes

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present for this meeting.

ADOPT UPDATED RESOLUTION FOR MUTUAL AID ASSISTANCE WITH OTHER LAW ENFORECMENT AGENCIES: The City Manager advised that Council had adopted a Resolution for Mutual Aid Assistance with other Law Enforcement Agencies in 1987. The standard resolution authorizing law enforcement mutual aid has since been updated by the State. It is recommended that Council adopt the current standard resolution.

The City Manager stated that this resolution is similar to the previous one approved in 1987, with the addition of some references to the General Statutes and additional mention of Worker's Compensation insurance.

Council Member Clark asked who would be responsible for Worker's Compensation and liability insurance coverage in mutual aid situations. The City Manager advised that the intent of mutual aid is for each agency to be responsible for providing Worker's Compensation and liability insurance coverage for its employees in mutual aid situations. Council Member Clark stated that he understood the intent, but that the City needed some assurances. Mayor Little said that the City could say that it will not be liable for any situation that happens to an employee of another agency in a mutual aid situation, but that such a statement will not be of value.

After discussion, Council agreed to have staff request and keep records of insurance coverage of other agencies with whom the City enters into mutual aid agreements.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following Resolution Adopting a Policy for Mutual Assistance with other Law Enforcement Agencies:

CITY OF MARION
RESOLUTION
ADOPTING A POLICY FOR MUTUAL ASSISTANCE
WITH OTHER LAW ENFORCEMENT AGENCIES

AA.000001259 (24)

WHEREAS, pursuant to North Carolina General Statutes § 160A-288, the governing body of a city or county may adopt appropriate guidelines for the purpose of mutual assistance with other municipal and county law enforcement agencies; and

WHEREAS, pursuant to said laws, the law enforcement assistance to be rendered authorizes lending officers to work temporarily with officers of the requesting agencies, including in an undercover capacity, and lending equipment and supplies; and

WHEREAS, it is deemed to be in the best interests of the citizens of the City of Marion to adopt a reasonable policy and guidelines whereby reciprocal law enforcement assistance can be both rendered to and obtained from other government jurisdictions; and

WHEREAS, such reciprocal assistance is necessary for effective law enforcement for the protection of the citizens of the City of Marion;

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

1. The Police Chief is hereby authorized to enter into mutual assistance arrangements with other municipal and county law enforcement agencies, provided that the head of the requesting law enforcement agency makes such a request in writing.

2. The Police Chief is hereby authorized to permit officers of the Marion Police Department to work temporarily with officers of the requesting agency, including in an undercover capacity, and the Police Chief may lend such equipment and supplies to requesting agencies as he deems advisable.

3. All such request and authorizations shall be in accordance with North Carolina General Statutes § 160A-288, as applicable.

4. While working with a requesting agency, an officer shall be subject to the lawful operational commands of the officer's superior officers in the requesting agency in addition to those the officer normally possesses.

5. While on duty with the requesting agency, an officer shall be subject to the lawful operational commands of the officer's superior officers in the requesting agency, but the officer shall for personnel and administrative purposes, remain under the control of the officer's own agency, including for purposes of pay. An officer shall furthermore be entitled to worker's compensation and the same benefits to the extent as though he were functioning within the normal scope of the officer's duties.

6. The Police Chief is hereby authorized to enter into mutual assistance agreements with other law enforcement agencies in accordance with such reasonable arrangements, terms and conditions as may be agreed upon between the respective heads of the law enforcement agencies.

Adopted this the 1st day of November, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Resolution Number: R-11-11-01-1

AA.000001260 (24)

CONSIDER APPROVAL OF ORDINANCE TO REVISE PROHIBITIONS CONCERNING CONCEALED WEAPONS ON CITY PROPERTY TO COMPLY WITH RECENT CHANGES TO STATE LAW: The City Manager advised that, as previously reported, the North Carolina General Assembly made changes to the concealed weapons statutes this past legislative session. The City Manager presented summaries of the new law from the N.C. League of Municipalities and the UNC School of Government to Council. Under the new law, which takes effect December 1, local governments cannot prohibit concealed weapons in parks, but can prohibit them in recreational facilities. Essentially, local governments must be specific in identifying areas where concealed weapons are prohibited. The City Manager reported that , on greenways or trails with no ballfields or playgrounds, such as the Catawba River Greenway or the Peavine Trail, the City can no longer prohibit concealed weapons.

The City Manager stated that he had sought examples of ordinances from other cities and drafted an ordinance before Council for their review. The new ordinance provides definitions for City Recreational Facilities and City Buildings, specifically listing the facilities and buildings that fall under each category. The new ordinance prohibits the open carry of weapons on any City property, street, alley, right-of-way or sidewalk. The new ordinance also makes necessary technical corrections to comply with the new State law. The City Manager advised that the City may need to revise signs at City buildings and recreational facilities to comply with the new law, but will do so only if necessary.

The City Manager stated that he had reviewed the new ordinance with Police Chief Brooks, who recommended prohibiting the open carry of weapons on all City property and concealed weapons to the limit of State law. The City Manager reported that he did not review the proposed ordinance with the City Attorney, but did review the draft ordinance with Mayor Little, who thought it was fine.

The City Manager presented Council with a copy of the City's current ordinance prohibiting concealed weapons in City buildings and parks.

Council Member Doggett said that she did not understand the reasoning for the change in State law.

Mayor Little stated that he can see no reason for allowing concealed weapons in parks or greenways.

Council Member Clark stated that it is a shame that local control was taken away by the General Assembly on this issue.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to adopt the following Ordinance:

ORDINANCE
AMENDING CHAPTER 11
OFFENSES
MARION CITY CODE

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

Section 1. That Chapter 11, Offenses, of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Section 2. Chapter 11 is amended by deleting Section 11-16 in its entirety and replacing it with the following:

Sec. 11-16. Weapons prohibited on city property.

AA.00000126.1 (24)

(a) Definitions. The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section:

(1) City Recreational Facility shall mean the following properties, including all buildings, parking lots, internal driveways and walkways and any other improvements associated with the listed properties, but excluding areas within the State or City public rights of way:

a. The Community Building Park, on North Main Street, including playground, basketball court, tennis court, splash pad and all other athletic facilities.

b. The West Marion Community Park, on Addie's Chapel Drive, including playground and basketball court.

c. The Cross Mill Community Park, on Granby Street, including playground, basketball court, volleyball court and disc golf course.

d. The Eastfield Community Park, on Perry Street, including playground and basketball court.

e. The Clinchfield Community Park, on Hill Street, including playground and basketball court.

(2) City Building or Public Property shall mean the following properties including all buildings, parking lots, internal driveways and walkways and any other improvements associated with the listed properties, but excluding areas within the State or City public rights of way.

a. City Hall, on North Main Street

b. Community Building, on North Main Street

c. Historic Depot, on Depot Street

d. Police Department, on South Main Street

e. Fire Department, on West Court Street

f. Public Works Department/City Warehouse, on Shop Drive

g. City Firing Range, on Old Greenlee Road

h. Water Plant, on Old Greenlee Road

i. Wastewater Treatment Plant, on NC Highway 226 South

j. Marion ABC Store #1, on East Court Street

k. Marion ABC Store #2, on US 221 North

l. Buck Creek Water Intake, on US 70 West

m. Historic Marion Tailgate Shelter, on West Henderson Street

(b) Concealed Weapons. As allowed by N.C.G.S. § 14-415.23, the City prohibits the carrying of concealed handguns as follows:

(1) It is prohibited, and not within the scope of any concealed handgun permit, for any person to possess or carry a concealed handgun in or upon any City Building and appurtenant premises as specifically described herein above.

(2) It is prohibited, and not within the scope of any concealed handgun permit, for any person to possess or carry a concealed handgun in or upon any City Recreational Facility as specifically described herein above.

(3) State law (presently N.C.G.S. § 14-269(b) provides that certain persons are not subject to the prohibition against carrying concealed weapons. Such persons are also exempt from the prohibitions in this subsection.

(4) State law (presently N.C.G.S. §14-415.23) provides that notwithstanding local ordinances forbidding concealed handguns on recreational facilities, handgun permittees are allowed to secure a handgun "in a locked vehicle within the trunk, glove box, or other enclosed compartment or area within or on the motor vehicle." Therefore, handguns stored in such areas shall not be in violation of this section.

(5) A conspicuous notice shall be posted at each entrance to any property set forth in subsection (a)(1) or (a)(2), indicating that carrying a concealed weapon or possession of a weapon, unless expressly allowed by State law, is prohibited therein, as well as on the premises thereof. Signs on buildings shall be visibly posted on the exterior of each entrance by which the general public can access the building. The City Manager or his designee shall exercise discretion in determining the number and appropriate location of signs to be placed on or within appurtenant premises and parks.

(c) Open Weapons on City Recreational Facilities, in City Buildings and on City Public Property. As allowed by N.C.G.S. § 160A-189, it shall be unlawful for any person to display weapons (unconcealed) on any City Recreational Facilities as defined herein above, in any City Building as defined herein above, on any City Public Property as defined herein above, on any other City owned or controlled property or on any street, alley, right-of-way or sidewalk owned or controlled by the City. As used in this section, "weapon" shall mean a rifle, pistol, shotgun, bowie knife, dirk, dagger, sling shot, loaded cane, metallic knuckles, razor, shurikin, stun gun, or other dangerous or deadly item of like kind. This prohibition shall not apply to the following persons:

(1) Officers and enlisted personnel of the armed forces of the United States when in discharge of their official duties as such and acting under orders requiring them to carry arms and weapons;

(2) Civil officers of the United States while in the discharge of their official duties;

(3) Officers and soldiers of the militia and the national guard when called into actual service;

(4) Sworn law enforcement officers.

(d) Seizure of Weapons. The Chief of Police or any member of the Police Department is hereby authorized to seize and hold any firearm or mechanism involved in a violation of this Section, and to hold such property, subject to release only upon an order of a court of appropriate jurisdiction.

(e) Punishment. Any person who violates any provision of this Section shall be guilty of a misdemeanor and shall be punished in accordance with Chapter 1 of the Marion City Code.

(f) Exception. Notwithstanding any other provision of this Section, the Chief of Police may, in his discretion, issue a permit authorizing the display and discharge of certain weapons in connection with organized training and certification programs, or competitions conducted by bona fide civic groups or entities. All such permits must be in writing, with such terms and conditions as the Chief of Police may require, provided that all permits must contain provisions that clearly absolve and release the City from any and all liability related to the event.

General statutory reference and authority:
N.C. Gen. Stat. 14-409.40 "Statewide uniformity of local regulation"
N.C. Gen. Stat. 14-415.11 "Permit to carry concealed handgun; scope of permit"
N.C. Gen. Stat. 14-415.23 "Statewide uniformity"
N.C. Gen. Stat. 160A-189 "Firearms"
N.C. Gen. Stat. 160A-190 "Pellet Guns"
N.C. Gen. Stat. 14-269 "Carrying concealed weapons"

Section 3. This ordinance shall become effective at 12:01 a.m. on December 1, 2011.

Adopted this the 1st day of November, 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

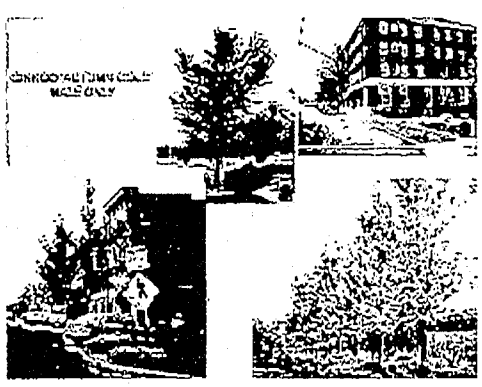
Ordinance Number: O-11-11-01-1

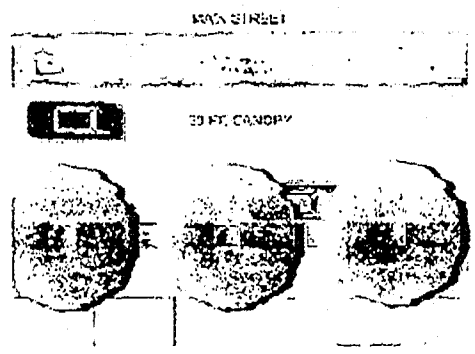
REVIEW MAIN STREET LANDSCAPING RECOMMENDATIONS: The City Manager advised that the Downtown Streetscape Project was nearing completion. One part of the project that needs to be finalized is landscaping in the new bumpouts on Main Street. Planning and Development Director Heather Cotton gave the following presentation to Council concerning landscaping recommendations for the Downtown Streetscape Project:

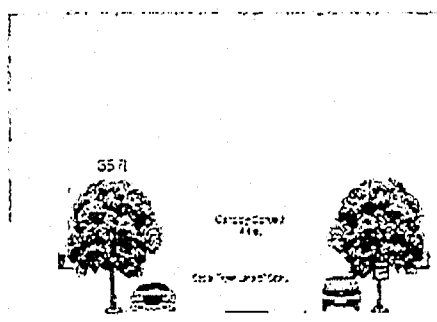
11/2/2011

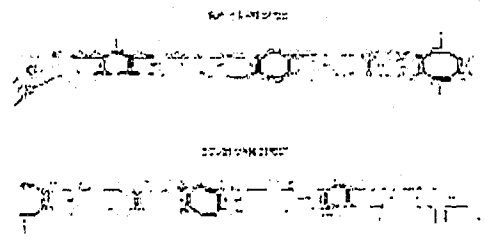
Downtown Marion
Landscape Plan

Street Trees & Landscaping



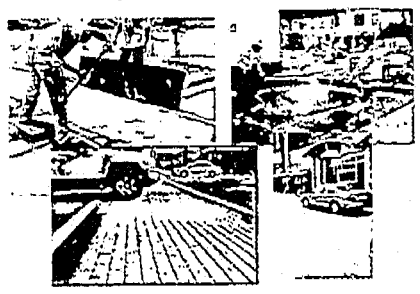


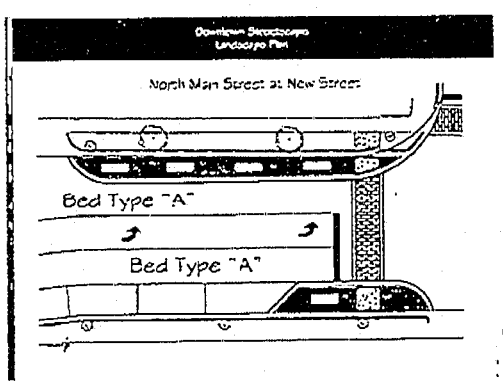


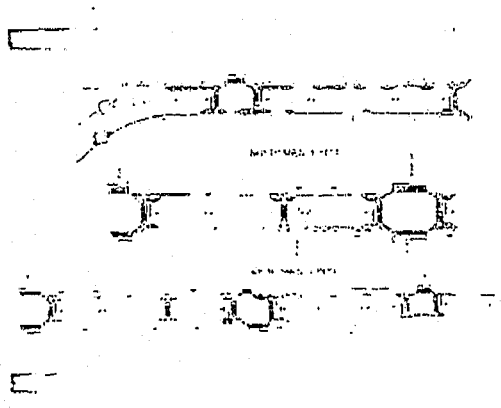


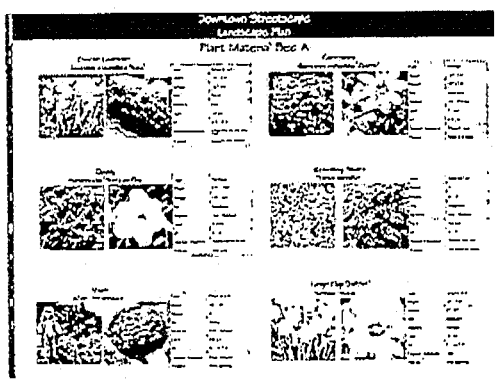
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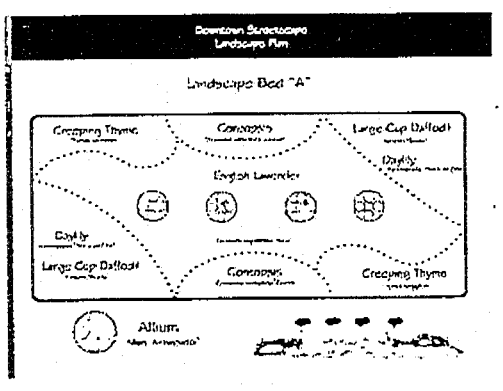
Examples of Asphalt Stamping

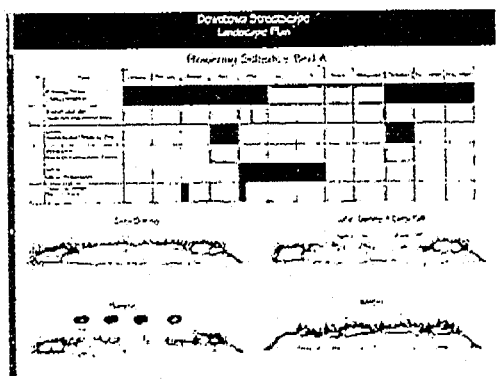












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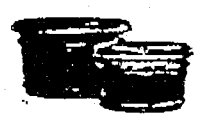
LANDSCAPE PLANTERS

Fiberglass Planters
Commercial Grade Resin and Molded Polyethylene

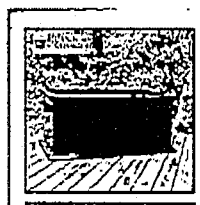


34" = $249.00 = $7968.00
30" = $199.00 = $6368.00
25" = $99.00 = 3168.00

Total = $17,504



22" W x 35" wide = $564.00=$18,048



Fiberglass Composite
60"Lx 24" W x 24"H $977.00 = $31,264



24" H x 21" W $480.00 = $16,360

Cement Planters
(sand aggregate and dried silica cement 30% lighter than concrete) 3000 p.s.i



City Center Inverted Bell (sand aggregate 30% lighter than concrete)
22" vertical/24" wide top $844.00 = $27,008





Plaza Cylinder Planters
22" vertical/24"/29" wide top
$854.00 = $27,329

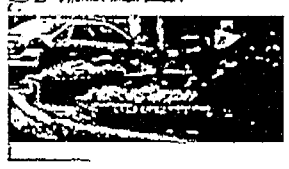
Other Planter Types



Wood Planters
Brick Planters
Rock Planters

Pros:
Can Be Constructed Locally.

Can Be Built to Desired Size and Shape.



Con:
Will require encroachment agreement from DOT

STAFF RECOMMENDATIONS

- Utilize as much as possible native species, perennials, and bulbs to conserve water, reduce maintenance, and reduce annual planting costs. (Use annuals only as necessary to fill in space for added color as needed)
- Stick to bright showy colors such as purple, fuchsia, and bright yellows. Avoid red and white colors which will compete or become washed out against the predominately neutral toned buildings, brick and painted crosswalks.
- Utilize Commercial Grade Fiberglass Resign Containers lighter weight for easy installation and lower cost. Use all three sizes for greater visual interest, buffer outdoor spaces from roadway, and create the illusion of larger areas of green space.

Cost Estimate For Landscape Plan

UNIT COST FOR PLANTS & INSTALLATION
Large Flower Beds (32" wide by 84" long)/(2.6' x 7') = $240
Small Beds: (35" wide by 60" long)/(2.9' x 5') = $180
Flower Pots: (36" Max Diameter) = $40.00

TOTAL COST FOR PLANTS & INSTALLATION
20 Large Flower Beds = $4800.00
3 Small Beds = $540.00
32 Flower Pots = $6,620.00
Total For Plants & Installation: $6,620.00



34" = $7968.00
30" = $6368.00
25" = $3168.00
Total = $17,504.00

TOTAL COST: OPT A (1 Size): $14,588 OPT B (3 Size) $24,124

3

Ms. Cotton stated that that she had worked with City Arborist and Landscaper Lawrence Moore to develop the landscaping recommendations. She noted that a large part of the expense involves replacing the large flower containers in the downtown area. The City used to have about 32 of these pots, but most have broken and/or crumbled over the years. Ms. Cotton estimated the total cost of the landscaping recommendations to be $24,124, with the costs going down if fewer flower pots were purchased. She added that it would probably be in the City's best interest to look into purchasing a water tank to make watering the new landscaping easier.

The City Manager reported that the City has about $25,000 left in the Downtown Streetscape Project budget and about $28,000 in the Mountain Glory Festival account. The City Manager stated that he would feel comfortable recommending spending $10,000 to $12,000 of the Mountain Glory Festival account to replace the large flower pots and then using the remainder of the Downtown Streetscape Project funds, to the degree Council finds appropriate, to implement additional landscaping in the bumpouts and purchase trash cans for downtown. The City

AA.000001266 (24)

Manager stated that the plan shown by Ms. Cotton was conceptual only and that there could be reductions in the number of plant beds and flower pots and changes in the exact species of plants.

A discussion followed.

Upon a motion by Council Member Clark, seconded by Council Member Doggett, Council voted unanimously to approve the concept of the Downtown Streetscape Project landscaping plans as presented, to authorize staff to make necessary deviations to the plan, while staying within the Downtown Streetscape Project, to authorize the use of Mountain Glory Festival funds as needed to fund the landscaping recommendations and to authorize staff to explore options for irrigation to make watering downtown landscaping less time intensive and more consistent.

ADD ON - Y.M.C.A. REQUEST – DEPOT RENTAL FEES: The City Manager advised that, over the past two years, the Y.M.C.A. has assisted the City's Marion 101 Citizen's Academy by providing bus transportation at no cost. He stated that Council had given donations to the Y.M.C.A. the year before to cover two Depot rentals. The City Manager advised that the Y.M.C.A. was requesting this year the use of the Depot on Wednesday, December 7, 2011 for the McDowell Health Coalition's annual meeting and the use of the Depot on another date in Spring 2012, said date to be determined at a later date, for the Y.M.C.A.'s Annual Healthier Communities Campaign Victory Celebration. The City Manager reported that the cost of the two Depot rentals would be $400.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Martin, Council voted unanimously to approve the donation of $400 to the Y.M.C.A. to cover the use of the Depot on Wednesday, December 7, 2011 for the McDowell Health Coalition's annual meeting and the use of the Depot on another date in Spring 2012, said date to be determined at a later date, for the Y.M.C.A.'s Annual Healthier Communities Campaign Victory Celebration.

CITY MANAGER REPORTS: The City Manager gave a brief report on current projects.

The City Manager advised that the City had completed our $6.6 million Wastewater Improvements Project, with paving of the roads in the Wastewater Plant.

Council Member Clark asked if the City spent all grant funds. The City Manager stated that, to his knowledge, all or nearly all grant funds were spent on the Wastewater Improvements Project.

The City Manager stated that he had advised McGill that Council does not wish to have a loan for the sewer extension under I-40 to serve Marion Travel Plaza on Sugar Hill Road and that the City instead wishes to keep seeking grant funding for this project.

The City Manager advised that Planning and Development Director Heather Cotton had done an initial assessment of the six downtown walking trails and identified several needed safety improvements. The City Manager stated that he needed to go over the proposed improvements with Ms. Cotton. He reported that the City will make improvements needed on City sidewalks and streets, such as crosswalks or sidewalk repairs, and that the City will ask DOT for any needed improvements on State maintained streets, such as crosswalks or pedestrian crossing signals. The City Manager added that the DOT requests may need to be made as part the City's planned meeting with DOT Division Traffic Engineer Anna Henderson in early December, after she returns from maternity leave.

The City Manager advised that Maymead has almost finished the Downtown Streetscape Project. The City Manager said that he had informed DOT that the City wants to retain on-street parking in front of the old Heilig Meyers building on South Main Street but, as he had previously reported, DOT stated that the only way to retain the parking would be to move the curb line back

AA.00001267 (24)

about three feet. The City Manager reported that he was awaiting word from DOT as to whether such work would affect the overall Downtown Streetscape Project budget.

The City Manager stated that he and Police Chief Mark Brooks would meet with the Postmaster the following day to seek new locations for drive-up mailboxes in the downtown area, so that people dropping off mail will not have to go through the crowded Post Office parking lot.

The City Manager advised that the Sugar Hill Road sewer extension should be completed around mid-November. He noted that the contractor put in service a temporary pump on October 26 that eliminated the need for pump and haul service from the Wal-Mart Supercenter and Grandview Station Shopping Center and the resulting expense to the City. The City Manager added that he still anticipated the City having a little over $200,000 left over the Sugar Hill Road Water and Sewer Extension project. These funds can be used for other water or sewer extensions if so desired by Council.

The City Manager advised that the City had concluded a successful Second Annual Marion 101 Citizen's Academy with the final session and graduation on Thursday, October 27. The City had 15 people participate in Marion 101 this year. The City Manager commended Administrative Assistant Debi Sherlin for her great work organizing Marion 101 and communicating with participants and all City staff for their efforts in giving presentations about City services and conducting tours of City facilities.

The City Manager advised that Maymead had completed the resurfacing of City streets in late October.

The City Manager advised that the Golden Leaf Foundation would have their next meeting for the $2 million Community Investment Initiative for our County on Monday, November 28 at 2:00 p.m. at the YMCA. The City Manager stated that individual projects have not yet been discussed, but that the Initiative is now focusing on economic development and education as its major subject areas.

The City Manager advised that DOT began planting landscaping along Sugar Hill Road in late October, per prior agreement with the City. DOT is installing the plantings and maintaining them for one year, after which time the City would assume maintenance. The City Manager reported that City staff intentionally worked with DOT on a plan for low maintenance plantings, to keep the City's on-going maintenance costs as low as possible.

COUNCIL MEMBER COMMENTS:

Mayor Pro Tem Cuthbertson advised that he noticed City crews took out a decorative street light on North Main Street near the Gazebo Park. The City Manager advised that the street light was being relocated a short distance, at the direction of DOT, so that the street light would not interfere with the new mid-block crosswalk at the same location.

Council Member Clark asked if the new police cars had been purchased. The City Manager stated that the City had sought bids for the new vehicles and that the bids would be presented to Council for consideration at the November 15 Council meeting.

Council Member Clark advised that he was sorry that Council Member Doggett was not elected to the North Carolina League of Municipalities District 11 Board of Director's position at the League's Annual Conference the week before; however, Council Member Doggett impressed the League Board and staff with her interest and credentials. Council Member Clark stated that he was confident that Council Member Doggett would be appointed to a League Legislative Action Committee and that she should continue to put her name forward for the League Board.

AA.000001268 (24)

Council Member Doggett stated that she appreciated the kind words and did not mind losing the election to an experienced Council Member from the City of Newton.

ADJOURNMENT: Upon a motion by Council Member Doggett, seconded by Council Member Martin, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, 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 15, 2011at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Council Members A. Everette Clark, Billy Martin and Cecil Owenby.

BOARD MEMBERS ABSENT: Mayor Pro Tem Lloyd Cuthbertson was absent for this meeting due to another commitment out of town. Council Member Juanita Doggett was absent for this meeting due to a scheduled event taking place of town.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, AICP, Planning and Development Director; Harriett Thomas, CPA Finance Director; Gaye Noblitt, Administrative Lieutenant; Dawn Penland, Accounting Assistant.

GUESTS PRESENT: Marsha Carroll, Rachel Kinninger, Hilda Newton, Jo Curtis and Gwen Straub; McDowell County Animal Outreach Representatives; Gary Stamey, N.C. Department of Agriculture Representative; Darren Waugh, Marion Business Association; Mr. and Mrs. Billy Tindall, Marion NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

CONSENT AGENDA: Upon a motion by Council Member Owenby, seconded by Council Member Martin, Council voted unanimously to approve the consent agenda as follows:

A. **Approval of Minutes** – November 1, 2011 Regular City Council Meeting Minutes

B. **Approve Longevity Pay**

Council approved the annual longevity pay for City employees and the purchase of a turkey at Thanksgiving for City full-time and part-time employees and contract workers. The longevity pay is broken down by department as follows:

AA.000001269 (24)

DEPARTMENTAL SUMMARY - LONGEVITY 2011

DEPARTMENT		GROSS AMOUNT
ADMIN	420	$6,119.80
PURCHASING	445	1,132.80
INSPECTIONS	500	2,245.88
POLICE	510	11,024.36
FIRE	530	3,247.56
PUBLIC WORKS/ADMIN	545	310.80
FLEET MAINTENANCE	555	1,469.40
STREET	560	6,201.68
SANITATION	580	3,513.16
WATER UTILITIES	810	3,747.44
WATER FILTER PLANT	812	3,280.40
WASTE TREATMENT PL	816	4,939.80
	GRAND TOTAL	$47,233.08

C. Approve Fire Department Relief Shift Honoraria

Council approved the payment of relief shift honoraria to volunteer firefighters who have donated their time to work relief shifts for paid staff. The following honoraria were approved:

Christopher Burnett	$ 169.00
Marty Coward	$ 702.00
Terry Depoyster	$2,301.00
Wayne Durkee	$ 195.00
Chris Lister	$ 312.00
Tim Moore	$ 871.00
Scotty Radford	$2,736.50
Total	$7,286.50

PUBLIC HEARING – ZONING TEXT AMENDMENT – TO ALLOW ANIMAL SHELTERS AS A PERMITTED USE IN THE M-1 INDUSTRIAL DISTRICT AND AS A SPECIAL EXCEPTION IN THE C-2 GENERAL BUSINESS DISTRICT: Mayor Little opened the Public Hearing.

Planning and Development Director Heather Cotton advised that a request had been submitted by McDowell County Animal Outreach, Inc. (MCAO) to amend the Zoning Ordinance to allow for a non-profit animal shelter to be permitted as a Special Exception in the C-2 General Business District and as a permitted use in the M-1 Industrial District. She stated that the City does not have animal shelters or board kennels listed as a permitted land use category within any zoning district within the municipal limits. Historically, the County has maintained an animal shelter and conducted its operations outside of the City of Marion. Ms. Cotton reported that MCAO, a non-profit organization, has been working with McDowell County over the last several months to

AA.000001270 (24)

take over operations of the County Animal Shelter, which includes establishing a new facility in a more centralized location. Staff has worked with the Applicant to draft revisions to the City Code to allow such facility as well as applicable regulations to ensure compatibility with surrounding area in which they locate. Ms. Cotton stated that the proposed text amendment contained several requirements, including a 500 foot separation requirement for animal shelters from residential zoning district.

Ms. Cotton advised that the Planning Board unanimously recommended at their meeting on November 3, 2011 the approval of the Zoning Text Amendment, with an additional requirement to allow for outdoor kennels only between dawn and dusk.

Ms. Cotton added that she spoke with an Environmental Health Specialist with the Rutherford McDowell Polk Health Dept. to see if there were any environmental concerns with an animal shelter or kennel being located within close proximity to other land uses. The Health Department representative indicated that there are no state health regulations that would prohibit an animal shelter, kennel, or similar facility to locate adjacent to another land use such as a residence, restaurant, or other use. She stated that if an animal shelter or similar use were to locate outside the City limits that their office would review the uses method of waste disposal because both fur and animal waste would be prohibited from entering the septic system, and all such waste would have to be collected and removed off site by means of solid waste disposal.

Ms. Cotton stated that, according to Wastewater Treatment Superintendent Larry Carver, an onsite pre-treatment sediment tank system must be installed to separate such matter including but not limited to animal waste, hair, chemicals, and other waste considered harmful to the City's sewer system. This tank would allow for the separation of harmful materials prior to entering the sewer system. It is further recommended that all solid waste including all animal waste, straw, cedar chips , fur, bedding, bones, and all other similar matter be collected prior to washing down any animal enclosure and disposed of through solid waste management and not disposed of through the sewer system. Any remaining material would discharge into an approved sediment tank where the materials would discharge into a screen and settling pit before being discharged into the City sewer system. This process would be similar for boarding kennels, large veterinary clinics, animal show grounds, zoological parks, or any other animal holding facility. Similar sediment tanks are required for restaurants, auto-repair, and other similar uses.

Ms. Cotton reported that the Health Department cited an additional concern with flies, their attraction to animal waste, and the ability to transport harmful matter from the animal shelter to restaurants in the area and strongly recommended adequate pest control including but not limited routine pest control and limiting the amount of open outdoor animal areas suggested screened in outdoor enclosures to mitigate any potential problems associated with flies.

Ms. Cotton stated that, in addition to this research, she had two concerned questions from the public:

1. What will be the process for disposal and transport of animals that have been euthanized especially those that have been quarantined for rabies, parvo, or other potentially harmful diseases?
2. Concern regarding a "Trap Neuter and Release of Community Cats" Program, which would release cats back into the wild within the City Limits.

The ordinance recommended for adoption by the Planning Board read as follows:

ORDINANCE
AMENDING CHAPTER 21
ZONING
MARION CITY CODE

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

AA.000001271 (24)

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, is amended by adding the following:

Section 2. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina is amended by adding the following to 21-21 *Definitions*.

Kennel: Any lot, building, structure, enclosure or premises whereupon or wherein are kept five or more dogs, cats or similar small animals in any combination, whether such keeping is for care, pleasure, profit, breeding, or exhibiting, and including places where dogs or cats or similar small animals in any combination are boarded, kept for sale, care, or kept for hire.

Section 3. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina is amended by adding the following to Section 21-205.*3 Special Exceptions* of the C-2 General Business District.

Sec. 21-205 (3) Special exceptions. The following uses are permitted as special exceptions as provided for in article XIII, section 21-302.2 of this ordinance.

(9) Boarding Kennel or Animal Shelter

a. Property is located no less than 500 feet from any residential zoning district.
b. All activity is located on property no less than two acres in size.
c. All kennels shall be contained within a fully enclosed building or designed in a manner that would prohibit outdoor access between dusk and dawn.
d. The setback requirement for any outdoor animal enclosure shall include the following:
    i. The front yard setback shall be the same or greater than the principal building.
    ii. Side and rear yard setbacks shall be a minimum 20 feet from the property line.
e. All outdoor enclosures shall be screened by a solid or opaque fence a minimum of six feet in height.
f. All drainage and dust from an outdoor enclosure, kennel, or other containment area shall be controlled in a manner that does not create a nuisance and/or a hazard to the public or an adjacent property.
g. The facility shall be maintained and operated in such a manner that all animal odors, noise, refuse and/or other onsite activities deemed as a public nuisance and/or hazard shall not be detectable beyond the property line in which the animal shelter or kennel is located.
h. The facility operates in compliance with all other applicable city codes including but not limited to Chapter 3 *Animals* as may be amended.

Section 4. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina is amended by adding the following to Section 21-206.*2 Permitted Uses* of the M-1 Industrial District.

Sec. 21-206 (2) Permitted uses. Within the M-1 Industrial Zoning District the following uses are permitted.

(13) Boarding Kennel or Animal Shelter

a. Property is located no less than 500 feet from any residential zoning district.
b. All activity is located on property no less than two acres in size.
c. All kennels shall be contained within a fully enclosed building or designed in a manner that would prohibit outdoor access between dusk and dawn.
d. The setback requirement for any outdoor animal enclosure shall include the following:
    iii. The front yard setback shall be the same or greater than the principal building.
    iv. Side and rear yard setbacks shall be a minimum 20 feet from the property line.
e. All outdoor enclosures shall be screened by a solid or opaque fence a minimum of six feet in height.
f. All drainage and dust from an outdoor enclosure, kennel, or other containment area shall be controlled in a manner that does not create a nuisance and/or a hazard to the public or an adjacent property.
g. The facility shall be maintained and operated in such a manner that all animal odors, noise, refuse and/or other onsite activities deemed as a public nuisance and/or hazard shall not be detectable beyond the property line in which the animal shelter or kennel is located.
h. The facility operates in compliance with all other applicable city codes including but not limited to Chapter 3 *Animals* as may be amended.

Section 4. This ordinance shall become effective upon its adoption.

Rachel Kinninger and Marsha Carroll, representing MCAO, stated that they would be happy to answer any questions Council had about the request.

Mr. Billy Tindall stated that he and his wife are new residents and are supportive of the animal shelter locating in the former Legendary Ford building, since it is vacant along with the old Wal-Mart building on Highway 70 West. He said that he thought the shelter would be an asset to the community.

Council Member Billy Martin asked if KFC or anyone else has expressed any concern about the shelter being located so close to the restaurant. Ms. Cotton stated that KFC has not expressed any concerns so far and that the Health Department's main concern involved flies transporting

AA.000001272 (24)

bacteria from animal waste to the restaurant. She added that the Health Department stressed the need for the animal shelter to keep animal waste removed and to take all reasonable steps to reduce the number of flies on the property.

Council Member Clark advised that, since there apparently needed to be a settling pit on the animal shelter property, how would the animal shelter keep flies away. He also expressed concerns about restaurants being located close to potential animal shelter location and that the 500 foot separation requirement between animal shelters and residential zoning districts is not strict enough. Council Member Clark noted that the Zoning Text Amendment would establish allowances for animal shelters all over the City, not just at the former Legendary Ford building.

Ms. Kinninger stated that the shelter would have to meet all standards of the N.C. Department of Agriculture and that the State Inspector was present to address any issues Council may have.

Ms. Carroll stated that MCAO will abide by all State regulations and will work to keep the property clean and free of odor and flies.

Council Member Owenby stated that if he had the Legendary Ford property, he would want to rent it, so he understood the position in which the property owners found themselves. However, he said that he also believed that the 500 foot separation requirement between animal shelters and residential zoning districts is not strict enough. Council Member Owenby suggested that the Planning Board may need to study the separation between animal shelters and residential areas or restaurants a bit more.

Ms. Cotton noted that the Legendary Ford property is just over 500 feet from the nearest residential zoning area located on Garden Creek Road, which is why that particular distance was chosen.

Ms. Kinninger stated that other animal shelters are located in cities, many in commercial areas. She cited examples from Asheville, Charlotte, Greenboro, Morganton, Raleigh and New York City.

Ms. Carroll asked Mr. Gary Stamey with the N.C. Department of Agriculture if the proposed site would meet all State requirements. Mr. Stamey said that he had looked at the Legendary Ford property and felt that it was a site that could meet all applicable regulations.

Ms. Gwen Straub stated that the environmental effects from the former car dealership, along with the noise and smell, were worse than what would be experienced with the animal shelter.

Council Member Clark asked if the Planning Board had heard all of the concerns and issues mentioned by Ms. Cotton. Ms. Cotton advised that many of the issues had arisen since the Planning Board meeting.

Council Member Clark stated that he thinks the Planning Board should go back and study these issues, since they did not hear all of the information that Council has heard.

Ms. Kinninger stated that the property owner has been very patient with MCAO and needs to know if MCAO will rent the Legendary Ford property; therefore, it is very important that Council make a decision tonight.

Council Member Martin asked how violations to the ordinance would be handled. Council Member Clark stated that Council will receive calls if there are problems. Ms. Cotton added that enforcement action could be taken under the City Code if there are problems, but the City would first seek voluntary compliance.

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Mr. Stamey stated that he had the power to shut down the facility if it violated State law.

Ms. Cotton suggested that the ordinance could be amended to increase the setbacks from property lines, to reduce noise and odor concerns.

Ms. Kinninger noted that MCAO had no plans for any kennels in front of the building.

Ms. Carroll noted that the first thing MCAO did was contact Mr. Stamey to make sure that the Legendary Ford property would work for an animal shelter. She added that MCAO intends to have the best smelling kennel possible to eliminate any odors possible. Ms. Carroll stated that sanitation would be a top priority. She advised that MCAO wanted to improve the condition of the County Animal Shelter, which is currently a poor reflection on the entire County.

Ms. Straub stated that she supported the proposed shelter and that it would be a good opportunity for school children to come and learn the proper way to keep pets. She said that people around here do not know the proper way to keep pets.

Mayor Little closed the Public Hearing.

Council Member Martin made a motion to approve the Zoning Text Amendment, as recommended by the Planning Board, and give McDowell County Animal Outreach a chance to operate the animal shelter.

The motion died for lack of a second.

Council Member Owenby made a motion to refer this matter back to the Planning Board for additional study and recommendation. The motion was seconded by Council Member Clark. The vote was as follows:

Council Member Owenby	Yes
Council Member Clark	Yes
Council Member Martin	No

The motion carried 2-1.

Ms. Cotton advised that she could advertise the request for the Planning Board meeting on December 1 and the City Council meeting on December 6.

PUBLIC HEARING – ZONING MAP AMENDMENT – ASSIGN ZONING TO FRISBEE/SHADY LANE ANNEXATION AREA:

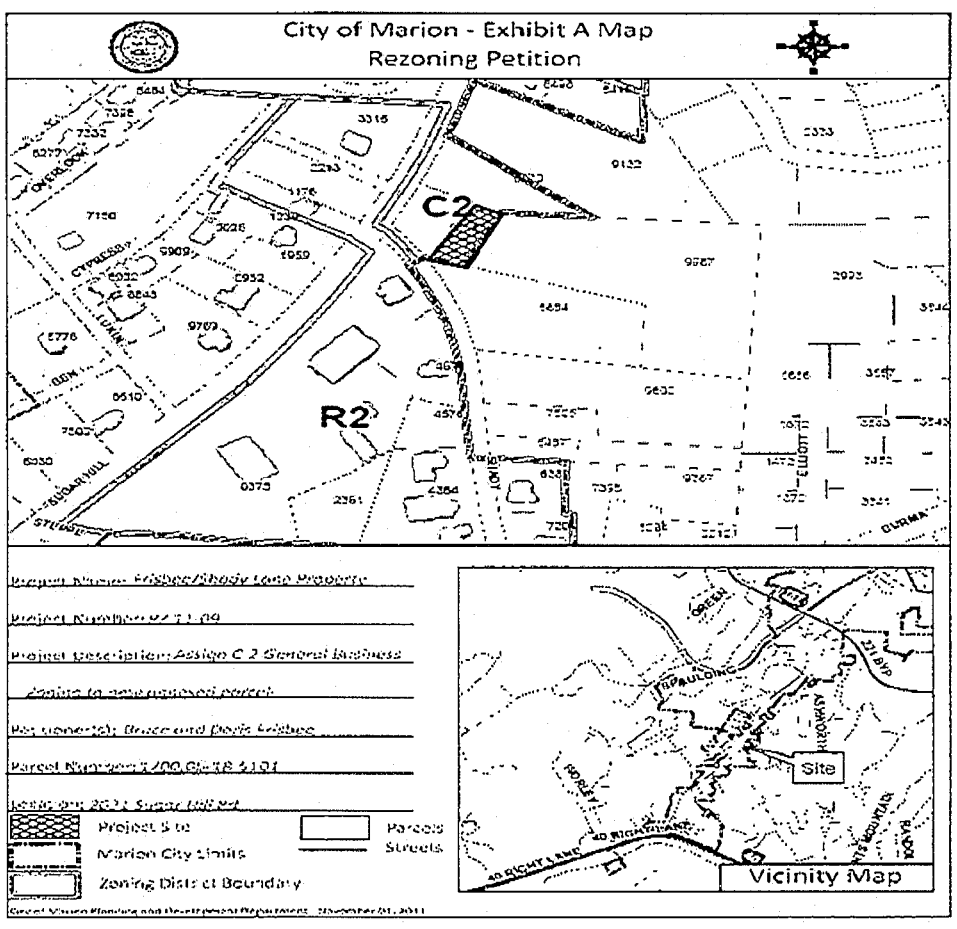
Mayor Little Opened the Public Hearing

Planning and Development Director Heather Cotton advised that the ordinance presented to Council would amend the *Official Zoning District Map* to assign the C-2 General Business Zoning District designation to the Frisbee/Shady Lane Annexation Area, located behind the Pizza Joint and Country Market Convenience Store. Ms. Cotton stated that the owners requested annexation for the purpose of expanding the existing restaurant, which required additional land to meet the City's off-street parking requirements.

Ms. Cotton stated that the purpose of this ordinance would be to assign a zoning designation to the annexed area that will be most compatible with the existing uses within the area and provide a mechanism to regulate such uses. Based on the Marion City Code, the annexation area is most compatible with Section 21-205 *C-2 General Business Zoning District*. The C-2 General Business Zoning District is established as a district where the principal use of land is for

AA.000001274 (24)

commercial purposes. Ms. Cotton stated that staff therefore recommended assigning the proposed C-2 General Commercial Zoning as shown on the proposed Official Zoning District Map.



Mayor Little closed the Public Hearing.

Upon a motion by Council Member Owenby, seconded by Council Member Martin, those members of Council present voted to adopt the following Ordinance amending Chapter 21 Zoning to assign C-2 General Business District zoning to the Frisbee/Shady Lane Annexation Area:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
FRISBEE/SHADY LANE PROPERTY

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, (hereinafter "City Code") is amended as follows:

Section 2: The City of Marion is amending the Official Zoning District Map to include the Frisbee/Shady Lane Annexation Territory adopted by City Council on October 18, 2011 Ordinance Number O-11-10-18-1.

Section 3: The City of Marion is assigning the C-2 General Business Zoning District to the newly incorporated area as indicated on the amended Official Zoning District Map attached hereto as Exhibit A.

Section 4. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 5. Pursuant to Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, the Planning Board considered the zoning map amendment during a duly noticed public hearing on November 3, 2011.

Section 6. In accordance with Sections G.S. 160A-364 and G.S. 160A-384, North Carolina Statutes, and Section 21-321 of the City Code, notice has been given of the public hearing for the proposed adoption of this ordinance.

Section 7. The City Council finds that the adoption of the zoning map amendment is in the best interest of the City and complies with all applicable laws and promotes the health, safety, and welfare of the community.

Section 8. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 9. This ordinance shall become effective upon its adoption.

Adopted this the 15th day of November 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-11-11-15-2

PRESENTATION OF 2010-11 CITY AUDIT REPORT: Finance Director Harriett Thomas stated that Martin Starnes and Associates recently completed the 2010-11 City audit. She advised that this is the fifth year that Martin Starnes has completed the City audit. Ms. Thomas introduced Mr. Chris Costner of Martin and Starnes, who presented the following presentation regarding the audit:

MARTIN·STARNES
& ASSOCIATES, CPAs, P.A.

City of Marion
2011 AUDITED FINANCIAL STATEMENTS

Audit Highlights

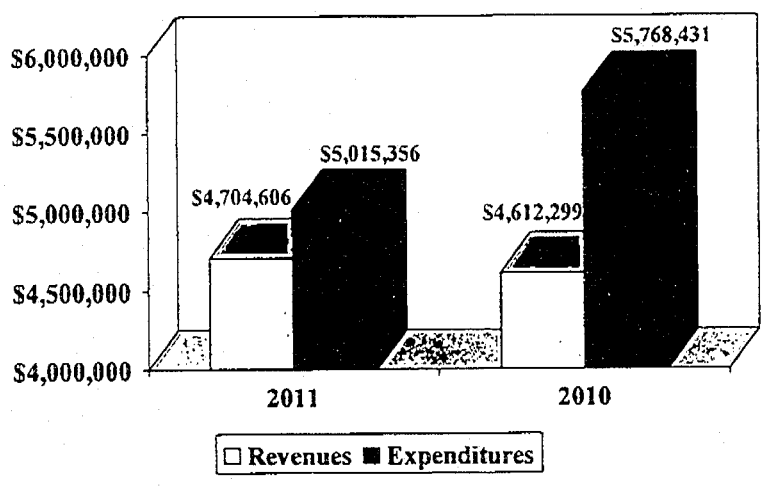
- Unqualified Opinion
- Cooperative Staff
- General Fund Cash $ 2,345,313
- General Fund Revenues $ 4,704,606
- General Fund Expenditures $ 5,015,356

AA.0000001276 (24)

Audit Process

- Planning and risk assessment
- Interim procedures
- Final procedures
- Year-round process

General Fund Summary



Fund Balance

- Serves as a measure of the Town's financial resources available.
  - Assets – Liabilities = Fund Balance

5 Classifications:

- **Non spendable** - not in cash form
- **Restricted** - external restrictions (laws, grantors)
- **Committed** - internal constraints at the highest (Board) level-do not expire, require Board action to undo
- **Assigned** - internal constraints, lower level than committed
- **Unassigned** - no external or internal constraints

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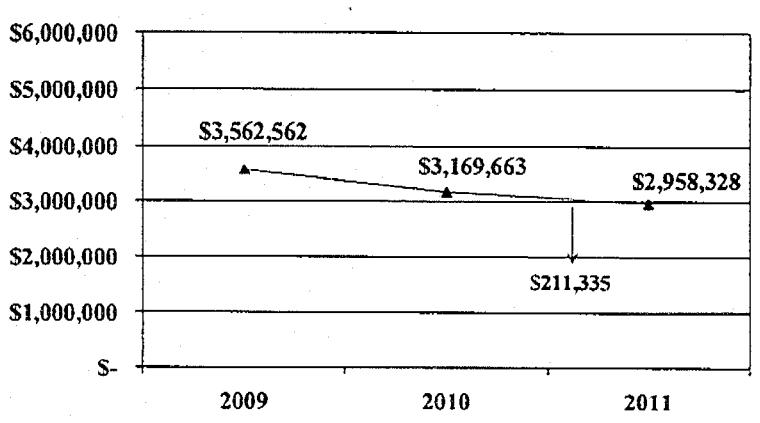
Fund Balance

Available fund balance as defined by the Local Government Commission (LGC) is calculated as follows:

Total Fund Balance
Less: Non spendable (not in cash form, not available)
Less: Stabilization by State Statute (by state law, not available)
Available Fund Balance

This is the calculation utilized as the basis for comparing you to other units and calculating your fund balance percentages.

Total Fund Balance General Fund



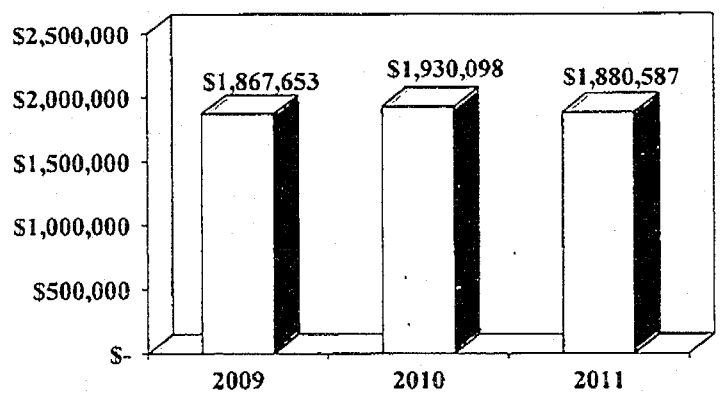
Fund Balance Position-General Fund

□ Total Fund Balance	$ 2,958,328
□ Non spendable	- 4,875
□ Stabilization by State Statute	- 563,052
□ Available Fund Balance	$ 2,390,401

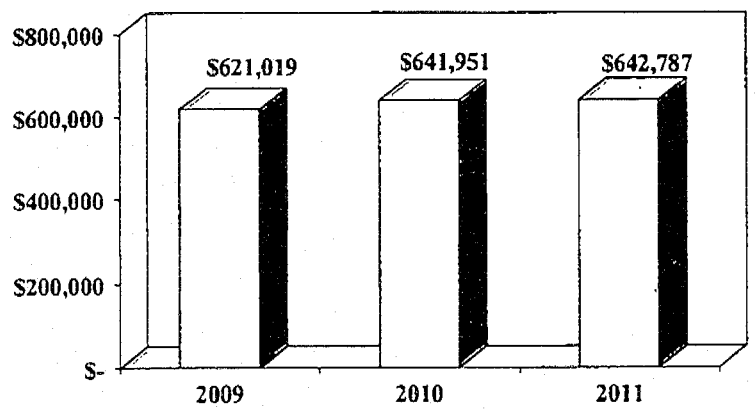
□ Available Fund Balance 2010	$ 2,622,432
□ Decrease in Available FB	$ 232,031

AA.00001278 (24)

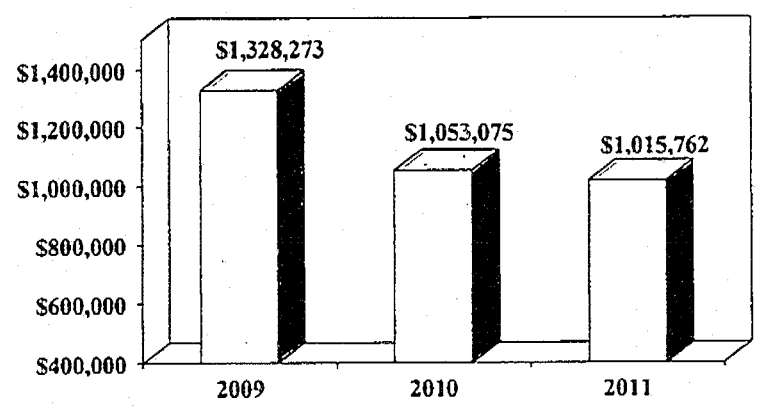
Ad Valorem Taxes



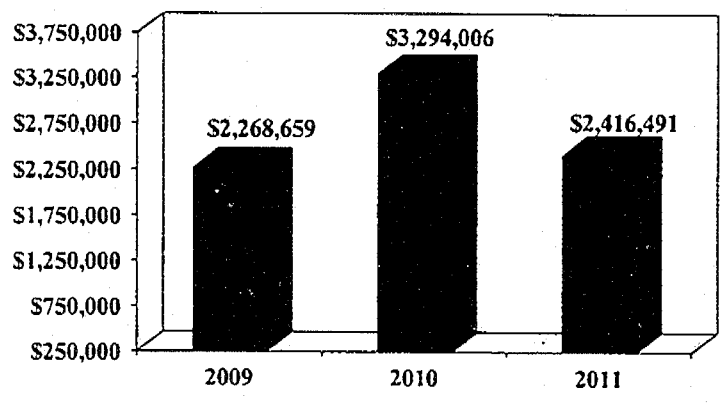
Restricted Intergovernmental



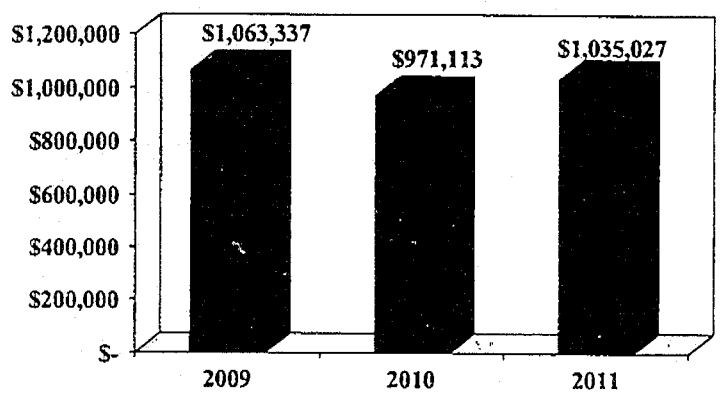
Sales Tax



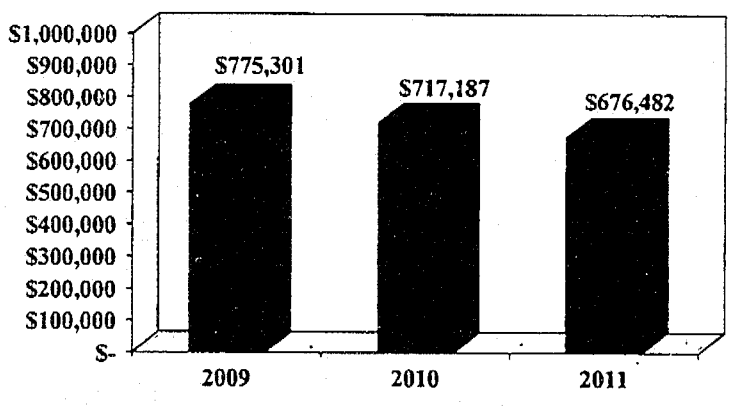
Public Safety



Transportation



General Government



AA.000001280 (24)

What Does Our State Legislature Face?

- State tax revenues are not enough to fully replace federal stimulus funds that expired in June
- Federal healthcare reform will make it harder for states to control costs
- Federal spending cuts will affect state and local governments to varying degrees

How Did Local Governments Fare in Fiscal Year 2011?

- Property tax revenue fell in the first quarter of 2011, this is likely to continue into 2012
- Sales tax revenue grew by 4% in the first quarter of 2011, the fourth consecutive quarter with growth
- General Fund balance as a percentage of revenues fell an average of 2.1%

Source: Moody's Investor Service

Discussion & Questions

City of Marion

MARTIN·STARNES
& ASSOCIATES, CPAs, P.A.

Mr. Costner stressed that the City received an unqualified, or clean, opinion regarding the audit and that the City's finances were in good shape.

The City Manager thanked Mr. Costner for the work done by Martin Starnes in completing the audit thoroughly and efficiently. He added that he also wished to thank Ms. Thomas, Accounting Assistant Dawn Penland and all City departments for the great job they do every day looking after the City's finances. The City Manager stated that the fact that the City has received no audit findings and no management letter for several years in a row demonstrates the great job being done by Ms. Thomas and her staff.

Mayor Little thanked Mr. Costner for his presentation. After brief discussion, Council agreed to consider formal approval of the audit report at a future meeting, when all Council Members were present.

PUBLIC APPEARANCE – MARION BUSINESS ASSOCIATION: Mr. Darren Waugh, Past President of the Marion Business Association (MBA), appeared before Council advising that MBA President Boyd Phillips could not be present for the meeting. Mr. Waugh gave the following report to Council on activities of the MBA:

November 15, 2011
July-September, 2011 Quarterly Report to Marion City Council
Economic Development Report

New Businesses Opened – 8
- Main Street Pub
- Hernandez Ice Cream
- Mountain Made Craft
- Hospice of Rutherford
- Home Again
- Tractor Supply
- Abbey Cakes
- Marion Wellness Center

New Owners or Relocations – 2– Train Shop, La Petit
Businesses Closed – 2 (Mountain Made Craft & Home Again)
Business Expansions - 2
Business Opportunity Inquiries – 5
Business Technical Assistance Request - 1
Business Loan Inquiries – 3
Business Grant Inquiries – 1

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Business Visits – 58 + Bobbie Young's Visits
Property Referral Inquiries – 1
Property Owner Contacts w/ available buildings - 3
Contacts with interested Commercial Developers – 1
New Businesses Breaking Ground –
Sold Properties - 2
Façade Grant Inquires – 1
Façade Grant Awarded – 1
Sign Grant Inquires – 1
Sign Grant Awarded - 0

Other Economic Activity:

Historic Marion Tailgate Market opened Tuesday afternoons and Saturday mornings. Market remains active throughout the growing season.
MBA continues to meet with the WNC Rail Committee to promote passenger rail service to WNC.
MBA continues to maintain listing of commercial properties in the City of Marion.

Special Events Report

July 4 Celebration – Largest crowd ever, great comments about fireworks display
July 15, Business for Breakfast Topic – "Facebook"
August 5, First Friday Concert – Fair attendance.
August 6, Sidewalk Yard Sale – Fair participation.
August 17, Hosted Rural Center Regional Meeting @ Depot
September 5, Labor Day Concert with Terry McKinney. Due to rain, held concert inside depot.
September 16, Business for Breakfast Topic – Review of past programs. Streetscape update
Spent September working on Mountain Glory Festival.
Events Committee continues to be very active.
Volunteer Hours Committed – 144

Upcoming Events

Sunday, November 20 – Christmas Parade
Thursday, December 1 – Melodies on Main
Saturday, December 31 – Marion Rotary New Year's Eve Celebration
Every Thursday Night, 7:00 PM – Free Bluegrass Music Jam @ Depot

Mountain Glory Festival Update

200 + volunteer hours plus MBA staff and Public Works staff time
Estimated profit $2,000.00 - Purchased new stage canopies this year
The volunteers for Mountain Glory Festival were superb!!! They were committed, carried out the event with confidence and fulfilled the mission of Mountain Glory Festival which is to showcase the best of Marion. Each person/volunteer was Marion's best!
Most of the entertainment was regional and national competition winners that also represented the best of Marion and McDowell County.
The craft vendors were complimentary of the festival set-up and a very high majority reported better than average sales.
Mountain Glory Festival is the crown jewel event for Marion and it is accomplished by partnership. The Marion Business Association is proud to partner with the City of Marion and the Festival Committee for the successful event.

Mayor Little thanked Mr. Waugh for his presentation and for the work of the MBA. Mayor Little stated that he had been present for many ribbon cuttings in recent months, demonstrating that the business climate is improving in Marion. He encouraged Council Members to attend as many ribbon cuttings as possible.

The City Manager advised that the MBA would soon announce a new grant cycle for the Historic Marion Façade Grant, funded by the MBA and the McDowell Economic Development

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Association. He added that the next grant cycle would have nearly $21,000 of funding available, since there was unspent grant funds from the past grant cycle.

Mayor Little stated that, if anyone sees Mr. Russell Neighbors, they should commend him for the wonderful job he did in painting his building on South Main Street as part of the Historic Marion Façade Grant Program.

PUBLIC COMMENT PERIOD:

Mrs. Billy Tindall stated that she and her husband moved to Marion two years ago and live on Airport Road. Their first experience with Marion was the New Year's Eve Celebration in 2009. They have really enjoyed living in Marion.

APPROVE STREET CLOSURE FOR NEW YEAR'S EVE CELEBRATION – NEW YEAR'S EVE EVENT: The City Manager advised that the City, County, Marion Business Association and Marion Rotary Club have begun planning this year's Third Annual New Year's Eve Celebration, to take place on Saturday evening, December 31. He stated that the plans were to build on the events held the past two years. The City's role will be supplying labor and equipment, such as police officers for security, a stage for the Courthouse lawn and the Fire tower truck to drop the gold nugget, if necessary, without objection.

The City Manager stated that he would request that Council approve the street closure for this event on Main Street between New and Henderson Streets between 7:00 p.m. and 1:00 a.m. The event will take place between 9:00 p.m. and 12:30 p.m.

Upon a motion by Council Member Clark, seconded by Council Member Owenby, those members of Council present voted to approve the street closure for the New Year's Eve Celebration on Main Street between New and Henderson Streets on Saturday, December 31 from 7:00 p.m. to 1:00 a.m.

REVIEW BIDS/CONSIDER AWARD OF CONTRACT – POLICE DEPARTMENT VEHICLE PURCHASE: The City Manager advised that City staff sought bids for the purchase of three fully equipped Police Department vehicles, including the replacement of one vehicle totaled by a tree falling on it, and for which the City received a full insurance settlement, and the replacement of two vehicles included in the 2011-12 budget. The City budgeted $79,100 for two fully equipped vehicles and received an insurance settlement of $46,000 for the totaled vehicle, providing total available funding of $125,100. He advised that the insurance settlement was received in June, so this funding will be carried over from the 2010-11 Fiscal Year to the current Fiscal Year as fund balance appropriation.

The City Manager stated that, for the two police cars, the low bid was received from Bobby Jones Ford for two 2012 Ford Crown Victorias in the amount of $31,681.48 each, for a total amount of $63,362.96. The City will also need to purchase in-car computers ($650 each or $1,300 total) and radars ($2,100 each or $4,200 total), increasing the total expenditure for the two vehicles to $68,862.96, which is $10,237.04 less than was budgeted for these vehicles.

The City Manager reported that, for the sport utility type vehicle, the low bid received was from Vic Bailey Ford for a 2012 Ford Expedition in the amount of $31,830.25 for a vehicle with running boards, something that City staff has requested. No additional expenses are anticipated for this vehicle. Therefore, this vehicle will cost $14,169.75 less than the insurance settlement we received. The City Manager advised that the City only plans to carry over the amount of the insurance settlement needed for the new vehicle.

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After review of the bids, the City Manager advised that he would recommend that Council award a contract to Bobby Jones Ford for the purchase of two 2012 Ford Crown Victorias in the amount of $31,681.48 each, for a total amount of $63,362.96, and a contract to Vic Bailey Ford for a 2012 Ford Expedition in the amount of $31,830.25 for a sport utility police vehicle with running boards.

Upon a motion by Council Member Clark, seconded by Council Member Owenby, those members of Council present voted to award the contract to Bobby Jones Ford for the purchase of two 2012 Ford Crown Victorias in the amount of $31,681.48 each, for a total amount of $63,362.96, and a contract to Vic Bailey Ford for a 2012 Ford Expedition in the amount of $31,830.25 for a police vehicle with running boards as recommended.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager stated that he appreciated Police Lieutenant Gaye Noblitt being here for the Council Meeting while Chief Brooks is in training.

The City Manager advised that Maymead is seeking to finish the Downtown Streetscape Project. He described how DOT had agreed to have the contractor move the curbline in front of the old Heilig Meyers building on South Main Street in order to preserve parking at this location. The City Manager advised that DOT indicated that the only way to retain the parking at this location would be to move the curb line back about three feet. He added that DOT advised that the City had saved enough money for the project by eliminating three bumpouts to pay for the curb work on South Main Street. Therefore, the City Manager advised that he had given DOT the go-ahead to proceed with this work. City crews are removing the awning, siding and brick planters from the front of the old Heilig Meyers building, and are moving two gingko trees back a few feet and working with Duke to move three decorative street lights back a few feet.

Mayor Little stated that this was a good, creative and satisfying way to retain parking in the South Main Street area, while also removing a false façade from a building.

The City Manager reported that he and Police Chief Mark Brooks continue to work with the Postmaster to seek new locations for drive-up mailboxes in the downtown area, so that people dropping off mail will not have to go through the crowded Post Office parking lot.

The City Manager stated that City personnel have worked to make sure the gingko trees are lighted for Christmas. The skirts around the gingko trees were removed after Mountain Glory, immediately improving the appearance of the downtown area.

The City Manager advised that the Sugar Hill Road Sewer Extension is almost completed. As previously reported, the project contractor installed a temporary pump on October 26 that eliminated the need for further pump and haul from the Wal-Mart Supercenter and Grandview Station Shopping Center and the resulting costs. The City Manager reported that the City still anticipates having a little over $200,000 left over the Sugar Hill Road Water and Sewer Extension project. These funds can be used for other water or sewer extensions if so desired by Council.

The City Manager stated that the City continues to stress to Wal-Mart the need to fill the former Wal-Mart building on Highway 70 West. The City Manager stated that he understand that progress is being made to lease at least part of the old Wal-Mart building, but nothing will likely happen until after the first of the year.

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The City Manger advised that the Park Avenue water line replacement had been completed, with some work done by City crews and other work done by F&S Contractors. City crews have begun the sidewalk and curb replacement on Park Avenue between Turner and Robert Street and a contractor will soon start on the sidewalk and curb replacement between East Court and Turner Streets.

The City Manager stated that DOT District Engineer Doug McNeal was seeking funding for a sidewalk on East Court Street from Branch to Church Streets, to allow the City to consider an asphalt sidewalk extension on Church Street and Ridge Road.

The City Manager advised it appeared that the City was in line to receive a State Parks and Recreation Trust Fund (PARTF) grant in January for one-half of the costs of Phase 2 of the Catawba River Greenway. He stated that the City could also seek a Recreation Trails Program (RTP) grant for this project in early 2012. The City Manager reported that the City had explored a Clean Water Management Trust Fund (CWMTF) grant for the Greenway, but learned that CWMTF will only fund property acquisition, something that is not needed in this case. He added that the City hopes to have all potential grant funding for Phase 2 approved by mid-2012. The McDowell Trails Association is working on plans for fundraising and the City also hopes to receive some County funds for the parking lot behind the McDowell House and/or the amphitheater.

The City Manager advised that DOT finished up planting landscaping along Sugar Hill Road in late October, per prior agreement with the City. DOT is installing the plantings and maintaining them for one year, after which time the City would assume maintenance. City staff intentionally worked with DOT on a plan for low maintenance plantings, to keep future City maintenance costs as low as possible.

The City Manager advised that the Farmer's/Craft Market will be open at the Farmer's Market Shelter on Tuesdays from 3:00 p.m. through 5:30 p.m. through December 20 and on the first and third Saturdays of November and December from 10:00 a.m. through 12:00 Noon. Farmer's and crafters are invited to participate.

The City Manager advised that Council's Annual Christmas Dinner had been scheduled for Tuesday, December 13 at 7:00 p.m. at Low Country Dining. Mayor Little stated that everyone would be asked to pay for their own meals, so that the City bore no expense with this event. Mayor Little added that Council members are invited to his home for dessert and bingo after the dinner.

The City Manager advised that a reception will be held on Tuesday, November 29 from 4:30 p.m. until 6:00 p.m. in honor of Council Member Cecil Owenby, who completes his 16 years of service with the City on December 6.

Mayor Lttle stated that he and the entire City deeply appreciate the 16 years of service Council Member Owenby has given to the City. He added that Cecil has served the citizens of Marion throughout his life, not just during the 16 years he served on Council.

Council Member Clark stated that he appreciated Council Member Owenby and that he was very well respected throughout the community. He added that he has always admired the wise, unselfish decisions that Cecil was willing to make.

Mayor Little stated that Council Members are invited to be present for the annual Pilot Club lighting of the Christmas Tree on the Courthouse Lawn, to take place on Sunday, December 4 at 3:00 p.m.

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The City Manager advised that the next meeting of the Golden Leaf Foundation Community Assistance Initiative will take place on Monday, November 28 at 2:00 p.m. at the YMCA.

COUNCIL MEMBER COMMENTS: None

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Council Member Clark, those members of Council present voted to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, December 6, 2011 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members Everette Clark, Juanita Doggett, Billy Martin and Don Ramsey.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, AICP, Planning and Development Director; Gaye Noblitt, Police Administrative Lieutenant; Dean Ollis, Sanitation Superintendent; Sharon Parker and Aaron Walker, City Attorneys; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Hilda Newton, 39 Hawkins Road, Marion NC; JoAnn Parsons, 1710 Little Mountain Road, Marion, NC; Steve Brown, 350 South Garden Street, Marion NC; Larry Greene, 620 Shady Lane, Marion NC; Cliff Seagle, 341 Fleming Avenue, Marion NC; Kevin Reinke, 6779 Highway 70 West, Old Fort NC; Kristi Willis, 193 Hoyle Street, Marion NC; David, Pattie, Kayla, Mark, Hannah, Kellyn, Micah and Joshua Currie, 404 Fleming Avenue, Marion NC; Jim Burgin, 1087 Veterans Drive Extension, Marion NC; Dr. Debra Alsko, 2720 Clear Creek Road, Marion NC; Julie Ceylarshi, 577Arrowhead Trail, Marion NC; Don Beam, 172 Crescent Drive, Marion NC; Chuck and Carol Ferebee, 544 McPeters Road, Marion NC; Connie Martin, 350 Holly Hill Drive, Marion NC; Jan Ramsey, 188 Hillcrest Drive, Marion NC; Theresa Rhom, 66 Maxwell Drive, Marion NC; The Honorable Tommy Davis, District Court Judge, Rutherfordton NC; Alice Little, 370 South Garden Street, Marion NC; Karen Conley, 128 Hankins Road, Marion NC; Mark Huelskam, Nebo NC; Sherry Hook, Marion NC; Colin Rathbone, Marion NC; Junior Edwards, Marion NC; Rev. Dr. Carl Manuel, Marion NC; Frank & Ruby Miller, Marion NC; Rachel and Adam Kinninger, Marion NC; Amy Moomaw, 537 Rutherford Road, Marion NC; Elaine Laney, Marion NC; Dr. Nisha Patel, 6 East Medical Court, Marion NC: Linda Doran, 169 Cross Creek Drive, Marion NC; Kim McIntosh, 219 Granby Street, Marion NC; Mike & Ellen Ornberg, 1565 Peppers Creek Road, Marion NC; Rev. Dr. Scott & Mrs. Hanna Hagaman, 50 Deep Woods Drive, Marion NC; Nancy Bradley, 4020 Greenlee Road, Old Fort NC; Paul Smith, Jr., 412 Greenlee Road, Old Fort NC; Larry & Pat Brown, 435 Montevista Avenue, Marion NC; Sue Mitchell, 120 North Madison Street, Marion NC; Robert Parton, Marion NC.

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ADMINISTRATION OF OATH OF OFFICE TO COUNCIL MEMBER DON RAMSEY: The Honorable Tommy Davis, District Court Judge, administered the oath of office to Council Member Don Ramsey. Council Member Ramsey's wife, Jan, held their Bible during the administration of the oath of office.

Judge Davis administered the following oath of office to Council Member Ramsey:

I, Don Ramsey, 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 Council Member for the City of Marion, North Carolina, so help me God.

_____
Don Ramsey

I hereby certify that I, J. Thomas Davis, District Court Judge for the 29A Judicial District of North Carolina, administered the above Oath of Office to Don Ramsey, this the 6th Day of December 2011.

_____
J. Thomas Davis

ATTEST:

_____
J. Robert Boyette, City Manager/Clerk

ADMINISTRATION OF OATH OF OFFICE TO COUNCIL MEMBER BILLY MARTIN: The Honorable Tommy Davis, District Court Judge, administered the oath of office to Council Member Billy Martin. Council Member Martin's wife, Connie, held their family Bible during the administration of the oath of office.

Judge Davis administered the following oath of office to Council Member Martin:

Billy Martin JRB
I, ~~Don Ramsey~~, 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 Council Member for the City of Marion, North Carolina, so help me God.

_____
~~Don Ramsey~~ JRB
Billy Martin

I hereby certify that I, J. Thomas Davis, District Court Judge for the 29A Judicial District of North Carolina, administered the above Oath of Office to Don Ramsey, this the 6th Day of December 2011.

_____
J. Thomas Davis

ATTEST:

_____
J. Robert Boyette, City Manager/Clerk

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Mayor Little congratulated Council Member Ramsey on his election to the City Council and Council Member Martin to his re-election to his fifth term on the City Council.

APPOINTMENT OF CITY ATTORNEY/ADMINISTRATION OF OATH OF OFFICE:
Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to reappoint the law firm of Dameron & Burgin as the City Attorneys.

Judge Davis administered the following oath of office simultaneously to City Attorneys Sharon Parker and Aaron Walker, as follows:

I, Sharon Parker, 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.

_____
Sharon Parker

I hereby certify that I, J. Thomas Davis, District Court Judge for the 29A Judicial District of North Carolina, administered the above Oath of Office to Sharon Parker, this the 6th Day of December 2011.

_____
J. Thomas Davis

ATTEST:

_____
J. Robert Boyette, City Manager/Clerk

I, Aaron Walker, 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.

_____
Aaron Walker

I hereby certify that I, J. Thomas Davis, District Court Judge for the 29A Judicial District of North Carolina, administered the above Oath of Office to Aaron Walker, this the 6th Day of December 2011.

_____
J. Thomas Davis

ATTEST:

_____
J. Robert Boyette, City Manager/Clerk

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Attorneys Phillip and Jennifer Jackson could not attend this meeting and will be sworn in by Mayor Little at a later date.

Mayor Little noted the City's longstanding association with the Dameron & Burgin law firm, dating back over 80 years.

CONSENT AGENDA: Upon a motion by Council Member Cuthbertson, seconded by Council Member Clark, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – November 15, 2011 Regular City Council Meeting Minutes

B. Approve Fire Department Roster/Annual Certification of Firefighters

Volunteers
Robert Burleson
Christopher Burnette
James M. Coward
Andrew Depoyster
Terry Depoyster
David Deyton
Wayne Durkee
Phillip Finley
Jacob S. Fox
John Fox
Matthew Gentry
Curtis Grant
Gregory Hollifield
Adrienne Jones
Dennis Laws
Mark Lister
Darrell Mason
Roger McCarthy
Joshua McMahan
John Morrow, III.
Jonathan Morrow
Fred Nanney
Scotty Radford
Kevin Sisk

Paid Staff
Jim Neal
Ray McDaniel
Amy Hudgins
James Mace
Matthew Crawford
Kevin Owenby

Retired
Fred T. Brown
Ralph M. Dark, III
R.M. Dark, Jr.
Bruce Edwards
Marvin E. Hall
Tommy W Harris
James R. Hollifield
Millard Hollifield
John C. Laughridge, Jr.
John Mack Laughridge. Jr.

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Jimmy Morris
Joseph Neal
James D. Parker
Billy Ray Poteat
Jerry W Poteat
Kenny W Poteat
Charles L Presnell, Jr.
Dennis M Price
John Reese
William Ray Smith, III
Jerry C Stevens
Charles G Suttles, Jr.
James D Willis
William J Young, Jr.

C. Approve Budget Ordinance Amendments

CITY OF MARION, NORTH CAROLINA
2011-2012 BUDGET ORDINANCE
(First Amendment)

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

Section 1. That the Budget Ordinance for the City of Marion, North Carolina for the fiscal year 2011-12 as adopted by the Marion City Council on the 21st day of June, 2011 is hereby amended as follows:

GENERAL FUND

a. General Fund Expenditures, Police, Account Number 10-510-7400, Capital Outlay is increased from $84,982 to $115,952.

b. General Fund Expenditures, Cemetery, Account Number 10-640-7400, Capital Outlay is increased from $1,000 to $33,200.

c. General Fund Revenues, Account Number 10-321-0000, Privilege License Revenue is increased from $45,000 to $52,000.

d. General Fund Revenues, Account Number 10-330-0000, Planning & Zoning Fees Revenue is increased from $6,000 to $7,600.

e. General Fund Revenues, Account Number 10-334-1500, Bullet Proof Vest Grant is increased from $-0- to $1,400.

f. General Fund Revenues, Account Number 10-334-1700, State Controlled Substance Revenue is increased from $-0- to $1,758.

g. General Fund Revenues, Account Number 10-334-1900, DENR - Stream Enhancement is increased from $-0- to $32,200.

h. General Fund Revenues, Account Number 10-335-0300, Mountain Glory Revenue is increased from $21,000 to $23,000.

i. General Fund Revenues, Account Number 10-335-0300, Sale of Real Estate is increased from $-0- to $22,770.

j. General Fund Revenues, Account Number 10-392-2000, Property Insurance Reimbursement is increased from $-0- to $2,540.

k. General Fund Revenues, Account Number 10-399-0000, Fund Balance Appropriated is decreased from $476,527 to $468,429.

GENERAL FUND CAPITAL RESERVE

AA.000001291 (24)

a. General Fund Capital Reserve Fund Expenditures, Account Number 75-491-0000, Transfer to General Fund Capital Projects – Streetscape, is increased from $271,251 to $317,470.

b. General Fund Capital Reserve Fund Expenditures, Account Number 75-999-0000, Future Expenses, is decreased from $469,794 to $423,575.

WATER AND SEWER FUND

a. Water and Sewer Fund Revenues, Account Number 30-335-0100, Property Insurance Reimbursement is increased from $-0- to $8,579.

b. Water and Sewer Fund Revenues, Account Number 30-299-0000, Fund Balance Appropriated is decreased from $345,737 to $337,158.

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 December 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–11–12–06 – 1

PUBLIC HEARING- ZONING TEXT AMENDMENT – ADD ANIMAL SHELTERS AS A PERMITTED USE IN THE M-1 INDUSTRIAL DISTRUCT AND AS A SPECIAL EXCEPTION IN THE C-2 GENERAL BUSINESS DISTRICT:

Mayor Little stated that, based on an unofficial polling of Council Members prior to this meeting, he expects this item to pass unanimously.

Mayor Little asked that guests present in support of the animal shelter to raise their hand. There were many hands raised in support of the shelter.

Mayor Little asked that guests present in opposition of the animal shelter to raise their hand. There were no hands raised in opposition to the shelter.

Mayor Little opened the Public Hearing.

City Manager Bob Boyette called on Planning and Development Director Heather Cotton to give the staff report.

Ms. Cotton advised that a request had been made by members of the McDowell County Animal Outreach, Inc. (MCAO) for a zoning text amendment to allow for a non-profit animal shelter to be permitted as a Special Exception in the C-2 General Business District and as a permitted use in the M-1 Industrial District.

Ms. Cotton stated that the City does not have animal shelters or boarding kennels listed as a permitted land use category within any zoning district within the municipal limits. After being returned to the Planning Board for further review and study, a revised ordinance has been drafted that would apply further restrictions on animal shelters, boarding kennels, and other facilities that operate in either the C-2 or M-1 Zoning Districts. The Planning Board reviewed municipal regulations on animal shelters from across the state, analyzed properties that would qualify as suitable sites for animal shelters within the City Limits, reviewed information provided by the

AA.000001292 (24)

applicant, considered comments from the public including adjacent property owners, and reviewed comments from Staff regarding site plan analysis, setback and landscape buffer yard requirements, as well as waste management operations. Ms. Cotton presented the revised ordinance and the supplemental documents reviewed by the Planning Board to Council for their review.

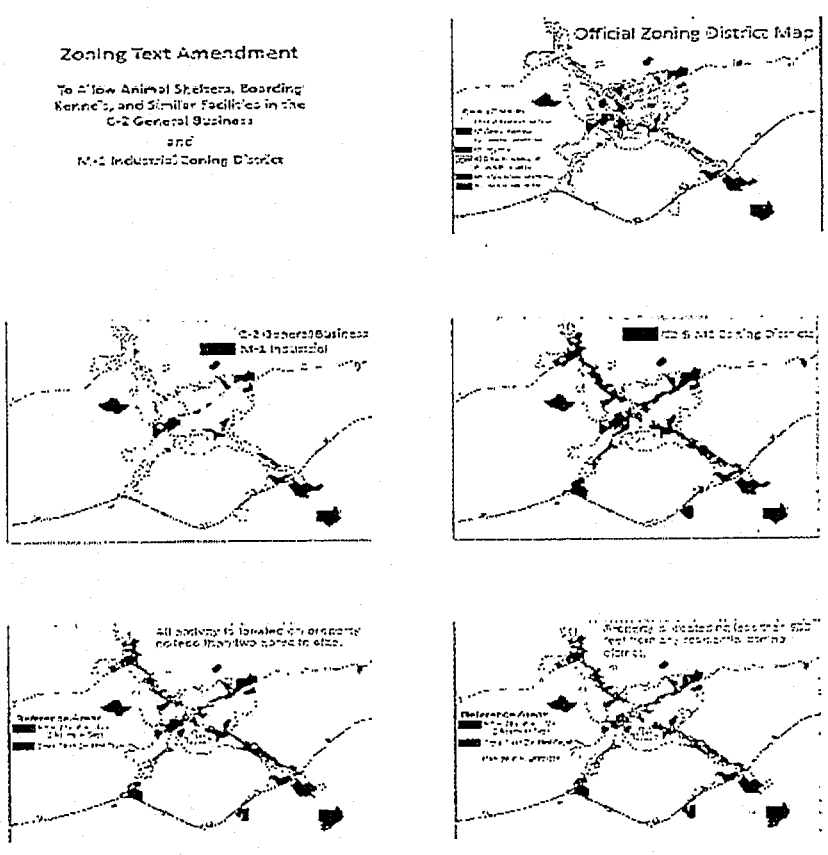
Ms. Cotton reported that changes to the proposed ordinance include redefined public health and safety standards, replacement of subjective language, additional setback and landscape requirements, signage requirements, and waste management requirements.

Ms. Cotton stated that, prior to the Planning Board meeting, City staff, including Wastewater Treatment Superintendent Larry Carver, met MCAO representatives on site on two occasions to conduct a smoke test and a dye test of sewer system. Mr. Carver and his staff determined that all drains in both buildings including the garage area, are attached to the City sewer system. Mr. Carver further indicated that a dry sweep and removal of solid waste prior to washing the kennel areas would be sufficient, that the installation of a pre-treatment system would not be necessary for the animal shelter operation and that the animal shelter would not have a negative impact on the City's sewer system.

Ms. Cotton reported that the owner of KFC, as well as the McDowell Trails Association, had indicated their full support for the animal shelter being located in the former Legendary Ford building on Highway 221 North, as proposed by MCAO, while Byron Phillips of Great Meadows stated that he had no objection to the request. She added that the owner of Sonic stated that he could not give an opinion on the zoning request, in accordance with company policy.

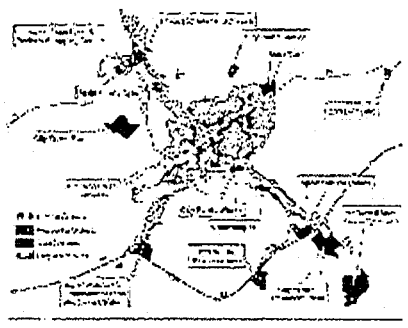
Ms. Cotton stated that the Planning Board unanimously recommended that the zoning ordinance be amended with the noted changes and gave the following Power Point presentation with details on the recommended ordinance:

12/8/2011



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12/9/2011



Additional Amendments Nov. 16th

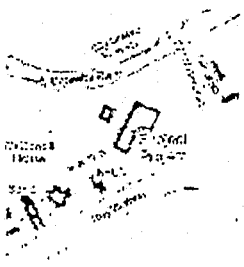
- All lighting shall be controlled and/or fully enclosed to direct glare in a manner that would not be obtrusive when between cars and drivers.
- The setback requirements for any outdoor animal enclosure shall include the following:
  - The front yard setback shall be the same or greater than the principal building.
  - Side and rear yard setback shall be a minimum 25 feet from the property line.
- All outdoor enclosures shall be screened by a solid and opaque fence a minimum of 6 feet in height.
- The facility shall be maintained and operated in such a manner that all animal odors, noise, and/or other nuisances which are deemed as a public nuisance and/or hazard, shall not be detectable beyond the property line which the animal shelter or kennel is located.
- The facility operator is compliant with all other applicable city codes including but not limited to chapter 3 as each may be amended.

Additional Recommendations From Planning Board

- Transition landscaping shall be provided on the south and west property lines as follows:
  - The transition landscaping shall consist of a mixture of evergreen trees and shrubs.
  - Landscaping shall be installed and maintained so that within three years of planting, the landscaping shall form a visual screen at least six feet in height and 75% opaque between the animal shelter and the adjacent property to the south and west. Landscaping shall be maintained in a healthy and growing condition.
- Animals shall not be kept outside between the hours of 10:00 p.m. and 7:00 a.m. except for animals that are under the direct supervision of a person for the purpose of exercising, training, or playing.
- Animal waste shall be removed from the enclosures at least once per day.
- Animal waste shall be disposed of in a manner that protects against the pollution of surface water and groundwater.
- Animal carcasses shall be properly disposed of in a timely manner and in accordance with all federal, state, and local laws and regulations.
- The facility shall be operated in conformance with all applicable federal, state, and local laws and regulations.

Special Exception Approval By
Board of Adjustment
For
McDowell County Animal Outreach

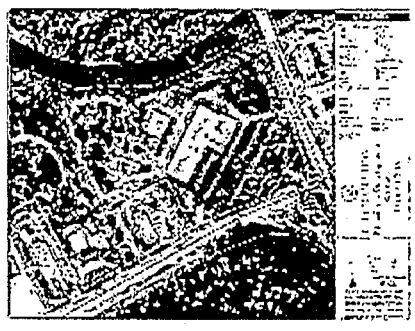
General Area & Adjacent Land Uses



The City has received favorable opinions and general approval from the following property owners and interested stakeholders:

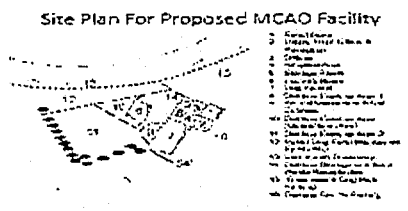
- [illegible]
- Mayor Phil Price
- McDowell Trails Association

and no adjacent property owner has come forward in opposition.



AA.000001294 (24)

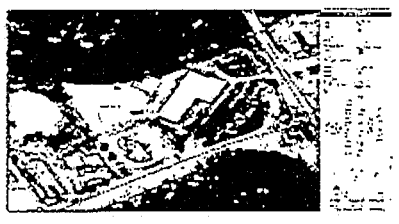
Site Plan For Proposed MCAO Facility











Planning Board Review

- Review of ordinances from 6 municipalities from across the NC.
- Staff report on results of Waste Treatment Pool smoke & dye test.
- Answers to list of general operation questions provided by the applicant.
- Analysis of proposed zoning setbacks and landscape requirements
- Consistency with the Comprehensive Land Use Plan and Future Land Use Map currently under revision.

Conditions of BOA Approval

- Market City Council approves amendments to the Zoning Ordinance to allow for Animal Shelters with the City of Market's C-2 General Business District.
- No less or greater than [illegible] McDowell County Animal Outreach, Inc. maintains a NO Kill, Wait Necessary Sentence Rate for the Calendar Year as set for the Installation of the Calendar Year Ordinance Update.
- Initial and ongoing Wildlife or Nuisance Animal Issues are contained inside, outdoor enclosures with shade and water or removed or relocated by trapping and other specialists.
- With such provision [illegible] Emergency Conditions to create a 24 hour evaluation plan, at the Director's sole removal [illegible] of animals.

Ms. Marsha Carroll, Vice President and Charter Member of the McDowell County Animal Outreach Inc., thanked Council for allowing MCAO representatives to present information they feel is pertinent to Council's decision concerning the zoning request and, in particular, MCAO's desire to locate the animal shelter at the former Legendary Ford property at 66 Highway 221 North.

Ms. Carroll stated that MCAO is a local animal welfare organization that was organized and incorporated in 2004. The organization consists of 200 members and volunteers and. MCAO, over their eight year history, has adopted over 600 animals, with no building and no website, just with a small group of committed individuals who believed in a dream.

Ms. Carroll stated that MCAO's mission has always been to save the lives of homeless adoptable animals and to spay and neuter them and to teach our children responsibility of caring for animals.

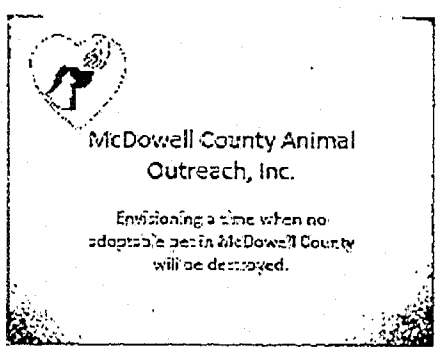
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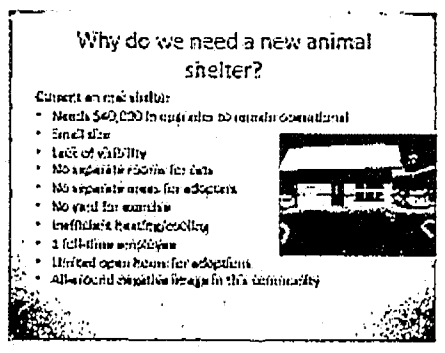
Ms. Carroll stated that MCAO believes that this vision can be fulfilled with the proposed shelter being located in the former Legendary Ford building. MCAO plans to lease the property with the goal of purchasing the property as soon as possible.

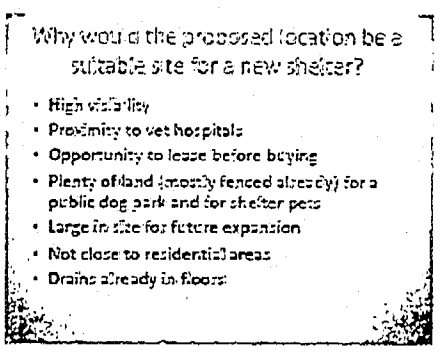
Ms. Carroll thanked City Council Members and stated that Ms. Rachel Kinninger of MCAO would be able to answer most questions Council may have.

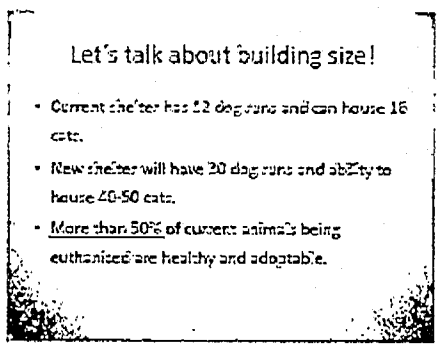
Ms. Kinninger presented the following power point presentation, providing additional details on MCAO's plans for the former Legendary Ford building.

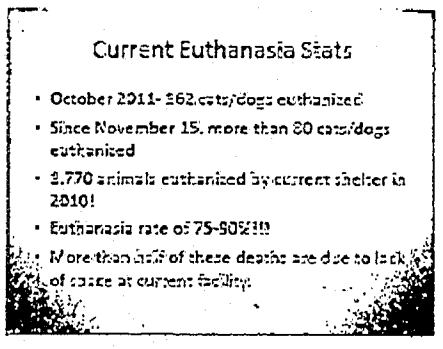
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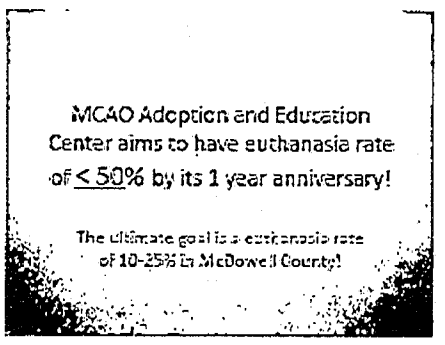




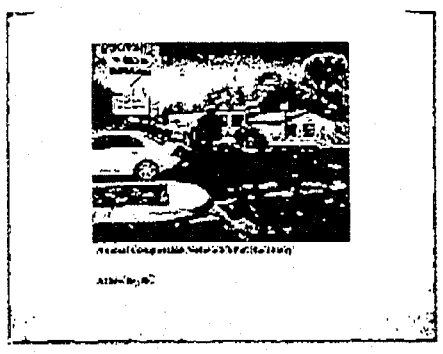






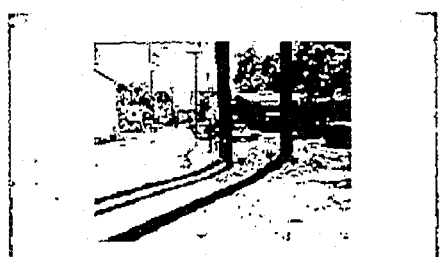


AA.00000129 (24)



Asheville Humane Society





Anti-Cruelty Society- Chicago

MCAO Adoption and Education Center

Overview:

- 2 full-time employees + myself and president
- 1 Volunteer for every 10 animals
- Open extended hours 5 days a week
- Grand Opening Feb. 2012
- Open admission shelter
- 1 year budget:

MCAO Adoption and Education Center

- Noise, Odor, Pest control:
  - Sound insulation in ceilings- plastic covered
  - Enriching environment for dogs
  - Vegetative buffer along NC fencing
  - Industrial automatic odor treatment
  - Weekly industrial odor eliminator down drains and on outside concrete
  - Daily disinfectant is also a deodorizer
  - Sealant on all concrete floors and sidewalls
  - No porous surfaces in animal areas
  - Monthly fly treatments and other pest control by reputable company

AA.0000001297 (24)

MCAO Adoption and Education Center

- Waste Disposal:
  - All drains connected to city sewer
  - Wastewater Supt intercepts: dry sweep and hair traps installed in future if needed
  - Waste picked up at least twice daily in/outside
  - Disposal in trash bags and into dumpster
  - Dumpster behind building on side farthest from restaurants
  - Dog park will have trash bins and waste pick-up bags
  - Fill dirt in shade by dog play area to prevent run-off going to river

MCAO Adoption and Education Center

- Safety Concerns:
  - "Illegal to Abandon" signs posted
  - If abandonment problems continue, cameras installed and portable kennel outside
  - Abandonments infrequent at current shelter
  - Anything dogs outside contained and double fencing!
  - No overnight outdoor kennels
  - Rules clearly posted and enforced for dog park
  - Dangerous animal quarantine in separate building
  - Separate fenced entrance area between dog park and Grammes dog park and parking lot
  - Emergency Evacuation Plan- main building in 500 yr flood zone; current shelter "moth balled"
  - Emergency contact phone # posted after-hours

We have the support of many area businesses!

Loss of tax $$$ to City.....

How MCAO Adoption and Education Center will benefit the City

- Bring business to hurting area of city
- Creating jobs
- Provide shelter/care for City picked-up animals
- Greater safety from stray dogs
- One main hub for all things "animal"

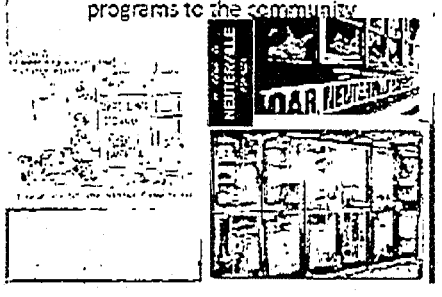
Innovative and needed animal programs to the community



AA.000001298 (24)

12/8/2011

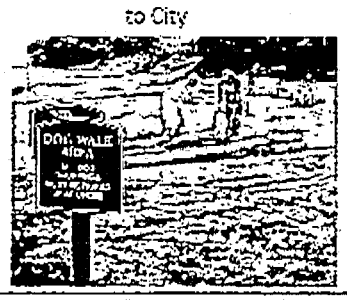
Innovative and needed animal programs to the community



Public dog park- maintained at no cost to City



Public dog park- maintained at no cost to City



Public dog park- maintained at no cost to City

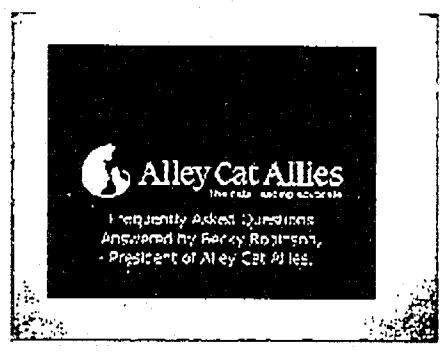


Public dog park- maintained at no cost to City

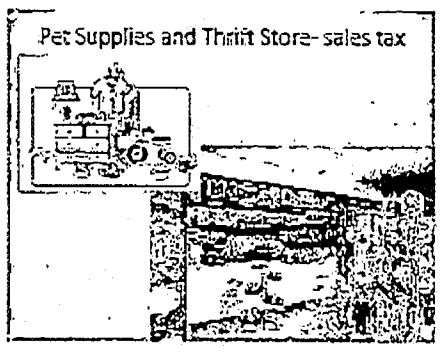


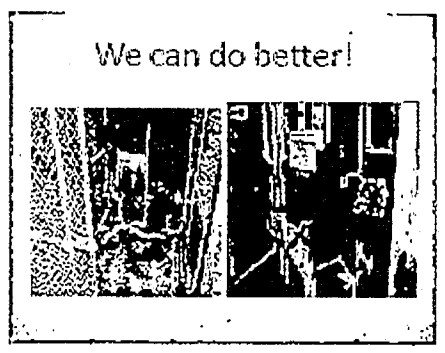
- TNR of community cats to reduce overpopulation problems
  - Only proven method of reducing outdoor cat populations
  - Current method of killing not working!
  - TNR cats will be healthy, vaccinated, spayed/neutered, and tested negative for deadly diseases before Return.
  - Cats are only returned to exact location they came from.
  - Alternatives for when property owner uncooperative

AA.000001299 (24)











Council Member Clark stated that he wanted to thank Ms. Cotton and the Planning Board members for all they did over the last three weeks to research animal shelter regulations and to create a better ordinance.

Council Member Clark stated that he feels a lot better about his decision tonight as he just tries to do what is best for the City. He said that MCAO members were probably upset at him in November for proposing to send this matter back to the Planning Board for further study, but that he believes that the result was a better ordinance that allows for MCAO to move forward with the animal shelter while also protecting adjacent properties.

There were no other persons present wishing to speak to Council.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council unanimously approved the following ordinance, as recommended by the Planning Board, to amend the Zoning Ordinance to allow for non-profit animal shelters to be permitted as a Special Exception in the C-2 General Business District and as a permitted use in the M-1 Industrial District:

AA.000001300 (24)

ORDINANCE
AMENDING CHAPTER 21
ZONING
MARION CITY CODE

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

Section 1. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina, is amended by adding the following:

Section 2. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina is amended by adding the following to 21-21 *Definitions*.

Kennel: Any lot, building, structure, enclosure or premises whereupon or wherein are kept five or more dogs, cats or similar small animals in any combination, whether such keeping is for care, pleasure, profit, breeding, or exhibiting, and including places where dogs or cats or similar small animals in any combination are boarded, kept for sale, care, or kept for hire.

Section 3. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina is amended by adding the following to Section 21-205.*3 Special Exceptions* of the C-2 General Business District.

Sec. 21-205 (3) Special exceptions. The following uses are permitted as special exceptions as provided for in article XIII, section 21-302.2 of this ordinance.

(9) Boarding Kennel or Animal Shelter

a. Property is located no less than 500 feet from any residential zoning district.

b. All activity is located on property no less than two acres in size.

c. All kennels shall be contained within a fully enclosed building or designed in a manner that would prohibit outdoor access between dusk and dawn.

d. The setback requirement for any outdoor animal enclosure shall include the following:
   i. The front yard setback shall be the same or greater than the principal building.
   ii. Side and rear yard setbacks shall have a minimum 20 foot setback from the property line.
   iii. A solid 20 foot wide landscape buffer yard utilizing a double row of evergreen trees no less than eight feet in height at installation and no less than twenty feet in height at maturity shall be installed and maintained in perpetuity between any outdoor enclosure and an adjacent property line, or no less than 50 feet with a solid opaque fence.
   iv. All outdoor enclosures shall be screened by a solid or opaque fence a minimum of six feet in height.
   v. No outdoor animal enclosure shall be located any closer than 150 feet from any structure occupied as a residential use existing at the time of approval.

e. The facility shall be maintained and operated in such a manner that all animal odors, noise, refuse and/or other onsite activities deemed as a public nuisance and/or hazard shall not be detectable beyond the property line in which the animal shelter or kennel is located.

f. A waste management plan that demonstrates compliance with applicable state and local regulations and which ensures sanitary handling of animal waste and prevents contamination or pollution of adjacent lands or water bodies shall be submitted to and approved by the administrator prior to establishment of such uses.

g. All animal waste shall not be stored within 100 feet or any property line.

h. Kennels shall at all times maintain a sanitary and humane environment pursuant to all applicable state and local regulations.

i. The facility operates in compliance with all other applicable city codes including but not limited to Chapter 3 *Animals* as may be amended.

j. A sign clearly visible and located at the entrance of the building/facility shall be posted containing 24 hour emergency contact information for the facility including no less than two (2) telephone numbers where the persons responsible for the facility may be contacted at any hour of the day or night. The sign shall comply with regulations established for *Signs* in Section 21-131 of this Code.

AA.000001301 (24)

k. The approving authority may impose additional conditions upon the operation of any kennel, including but not limited to hours of operation, the size and scale of a kennel, or the number of animals to be housed within a kennel.

l. The City shall conduct an inspection as deemed necessary of a facility and shall report any violation to the approving authority. After reviewing the findings of the administrator and upon conclusion of the kennel operator's due process procedures as set forth in Chapter One of the City Code, the approving authority may revoke permits for the operation of any kennel that has been found to be in violation of this ordinance.

Section 4. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina is amended by adding the following to Section 21-206.*2 Permitted Uses* of the M-1 Industrial District.

Sec. 21-206 (2) Permitted uses. Within the M-1 Industrial Zoning District the following uses are permitted.

(13) Boarding Kennel or Animal Shelter

a. Property is located no less than 500 feet from any residential zoning district.

b. All activity is located on property no less than two acres in size.

c. All kennels shall be contained within a fully enclosed building or designed in a manner that would prohibit outdoor access between dusk and dawn.

d. The setback requirement for any outdoor animal enclosure shall include the following:
   i. The front yard setback shall be the same or greater than the principal building.
   ii. Side and rear yard setbacks shall have a minimum 20 foot setback from the property line.
   iii. A solid 20 foot wide landscape buffer yard utilizing a double row of evergreen trees no less than eight feet in height at installation and no less than twenty feet in height at maturity shall be installed and maintained in perpetuity between any outdoor enclosure and an adjacent property line, or no less than 50 feet with a solid opaque fence.
   iv. All outdoor enclosures shall be screened by a solid or opaque fence a minimum of six feet in height.
   v. No outdoor animal enclosure shall be located any closer than 150 feet from any structure occupied as a residential use existing at the time of approval.

e. The facility shall be maintained and operated in such a manner that all animal odors, noise, refuse and/or other onsite activities deemed as a public nuisance and/or hazard shall not be detectable beyond the property line in which the animal shelter or kennel is located.

f. A waste management plan that demonstrates compliance with applicable state and local regulations and which ensures sanitary handling of animal waste and prevents contamination or pollution of adjacent lands or water bodies shall be submitted to and approved by the administrator prior to establishment of such uses.

g. All animal waste shall not be stored within 100 feet or any property line.

h. Kennels shall at all times maintain a sanitary and humane environment pursuant to all applicable state and local regulations.

i. The facility operates in compliance with all other applicable city codes including but not limited to Chapter 3 *Animals* as may be amended.

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k. The approving authority may impose additional conditions upon the operation of any kennel, including but not limited to hours of operation, the size and scale of a kennel, or the number of animals to be housed within a kennel.

l. The City shall conduct an inspection as deemed necessary of a facility and shall report any violation to the approving authority. After reviewing the findings of the administrator and upon conclusion of the kennel operator's due process procedures as set forth in Chapter One of the City Code, the approving

AA.000001302 (24)

authority may revoke permits for the operation of any kennel that has been found to be in violation of this ordinance.

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 6th day of December 2011.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/ Clerk

Ordinance Number: O-11-12-06-2

PUBLIC APPEARANCE – MICAH CURRIE – REQUEST THREE WAY STOP AT INTERSECTION OF FLEMING AVENUE AND MONTEVISTA AVENUE: Mr. David Currie appeared before Council, on behalf of his son Micah who is working on a 4-H project, to request the placement of a three-way stop at the intersection of Fleming Avenue and Montevista Avenue.

Mr. Currie stated that heavy traffic, speed and poor visibility are issues at this intersection. He also noted that there is a school zone near the area.

Mr. Currie presented Council with a copy of a petition that read as follows:

The intersection of Fleming and Monte Vista Avenues in Marion consistently experiences traffic in excess of the posted (25 MPH) safe speed for the associated school zone and for the character of the residential neighborhood surrounding this section of roadway. Past measures taken in response to complaints of vehicular collisions, such as installing a parabolic mirror facing Monte Vista Avenue have been patently ineffective. The residents ask that City Council members take immediate action to correct the situation in order to protect children, pedestrians, pet-owners exercising their animals and ultimately, law-abiding drivers as speeders transition from Airport Road into this more densely-populated neighborhood area. A three way stop at the intersection will create a traffic pattern that encourages vehicular traffic to slow in preparation for the reduced speeds already posted upon entering the neighborhood.

The petition had 33 signatures.

Mr. Currie asked that Council consider approval of this request.

Mayor Little suggested that this matter be referred to the Street Committee for review and a recommendation.

Mayor Little stated that he appreciated the work Mr. Currie had put into this request.

Mr. Larry Brown stated that he had lived at 435 Montevista Avenue, at the intersection of Fleming and Montevista Avenues, for 47 years. Mr. Brown advised that he appreciated the work put into the request by Mr. Currie and that he agrees that there is a speeding problem; however, he and Mrs. Brown would like to go on record as opposing a three way stop.

Mayor Little thanked Mr. Brown and Mr. Currie and referred this request to the Street Committee which will report back to Council at a future meeting.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present for this meeting.

ELECTION OF MAYOR PRO TEM: The City Manager advised that the City Code requires Council to elect a Mayor Pro Tem after each City election.

AA.000001303 (24)

Council Member Martin nominated Council Member Cuthbertson as Mayor Pro Tem. Council Member Clark seconded the nomination.

Mayor Little asked if there were any other nominations.

Council Member Clark made a motion that the nominations be closed and that Council Member Lloyd Cuthbertson be elected Mayor Pro Tem. The motion was seconded by Council Member Martin. All Council members voted in a favor of the motion and the motion was carried.

REAPPOINTMENT OF CITY MANAGER AS CITY'S REPRESENTATIVE ON ISOTHERMAL PLANNING AND DEVELOPMENT COMMISSION BOARD OF DIRECTORS: The City Manager advised that, at the organizational meeting of City Council after an election, Council has typically reappointed the City Manager as the City's representative on the Isothermal Planning and Development Commission Board of Directors.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to reappoint the City Manager as the City's Representative on the Isothermal Planning and Development Commission Board of Directors.

CONSIDER AWARD OF CONTRACT FOR PURCHASE OF FRONT LOADER COMMERCIAL GARBAGE TRUCK: The City Manager advised that, as shown in the memo presented to Council, the City recently sought bids for the purchase of a 40 yard front loader commercial garbage truck. Staff is recommending that the contract for the purchase of this truck be awarded to Amick Equipment Company for a 2011 Autocar ACX 64 truck in the amount of $207,204.00. While this is not the low bid, it is considered to be the lowest responsible bid for a truck that fully meets City specifications, does not create future maintenance issues and is available within the next 60 days. The low bid new truck would not be available for 240-275 days, an unacceptable time frame, given the condition of the City's current commercial garbage truck. The City Manager presented Council with an e-mail from the City of Morganton, agreeing with the staff recommendation, for the reasons listed in the memo and above, since the City of Morganton has expressed interest in piggybacking on the City's bids for this truck.

The City Manager advised that the City budgeted $195,000 in 2011-12 for the purchase of this truck, but staff does not feel that this is a realistic amount to purchase the truck the City needs. Staff hopes to come in under budget on the planned purchase of a dump truck in the Sanitation Department, which should partly or completely offset the additional cost of the front loader truck.

For the reasons listed on the memo presented to Council and the above, the City Manager stated that he would recommend that Council award the contract for the purchase of a 40 yard front loader refuse collection truck to Amick Equipment Company for a 2011 Autocar ACX64 truck in the amount of $207,204.00.

Council Member Clark asked if this was a diesel truck, noting that the last diesel fire truck purchased had to have a particular fuel additive.

Sanitation Superintendent Dean Ollis stated that the recommended truck is a diesel truck and that the fuel additive referenced by Council Member Clark is now standard for all new diesel trucks.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to award the contract for the purchase of a 40 yard front loader refuse collection truck to Amick Equipment Company for a 2011 Autocar ACX64 truck in the amount of $207,204.00 as recommended.

DISCUSS COMMERCIAL CARDBOARD RECYCLING: The City Manager advised that staff had been looking for ways to eliminate the $29,000 annual expense the City pays to GDS

AA.00001304 (24)

for commercial cardboard recycling. The City has a three year contract with GDS that expires on June 30, 2012. The City Manager stated that he initially thought that the City had to provide GDS with a six month termination notice; however, the contract actually only requires a 60 day notice.

The City Manager stated that he had had discussions with the County about the possibility of the County taking over collection of the cardboard dumpsters and that Sanitation Superintendent Dean Ollis had advised that the City can collect the cardboard if necessary. Under either scenario, the City would need to purchase new cardboard dumpsters. Staff believes that the City stands a good chance of receiving State grant funding to pay for part or all of the cost of the new dumpsters.

The City Manager stated that, without objection, staff would work to obtain funding, if possible, for the replacement cardboard dumpsters and negotiate with the County for the best deal possible to transition collection of cardboard effective July 1, 2012. The City Manager advised that he would then bring a recommendation to Council for the City to contract with the County for commercial cardboard recycling collection or for the City to collect the cardboard with City forces. No contract will be entered into with the County unless authorized by Council.

The City Manager advised that he would therefore request Council permission to authorize staff to provide notice to GDS that the City will terminate the commercial cardboard recycling contract effective June 30, 2012. The City Manager presented Council with a copy of a proposed termination letter for their review.

Council Member Clark suggested that this item be further discussed at our planning session, but that he had no problem with authorizing the termination notice to be sent to GDS.

Mayor Pro Tem Cuthbertson stated that the termination notice may spark GDS to send in a proposal to the City that is better than the City's current arrangement.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to authorize staff to provide notice to GDS that the City will terminate the commercial cardboard recycling contract effective June 30, 2012.

REVIEW REQUEST TO ALLOW ON-STREET PARKING ON WEST WILHEMENIA STREET: The City Manager advised that Mr. Roberto Sierra had requested that on-street parking be allowed in the dead end block of West Wilhemenia Street from Oak Avenue to the end of the street. The City Manager suggested that this item be referred to the Street Committee for review and a recommendation back to Council.

Mayor Little and Council Members agreed that this item should be referred to the Street Committee.

SCHEDULE TOWN MEETING AND CITY COUNCIL PLANNING SESSION: The City Manager advised that Council has traditionally held the annual Town Meeting on or around the third or fourth Thursday of January. Due to Mayor Little being out of the country for a mission trip on the third Thursday of January, the City Manager advised that he would propose that the Town Meeting be scheduled for Thursday, January 26, at 7:00 p.m. at the Community Building. Thursday, February 2 could be set as a back-up date.

The City Manager stated that Council has also traditionally held a Planning Session not long after the Town Meeting to begin identifying budget priorities for the coming year and to address current and future priorities. This Planning Session could be held at any time desired by Council, perhaps in early February. Given other issues that Council will likely need to provide direction on in the near future, such as the possible water extension to the Universal Furniture property, the

AA.000001305 (24)

Golden Leaf Foundation Community Investment Initiative and the commercial cardboard recycling issue, it might also be helpful to schedule a Planning Session for later in December or in early January.

It was the consensus of Council to schedule the Town Meeting for Thursday, January 26, 2012 at 6:00 P.M. at the Marion Community Building, to set Thursday, February 2 at 6:00 P.M. at the Marion Community Building as the backup date for the Town Meeting in the event of inclement weather and to hold a Planning Session on Tuesday, January 10 at 6:00 P.M. at City Hall.

ADD ON – RESOLUTION – ALEX ALEXANDER: Council Member Clark stated that former North Carolina League of Municipalities President, former NLC Board Member and current North Carolina League of Municipalities Risk Management Services Board member E.H. (Alex) Alexander was retiring from elected service with the Town of Red Springs this month. Council Member Clark asked that Council adopt a resolution honoring Mr. Alexander's service.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to adopt the following Resolution honoring E.H. (Alex) Alexander upon his retirement from elected service:

CITY OF MARION RESOLUTION HONORING
E.H. "ALEX" ALEXANDER

WHEREAS, E.H. "Alex" Alexander is completing 24 years of dedicated service on the Town of Red Springs Board of Commissioners in December, 2011, including many years as Mayor Pro Tem; and

WHEREAS, E.H. "Alex" Alexander will complete 15 years of dedicated service on the North Carolina League of Municipalities Risk Management Services Board of Trustees in February, 2012, including being Vice-Chair of the Board and presiding as Chair of the Board for the past two years; and

WHEREAS, E.H. "Alex" Alexander has served in many other leadership capacities, including leading the North Carolina League of Municipalities as President in 1995-1996 and representing North Carolina on the National League of Cities Board of Directors and several NLC Committees; and

WHEREAS, E.H. "Alex" Alexander has been a tireless advocate for the Town of Red Springs and also municipal interests on a Local, Statewide and National basis, making every organization in which he served better because of his dedication and experience; and

WHEREAS, E.H. "Alex" Alexander has been a great friend of all municipalities across North Carolina and the entire United States and his professionalism, leadership, integrity and experience will be missed.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Council Members of the City of Marion do hereby express their appreciation to E.H. "Alex" Alexander for the lasting contributions he has made to the Town of Red Springs and to all cities, towns and villages in North Carolina and across the United States and wish him the best of success in his retirement from public life at this time.

ADOPTED this the 6th day of December, 2011.

Stephen R. Little
Mayor

Lloyd Cuthbertson
Mayor Pro Tem

A. Everette Clark
Council Member

Juanita Doggett
Council Member

Billy Martin
Council Member

Don Ramsey
Council Member

AA.000001306 (24)

CITY MANAGER COMMENTS: The City Manager advised that, as previously directed by Council, consideration of approval of the City's 2010-11 Audit and that it would be placed on the January 3 City Council Agenda for approval.

The City Manager advised that the County had given permission for the relocation of a mailbox at the Library to make it a drive-up mailbox and for one to be placed in the back of the City-County Parking Lot on South Garden Street. The Post Office will likely relocate a mailbox from Bank of America to the South Garden Street Parking Lot. The Post Office also plans drive-up mailboxes in the Bi-Lo and Wal-Mart Supercenter parking lots, increasing the number of drive-up mailboxes in the City from one to five. The City Manager stated that he had learned about the County's approval on November 17, but had to wait until November 28 to notify the Postmaster, due to his vacation. He then learned that the Marion Postmaster would be working out of Asheville for the next few months. The City Manager stated that he had talked to the replacement Postmaster, who said that she would put in work orders for the relocated mailboxes. The City Manager stated that, hopefully, the Post Office can install the new mailboxes soon and improve traffic flow at the Post Office.

Mayor Little stated that, while driving to his office one day recently, he decided to drop off mail at the Post Office. He said that fortunately he saw a large line of vehicles backed up in the parking lot before turning into the entrance of the Post Office parking lot; otherwise, he would have to wait 15 or 20 minutes simply to drop off mail. Mayor Little said that having drive-up mailboxes located throughout the City should have a positive impact on traffic flow in the downtown area.

The City Manager advised that, by the time of this meeting he had anticipated Maymead having the Downtown Streetscape Project completed. However, weather has not been cooperating and DOT recently suspended the painting of the decorative crosswalks until spring, when temperatures are consistently above 50 degrees, the minimum temperature needed for the paint to properly adhere to the road surface. The City Manager stated that DOT had pledge that the contractor would correct the painting deficiencies currently being experienced at most of the crosswalks, due to the painting work taking place during cold weather.

The City Manager stated that he did not obtain consensus from Council on the idea proposed by DOT District Engineer to prohibit large trucks from turning right from East Court Street onto North Main Street and that this item, along with other issues involving downtown traffic flow, can be further discussed at the January 10 Council Planning session.

The City Manager advised that the Marion Business Association will soon announce the next grant cycle for the Historic Marion Façade Grant Program, funded by the MBA and the McDowell Economic Development Association. The Façade Grant Program will have $15,000 in MBA and MEDA funding, plus almost $6,000 unspent from this year's grant cycle, resulting in almost $21,000 being available in grants. It appears that the funding cycle will take place from about February 1 through March 31, with publicity going out about the grant application period in January.

The City Manager advised that the Sugar Hill Road Sewer Extension was completed, with the exception of power being connected to two pump stations. He said that Duke Energy forecasted that the power should be connected to these two pump stations later in the month.

The City Manager advised that City crews and a contractor had completed work on the Park Avenue water line replacement. He added that City crews had started work on the curb and sidewalk replacement on Park Avenue between Turner and Robert Streets in late October and that a contractor would soon start work on the curb and sidewalk replacement on Park Avenue between East Court Street and Turner Street.

AA.00001307 (24)

The City Manager advised that the Golden Leaf Foundation had completed the planning process for the $2 million Community Assistance Initiative for our County and would be accepting project proposals through January 17. The City Manager stated that Council direction would be needed on the City's applications no later than the January 10 Council Planning Session, to allow for applications to be submitted by the deadline.

COUNCIL MEMBER COMMENTS: Mayor Little presented Council Members with a proposal for Council committees for the next year. He stated that he proposed to eliminate committees that did not meet. The proposed committee assignments are as follows:

Utility Committee:	Council Member Martin Council Member Doggett
Street Committee:	Council Member Clark Council Member Ramsey
Tree Board:	Mayor Pro Tem Cuthbertson
Fireman's Relief Fund:	Council Member Clark Council Member Doggett
Council on Aging:	Mayor Pro Tem Cuthbertson

Mayor Little asked that Council Member let him know as soon as possible if there were any changes they wished to make to the committee assignments.

Council Member Clark asked if the County has reimbursed the City for overpayments of election expenses from past years. The City Manager advised that the agreement approved by the City Council, McDowell County Board of Commissioners and the McDowell County Board of Elections did change the way the County would charge the City for election expenses going forward, but that there had been no reimbursement for possible past overpayments by the City. Council Member Clark asked that this matter be discussed at the January 10 Council Planning Session.

ADJOURNMENT: Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, 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 3, 2012 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Pro Tem Lloyd Cuthbertson, Council Members Everette Clark, Billy Martin and Don Ramsey.

AA.000001308 (24)

Council Member Juanita Doggett was not present for this meeting due to suffering a broken leg that required surgery earlier that day.

Mayor Little was not present for this meeting due to an automobile accident he experienced earlier in the day in another County.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, AICP, Planning and Development Director; Harriett Thomas, CPA, Finance Director; Mark Brooks, Police Chief; Dean Ollis, Sanitation Superintendent; Freddie Killough, Executive Director, Marion Business Association Director; Matthew Crawford, Firefighter; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Charles & Evelyn Stockton, 77 Lucky Street, Marion, NC; Leann, Lisa and Allen Whitesides, 6064 Bat Cave Road, Old Fort, NC; Carol Godfrey, 70 Lake View Drive, Old Fort, NC; Ronnie Burgin, P.O. Box 507, Marion, NC; Joy Strassel, Western North Carolina Housing Partnership; Jim Edwards, Executive Director, Isothermal Planning and Development Commission; Niki Stockton and James Kinnon, 123 Lucky Street, Marion, NC; Joseph Strassel, Hendersonville, NC; Steve Brown, 537 South Garden Street, Marion, NC; Amy Moomaw, 537 Rutherford Road, Marion, NC; Stephanie Goudreau, 28 Alma Morgan Drive, Marion, NC; Jon Sarver, 5 Chiles Avenue, Asheville, NC.

OPENING OF MEETING: Mayor Pro Tem Cuthbertson opened the meeting with a moment of silence.

CONSENT AGENDA: Upon a motion by Council Member Martin, seconded by Council Member Clark, those members of Council present voted to approve the consent agenda as follows:

A. Approval of Minutes – December 6, 2011 Regular City Council Meeting Minutes

B. Approve Personnel Policy Amendment

City of Marion
Personnel Policy Amendment

The Personnel Policy of the City of Marion, as adopted on February 21, 2006, is hereby amended as follows:

Section 1. That Article VII, Leaves of Absence, Section 4.Vacation Leave – (c) Vacation Leave – Maximum Accumulation is amended by deleting the paragraph in its entirety and replacing it with the following:

Vacation Leave – Maximum Accumulation

Vacation leave may be accumulated up to 200 hours maximum for 40 hour employees, up to 210 hours maximum for 42 hour employees and up to 280 hours maximum for 56 hour employees. At the end of each calendar year, vacation accumulated beyond this amount will automatically be converted to sick leave on an hour to hour basis. Additional accumulated vacation time may be converted to sick leave upon written request from the employee and approval by City Manager. If the employee separates from service, payment for accumulated vacation leave shall not exceed the maximum accumulation listed above. Like regular sick leave, any unused converted sick leave may be counted toward creditable service at retirement, if allowed by the rules of the Local Government Employees' Retirement System.

Section 2. This amendment shall become effective on January 3, 2012.

Adopted this the 3rd day of January 2012.

AA.0000013O9 (24)

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Policy Number: P-12-01-03-1

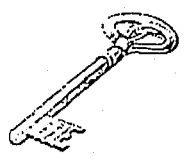
RECOGNITION OF CHARLES STOCKTON RETIREMENT: The City Manager reported that a true legend of the City of Marion, Charles Stockton, had retired from the City on December 31, after more than 20 years of service. The City Manager stated that, when he came to Marion 11 years ago, he quickly learned that Charles Stockton was one of the best employees the City had and a man who would do whatever it took to get the job done.

The City Manager added that, while the City is selfishly sad to see Mr. Stockton retire, everyone realizes that it is what Mr. Stockton and his family want and are therefore happy for him.

Mayor Pro Tem Cuthbertson, Council Members and City employees all shared kind words about Mr. Stockton, thanking him for all he did for the City and wishing him the best in his retirement.

Mayor Pro Tem Cuthbertson and Council Members presented Mr. Stockton with a plaque that read as follows:

This Honorary Key
Represents
An Open Invitation
To the
" City of Marion "



For

Charles Stockton
Honoring
20 Years of Dedication and Service
to the City of Marion
August 7, 1991 – December 31, 2011
Presented this 3rd day of January, 2012
By
Mayor Stephen R. Little and Marion City Council

The City Manager also presented Mr. Stockton with a brass medallion struck during the Sesquicentennial Celebration of the City and County in 1993.

ADD ON – PRESENTATION BY WESTERN NORTH CAROLINA HOUSING PARTNERSHIP – PROPOSED SENIOR HOUSING DEVELOPMENT – BAKERSVILLE ROAD: Planning and Development Director Heather Cotton introduced Ms. Joy Strassel of Western North Carolina Housing Partnership, who was present to address Council regarding a proposed senior housing development on Bakersville Road.

AA.000001310 (24)

Ms. Strassel stated that WNC Housing Partnership is proposing a new Senior Citizen (55+) affordable apartment development of up to 48 units on property owned by Hospice of McDowell County on Bakersville Road. Ms. Strassel said that she appreciated Council hearing the presentation on short notice, since time was of the essence with this project.

Ms. Strassel presented the following information regarding the proposed development:

- WNC Housing Partnership is a 501(c)(3) organization that works with Regional Council of Government such as Isothermal Planning and Development Commission (IPDC) to develop high quality, attractive communities that meet or exceed market rate standards. WNC Housing Partnership has developed 22 communities with more than 500 units since 1995 and plans a 32 unit development in Newland in 2012.

- The North Carolina Housing Finance Agency (NCHFA, a regulatory agency) just awarded a WNC Housing Partnership project, Gateway Village in Gastonia, a highly coveted Housing Excellence Award based on the high quality of the apartment community, architecture, curb appeal, quality floor plans, community amenities, location and beautification.

- The same footprint used in Gastonia is proposed for the Marion site. The proposed design features a craftsman style exterior and gives the appearance of a row of townhomes.

- WNC Housing Partnership proposes a 48 unit senior (55+) apartment community situated between Airport and Bakersville Roads, on approximately 6 +/-acres located behind the Hospice of McDowell County building. 30 one bedroom/one bath units and 18 two bedroom/two bath units are proposed.

- This low density community will feature green space and outstanding curb appeal enhancing the existing parcel and surrounding neighborhood.

- Amenities and interiors include; balcony or patio, washer dryer, large bedroom, bath, storage space, eat-in kitchen and pantry, elevators, clubroom, library, gazebo, covered entry featuring rocking chairs..

- The critical element needed is the ability to improve approximately ¼ of a mile of Bakersville Road, with the City seeking Community Development Block Grant (CDBG) funding to make the needed improvements. The City can use any firm it wishes to apply for the CDBG funding.

- The estimated asset valuation of the development is $4.5million. The development will use City water and sewer, providing an estimated $22,000 in utility revenue to the City per year.

- McDowell County is considered a Difficult to Develop Area (DDA), due to topography. The recent Census indicated that there is a real need for high quality, affordable senior housing in McDowell County, that there is a growing local senior population and a significant percentage of the population that is at or below poverty levels.

- This new development would serve the `underserved` with incomes at or below 50% of the County's median income.

- WNC Housing Partnership will work with the IPDC Council on Aging and any other groups that the City Council recommends.

AA.00001311 (24)

Ms. Strassel stated that the proposed development benefits the Citizens of Marion and McDowell County in numerous ways:

1. Meeting the housing needs of a growing senior population
2. Providing high-quality housing and exceptional on-site management including ongoing planned activities for the residents
3. Improvements to the site providing enhanced curb appeal
4. Improvements to Bakersville Road
5. New jobs due to the construction and utility and property tax revenues for the City of Marion

Ms. Strassel reported that WNC Housing Partnership endeavors to work with and meet the needs of the community and County while developing relationships and remaining sensitive to the needs of Hospice of McDowell County. She is cautiously optimistic that the project can be submitted to the North Carolina Housing Finance Agency for tax credit funding by the application deadline of January 23, if the City Board of Adjustment approves the development on January 5 and if Hospice of McDowell County chooses to proceed with the sale of the property.

Ms. Strassel added that her organization uses a highly regarded management company with a proven track record of screening, expert care of the development, resident management and 100 percent scores from State agency audits. She stated that Partnership Property Management has the expertise to create a close–knit sense of community for seniors with ongoing planned activities and focus on a quality living environment

Mayor Pro Tem Cuthbertson stated that he noticed in the artist's rendering of the development that the apartments would be two story. He asked if an elevator would be in place. Ms. Strassel stated that there would be an elevator in the facility.

Council Member Clark asked if Bakersville Road would be the entrance into this proposed facility.

Ms. Strassel stated that Bakersville Road would be the entrance.

Council Member Clark stated that this would create a lot more traffic including EMS traffic, in an area that already has a lot of traffic. He advised that the City needs to make sure that all needed infrastructure improvements, including street improvements and any needed water line upgrades to maintain adequate water pressure in the area, are included in the CDBG application.

Council Member Clark stated that he is all for the project, but wants the best for everyone involved.

The City Manager asked Ms. Strassel if she had quantified what work would need to be done on Bakersville Road. Ms. Strassel said that no numbers had been calculated yet, but that she anticipated that CDBG funding would be needed for the road repairs.

The City Manager stated that CDBG funding would be a must, since the City's Powell Bill funding had been committed to various projects for the next year or two.

Mayor Pro Tem Cuthbertson asked if Ms. Strassel was only proposing improving a section of Bakersville Road. Ms. Strassel stated that the current plans were to have the entrance to the development off of the Montevista Avenue section of Bakersville Road and only to improve part of the street.

AA.000001312 (24)

Mayor Pro Tem Cuthbertson stated that all of Bakersville Road needs to be improved, to allow for ingress and egress to the development from two directions, from Montevista Avenue and from Airport Road.

The City Manager suggested that a CDBG application could be maximized to include improvements to all of Bakersville Road and any needed water line upgrades.

Mr. Jim Edwards, Executive Director of Isothermal Planning and Development Commission, stated that WNC Housing Partnership can do an in-depth study of needed and desired infrastructure improvements after Hospice of McDowell County gives approval for the sale of the property.

Mayor Pro Tem Cuthbertson asked Ms. Strassel if the development would pay property taxes. Ms. Strassel stated that the development would indeed pay property taxes to the City and County.

Mayor Pro tem Cuthbertson asked Ms. Strassel if she had talked to any property owners in the area other than Hospice of McDowell County. Ms. Strassel stated that she is still early in the process and had not yet talked to any neighbors, but that a community meeting would likely be held.

Ms. Cotton advised that the Board of Adjustment would consider approval of a Special Exception for the development at their meeting on Thursday. She reported that adjacent property owners had been notified and that the son of an adjacent property owner was the person who first suggested the Hospice of McDowell County property for such a development.

The City Manager advised that the potential for this development had just arisen in the past month and that Council approval of the concept of the development and to authorize a CDBG application for needed infrastructure improvements would be recommended, since WNC Housing Partnership is facing upcoming application deadlines.

Upon a motion by Council Member Clark, seconded by Council Member Martin, those members of Council present voted to approve the concept of Western North Carolina Housing Partnership constructing a 48 unit senior (55+) apartment community situated between Airport and Bakersville Roads, on approximately six acres of property located behind the Hospice of McDowell County building and authorizing the submission of a Community Development Block Grant (CDBG) application by the City for all needed infrastructure improvements, including street and water line upgrades, up to the limit of available CDBG funding.

PUBLIC COMMENT PERIOD: Mr. Ronnie Burgin appeared before Council and asked why he was not notified prior to recent surveying work on his property at the intersection of Baldwin Avenue and Perry Street. He said that he wanted Council to know that there was no right of way on either street.

The City Manager stated that he had previously spoken to Mr. Burgin about this matter and apologized for him not being notified. The City Manager advised that he had not been informed of the exact days that McGill Associates would be surveying in the area. He added that the City has received Community Development Block Grant funding for drainage and sidewalk improvements on Baldwin Avenue, Perry Street and Yancey Street and is simply trying to find a way to get schoolchildren and other people out of the street when walking. The City Manager stated that he had offered to show Mr. Burgin the survey upon its completion and noted that the City would need to negotiate with property owners in the area, depending on the amount of available right of way the survey determined there to be on the streets in question.

AA.00000313 (24)

Mr. Burgin stated that this situation has left a bad taste in his mouth for someone to come on his property and tell him what they were going to do instead of asking him. He said that he had been told, by a surveyor, that the City could just take his property.

Council Member Clark stated that, as long as he has served the City, the City had rarely or perhaps never taken anyone's property. Council Member Clark said that he agreed that he would have wanted to know about the survey activity in advance, if it had been his property.

Council Member Clark suggested that the City needs to make sure that all property owners are notified prior to survey working taking place.

The City Manager stated that he would work with McGill Associates to develop such a notification procedure.

Mr. Burgin thanked Council for their time and attention.

RECEIVE RECOMMENDATIONS FROM STREET COMMITTEE:

The City Manager advised that the Street Committee met in December and made the following recommendations:

A. Request from the Currie Family for a Three-Way Stop Sign at Fleming Avenue and Montevista Avenue – The Street Committee recommended that this request not be approved. The Street Committee members felt strongly that the placement of stop signs on Fleming Avenue would create more problems than it would solve. The City Manager stated that he had asked Police Chief Mark Brooks to address speeding on Fleming Avenue, through placement of the speed trailer and speed enforcement, as staffing will allow.

B. Request from Mr. Robert Sierra to Allow On-Street Parking in the Dead End Block of West Wilhemenia Street between Oak Avenue and the End of the Street – The Street Committee recommended that this request not be approved, due to the effectiveness of the parking prohibition in addressing loitering and criminal issues in the past. The Street Committee suggested that the City let Mr. Sierra know that the City would make the necessary curb cuts on his property. Both Mr. Sierra's property on which he has his mobile home and the vacant lot he bought from the City are relatively flat and contain ample room to allow parking.

C. Request from Marion Elementary PTO for Streetlighting, Crosswalk and Pedestrian Crossing Sign Improvements on Robert Street and Fleming Avenue – The Street Committee recommended the following improvements, as proposed by the Marion Elementary PTO:

   i. Making crosswalks at Robert Street and Fleming Avenue more visible, with crosshatching added and prominent yield to pedestrian signs added. The Street Committee further proposed that flashing signals be installed on the Fleming Avenue side of the School, with a 20 mile per hour speed limit put in place. The Street Committee further recommended that efforts be made to seek grant money, perhaps through future Safe Routes to School funding, for a traffic signal and pedestrian crossing signals at Fleming Avenue and Robert Street. The City Manager recommended specific crosswalk signage reading "State Law Stop for Pedestrians Within Crosswalk."

   ii. Making crosswalks on Robert Street in front of the School more visible, with crosshatching added and prominent yield to pedestrian signs added. The signs reading "State Law Stop for Pedestrians Within Crosswalk" are also recommended for Robert Street as well.

   iii. Adding a streetlight in front of the School, most likely just on the Fleming Avenue side of the semicircle in front of the School. Stephanie Goudreau of Marion Elementary School, who wrote the letter making the requests, saw no problem with the streetlights being located just to the Fleming Avenue side of the semicircle in front of the School.

The City Manager advised that Ms. Amy Moomaw and Ms. Stephanie Goudreau were present, representing Marion Elementary School.

AA.000001314 (24)

Council Member Clark stated that he feels Council should approve the requested improvements around Marion Elementary School and seek available grant funding for the traffic signal and pedestrian crossing signals at Robert Street and Fleming Avenue.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, those members of Council present voted to approve the following street related requests around Marion Elementary School:

1. Making crosswalks at Robert Street and Fleming Avenue more visible, with crosshatching added and prominent yield to pedestrian signs added.

2. Installing flashing signals be installed on the Fleming Avenue side of Marion Elementary School.

3. Seeking grant funding for traffic signal and pedestrian crossing signals at Fleming Avenue and Robert Street.

4. Making crosswalks on Robert Street in front of the School more visible, with crosshatching added and prominent yield to pedestrian signs added.

5. Adding a streetlight in front of the School, likely just on the Fleming Avenue side of the semicircle in front of the School.

The City Manager commended Ms. Moomaw and Ms. Goudreau for the work they do for Marion Elementary and for the PTO caring about the safety of children at the School.

After brief discussion, Council further directed the City Manager to make sure that McDowell County Schools agrees to the proposed street light location.

Ms. Moomaw and Ms. Goudreau thanked Council for their support and for their concern for the School.

Council Member Martin stated that he would like to comment on the Street Committee's recommendation not to allow on-street parking on West Wilhemenia Street. He feels that Council is penalizing the West Marion community for past mistakes and criminal activity and that he believes parking should be allowed.

Council Member Martin stated that he would like to see parking opened up on West Wilhemenia Street and other streets, such as Oak Avenue, that have parking restricted by yellow curbs, for a six month trial period. If the on-street parking becomes a problem, Council could re-institute the parking restrictions.

Council Member Clark stated that the properties the Street Committee looked at on West Wilhemenia Street have adequate room for off-street parking and that on-street parking is not needed, in his opinion.

Council Member Martin stated that the reason parking was prohibited on street in West Marion was due to drug activity and loitering. He said that such activity was essentially no longer present in the community and that the parking restrictions were therefore no longer needed.

Council Member Martin added that no other area of the City has parking restricted by yellow curbs and that Council needs to lift the stigma that has been placed on the area. He said that he wanted Council to know how he feels about the issue.

AA.000001315 (24)

Council Member Ramsey suggested that Council could allow parking on the streets in questions and, if there are problems as a result, parking restrictions could be put back in place.

Council Member Clark stated that he did not want the West Marion community to feel like they were stigmatized, so he would have no problem with allowing parking on the streets with yellow curbs.

The City Manager suggested that there would be locations where parking might not could be allowed, due to safety reasons, and suggested that such locations be reviewed prior to an approval being given.

Mayor Pro Tem Cuthbertson stated that, if Council is going to look at changing parking restrictions in the whole West Marion community, then perhaps the Street Committee should look at this matter again.

By consensus, Council referred the matter of reviewing opportunities to expand allowances for parking on streets in the West Marion community to the Street Committee. A recommendation will be brought back to Council at the earliest opportunity.

Council Member Clark stated that Council Member Martin should look at the streets in question as well. The City Manager stated that, without objection, staff would meet with Council Member Martin and then with the Street Committee to develop recommendations on this matter.

APPROVE TRAFFIC SCHEDULE ORDINANCE: The City Manager advised that, since Council authorized the City to take over maintenance of Overlook Drive West off of Lukin Street, action is needed to adopt an ordinance to place on the Traffic Schedule a stop sign on Overlook Drive West at Lukin Street.

Upon a motion by Council Member Clark, seconded by Council Member Martin, those members of Council present voted to adopt the following Ordinance authorizing a stop sign on Overlook Drive West at Lukin Street:

ORDINANCE
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 18-239 is amended by adding the following:

STREET NAME	REGULATION	REG. APPLICATION
OVERLOOK DRIVE (WEST)	STOP SIGN	AT LUKIN STREET

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 3rd day of January, 2012.

Stephen R. Little, Mayor

ATTEST:

AA.000001316 (24)

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-12-01-03-1

CONSIDER APPROVAL OF 2010-12 CITY AUDIT REPORT: The City Manager advised that Martin Starnes and Associates presented the City's 2010-11 Audit Report at the November 15 Council meeting. Since all Council Members could not be present, Council directed that approval of the audit report be scheduled for a future meeting.

The City Manager noted that he had presented Council with a bound copy of the audit report and had received no questions or comments about the audit from Council.

Upon a motion by Council Member Ramsey, seconded by Council Member Martin, those members of Council present voted to approve the 2011-12 audit report, as prepared by Martin Starnes and Associates.

CONSIDER AWARD OF CONTRACT FOR PURCHASE OF ONE TON DUMP TURCK FOR SANITATION DIVISION: Finance Director Harriett Thomas advised that the City recently took bids for the purchase of a one-ton dump truck in the Sanitation Division. The City budgeted $50,000 for the purchase of this truck. The City received bids from several dealers. The low bid was received from Bobby Jones Ford in the amount of $35,125.52. Crossroads Ford had the next lowest bid, in the amount of $35,473. Jim Cook Chevrolet submitted the lowest bid for a non-Ford truck, in the amount of $36,891. After reviewing the bids, staff noted maintenance problems with Ford one-ton dump trucks in the past. Also, staff noted the expense of transporting the truck to a Ford dealer in an adjacent County if service work is ever needed at the dealership. Over the expected 10-12 year life of the truck, staff believes that the $1,700 higher cost of the Chevrolet truck from Jim Cook Chevrolet would be offset by the expected lower maintenance costs and the lower cost to transport the truck in the event service is needed at the dealership. In addition, the Chevrolet truck has slightly better fuel mileage than the Ford truck. Therefore, Finance Director Harriett Thomas stated that she would recommend that Council award the contract for the purchase of a one-ton dump truck in the Sanitation Division to Jim Cook Chevrolet in the amount of $36,891.

Upon a motion by Council Member Clark, seconded by Council Member Martin, those members of Council present voted to award the contract for the purchase of a one-ton dump truck in the Sanitation Division to Jim Cook Chevrolet in the amount o $36,891.

CITY MANAGER REPORTS: The City Manager gave a brief report on current projects.

The City Manager stated he had met with DOT District Engineer Doug McNeal and Division Traffic Engineer on December 13 to discuss various issues and requests, particularly involving the downtown area. The items that were discussed or requested included traffic signal, signage and traffic flow improvements. The City Manager stated that he was awaiting word from DOT and would keep Council updated as information is received back from DOT on these items.

The City Manager stated that the City's leaf collection had gone well this past season. He said that he appreciated the work done by Sanitation Superintendent Dean Ollis and his staff on a daily basis to collected leaves and other Solid Waste. The curbside leaf collection has almost ended for the season.

The City Manager stated that the City of Durham had requested local governments in Duke Energy's territory to send letters to the N.C. Utilities Commission, supporting Durham's positions opposing the proposed Duke rate increase. Durham is the only local government officially filing motions with the Utilities Commission concerning the proposed rate increase. Council stated no objections to sending such a letter.

AA.00001317 (24)

The City Manager advised that the final Sugar Hill Road pump stations had been connected to power, ending the Sugar Hill Road Water and Sewer Extension. He stated that Finance Director Harriett Thomas is now working to close out the project grants. The City Manager reported that City staff still anticipates having about $200,000 left over in the project, the use of which can be discussed at the January 10 Council Planning Session. He added that the City continues to stress to the Wal-Mart realtor the need to fill the old Wal-Mart building space and that the City hopes to hear some positive news about the building in the near future.

The City Manager reported that the short sewer extension on Garden Creek Road had been completed.

The City Manager advised that he and McDowell Trails Association President Bill Hendley recently spoke to a Norfolk Southern Railway (NSR) real estate representative about the idea of the City buying another 1.1 miles of the old Peavine Rail Line from Jacktown Road to College Drive. The NSR representative said that NSR would not be interested in such a sale at this time, but might be willing to consider a sale as soon as a year from now.

The City Manager stated that City crews recently widened the South Main Street sidewalk near the old Heilig Meyers building, after the DOT contractor moved the curb line back in this location to allow on-street parking to be retained.

The City Manager advised that the Marion Business Association would soon announce the next funding cycle for the Historic Marion Facade Grant program and that there would be about $21,000 in available funding.

The City Manager stated that City crews and a private contractor would be working on the Park Avenue curb and sidewalk replacement, as weather allows.

COUNCIL MEMBER COMMENTS: Mayor Pro Tem Cuthbertson advised that the intersection of Sugar Hill Road and Woodlawn Street appears dark. The City Manager asked Police Chief Mark Brooks to look at this location and to report any street light outages to Duke Energy.

Mayor Pro Tem Cuthbertson also asked why a parking space was not painted in front of Main Street Exxon on North Main Street. The City Manager advised that DOT missed this space, but that the City would paint a temporary parking space as soon as weather allows.

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Council Member Clark, those members of Council present voted to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

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Volume

16

AA.00001319 (24)

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in a Special Meeting on Tuesday, January 10, 2012 at 6:00 P.M. in the City Hall Conference Room located at 194 North Main Street for the purpose of conducting a Planning Session.

BOARD MEMBERS PRESENT: Mayor Steve Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members Everette Clark, Billy Martin and Don Ramsey.

Council Member Juanita Doggett was not present for this meeting due to recovering from a broken leg and surgery the week before.

OTHERS PRESENT: Bob Boyette, City Manager

PLANNING SESSION: City Council held a Planning Session and discussed the following topics:

1. Contract Extension
2. Universal Furniture Water Extension
3. Golden Leaf Foundation Community Assistance Initiative
4. Sugar Hill Road Water and Sewer Extension
5. Comprehensive/Land Use Plan
6. Commercial Cardboard Recycling
7. City Code Updates and Maintenance
8. Downtown Traffic Flow
9. Eastfield Street Maintenance
10. Scheduling of Next City Council Planning Session

No action was taken on these items. Items requiring City Council action will be included in the 2012-13 or future budgets or placed on future City Council meeting agendas for consideration.

Council agreed to schedule the next City Council Planning Session for Tuesday, January 24 at 6:00 p.m. at City Hall.

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.000001320 (24)

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 17, 2012 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Pro Tem Lloyd Cuthbertson, Council Members Everette Clark, Billy Martin and Don Ramsey.

Council Member Juanita Doggett was not present for this meeting due to her continued recovery from a broken leg and surgery.

Mayor Little was not present for this meeting due to being out of the country on a mission trip to Belize.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Harriett Thomas, CPA, Finance Director; Gaye Noblitt, Police Administrative Lieutenant; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Mr. & Mrs. Robby Burgin, 1121 North Main Street, Marion, NC; Mr. Ronnie Burgin, 1121 North Main Street, Marion, NC.

OPEN MEETING: Mayor Pro Tem Cuthbertson opened the meeting with a moment of silence.

CONSENT AGENDA: Upon a motion by Council Member Martin, seconded by Council Member Clark, those members of Council present voted to approve the consent agenda as follows:

A. **Approval of Minutes** – January 3, 2012 Regular City Council Meeting Minutes and January 10, 2012 City Council Planning Session Minutes

CONSIDER ADOPTION OF ORDINANCE – ADD ALLOWANCES FOR PARKING ON CERTAIN STREETS IN THE WEST MARION NEIGHBORHOOD: The City Manager advised that he and Police Chief Mark Brooks, Public Works Superintendent Roger Estes met with Council Member Martin on January 5 to look at parking restrictions in the West Marion neighborhood. During this meeting, Council Member Martin and staff went street by street and looked at all existing regulations on the City Traffic Schedule and on the ground. After review, Council Member Martin and staff made the following recommendations to the Street Committee:

A. Streamline the Traffic Schedule Ordinance parking restrictions for High Street to make it clear that parking is prohibited in the cul-de-sac and on the north side of the street. Parking would continue to be allowed on the south side of the street. This is what the City has signed on the street, but the Traffic Schedule is a bit unclear. Council Member Martin agreed that it would be best to continue to have parking only on one side of the street.

B. Amend the Traffic Schedule to remove references to prohibiting parking by yellow curbs on Oak Avenue. Allow parking on the west side of Oak Avenue and continue to prohibit parking on the east side of Oak Avenue. Council Member Martin agreed that it would be best only to have parking on one side of the street.

C. Amend the Traffic Schedule to remove references to prohibiting parking by yellow curbs in the dead end block of West Wilhemenia Street. Allow parking on the south side of West Wilhemenia Street, the location requested by Mr. Roberto Sierra, and continue to prohibit

AA.000001321 (24)

parking on the north side of the street. Council Member Martin agreed that it would be best only to have parking on one side of the street.

D. Amend the Traffic Schedule to add parking restrictions on the north side of Parker Drive. No parking signs are in place in this location, but there is no ordinance to back up the signs. Parker Drive is narrow and can only accommodate parking on one side.

E. Council Member Martin and staff also noted no parking signs on West Wilhemenia Street between West Henderson Street and Oak Avenue, with no ordinance to back up the signs. These signs have been removed and parking restrictions are not recommended for this block.

F. If Council approves the Traffic Schedule Ordinance changes, City staff will work as best they can to remove the yellow paint from curblines. Staff recommends that yellow paint no longer be used to indicate long stretches of no parking areas, due to the maintenance involved with the paint and the difficulty to remove the paint.

G. On all other streets in the West Marion neighborhood, it is recommended that existing parking restrictions continue. On such streets, signage matches the Traffic Schedule.

The Street Committee then met on January 11 and recommended that the items listed above be approved by Council.

The City Manager drafted an ordinance amending the Traffic Schedule to reflect the changes recommended by the Street Committee and presented it to Council for approval.

Council Member Clark stated that he wished to thank Council Member Martin for bringing the need for these parking changes to Council's attention.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, those members of Council present voted to adopt the following Ordinance amending the Traffic Schedule:

ORDINANCE
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 18-239 is amended by deleting the following:

STREET NAME	**REGULATION**	**REG. APPLICATION**
HIGH STREET	PARKING PROHIBITED	NORTH SIDE, FROM WEST HENDERSON STREET TO OAK STREET
HIGH STREET	PARKING PROHIBITED	LENGTH OF STREET, FROM OAK WESTERLY
OAK AVENUE	PARKING PROHIBITED	EAST SIDE OF STREET (YELLOW CURBS)
OAK AVENUE	PARKING PROHIBITED	WEST SIDE, BEGIN AT NW CORNER OF RIDLEY

AA.000001322 (24)

		STREET AND OAK AVENUE AND CONTINUING TO INTERSECTION OF GRAYSON STREET AND OAK AVENUE
OAK AVENUE	PARKING PROHIBITED	WEST SIDE, BEGIN SW CORNER OF GRAYSON STREET AND OAK AVENUE AND CONTINUING TO INTERSECTION OF HIGH STREET AND OAK AVENUE
WILHEMENIA STREET (WEST)	PARKING PROHIBITED	BOTH SIDES OF STREET BEGINNING AT THE SW CORNER OF OAK AVENUE AND WEST WILHEMENIA STREET AND CONTINUING IN A WESTERLY DIRECTION TO THE END OF THE STREET (YELLOW CURBS)

Section 3. Section 18-239 is amended by adding the following:

STREET NAME	**REGULATION**	**REG. APPLICATION**
HIGH STREET	PARKING PROHIBITED	NORTH SIDE, LENGTH OF STREET
OAK AVENUE	PARKING PROHIBITED	EAST SIDE, LENGTH OF STREET
PARKER DRIVE	PARKING PROHIBITED	NORTH SIDE, LENGTH OF STREET
WILHEMENIA STREET (WEST)	PARKING PROHIBITED	NORTH SIDE, LENGTH OF STREET

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 17th day of January, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-12-01-17-1

PUBLIC COMMENT PERIOD: Mr. and Mrs. Robbie Burgin or Burgin's Septic Tank Services appeared before Council and asked that the City consider paying his invoice in the amount of $11,600 for 116 days of on-call service, or $100 per day, for pump and haul service he provided to the City for the Wal-Mart Supercenter/Grandview Station sewer extension. Mr. Burgin provided information to Council on how he had to be on call during the period between August 26, 2011 and December 19, 2011 and that he felt his time should be compensated.

Mr. Burgin advised that he had checked on the manhole serving as the sewer collection tank daily and that many times could not go out of town, due to the need for pumping and hauling.

AA.000001323 (24)

Council Member Clark asked if the City knew in advance that the pump and haul fee would be $150 per load. Mr. Burgin said that he charged the City the same amount he had always charged per load.

Mrs. Burgin stated that City employees are paid when they are on call and that she had searched on-line and found $100 to be an average amount for an on-call fee.

Council Member Clark said that Mr. Burgin definitely provided a service for the City, as the City would not have been able to obtain a pump and haul permit without Burgin's or some other hauler being available.

Mayor Pro Tem Cuthbertson advised that Council did not traditionally take action after Public Comment. He also noted that Council essentially gave the City Manager general direction at the January 10 Planning Session, but that no formal vote had been taken on this matter.

After brief discussion, Council referred this matter to the City Utility Committee for review and a recommendation. Council asked that the Utility Committee meet with Mr. Burgin to see what can be worked out, with a recommendation coming back to Council by the February 7 meeting if at all possible.

Mr. and Mrs. Burgin thanked Council for their consideration.

CONSIDER APPROVAL OF UPDATED CITY PURCHASING POLICY: Finance Director Harriett Thomas presented Council with a draft of an updated City Purchasing Policy. She stated that the current Purchasing Policy was drafted in 1989 and needed major changes and updates. Ms. Thomas gave a brief overview of the proposed policy. Much of the new language is based upon requirements of State law, while other language is based on the City's longstanding practices.

Council Member Clark stated that he had read much of the policy, cut would like more time to review it. He asked if the policy addresses inventory control, something the City had problems with in the past.

Ms. Thomas stated that this policy did not address inventory control, but that she had plans to create an overall Accounting Manual for the City that would address inventory control, among many items. She gave a brief description of the inventory control procedures in place at the Warehouse.

The City Manager stated that the City auditors completed sample inventory checks, as part of the City's annual audit, and that no problems had been found in recent years. Ms. Thomas added that Purchasing Agent Brenda Williams also completed periodic spot inventory checks, to make sure that the City's computerized inventory records match what is in stock.
The City Manager noted that Marion 101 participants are typically very impressed with the City Warehouse and centralized purchasing system.

Council Member Ramsey stated that he was very impressed with the organization and cleanliness of the Warehouse, during his recent visit as part of his Council orientation.

Council Member Clark noted that the Warehouse was not very organized many years ago, but that he was pleased to hear that it was being run the way it should be.

Council agreed by consensus for the proposed Purchasing Policy to be placed on the February 7 City Council Agenda for consideration.

AA.000001324 (24)

CITY MANAGER REPORTS: The City Manager gave a brief report on current projects.

The City Manager stated the City sent a letter from Mayor Little to the N.C. Utilities Commission, supporting the positions of the City of Durham in opposition to the proposed Duke Energy rate increase.

The City Manager advised that the Town Meeting would be held on Thursday, January 26 at 7:00 p.m. in the Community Building. In the event of inclement weather, the Town Meeting would take place on Thursday, February 2 at 7:00 p.m. in the Community Building. The City Manager noted that the City, as usual, has invited Duke Energy, Charter Communications, Frontier, PSNC Energy, DOT, the Post Office, McDowell County Emergency Management and McDowell County EMS to be present.

The City Manager advised that he had discussed with McDowell County School Superintendent Dr. Ira Trollinger the proposed safety improvements around Marion Elementary School. Dr. Trollinger said that he and Marion Elementary School Principal Dr. Donna Gardner appreciated Council's approval of all of the items. The City Manager reported that Dr. Trollinger specifically said that a wooden street light pole would be fine in the recommended location just on the Fleming Avenue side of the semicircle in front of the School. The School System was not interested in paying for a decorative pole.

The City Manager reported that the City will be ordering the yield to pedestrian signs and flashing signals for placement around Marion Elementary. The crosswalk painting work will take place as the weather turns a bit warmer. The City Manager stated that he would explore funding opportunities for a traffic signal and pedestrian crossing signals at Fleming Avenue and Robert Street, but it is unlikely that funding will be available anytime soon, at least until the State opens another Safe Routes to School funding cycle.

The City Manager advised that DOT is planning to resurface Logan Street this year and correct long-standing problems with the drains in the street. DOT also plans this year to address drainage problems in the low area of Finley Road by raising the level of the street.

The City Manager stated that he had advised Doug McNeal that Council had agreed to restrict trucks from turning right from East Court Street onto North Main Street. Doug said that DOT would prepare an ordinance and Council action would be needed to concur with the ordinance. Signs will then be installed to alert motorists of this prohibition.

The City Manager advised that, based on guidance at the January 10 Council Planning Session, he submitted the Certified Retirement Community designation application on behalf of the City for the $2 million Community Investment Initiative for McDowell County. The deadline for the submission of applications is January 17. The City Manager added that, pursuant to Council direction, the City did not submit an application for the Ashworth Road Industrial Park/Marion Travel Plaza water extension and would instead support the County's application for the Universal building upgrades. The City Manager stated that there will be another meeting at the YMCA on Monday, January 30 at 2:00 p.m., at which Golden Leaf staff would give feedback on the proposals and at which a Review Committee will be appointed to review and rank the applications.

The City Manager advised that the City had received word from the Governor's office on January 11 that the City had been awarded a $238,800 PARTF grant for Phase 2 of the Joseph McDowell Historic Catawba Greenway. This amount represents one-half of the estimated $477,600 cost of the project. As previously reported, the City has been invited to submit a full application for a $75,000 Recreational Trails Program (RTP) grant for this project, which is generally a good sign that an applicant will be funded. The City Manager added that the City can count the RTP grant and the value of the property donated by the Phillips family ($37,700) toward the required

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$238,800 local match for the PARTF grant. This will leave a local match of $126,100. The City Manager stated that he had spoken to Bill Hendley with the McDowell Trails Association, and let him know about the grant award and advised him that private fundraising needs to start immediately.
The City Manager stated that he also talked to the County Manager and advised him of the grant award and that the City would need money from the County to go toward the parking lot, access road and amphitheater behind the McDowell House. He and the County Manager discussed the concept of having the City and County contribute $45,000 each, with private fundraising funding the remaining $35,000+.

The City Manager showed Council a painting now hanging in City Hall of General Francis Marion. The digital image from which the print was created was provided by the City of Charleston, South Carolina.

COUNCIL MEMBER COMMENTS: Council Member Clark asked if anyone was attending the Main Street Conference in Clayton next week. The City Manager stated that he believed that Marion Business Association Director Freddie Killough would be attending, which would cause Ms. Killough to miss the Town Meeting on January 26.

Mayor Pro Tem Cuthbertson noted the reflective material that had been placed in the northernmost bumpout on North Main Street next to the Community Building Park. He said that the reflective material would be a big help to motorists and allow them to see the bumpout much better. Mayor Pro Tem Cuthbertson suggested that DOT place reflectors to mark the edge of the travel lanes.

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Council Member Clark, those members of Council present voted to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in a Special Meeting on Tuesday, January 24, 2012 at 6:00 P.M. in the City Hall Conference Room located at 194 North Main Street for the purpose of conducting a Planning Session.

BOARD MEMBERS PRESENT: Mayor Steve Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members Everette Clark, Billy Martin and Don Ramsey.

Council Member Juanita Doggett was not present for this meeting due to recovering from a broken leg and surgery a few weeks before.

OTHERS PRESENT: Bob Boyette, City Manager

AA.000001326 (24)

PLANNING SESSION: City Council held a Planning Session and discussed the following topics:

1. Sugar Hill Road Water and Sewer Extension – The City Manager presented Council with options for using the estimated $200,000 in leftover Sugar Hill Road Water and Sewer Extension loan funds. After discussion, Council gave general direction to the City Manager to look at cost estimates for water and sewer extensions to the Oakcrest Community off of Sugar Hill Road, an area completely surrounded by the City Limits.

2. US 70 West Sidewalk – The City Manager advised that DOT would be constructing the sidewalk on US 70 West between the West McDowell Junior High School Ballfield and the Joseph McDowell Historical Catawba Greenway entrance in the spring. Council agreed to ask State Representative Mitch Gillespie and State Senator Ralph Hise to introduce a local bill for approval by the General Assembly to annex the section of the US 70 West the sidewalk will run along, so that the sidewalk will be in the City Limits.

3. Election Expenses – Council discussed the elections agreement approved last year between the City, McDowell County and the McDowell County Board of Elections. The City Manager reported that the new elections agreement would likely reduce the City's elections costs for elections occurring after the effective date of the agreement. Council agreed by consensus to have the City Manager talk to the County Manager about past overcharges for election expenses.

4. Water Pressure – Council Member Clark suggested that the City consider studying needs for water pressure improvements in the City's water system. This idea will be explored further in the near future, through possible grant applications or inclusion in a future City budget.

5. Downtown Streetscape Plan – The City Manager noted that the Street Committee had discussed concerns with the northernmost bumpout on North Main Street next to the Community Building Park. Council agreed to have the City Manager work with DOT to make necessary warning sign and striping improvements to make the bumpout more visible.

6. Comprehensive/Land Use Plan – Council reviewed the draft Comprehensive/Land Use Plan with Planning Director Heather Cotton and directed some changes to the proposed Plan. Council will provide Ms. Cotton with final comments on the Plan by the time of the February 7 Council meeting. The Plan will then be finalized and reviewed by the Planning Board, with a recommendation being made to Council for approval.

7. Scheduling of Next City Council Planning Session – Council discussed further the idea by Council Member Clark for Council to consider devoting time for a planning retreat. The City Manager will research meeting locations and possible arrangements for a projected April time frame and will bring such information back to Council for review.

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Council Member Ramsey, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.000001327 (24)

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL
CITY OF MARION

The City Council for the City of Marion held its Annual Town Meeting on January 26, 2012 at 7:00 P.M. at the Marion Community Building located at 191 Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members A. Everette Clark, Billy Martin and Don Ramsey.

BOARD MEMBERS ABSENT: Council Member Doggett was not present for this meeting due to her continued recovery from a broken leg suffered a few weeks ago.

OTHERS PRESENT: J. Robert Boyette, City Manager; Debi Sherlin, Administrative Assistant; Harriett Thomas, CPA, Finance Director; Heather Cotton, AICP, Planning and Development Director; Mark Brooks, Police Chief; Jim Neal, Fire Chief; Roger Estes, Public Works Superintendent; Steve Basney, Utility Maintenance Superintendent; Dean Ollis, Sanitation Superintendent; Larry Carver, Wastewater Treatment Superintendent; Steve Miller, Water Plant Superintendent; Van McKinney, News Reporter, WBRM; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Scottie Williams, 67 East Railroad Street, Marion, NC; J. J. Laughridge, 478 Rutherford Road, Marion, NC; Ted Remington, 84 North Madison Street, Marion, NC; Edith Vance, State Street, Marion, NC; Vernice Francis, P.O. Box 62, Marion, NC; Russell Murphy, 69 Catawba Street, Marion, NC; Nancy Clark, 330 Fleming Avenue, Marion, NC; Robert Ayers, 97 West Glenview Street, Marion, NC.

UTILITY/OUTSIDE AGENCY REPRESENTATIVES:

PUBLIC SERVICE COMPANY OF NORTH CAROLINA:
Don Hallingse, External Relations Manager

UNITED STATES POSTAL SERVICE:
Opted not to attend

CHARTER COMMUNICATIONS:
Leno Smith, Technical Operations Manager
Angela Ellege, Charter Communications

MARION BUSINESS ASSOCIATION:
No one was present due to a conflict of this meeting with the North Carolina Main Street Conference

McDOWELL COUNTY EMERGENCY MANAGEMENT:
Terry Young, Emergency Management Director

McDOWELL COUNTY EMERGENCY MEDICAL SERVICES:
William Kehler, Emergency Medical Services Director

DUKE ENERGY:
Robin Nicholson, Government and Community Relations Manager
Chad Wesson, Construction and Maintenance Supervisor for Marion, Morganton and Lenoir

FRONTIER:
Chris Vaughn, Customer Operations Manager

AA.00001328 (24)

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION:
Doug McNeal, P.E., District Engineer

OPENING OF MEETING/WELCOME: Mayor Little opened the meeting and thanked everyone present for attending. City Council members also stated their appreciation to the invited guests and the public for their presence.

The City Manager introduced City staff and invited guests.

CITIZEN COMMENTS: Mr. J.J. Laughridge advised that he had attended the City of Marion Town Meeting in 2006, in 2008, in 2010 and now 2012 with the same request/complaint. Mr. Laughridge said that he has had a utility pole leaning in front of his residence at 478 Rutherford Road for over seven years and would like to have it fixed. The local utility companies have each stated at one time or another that they were not the owners of this utility pole. Mr. Laughridge stated that he just wants something done. Representatives of Duke Energy and Frontier assured Mr. Laughridge that they would look at the pole, determine which company owns the pole and then make the necessary repairs.

Mr. Ted Remington thanked Council Members and City staff for the work they do, stating that Marion is a wonderful place to live. He said that he does have concerns regarding speeding on Main Street and people running the stop sign at Fort and Garden Streets and would like to see the Police Department concentrate more on catching violators.

Ms. Edith Vance stated that she was pleased to attend the Town Meeting for the first time. She noted that she observed cars speeding on State Street. Ms. Vance thanked the Sanitation Department for the good work they do in picking up garbage and other items and complimented the City on the recent completion of the Downtown Streetscape Project, advising that Main Street looks great. Ms. Vance said that she had frequently complained about noise and dust coming from McDowell Cement, but that things seemed to be better recently.

Ms. Nancy Clark advised of concerns she has about speeding activity on Robert Street and Fleming Avenue, particularly around Marion Elementary School.

Mr. Scottie Williams requested that that City place speed humps on East Railroad Street. He said that he would also like to see more police patrols and speeding enforcement in his neighborhood.

The City Manager noted that the Police Department has made an effort in recent years to increase residential patrols, but is limited by staffing. He added that the Police Department has software installed on patrol cars that can track patrols, to determine if an adequate level of patrol is provided.

Police Chief Mark Brooks stated that he appreciated the public letting him know about areas of concern. He said that he had logged down the streets where the public wants more patrols and police presence and would do his best to increase patrols on said streets. Chief Brooks added that the size of the City and the amount of staffing limited the ability of his department to give constant attention to particular streets, but that efforts would be increased on the streets named tonight. He noted that he was striving to make the Police Department by stressing community policing and going through the CALEA accreditation process.

Mr. Remington thanked City Council for having the Town Meeting and asked if Council would consider having such meetings quarterly. Mayor Little stated that this idea could be considered, but also noted that Council meetings were held twice a month and were always open for public comment.

AA.000001329 (24)

Council Member Clark asked a question to Duke Energy, Frontier and Charter Communications: when a new pole is put in place, what happens with the old utility pole?

Mr. Chad Wesson of Duke Energy stated that Duke has a procedure in place for the removal of the utility poles and that the old ones get removed, after telephone and cable lines are removed. He said that the intent is for old poles to be removed promptly, but that this is not always the case.

Council Member Clark stated that a Duke Energy pole was replaced behind his house on Fleming Avenue on June 21, 2011 and the old pole is still in place, despite multiple phone and personal conversations with Duke personnel. Council Member Clark asked Mr. Wesson if he knew when the pole would be removed and if Duke would be coming back to fix his yard that was torn up during the placement of the pole.

Mr. Wesson assured Council Member Clark that he would follow up on this matter promptly. He added that Frontier and Charter would need to remove their lines from the old pole, but that he would coordinate this work.

Mayor Little gave the utility and outside agency representatives an opportunity to make statements and discuss on-going projects. Each utility company and outside agency representative thanked the City for the opportunity to be present at the meeting and gave a brief update on current projects and initiatives.

Mayor Little thanked the public, City staff and invited guests for their attendance at this year's Town Meeting.

ADJOURNMENT: Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Ramsey, those members of Council present voted unanimously to adjourn the Town Meeting.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, 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 7, 2012 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little; Mayor Pro Tem Lloyd Cuthbertson, Council Members A. Everette Clark, Juanita Doggett, Billy Martin and Don Ramsey.

AA.000001330 (24)

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Mark Brooks, Police Chief; Harriett Thomas, CPA, Finance Director; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Kathy Rabb, 281 South Garden Street, Marion, NC.

OPEN MEETING: Mayor Little opened the meeting with a moment of silence.

Mayor Little welcomed back Council Member Juanita Doggett, who had been out for several weeks recovering from a broken leg suffered in early January.

CITIZEN OF THE MONTH – SELECTED BY MAYOR PRO TEM LLOYD CUTHBERTSON: Mayor Pro Tem Cuthbertson stated that it was his honor to recognize Kathy Drake Rabb as Marion's Citizen of the Month for February 2012.

KATHY DRAKE RABB

Mayor Pro Tem Cuthbertson stated that he had known Kathy Rabb for over thirty years. Ms. Rabb is the daughter of Susie Bender and the late Claude Drake of Asheville.

Kathy is a native of the Asheville/Hendersonville area and has been a resident of Marion since 1980. A few months after moving to Marion, she purchased the old Morgan house on Morgan Street and did extensive renovations. Kathy and her husband, Mike, now reside on South Garden Street, which is the home in which her mother-in-law many years ago.

In addition to her husband, Mike, Kathy has one son, Seth, and one daughter, Chelsea, who live in Asheville. She also has one granddaughter, Alayna, who is the apple of her eye. Kathy and Mike are both Real Estate Agents with Realty One in Marion.

Kathy has been an active member of the Marion Business Association since 1996 and currently serves on the MBA's design committee where she meticulously reviews all façade grant applications. She is a dedicated volunteer and has assisted with downtown events for many years, including the July 4th Celebration, Christmas Parade and Mountain Glory Festival. Kathy has proven to be a great event organizer as well as a worker.

Kathy and her husband strive to support small businesses that will be an asset to the downtown and the community. As realtors, they have a keen insight into the fabric of the community and are on the front line welcoming new people and businesses to Marion.

Because of Kathy's commitment to downtown Marion, she was recognized as Marion's Main Street Champion by the Main Street Program of the North Carolina Department of Commerce in 2009.

Kathy is very active in the First United Methodist Church of Marion. She is the immediate Past Chair of the Marion Christian Women's Connection. She also serves on the Board of Director of Givens Estates in Asheville.

Mayor Tem Cuthbertson, Mayor Little and Council Members agreed that this recognition is long overdue and well deserved and all shared kind words about Ms. Kathy Rabb, congratulating her on being chosen Citizen of the Month.

CONSENT AGENDA: Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to approve the consent agenda as follows:

AA.000001331 (24)

A. Approval of Minutes – January 17, 2012 Regular City Council Meeting Minutes and January 24, 2012 City Council Planning Session Minutes

B. Receive Report of Unpaid 2011 Real Property Taxes

As stated in G.S. 105-369(a), Municipal Tax Collector must report to governing board total unpaid 2011-12 taxes that are liens on real property.

Tax Collector Brett Moore presented information showing that the amount of unpaid 2011-12 real property taxes, as of January 31, 2012, was $200,667.65.

Council accepted this report.

C. Approve Advertisement of Delinquent 2011 Real Property Taxes

G.S 105-369(c) states the Municipal Tax Collector must advertise tax liens at least once between March 1 and June 30. Council approved the recommendation of Finance Director Harriett Thomas and Tax Collector Brett Moore to advertise tax liens in the McDowell News on Wednesday, May 9, 2012.

D. Approval of Contracts

1. 2011-12 City Audit Contract - Council approved the audit contract with Martin, Starnes and Associates of Hickory for completion of 2011-2012 audit services for the City in the amount of $16,100, consisting of $14,600 for basic audit services (prior year $14,200) and $1,500 for services related to the Single Audit. A copy of the contract is on file at City Hall.

2. City Manager's Contract Extension – Council approved the following contract extension with City Manager J. Robert Boyette:

Memorandum of Agreement
Between The City of Marion, North Carolina ("the City")
and
J. Robert Boyette ("the Manager")

1. The City agrees to employ the Manager and the Manager agrees to be employed by the City for a term of four (4) years, from January 1, 2013 until December 31, 2016. If neither party gives 90 days advance notice to the other of intent not to renew, this agreement will be extended for four (4) more years. This Memorandum of Agreement is intended to identify the salary and benefits payable to the Manager but is not intended to be an exhaustive or complete listing of all duties and areas of managerial responsibility in connection with serving as the Manager and Clerk of the City of Marion, North Carolina.

2. As of the effective date of this agreement, January 1, 2013, the City will pay the Manager an initial annual salary as set by City Council for his full-time services as the City Manager and City Clerk of the City of Marion, North Carolina. The employment provided for by this Agreement shall be the Employee's sole employment while serving as City Manager-City Clerk. The City agrees to increase the compensation each year by the minimum of the average across the board increase granted to other employees of the City.

3. The City will pay severance pay of twelve (12) months' salary to the Manager in the event of termination of the Manager's employment by the City of Marion. Severance pay shall include accrued vacation, personal and holiday leave paid in lump sum plus continuation of paid insurance coverage, including health, dental, vision and life insurance, for a twelve (12) month period after termination. In addition, the City agrees to make a contribution to the Manager's 401(k) account on the value of this compensation calculated using the rate ordinarily contributed on regular compensation.

If the City reduces the base salary, compensation or any other financial benefit of the Manager, unless it is applied in no greater percentage than the average reduction of all department heads, such action shall constitute a breach of this agreement and will be regarded as a termination.

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If the Manager resigns following an offer to accept resignation, whether formal or informal, by the City as representative of the majority of the City Council that the Manager resign, then the Manager may declare a termination as of the date of the suggestion.

4. The Manager will be reviewed and evaluated annually by the City Council. The timing and amount of increases in salary shall be determined by the City Council.

5. The City will provide a City-owned automobile for the Manager's business use, including supplying gas, oil and maintenance. Automobile liability insurance shall be furnished by the City. The vehicle may be used for transportation to and from work and any business-related use, but not personal or family use.

6. Vacation will be earned at the same accrual and maximum accumulation schedule available to all City employees.

7. Sick leave will be earned at the same accrual and maximum accumulation schedule available to all City employees.

8. The City will pay the Manager's annual membership dues for the International City and County Management Association and the North Carolina City and County Management Association.

9. The City will pay Manager's travel and per diem expenses associated with conferences and professional meetings related to local government business and/or professional training. These expenditures will come from the amount allocated for this purpose in the City budget.

10. The City will provide insurance for the Manager in the same manner as is provided for all City employees. This does not include spousal or family coverage.

11. The City will pay the premium for life insurance on the Manager's life in keeping with the City's standard coverage.

12. The City will annually contribute the same percentage of the Manager's gross salary to 401 (k), as is provided for all City employees.

13. The City will provide annual longevity pay for the Manager in the same manner provided for all City employees.

14. The City will provide liability insurance coverage to the Manager to protect the Manager against personal loss in the execution of his duties as a result of legal action or claims.

15. The Manager must reside within the City Limits of the City of Marion during his employment with the City.

16. In the event that the Manager voluntarily resigns his/her position with the City, the Manager shall provide a minimum of 30 days notice unless the parties agree otherwise.

17. This Agreement sets forth and establishes the entire understanding between the City and the Manager relating to the employment of the Manager by the City. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties by mutual written agreement may amend any provision of this agreement during the life of the agreement. Such amendments shall be incorporated and made a part of this agreement.

18. This Agreement shall be binding on the City and the Manager, as well as their heirs, assigns, executors, personal representatives and successors in interest.

19. This Agreement shall become effective on December 31, 2012.

20. The invalidity or partial invalidity of any portion of this Agreement will not effect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

Accepted by:

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J. Robert Boyette _____(seal)

(signature)

Date accepted:_____

Accepted by:

The City of Marion, North Carolina: _____

Stephen R. Little, Mayor

Attest: _____

Date accepted:_____

(City Seal)

3. Ordinance Codification and Maintenance Services – Council approved the following contract with the North Carolina League of Municipalities for ordinance codification and maintenance services for the City:

CODIFICATION SERVICES FOR THE CITY CODE
January 12, 2012

WHEREAS, the City of Marion, a municipal corporation in the State of North Carolina has need of codification of its existing ordinances, as well as other optional related services;

WHEREAS, North Carolina League of Municipalities in conjunction with American Legal Publishing Corporation desires to perform such services for City of Marion.

NOW THEREFORE, in consideration of the mutual benefits to be derived from entering into and performing this Agreement and the mutual promises and covenants contained herein, the parties agree as follows:

I. THE PUBLISHER SHALL:

1. Set up an initial phone call with the City of Marion. At this phone call the following will occur:
a. The Publisher will set up a supplementation schedule with the flexibility to deviate from the schedule with advance notice from the City.
b. The Publisher will build the code of ordinances into Folio VIEWS for $1.95 per page. The code must be provided in Word, WordPerfect or RTF.
c. The Publisher will provide a redline strikeout/draft for supplements if requested.
d. The Publisher and City of Marion will mutually agree to the format in which the City of Marion will submit the documents, graphs, charts and images to the Publisher. The publisher does require one copy fo the most current paper code.
e. The Publisher shall provide the City with 20 copies or fewer of the paper supplements each year at an agreed upon rate for use by City staff. There is no discount for needing fewer or no copies.

2. Examine the ordinances as submitted by the City of Marion.
a. For the initial project, the Publisher will examine the printed pages, tables, charts, diagrams, pictures, maps in the code. American Legal will advise The City of Marion on which pages should be reformatted at $24.00 per page. Page 1 of 5
b. Supplements will be charged at $19.50 per page for paper updates. If the page involves a table, graph, chart, diagram, picture, or map the cost will be $19.50 per page + $10.00 per page no matter how many graphs or charts, etc. are on that page. The $10.00 is a per page flat fee. The Folio supplements will be charged at $2.50 per page.
c. American Legal will provide an itemized bill for review after the delivery of material.

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3. Incorporate those materials to be included in the Code according to the subject matter in the existing Code, or where there is no existing legislation on the subject, into a logical location in the Code.

4. Make necessary changes in wording of the materials to bring about uniformity of style and to correct typographical errors.

5. Prepare a legislative history of each affected section citing the ordinance or resolution number and date of passage of the ordinance or resolution.

6. Revise or make additional entries to chapter summaries, tables of special ordinances, cross reference tables, and general index as necessary to reflect the incorporation of additional, changed or deleted material.

7. Where available, provide free model ordinances covering any municipal topic to replace an outdated ordinance or to cover an area where the City of Marion may not have an ordinance.

8. American Legal will provide the City Clerk with a redline strikeout/proofs of all supplements to review and approve before American Legal finalizes printing.

9. American Legal will contact the City regarding its submission of photos and images should they be of poor quality. American Legal will contact the City at the beginning of the project to make sure it receives the best files to produce the highest quality of images and photos. American Legal will also link all photos and images and use uniform captions. Should the images require additional work the cost will be $95.00 per hour. American Legal will get approval by City for this work.

10. Careful work will be done with the photos/images submitted by the City of Marion to ensure the highest quality in the finished project as possible (this may require communication during the supplement about the City of Marion's expectations).

11. Provide a PDF version of the more complex tables (printer-friendly version). This is an optional service and the cost is $95.00 per hour. An estimate can be provided in advance.

12. American Legal will provide the City a Microsoft Word document of the code after each supplement and to the best of its ability maintain the formatting integrity of tables and other special formatting. American Legal can provide a PDF version of the Code to the City for printing purposes for $100.00. This is an optional service.

13. American Legal agrees that the City Code is non-proprietary and the City of Marion may use it any way it sees fit.

14. American Legal will work with the City to make sure that the Code will either link out to the definitions or have a pop-up box with the definitions each time the word appears in the City Code. This is an optional service at $95.00 per hour. As estimate can be provided before the work is completed.

15. American Legal will use colors where appropriate in the Code online so that sections will stand out and make the online and CD version easier to read (i.e. sections, principles of interpretation, etc.)

16. American Legal will provide uniform formatting in the City Code.

17. American Legal will handle subscription service to anyone outside of the City of Marion municipal government who wishes to receive a paper or CD version of the City Code and/or Land Development Ordinance, and provide the appropriate number of supplements on a monthly basis to subscribers; subscription fees will be set jointly by American Legal and the City of Marion.

18. American Legal will provide the City of Marion with an agreed upon number of paper supplements each year.

19. American Legal will confer with the City on a schedule to provide annual statutory updates to the City Code, based on each North Carolina legislative session. A price will be mutually agreed upon once American Legal reviews the changes made by the legislature each year. This is an optional service.

21. American Legal will provide detailed billing that is clear and concise and shall provide a breakdown with explanations of each item.

22. American Legal currently provides the ability to search multiple codes from its website and will continue to offer this service to the City of Marion.

23. American Legal will provide troubleshooting service to the City of Marion at no charge.

24. American Legal uses Folio VIEWS online search and retrieval software that is very user friendly. We will offer

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free technical support to City staff through a toll free 800 number or an email to our support department during regular office hours. We will also offer this service to citizens of the City of Marion.

25. American Legal will continue to look for new and innovative ways to better serve the City of Marion and provide information to the City in future years on new ideas to search and update their documents.

II. THE CITY OF MARION SHALL:

1. Provide a current copy of the City Code on CD in Word, or WordPerfect, or RTF.

2. Provide the ordinances passed subsequent to publication of the previous Code supplement on CD (or via email) and in paper form.

3. Pay the Publisher the costs of the initial project. The Publisher will examine the tables, charts, diagrams, pictures, and maps in the code. The City of Marion and American Legal will come to an agreement on which pages if any need to be reformatted at $24.00 per page.

a. Supplements will be charged at $19.50 per page for paper updates. If the page involves a table, graph, chart, diagram, picture, or map the cost will be $19.50 per page + $10.00 per page no matter how many graphs or charts, etc. are on that page. The $10.00 is a per page flat fee. The Folio supplements will be charged at $2.50 per page.

b. American Legal Publishing will provide no copies of paper code changes.

c. Pay to the Publisher for all services requested. An invoice will be sent to the City after the initial project is completed and delivered and each future update is delivered and completed.

d. Pay any invoices within 30 days of the invoice date. Invoices outstanding beyond the 30 day period shall be subject to a late payment equal to 1½% of the unpaid balance per month, or part thereof.

4. Pay to the Publisher the cost to rebuild the Folio version of the City Code at $2.00 per page.

5. Pay to the Publisher the cost to build the PDF version of each update for $100.00 per updated CD. The City of Marion will receive a PDF file of all the chapters on CD. Should the City of Marion make no changes during an entire month, then there shall be no charge for the update that specific month. This is an optional service.

6. Pay to the Publisher the annual cost to host the City Code for $450.00 per year and on the American Legal Web Site. The price of the annual online host service will rise by 1.5% each year.

7. As an optional service, pay the following fees to the Publisher for any additional CD's of the Code in Folio VIEWS: A one time $50.00 license fee plus $10.00 for each CD that is pressed.

8. As an optional service, pay to the Publisher a one time fee of $50.00 for each additional Network license.

9. As an optional service, pay to the Publisher a one time fee of $2,500 for an unlimited Network license.

III. TERM AND TERMINATION

1. Either party has the right to terminate or alter the terms of the supplemental service plan at any time by serving written notice. This written notice shall be sent at least thirty days before the effective date of such termination or alteration. Provided, however no alteration of terms shall be effective unless agreed in writing by the other party.

2. Upon completion of the five-year period, this agreement shall automatically renew itself from year to year except that either party may alter or cancel the terms of this agreement at any time upon thirty days written notice. Provided, however, no alteration of terms shall be effective unless agreed in writing by the other party.

IV. PRINTING

Deliver to the City of Marion no printed copies of the code of ordinances supplemental pages.

V. SHIPPING AND DELIVERY

The Publisher shall ship by common carrier, the number of supplement disks ordered and the City of Marion may direct that different portions of the shipment be made at various locations within the City of Marion. The City of Marion shall only be charged Publisher's direct shipping costs and a handling fee. The Publisher shall ship the supplements within 30 calendar days after receipt by Publisher of all materials necessary for production of a supplement unless the City would like to update on a more frequent basis.

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TRANSMITTAL AS OFFER
The transmittal of this Agreement to City of Marion unexecuted by City of Marion is an offer by the North Carolina League of Municipalities/American Legal Publishing to perform the stated services at the price and upon the terms and conditions herein and shall be subject to acceptance by Publisher's receipt of the agreement executed by City of Marion no later than July 30, 2012 unless such date is extended in writing by Publisher.

IN WITNESS WHEREOF the parties to this contract have hereunto set their hands on the date(s) indicated:
The City of Marion, North Carolina
BY
TITLE
DATE
NORTH CAROLINA LEAGUE OF MUNICIPALITIES
BY
TITLE: General Counsel
DATE:

INTRODUCTION OF NEW POLICE CHAPLAIN: Due to unforeseen commitments, the Marion Police Chaplain will be introduced at a later meeting.

RECOGNITION OF POLICE OFFICERS RECEIVING ADVANCED LAW ENFORCEMENT CERTIFICATES: Due to certificates not arriving from the State in time for presentation at this meeting, this item will also be rescheduled for a future meeting.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

RECEIVE RECOMMENDATION FROM CITY UTILITY COMMITTEE: The City Manager advised that the City Utility Committee met on January 27 with Mrs. Audrey Burgin concerning the $11,600 on-call bill from Burgin's Septic Tank Services for the Sugar Hill Road pump and haul service. The Utility Committee recommended that the entire bill be paid as part of the Sugar Hill Road project. The Utility Committee received information that Mr. Robby Burgin, owner of the business, was the first number called by the automated teledialer on the telemetry system at the pump location and that he routinely checked on the location from which he pumped. The Utility Committee felt that Mr. Burgin therefore earned at least a very substantial part of the $11,600 on-call fee and that it would be very difficult to quantify any appropriate discount off of the fee.

The City Manager stated that Council action is therefore requested to approve the payment of the $11,600 on-call fee.

Council Member Clark commended the Utility Committee for their efforts resolving this matter and made a motion to approve the recommendation of the Utility Committee to approve the payment of the $11,600 on-call bill from Burgin's Septic Tank Services for the Sugar Hill Road pump and haul service. The motion was seconded by Mayor Pro Tem Cuthbertson.
Mayor Little stated that the Utility Committee was very impressed by Mrs. Burgin's presentation and that the Committee was shown that Mr. Burgin definitely earned his fee, due to his diligent work.

Council Member Clark added that Mr. Burgin's efforts prevented any sewer spills from occurring at the location, saving the City from potentially large fines.

All Council Members voted in favor of Council Member Clark's motion and the motion was passed.

CONSIDER APPROVAL OF UPDATED CITY PURCHASING POLICY: Finance Director Harriett Thomas advised that, as discussed at the February 7 Council meeting, Council has been

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given a copy of the proposed Purchasing Policy for the City. The City's current Purchasing Policy was drafted in 1989 and needed major changes and updates.

Ms. Thomas stated that much of the language is based upon requirements of State law, while other language is based on the City's longstanding practices and internal control procedures.

Council Member Clark stated that he had asked that this item be held over to this meeting, to given him ample time to review the Policy. He said that he went over the document in detail with the City Manager and had his questions and comments addressed.

Council Member Clark advised that his main concern was the Policy allowing telephone or verbal quotes to be accepted for informal bids for purchases of less than $90,000. He said that he understood that the Policy was entirely consistent with State law, but wanted to make Council aware of this concern. Council Member Clark stated that Council must place its trust in staff to make sure that such quotes are received in writing, to make sure that the City is adequately protected.

Ms. Thomas advised that City staff always bids out large purchases, even when not required to do so under State law, and is always careful with notations and receiving bids in writing.

Council Member Clark stated that Ms. Thomas did a good job with the proposed policy.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Martin, Council voted unanimously to approve the updated Purchasing Policy as follows:

PURCHASING POLICY AND PROCEDURES OF THE CITY OF MARION

WHEREAS, the Mayor and City Council of the City of Marion recognizes the importance of complying with the legal and ethical requirements of public purchasing; and

WHEREAS, it is the desire of the Mayor and City Council to assure vendors that impartial and equal treatment is afforded to all who wish to do business with the City; and

WHEREAS, the Mayor and City Council desires to receive maximum value for each dollar spent by awarding to the lowest responsible bidder, taking into consideration quality, performance, technical support, delivery schedule, past performance and other relevant factors; and

WHEREAS, it is the desire of the Mayor and City Council to establish a system of purchasing administration that will provide departments with the required goods, equipment and services at the time and place needed and in the proper quantity and quality at the lowest possible cost;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF MARION that the following rules and regulations shall govern the purchase of apparatus, materials, equipment, supplies and services for use by the City of Marion, North Carolina in accordance with applicable North Carolina State Statutes.

ADOPTED this 7th day of February 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

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Policy Number: P-12-02-07-1

City of Marion

Purchasing Policy and Procedures Manual

Adopted as Administrative Policy for all City Employees
Effective: 02/07/12

City of Marion, North Carolina
Department of Finance and Administration
Purchasing Policy and Procedure Manual

I. Forward

This purchasing policy and procedures manual has been prepared to serve as a guideline to all departments of the City of Marion in obtaining apparatus, materials, equipment, supplies and services.

While this manual does not answer all questions related to purchasing, it does provide the foundation for a sound centralized purchasing system, which will serve the City's needs and provide a more effective and efficient buying process. Like any policies or procedures, they can be effective only if the individuals involved are aware of what they are, how they apply, and the problems that may be encountered when they are not followed. For this reason we have tried to explain each directive in detail giving the purpose, the policy, and the procedure for carrying it out. We have also included the North Carolina General Statute reference for policies where applicable.

The basic goals of the City's purchasing program are:

a. To comply with the legal and ethical requirements of public purchasing.

b. To assure vendors that impartial and equal treatment is afforded to all who wish to do business with the City.

c. To receive maximum value for each dollar spent by awarding to the lowest responsible bidder, taking into consideration quality, performance, technical support, delivery schedule, past performance and other relevant factors.

d. To provide City departments the required goods, equipment, and services at the time and place needed and in the proper quantity and quality.

e. To professionally administer the search for sources of supplies, the development of new sources, the selection of suppliers, negotiations, commitment, follow-up, and adjustments.

f. To promote good and effective vendor relations, cultivated by informed and fair buying practices and strict maintenance of ethical standards.

g. To effect maximum feasible standardization of products used within and among departments in order to minimize stock levels and obtain better prices.

By following the procedures and guidelines established in this manual, each department can efficiently manage, control and plan its available resources to meet present and future departmental needs and help the City to meet these goals. Should you have any questions about this manual or its procedures, contact the Finance Director at 652-3551 or the Purchasing Agent at 652-6151.

II. General Guidelines For Purchasing Supplies and Materials

2.1 Local Buying:

It is the desire of the City to purchase from vendors located within the City of Marion and McDowell County whenever possible. This can be accomplished by insuring that local vendors who have goods or services available that are needed by the City are included in the competitive purchasing process. The City has a responsibility to its residents; however, to insure the maximum value is obtained for each public dollar spent. **The City cannot and will not make purchasing decisions solely on the basis of vendor**

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residence. Rather, the City will endeavor to encourage local vendors and suppliers to complete for all City business.

2.2 Planning:

Planning for purchases should be on a long-term basis, thereby minimizing small orders and last minute purchases. Planning will also reduce the number of trips required to obtain materials and minimize clerical and supervisory time spent on documenting purchases.

2.3 Buying Proper Quality:

Quality and service are as important as price; and, it is the duty of the requesting department to secure the best, most economical, quality that will meet but not exceed the requirements for which the goods or services are intended. In some instances the lowest price does not necessarily mean the lowest cost.

2.4 Sales Tax

NOTE: The City is not exempt from paying North Carolina sales tax, and therefore, as you place an order with the supplier, you should emphasize that the purchase must include tax for all taxable items.

III. Purchasing Procedures

This section describes the proper procedures for requisitioning goods or services for use by departments of the City of Marion. As stated previously, the purpose of these procedures is to provide the best quality goods and services to the city at the least possible price. Adherence to this procedure is absolutely essential toward achieving this end.

If purchases are made without adhering to this procedure a number of different consequences could occur, among which are:

a. Serious delays in paying the vendor for their merchandise or services.
b. Paying higher prices than necessary.
c. Buying items already available in the Warehouse Stockroom.
d. Creating significant amounts of extra work for the City Finance Department and the Purchasing Department.

Should questions arise which cannot be answered by reference to this manual, contract the Purchasing Agent at 652-6151.

3.1 Request to Purchase:

A request with the required information and appropriate approvals gives the Purchasing Agent the authority to proceed with competitive pricing and to issue a purchase order to the most suitable vendor. The Department Head or his/her designee must approve all requests within their department. A completed purchase requisition with the appropriate approvals is required for all purchases.

3.2 Completing the Request to Purchase Form:

The requisition, once completed, is forwarded to the Purchasing Department. If the Purchasing Department has questions concerning the request, it may be returned to the Department Head or his/her designee for a brief explanation.

IV. Vendor Selection

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4.1 Selection Policy:

The purchasing-vendor relationship is one of mutuality. The promotion of good relations with the vendor is an important function of the Purchasing Agent. Therefore, it is essential that the Purchasing Agent be aware of all transactions between the City and its vendors.

4.2 Selection Procedures:

Vendors will be selected on a competitive basis. Formal bids, informal bids, or telephone quotations will be solicited by the Purchasing Department. Bid awards, purchase orders and or contracts will be issued to the lowest responsible bidder as outlined in Section VIII.

For the procurement of supplies, materials and or equipment and for construction or repair, the Purchasing Department will observe the following procedures:

a. In accordance with North Carolina General Statute §143-129, invitation for formal bids will be used for purchases of $90,000 and greater for apparatus, supplies, materials and equipment and $500,000 and greater for construction and repair contracts. This will include advertising in the local newspaper and/or other advertising media as deemed appropriate and receiving sealed bids.

b. In accordance with North Carolina General Statue § 143-131 no written method or advertising required for invitation, but a Request for Written Quotation (RFQ) may be used for purchases of $30,000 to formal limit ($90,000).

c. In accordance with North Carolina General Statute § 143-131, purchases of less than $30,000 will be made in the open market with or without necessary resort to formal invitation for bids or request for quotations. However, every effort should be given to obtain three quotes for purchases of less than $30,000. All quotes, regardless of degree of formality, should be forwarded to the Purchasing Agent as soon as the requisition has been approved.

V. Purchase Orders

To be valid, a City Purchase Order Form (Exhibit B) must be completed and signed by the Purchasing Agent or by the Finance Director.

5.1 The Purchase Order Process:

A Purchase Order is a contract between the City and a vendor and is not binding until accepted by the vendor. The City will not recognize the issuance of purchase orders by unauthorized City employees or officials, and payment of these obligations will not be approved. Obtaining supplies, equipment or services without a purchase order is also an unauthorized purchase. (Except in emergency situations as outlined in Section 7.3) **Unauthorized purchases are classified as a personal expense and will be paid for by the employee.**

The purchase order is a numbered two-part form with copies to be distributed as follows:

White – Purchasing copy, send to the Purchasing Department.

Yellow – Department copy, filed within the department.

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In order to properly process the vendor's invoice(s) for payment, the packing slips must indicate the purchase order number, be signed and forward to the Purchasing Department, this is to be done immediately after the item(s) have been received, inspected and accepted by the user department.

5.2 Change Orders:

In order to change, modify, or cancel an existing purchase order, the user department must initiate a Change Order Form (Exhibit C) with the Department Head's or his/her designee's approval. All pertinent information needed to make changes should be completed. The change order is to be forwarded to the Purchasing Agent for review and approval. Purchasing Agent will be responsible for the distribution of paperwork to the vendor and requesting department.

Change orders will not be allowed:

a. That would alter the procurement procedures that were used in the original process. (i.e., from informal to formal).
b. After the scope of service have been rendered or materials have been received.
c. Would increase a blanket purchase order.
d. Would add additional items to the purchase order.

Change orders are not needed when the dollar amount of the change for a line item will not be exceeded by 10% of the original amount and budgeted funds are available.

VI. Availability and Transfer of Budgetary Funds

6.1 Policy:

It is the policy of the City of Marion to require a Request for Transfer of Funds for any purchase or commitment of City funds for which there are insufficient funds available in the budgetary account against which a purchase or commitment is to be applied. Transfers of Funds are not allowed for the purpose of making it possible to spend all appropriations. (Exhibit D) is a sample Request for Transfer of Funds Form.

6.2 Authority:

Only the City Manager or Finance Director are authorized to make certain changes among operating expenditure line items, (i.e. non-capital and/or non-personnel related items), in the budget of a department, (department as defined in the annual budget authorization of City Council), when he/she feels the change would be in the best interest of the City.

6.3 Responsibility:

Transfer of Funds must be requested by the Department Head or his/her designee and forwarded to the Finance Director before any commitments are approved against an expenditure line item which would exceed the amount budgeted for that particular line item.

Requests should be stated in even $100 increments (i.e. $100, $200, $300, etc.).

The Finance Director is expected and authorized to inquire about the appropriateness of any and all Request for Transfer of Funds. After review and approval of the Request, the Finance Director shall attach a copy of this form to the corresponding Request to Purchase and forward the Request for Transfer of Funds Form to the City Manager.

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VII. Special Procurement Procedures

7.1 Blanket Purchase Orders:

The Purchasing Agent will issue blanket purchase orders to selected vendors for the procurement of large volume items such as landscaping supplies, rock, sand and asphalt. Blanket purchase orders should not be used for items normally carried in stock at the warehouse and will not be issued for items that can/should be purchased with regular purchasing procedures.

Requests for blanket purchase orders must, in addition to the required information, indicate the following: items covered by the blanket purchase order, a Not to Exceed (NTE) amount in the appropriate column, and an attached listing of all personnel approved to purchase from the blanket purchase orders. The issued purchase order will instruct the vendor that unauthorized purchases will not be allowed. It is the responsibility of the individual authorized to purchase under a blanket purchase order to insure that an unspent balance remains to cover the purchase to be made. **Any purchase that exceeds the funds available under a blanket purchase order will be classified as an unauthorized purchase.**

Any purchases made by personnel not authorized by the blanket purchase order request will be classified as a personal expense and will be paid by the employee.

An authorized City employee must sign a vendor's delivery ticket, and the purchase order number must be indicated. If the purchase is to be charged to an account other than indicated by the purchase order, the account number to be charged for the expenditure must be indicated. Departments will forward these delivery tickets immediately to the Purchasing Department.

7.2 Service Contracts:

All service contracts, for which the contractor will perform work while on City property, must be accompanied by a standard contract form containing the appropriate language required in City contracts. The contract must follow all signature procedures and contain all necessary insurance and payment options. The contractor must have a certificate of insurance on file before work is to be done. Payment will not be issued until certificate has been received. The completed and signed contract must be forwarded to the Purchasing Agent prior to the release of the purchase order.

7.3 Emergency Purchases:

In cases of emergencies, the Department Head or his/her designee may purchase directly from vendor(s) supplies or services whose immediate procurement is essential to prevent delays in work, which may affect the life, health, or either safety or convenience of the City of Marion employees or citizens.

The user department shall exercise good judgment and use established vendor(s) when making emergency purchases. Care should be taken to always obtain the best possible price and limit purchases to those items that may be emergency related. Failure to anticipate needs does not constitute an emergency situation. First, determine if a true emergency does exist. Second, anticipate needs and avoid emergency situations whenever possible. Vendors usually charge top prices if supplies or services must be obtained on an emergency basis.

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During working hours, the following procedure should be used for emergency purchases: contract the Purchasing Agent and give all pertinent information to obtain a purchase order. The information needed will include the vendor name, item(s) to be purchased with quantities, expenditure account to which the item(s) will be charges and the reason for the emergency purchase.

After working hours, the following procedure should be used for emergency purchases: The packing slip or invoice received should be coded with the account(s) to be charged and signed. Please attach a purchase requisition with each packing slip or invoice and send to the Purchasing Agent, with a brief explanation of the nature if the emergency.

Emergency purchases, although sometimes necessary, are costly both in time and money. The use of emergency purchases should be limited to true emergencies and will be monitored for abuse.

7.4 Call-in requests for Purchase Orders:

Call-in requests for purchase orders will be used for emergency and special situations only. However, the Purchasing Department will allow the faxing of requests with originals to be forwarded.

7.5 Purchase Order Cut - off Date:

Purchase requests for materials, supplies, services and equipment (not included in blanket purchase orders or service contracts) for the ending current fiscal year must be in the Purchasing Department no later than June 15. Purchase requests of a routine nature that could have been scheduled prior to June 15, and are not critical, will be returned to the department for disposition in the new fiscal year. This procedure affords the Purchasing and Finance Departments the opportunity to complete fiscal year end activities in a timely and proper manner.

Purchases from the warehouse should be done one month prior to the fiscal year end, if possible. Those items would include but are not limited to computer paper, toilet paper, trash bags, cleaning items, etc. This procedure affords the Purchasing Department the opportunity to complete inventory and review merchandise in the warehouse with the Warehouse Inventory Specialist prior to the fiscal year end activities in a timely and proper manner.

7.6 Sole Source of Supply:

In the event there is only one vendor capable of providing a particular good or service, the competitive pricing procedures outlined in this manual may be waived by the Purchasing Agent or Finance Director. Whenever a Department Head or his/her designee determines to purchase goods or services from a "sole source", he/she shall document on the request why only one company or individual is capable of providing the goods or services required. The provisions of G.S. §143-129 will be followed asking Council for this sole source exception.

7.7 State of North Carolina Purchase Contract:

The Purchasing Agent may utilize the State of North Carolina Department of Administration Purchase and Contract Division whenever possible for procurement of capital and non-capital items. This system expedites the purchase of goods, offers pricing compatible with quotes received from formal and informal bids, and satisfies North Carolina General Statutes. Examples of goods on state contract are: law enforcement

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vehicles, office furniture, copiers, janitorial supplies, copier paper, and light bulbs. Contact the Purchasing Agent if you have questions about which goods are on State Contract.

7.8 Professional Services:

Normal competitive procedures cannot be utilized in securing professional services such as attorneys, engineers, auditors and other professional people who, in keeping with the standards of their discipline, will not enter into a competitive bidding process. When an agreement between a professional service company and the City is established, a purchase order, with a NTE (not to exceed) amount shall be issued to satisfy accounting and statutory requirements.

7.9 Purchasing Calendar: Capital and Non - capital Equipment

To coordinate and schedule capital purchases during the fiscal year, the Finance Director and the Purchasing Agent will request information from departments concerning approved capital budgets and procurement schedules each year. In securing financing and maintaining the fixed asset records for the fiscal year, all capital purchases MUST be completed no later than **March 15** with delivery scheduled no later than **May 30**, if at all possible.

7.10 Vehicle and Equipment Repair: Outsourcing of Service:

Procedures for outsourcing vehicle and equipment repairs, such as body repair(s), engine rebuilding, or any other service shall be handled by Fleet Maintenance. Written estimates showing separate labor, material(s) and towing costs shall be submitted to the Purchasing Agent with completed request and appropriate signatures for purchase order processing. To provide the necessary cost and repair history of a vehicle for budgeting use, this should be handled and recorded on the vehicles fleet maintenance records.

7.11 Petty Cash

A petty cash fund has been established for the Police Department and Fire Department for purchase of expendable items, (including but not limited to car washes, office supplies, etc.) costing less than $25.00. Employees wishing to purchase items, and be reimbursed with petty cash, should obtain a petty cash form, provide a receipt for the purchase and return the cash form to the petty cash administrator for your department, with the approval of the Departmental Head or his/her designee.

7.12 Credit Cards

Bank issued credit cards are reserved for use by the City Manager, Finance Director, Fire Chief, Police Chief and Public Works Director for travel or select items for the City. The purpose of this purchasing procedure is to facilitate travel such as hotel reservations and for certain online purchases, such as computers.

The bank issued credit card will be used only when:

a. The items and/or services to be purchased are for the official use of the City of Marion.
b. The types of items and/or services to be purchased are those approved by the City Manager and/or Finance Director.
c. Bank credit cards should not be used to purchase any items normally carried in stock in the City Warehouse or available via the Purchasing Agent.

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d. The City Manager and/or Finance Director will review the use of the individual card activity and reserve the right to revoke the use privileges from the cardholder, if deemed necessary. The credit card holder will be responsible for any purchases deemed not to be official City purchases.

e. After the purchase, the credit card holder will furnish the receipt for the purchase to the Finance Director. Failure to furnish the receipt will result in the credit card holder becoming responsible for the purchase.

f. Blanket credit cards issued by Walmart are not issued to a particular person but to the City. These Walmart credit cards will be checked out at City Hall after the employee obtains a Purchase Order number from the Purchasing Agent and brings the Purchase Order Number to City Hall. After the purchase has been made the credit card will be returned to City Hall along with the receipt. The receipt, with the Purchase Order Number written on it, will then be sent to the Purchasing Agent to be processed.

g. Lost or stolen credit cards are to be immediately reported to the Finance Director.

VIII. Competitive Bids

8.1 Formal Bids-Supplies and Materials ($90,000 and Greater):

After receiving a completed request to purchase with the appropriate signature to purchase supplies, apparatus, and materials and equipment with expenditure of $90,000 or more, the Department Head or his/her designee, in conjunction with the Purchasing Agent shall develop and prepare specifications for bidding. The Purchasing Agent shall be responsible for ensuring that all North Carolina General Statutes are satisfied, including but not limited to, newspaper advertisement and receipt of sealed bids.

After receipt of a bid, the Purchasing Agent shall conduct a public bid opening, then with the Department Head or his/her designee, review all bid responses to determine the bid deemed in the best interest of the City. Factors such as cost, quality, performance and time should be taken into consideration. The Purchasing Agent shall make a formal recommendation of award, with supporting documentation to the Finance Director, City Manager, and the City Council.

Upon City Council approval of the recommendation, the Purchasing Agent shall initiate the purchase order and contract the successful bidder.

8.2 Informal Bids-Supplies and Materials ($30,000 - $89,999):

After receiving a properly executed request to purchase, the Purchasing Agent shall utilize the informal bidding process for purchases of $30,000 to $89,999. The informal bidding process requires that competitive pricing be obtained but does not require that it be in a written form, therefore, bids via email, phone, fax or mail are acceptable. Records must be kept of all bids received. Once received, the Purchasing Agent determines which quote is in best interest of the City and with Council's approval the Purchasing Agent shall generate the purchase order and contact the successful bidder.

8.3 Purchases of Supplies and Materials (Less than $30,000):

After receiving a properly executed Request to Purchase Form for expenditures of less than $30,000, the Purchasing Agent shall accept quotes in any form as for Informal Bids. Every effort to obtain 3 quotes should be exercised. Once the quote deemed in the best interest of the City is determined, the Purchasing Agent shall generate the purchase order and contact the successful bidder(s).

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8.4 Construction and Repair Work:

a. Formal Construction or Repair Contracts ($500,000 and greater):

Construction contracts within this range shall be the responsibility of the Department Head and contracted engineer and other City officials as deemed necessary. These officials are responsible for specification development. After the formal bidding process is completed, the Department Head or his/her designee shall recommend to the City Council the lowest responsible bidder deemed in the best interest of the City. Upon award by the City Council and execution of the contract, the Department Head shall initiate a Request to Purchase form so that a purchase order can be generated to encumber the expenditure account.

b. Informal Construction or Repair Contracts (Less than $500,000):

Construction, renovation or repair work less than $500,000 shall be the responsibility of the Department Head, the contracted engineer and other City officials as deemed necessary. The bid award will be made to the lowest responsible bidder deemed in the best interest of the City. Upon approval by the City Manager and execution of the contact, the Department Head or his/her designee shall initiate a Request to Purchase form so that a purchase order can be generated to encumber the expenditure accounts and contact the successful bidder(s).

IX. Specifications

When goods or services are procured under the formal or informal bidding process, specifications must be prepared. All specifications should do at least four things:

a. Identify minimum requirements
b. Encourage competitive bids
c. Capable of objective review
d. Provide for an equitable award at the lowest possible cost.

Specifications shall be as simple as possible while maintaining the degree of exactness required to prevent bidders from avoiding supplying the goods or services required or otherwise taking advantage of their competitors.

All specifications utilizing a name brand must include the term "or approved equal" to avoid being restrictive and eliminating fair competition from the bidding process. A photocopy will assist the Purchasing Agent in procuring the desired item(s).

a. Qualified products on acceptable vendor list
b. Specification by blueprints or dimension sheet
c. Specification by chemical analysis or physical properties
d. Specification by performance, purpose or use
e. Specification by identification with industry standards
f. Specification by samples

X. Delivery and Performance

A completed and accepted purchase order by the parties concerned must produce the intended results or objectives before it can be considered a successful or completed purchase. The terms and conditions must clearly define the delivery and performance requirements of the services, supplies or equipment.

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The importance of the delivery schedule will be emphasized to the vendor. Delivery requirements will be clearly written and fully understood by all vendors. If several items are required by the purchase order, there may be a different schedule of each item. It is necessary to clearly indicate the delivery location on the Request to Purchase form.

10.1 Partial Deliveries:

Some purchase orders may list several items. It is possible the vendor may complete timely delivery on some items, which are referred to as "partial deliveries". Upon receipt of a partial delivery, photocopy the purchase order; attach a copy of the signed delivery receipt and forward to the Purchasing Agent.

10.2 Non-Performance:

If a vendor fails to meet any requirement(s) of the specifications or terms and conditions of the contract or purchase order, the vendor can be cited for non-performance. The seriousness of non-performance will be evaluated based upon the circumstances of each violation. Specific types of non-performance are discussed in Section XI.

XI. Inspection and Testing

Life and safety as well as successful operation of expensive equipment and supplies may depend upon how well a purchased item meets the design and performance specifications.

Goods and materials should be checked at the time of receipt for damage or defects. The inspection shall include assuring goods comply with the specifications. If damage is found or the goods fail to comply with the specifications, the item(s) shall be rejected as outlined below.

11.1 Rejection:

In order to protect the City's rights in the event of rejection, for whatever reason, the vendor shall be informed immediately. Reasons for the rejection must be documented in memo form, attached to a copy of the purchase order and forwarded to the Purchasing Agent in a timely manner. The Purchasing Agent will notify the vendor of the reason for the rejection.

11.2 Damaged Goods:

One of the major reasons for immediately inspecting the goods or materials upon receipt is to detect any visible damage. When it is apparent that the extent of the damage causes the goods to be worthless, they will not be accepted. It is necessary that all damage including evidence of concealed damage shall be documented by memo, attached to a copy of the purchased order and forwarded to the Purchasing Agent so that the Purchasing Agent can inform the vendor of the damaged goods.

11.3 Latent Defects:

Latent defects may be the result of damage in transit or failure of the manufacturer to conform to specifications. Consequently, it is often difficult to fix responsibility for the defective material. If specific liability for the defect cannot be determined between the carrier, vendor, or the manufacture, the City may file a claim against all parties. A memo attached to a photocopy of the purchase order must be forwarded to the Purchasing Agent so all parties involved can be properly informed.

AA.00000348 (24)

XII. Vendor Relations

Good vendor relations are valuable business assets established through mutual confidence and satisfactory business relationships between buyer and seller. An important contribution toward promoting and preserving these relations is a clear understanding of the method of contract between buyer and seller.

The Purchasing Agent shall maintain a vendor file for recording the performance of vendors the City engages in business. Should a department experience difficulties with or have a complaint with a particular vendor, document your concerns on a Vendor Performance Evaluation form provided in (Exhibit G) or a memo to the Purchasing Agent with your concerns. Be as specific as possible, detailing the circumstances, dates, personnel involved (including titles) and phone numbers. This information will be helpful in determining if the vendor shall remain on the vendor list.

If it is a certain vendor should be commended for its efforts, document the circumstances on the Vendor Evaluation Form and forward to the Purchasing Agent.

Vendors will be selected on a competitive basis. formal bids, informal bids, or telephone quotations will be solicited by the Purchasing Agent. Bid awards, purchase orders and/or contracts will be issued to the lowest responsible, responsive bidder in accordance with G.S. § 143-129 and 143-131.

Departments do not have the authorization to commit in writing, or verbally, future City business to vendors. If the department wishes to add a specific vendor or contractor to the bid list, the Purchasing Agent shall be contacted.

XIII. After the Order

The procurement function is not accomplished by simply placing an order with a supplier. Satisfactory delivery must also be made. To insure delivery will be made when required, follow-up is sometimes necessary.

Follow-up or expediting delivery of an order is part of the purchasing process and can be more efficiently handled by the purchasing party. For example:

Purchases initiated by the Purchasing Agent – follow-up would be expedited through the Purchasing Agent.

Purchases initiated by the Department Head using the bank credit card - follow-up will be by the purchaser.

The Purchasing Agent shall on a regular basis review outstanding purchase orders to determine if vendors are delinquent in shipping the items requested. The Purchasing Agent shall contact these vendors concerning the delinquent delivery.

The Purchasing Agent shall contact vendors concerning invoice discrepancies and shall have the authorization along with the Finance Director to approve or disapprove invoice amounts.

XIV. Warehousing

A warehouse is maintained at the Public Works building. An effort is made to keep in stock those items most commonly used by all departments. Computer printouts listing those commodities are available upon request and can be obtained by contacting the

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Warehouse Inventory Specialist, at 652-6151. Should a department require these items, a representative from the department must pick up the items and complete a Store Requisition (Exhibit H). A copy can be faxed to the Warehouse Inventory Specialist and who will pull the items needed and have them ready when the department representative comes to pick up the items. The original store requisition should be presented at the time of picking up merchandise. If for some reason the department cannot pick-up items requested the Warehouse Inventory Specialist can deliver the items to the department at which time the original store requisition should be presented.

If a department has a recurring demand for a particular item that is not stocked in the warehouse (need for a particular item that exceeds three times in a six month period), the department may request the warehouse stock this item. The procedure for requesting the stocking of additional items is through the completion of (Exhibit I) Request to Stock Form.

Specific instructions for completing a Request to Stock form are as follows:

a. Description – A thorough description of the item is requested. When possible, please provide catalog data, drawings or pictures.

b. Recommended Initial Order Quantity – This is the quantity that may be consumed within a 90-day period.

c. Recommended Minimum Stocking Quantity – This is the critical minimum quantity (i.e. a point that if stock were lower than this quantity, your performance would be compromised).

d. Adjusted Min/Max Numbers for Current Item – If the item will be used in addition to a current item, advise with the new stocking quantities of the current item

Upon completion of the Request to Stock Form, the requester shall forward it to the Purchasing Agent for review. This review shall basically consist of determining the type of item being requested. If the item replaces a current item, the Warehouse Inventory Specialist shall determine the value of existing stock being replaced. If the dollar amount is significant, the Warehouse Inventory Specialist shall review this with the Purchasing Agent and the Finance Director to determine if existing stock should be depleted to the new recommended min/max stock levels.

The same review process shall be taken with eliminated stock items. These items shall be declared surplus/obsolete and processed in accordance with general statutes.

After the review, the Purchasing Agent shall forward the request to the Warehouse Inventory Specialist, at which time a stock number shall be assigned to the item and a purchase order generated to encumber the expenditure accounts. Upon completion, the Warehouse Inventory Specialist shall return a copy of the Request to Stock to the requester indicating the new stock number and when the item was placed on order.

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Exhibit A

Examples of Purchases Not Requiring A Completed Request to Purchase Form

This list is not all-inclusive and could require a Travel Expense Requisition* and/or City Manager/Finance Director approval to be completed.

Annual dues/memberships/subscriptions
Claim payments
Insurance premiums
Medical examinations
Land purchases
Professional Services (i.e. accounting, legal)
Petty cash – replenishment of funds
Postage permits and expenses
Refunds
Service Contracts (i.e. maintenance, janitorial)
Travel requisitions
Tuition fees for educational purposes
Utilities/telephone/internet services

* Please contact your Department Head, Purchasing Agent or Finance Director for the current Travel Requisition Form

Exhibit B

Purchase Requisition Form
(available at City Hall)

Exhibit C

City of Marion
Change Order

Purchase Order Number: _____

Date of Purchase Order: _____/_____/_____

⊖ Please Cancel This Purchase Order

⊖ Please Reissue With Changes As Indicated Below

Revisions

Line Number	Initial Quantity	Revised Quantity	Description	Initial Account Number	Revised Account Number	Initial Price	Revised Price	Comments

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Authorized Signature: _____ Date: _____/_____/_____

Exhibit D

City of Marion
Request For Transfer of Funds

To: Director of Finance & Administration

From: _____

Request that the following Transfer of Funds be accomplished by the Accounting Division.

From:					To:			
Fund/Account	Amount	Budget Before Transfer	Budget After Transfer		Fund/Account	Amount	Budget Before Transfer	Budget After Transfer
Total					Total			

Reason for requesting transfer_____

_____

Requested by: _____ Date: _____/_____/_____

Department Head Approval: _____ Date: ____/_____/_____

Finance Director: _____ Date: ____/____/_____

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Exhibit E

Vendor Performance Evaluation Form

Please take a moment to complete this vendor performance evaluation and return to the Purchasing Agent, Your prompt response is appreciated

Vendor: _____Purchase Order Number: _____

Date Promised: ____/_____/_____ Actual Delivery Date: _____/_____/_____

Date Ordered: ____/_____/_____

Department Responding: _____

Details or Remarks:

Continually suggests cost-savings possibilities
Has competitive price's
Holds backorders to a minimum
Anticipates our needs
Supplies current catalogs
Is prompt and accurate on technical assistance
Advises of any potential trouble
Promptly replaces rejected items
Is courteous and helpful
Has a sincere desire to serve
Delivers without constant follow-up
Expedites and handles all orders courteously
Has knowledge of products and industry
Keeps abreast of new product developments
Provides specified quality products
Handles complaints promptly
Delivers on or before agreed upon time
Produces adequate packaging
Identifies or marks packages correctly
Makes courteous deliveries
Provides proper and accurate delivery receipts
Accurately packs shipment lists with containers
Purchase order quantities are over or short
Overall rating: Rate this vendor on a 1-10 scale with 1 indicating unacceptable performance.

Unacceptable	Satisfied	Extremely Satisfied
1	5	10

Quality of item
Service
Delivery
Comments:

Exhibit F

City Store Requisition Form
(available at City Hall)

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Exhibit G

City of Marion
Request to Stock

Department/Division: _____ Date: ____/____/____

Description: _____

_____

Estimated Annual Usage: _____
Recommended Initial Order Quantity: _____
Recommended Minimum Stocking Quantity: _____
Application: _____
Reason for Stocking: _____

_____
Replaces Current Stock Item No. _____ Yes _____ No _____
Eliminate Current Stock Item No. _____ Yes _____ No _____
Adjusted Min/Max Numbers for Current Item: _____ Min _____ Max _____

Suggested Vendor(s): Contact Person(s)

_____ _____
_____ _____
_____ _____

Requested By: _____

Approved By: _____

Do Not Write Below This Line

Action Taken: _____

_____

By: _____ Date: _____/_____/_____

Approved: _____ Disapproved: _____

New Stock Number: _____

AWARD CONTRACT FOR PURCHASE OF WATER PLANT VEHICLE: Finance Director Harriett Thomas advised that the City recently sought bids for the purchase of a sport utility vehicle for the Water Plant. This vehicle is used to travel to the City's water intakes in all weather conditions. A 4 wheel drive vehicle with a high clearance is required. City staff sent bids to eight dealers. Based on City specifications, the only bid that was received was from Stamey Chrysler-Jeep-Dodge for a 2012 Jeep Wrangler in the amount of $23,839. This bid is $839 over the 2011-12 budgeted amount for this purchase.

The City Manager added that the City currently has a Jeep Wrangler used for this purpose and can attest that this is the perfect vehicle for traveling to the intakes. State law does not require a minimum number of bids for a vehicle purchase.

AA.000001354 (24)

Ms. Thomas added that the current Jeep Wrangler is nearly 20 years old and is in need of replacement.

Mayor Pro Tem Cuthbertson asked what the City would do with the old vehicle. Ms. Thomas stated that the vehicle would likely be sold on the on-line auction service, govdeals.com.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Clark, Council voted unanimously to award the contract for the purchase of a sport utility vehicle for the Water Plant to Stamey Chrysler-Jeep-Dodge for a 2012 Jeep Wrangler in the amount of $23,839.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that the Golden Leaf Foundation staff met with community representatives on January 30 and reviewed the six applications for the Foundation's $2 million Community Assistance Initiative for McDowell County. The six applications that were submitted totaled $4.3 million. The City Manager stated that, after review and discussion, the group agreed to recommend the County's Universal Furniture building upgrade project in an amount of $2 million or slightly more. The County had asked for $2.3 million for this project, but Golden Leaf Director Dan Gerlach said that his Board would not go that high with a grant award. The County Manager has repeatedly been very appreciative of the City's support of this project.

The City Manager advised that the City had received a letter from the North Carolina Parks and Recreation Trust Fund (PARTF), formally notifying of the award of a $238,800 PARTF grant to fund one-half of the costs of Phase 2 of the Joseph McDowell Historical Catawba Greenway. The City Manager reported that the City has also submitted an application for a Recreational Trails Program (RTP) grant. City staff submitted a pre-application in November and were invited to submit a full application in January, which is generally a very good sign.

The City Manager added that the City hopes to have all funding for Phase 2 of the Greenway approved by mid-2012. The McDowell Trails Association is working on plans for fundraising and the City also anticipates receiving some County funds for the parking lot behind the McDowell House and/or the amphitheater. It will likely be mid-2013, hopefully in the 2013-14 Fiscal Year, before construction starts on Phase 2.

The City Manager advised that the NCDOT had released their initial prioritization rankings for projects submitted for the Statewide Transportation Improvement Program (STIP). NCDOT advises that these rankings are based on data and local input, but have not yet been subjected to funding, scheduling and legal constraints. Therefore, these rankings may not necessarily match the final Draft STIP and Draft 10 Year Work Program. However, the rankings should be somewhat of an indicator of what projects may have a better chance of being on the STIP and 10 Year Work Program.

The City Manager presented Council with information he had listed by category for all the listed projects for McDowell County. The most encouraging rankings for City projects are the Peavine Trail (5th out of 271 Bicycle/Multiuse projects Statewide) and the Five Lane Sidewalk (33rd out of 354 Pedestrian projects Statewide). Some of the City's highway projects, particularly the Rutherford Road Three Laning/Curb and Gutter Installation (36th out of 267 Regional Highway Projects Statewide) also ranked high. The City Manager stated that is unknown at this point how the rankings will translate into the final STIP and 10 Year Work Plan.

Mayor Pro Tem Cuthbertson stated that the City had been aggressive in submitting many projects to the Isothermal Rural Transportation Planning Organization, more so than other counties and municipalities in the region.

AA.000001355 (24)

The City Manager asked Council, as agreed upon by Council at the January 24 Council Planning Session, to forward City staff by the end of the week any comments they have on the 250+ N.C. STEP Plan goals that are to be included in the Comprehensive/Land Use Plan. He added that City staff will then proceed with final completion of the proposed Comprehensive/Land Use Plan and presentation of the plan to the Planning Board and City Council for adoption.

The City Manager advised that the Marion Business Association (MBA) had opened the next grant cycle for the Historic Marion Façade Grant Cycle, funded by the MBA and the McDowell Economic Development Association (MEDA). There will be $15,000 in MBA and MEDA funding, plus almost $6,000 unspent from this year's grant cycle, resulting in almost $21,000 being available in grants. The new funding cycle will take place from February 1 through March 30.

The City Manager added that the MBA also has opened the next grant cycle for the MBA $1,000 Façade Grant Program, with grant applications accepted between February 1 and March 30.

The City Manager reported that notice of the grant programs listed above was delivered or mailed to eligible businesses and property owners. Kick-off meetings for the new grant cycle were held on January 31 and grant applications are being distributed to interested businesses or property owners.

The City Manager advised that, although the Golden Leaf Foundation will not fund the City's application for the Certified Retirement Community designation process and related marketing, Golden Leaf Director Dan Gerlach did say that he would speak to the N.C. Department of Commerce about the reasons for the $10,000 application fee charged by the State . City staff will also ask the N.C. Rural Center to address the fee with the State. The City Manager stated that the City and partner agencies can begin the required six month planning process for the Certified Retirement Community application, but may wait to see what Mr. Gerlach and the Rural Center learn from the N.C. Department of Commerce.

Police Chief Mark Brooks stated that the Marion Police Department is working with Isothermal Planning and Development Commission for traffic and speed counters to be placed on streets in the City, where complaints have recently been made about speeding. The placement of the counters will provide the City with data on whether there is an actual speeding issue or a perceived problem.

Chief Brooks also advised that the utility pole in front of J. J. Laughridge's house on Rutherford Road has been straightened. Mr. Laughridge attended the Town Meeting in January and complained about this pole, which had been leaning for many years.

COUNCIL MEMBER COMMENTS:

Council Member Clark stated that he had a person request a trash receptacle near the old House Theater on East Court Street. The City Manager stated that as new receptacles are placed on Main Street, some of the older ones can be placed in locations such as this.

Mayor Pro Tem Cuthbertson stated that the street light in front of Marion Elementary School on Robert Street had been installed and is in operation, as approved by Council in December

Mayor Pro Tem Cuthbertson stated that the downtown wireless network needs to be reactivated as soon as possible, as it does not make sense for the City to have paid for something that is not working. The City Manager stated that he was waiting on the City Attorney to finish work on the Terms of Use Agreement for the network and would stress with her the need to complete this work, so that the network can be reactivated.

AA.000001356 (24)

Council Member Juanita Doggett stated that she had recently been appointed to the National League of Cities (NLC) Community and Economic Development Committee.

Mayor Little congratulated Council Member Doggett, noting that Council Member Clark has served in several leadership positions with the NLC, including the Board of Director and Chairman of the Small Cities Council.

Council Member Clark stated that he had met a lot of good people while serving with the NLC and is sure that Council Member Doggett will also have a great experience with her service.

Council Member Doggett noted that she is also serving on the North Carolina League of Municipalities Legislative Advisory Committee.

Council Member Clark stated that the NLC Small Cities Council will be meeting in Lumberton, North Carolina this year. Information about this meeting should be coming out soon.

Mayor Little stated that he would be attending the NLC Congressional City Conference in Washington, D.C. in March.

ADJOURNMENT: Upon a motion by Council Member Doggett, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, 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 21, 2012 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members A. Everette Clark, Juanita Doggett, Billy Martin and Don Ramsey.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Gaye Noblitt, Police Administrative Lieutenant; Dean Ollis, Sanitation Superintendent; Don Price, Water Plant Superintendent; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Jake Asta, 160 Lake Club Drive, Nebo, NC 28761

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Doggett, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – January 26, 2012 Town Meeting Minutes and February 7, 2012 Regular City Council Meeting Minutes.

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INTRODUCTION OF NEW EMPLOYEE: The City Manager introduced the City's new Water Plant Superintendent, Don Price, who started work with the City on February 13. The City Manager advised that Mr. Price was replacing Steve Miller, who was retiring at the end of February. The City Manager stated that Mr. Price had excellent credentials and considerable experience in public utilities, water treatment and wastewater treatment, being certified at the highest levels as a water plant and wastewater plant operator in North and South Carolina, having served as Public Utilities Director in Mt. Holly, having run water and wastewater plants in North and South Carolina and most recently working as a Regional Wastewater Consultant with the North Carolina Department of Environment and Natural Resources in the Asheville Regional Office.

Mr. Price said that he appreciated the opportunity to come to work for the City of Marion and would do his best to serve the City.

Mayor Little and Council Members welcomed Mr. Price to the City staff.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

APPPROVE STREET CLOSURE REQUEST ON NORTH MAIN STREET BETWEEN COURT AND FORT STREETS FOR ERA MOUNTAIN VIEW PROPERTIES COMMUNITY APPRECIATION DAY ON SATURDAY, MAY 19: The City Manager advised that, as shown on information presented to Council, the City received a request from ERA Mountain View Properties to close Main Street between Court and Fort Streets for a Community Appreciation Day on Saturday, May 19. The original request asked for a street closure between 11:00 a.m. and 3:00 p.m. The City Manager stated that he had suggested to Jacque Mentink with ERA Mountain View Properties that the time of the closure be changed to between 12:00 p.m. and 4:00 p.m. to avoid disruptions to businesses open during the morning hours. Ms. Mentink agreed with the revised hours for the closure and the permit request was revised accordingly. The City Manager stated that ERA Mountain View Properties held this event in 2010 with no problems being experienced. The time approved for the road closure in 2010 was 12:00 p.m. until 4:00 p.m.

The City Manager stated that he would therefore recommend approval of the street closure of Main Street between Court and Fort Streets on Saturday, May 19 between 12:00 p.m. and 4:00 p.m. for the ERA Mountain View Properties Community Appreciation Day.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Doggett, Council voted unanimously to approve the request for a street closure of Main Street between Court and Fort Streets on Saturday, May 19 between 12:00 p.m. and 4:00 p.m. for the ERA Mountain View Properties Community Appreciation Day.

APPROVE USE OF GREENWAY FOR KEEP MCDOWELL COUNTY BEAUTIFUL EARTH DAY ON THE GREENWAY EVENT ON SATURDAY , APRIL 21: The City Manager advised that Keep McDowell County Beautiful is requesting permission to use the grassy area next to the Joseph McDowell Historical Catawba Greenway for an Earth Day on the Greenway event on Saturday, April 21 from 9:00 a.m. until 3:00 p.m.

The City Manager advised that this event is open to the public and there would still be full use of the Greenway; therefore, he would recommend approval of the request.

The City Manager stated that Sanitation Superintendent Dean Ollis was present for this discussion and serves on the Keep McDowell County Beautiful Board.

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Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to approve the request of Keep McDowell County Beautiful to use the grassy area next to the Joseph McDowell Historical Catawba Greenway for an Earth Day on the Greenway event on Saturday, April 21 from 9:00 a.m. until 3:00 p.m.

CONSIDER APPROVAL OF REQUEST BY MR. JAKE ASTA FOR AN AMENDMENT TO THE LICENSE TO OPERATE A PLACE OF AMUSEMENTS AT 80 MAPLE LEAF DRIVE (VORTEX) TO ADD FOUR POOL TABLES: The City Manager advised that Mr. Jake Asta had submitted an application for a license to operate a place of amusements, with 25 video games, 16 bowling lanes and 4 pool tables at Vortex (formerly Ivan's), located at 80 Maple Leaf Drive. Council has previously approved the bowling lanes and video games, so the request is to allow the four pool tables to be added at Vortex. The City Manager stated that, last May, Council approved an ordinance lifting restrictions on selling liquor in places of amusements. Therefore, there is no issue with Vortex having pool tables, given that they sell liquor.

The City Manager advised that, as required by the City Code, the Police Department completed a background check and determined that Mr. Asta does not have a criminal record. The City Code states that Council shall not issue a license for a place of amusement to any person who:

(1) Has been convicted of unlawfully selling intoxicating liquors or narcotic drugs; or
(2) Is not a citizen or resident of this state; or
(3) Is an excessive user of intoxicating liquor or narcotic drugs; or
(4) As a result of the criminal background check, is deemed by the City Council to be unfit to conduct a business for which the license is applied.

The City Manager stated that the criminal background check indicates that Mr. Asta appears to satisfy the requirements listed above. Therefore, the City Manager stated that he sees no reason to justify Council denying the request for a license and recommend that Council approve the request by Mr. Jake Asta to operate a place of amusements, with 25 video games, 16 bowling lanes and 4 pool tables at Vortex, located at 80 Maple Leaf Drive.

Mr. Asta gave Council some information about his business plans.

Mayor Pro Tem Cuthbertson asked if the pool tables would be coin operated. Mr. Asta stated that the pool tables would likely be coin operated, but that the final decision had not yet been made.

Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to approve Mr. Asta's request for a license to operate a place of amusements, with 25 video games, 16 bowling lanes and 4 pool tables at Vortex, located at 80 Maple Leaf Drive.

APPROVE GRANT APPLICATION FOR NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES 2012 COMMUNITY WASTE REDUCTION AND RECYCLING GRANT: The City Manager advised that, as previously reported, Planning and Development Director Heather Cotton has worked with Sanitation Superintendent Dean Ollis on a grant application for a North Carolina Department of Environment and Natural Resources 2012 Community Waste Reduction and Recycling Grant to purchase new commercial cardboard recycling dumpsters for the City. The maximum grant award is $30,000, with a 20 percent local match required. The City is seeking a grant of $23,760 to purchase 36 dumpsters. The City's match would be $4,752. Information on the grant application was presented to Council.

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The City Manager reported that, regardless of whether the cardboard is collected by the City or the County, the City will need to purchase its own cardboard dumpsters. Therefore, the City Manager stated that Council approval of the grant application is requested to allow the grant application to be submitted to the State.

A discussion followed.

Council Member Clark noted that the City had paid for the County's recycling baler many years ago and should not have to split cardboard revenue with the County. The City Manager stated that Council Member Clark was exactly correct, but that the City had never been in possession of the baler and therefore needed to negotiate with the County over the use of the baler.

Council Member Clark asked if the City could add a baler to the grant application. The City Manager stated that he could explore this point with City staff and the State and let Council know.

Upon a motion by Mayor Pro Tem Cuthbertson , seconded by Council Member Doggett, Council voted unanimously to approve the submission of a grant application for a North Carolina Department of Environment and Natural Resources 2012 Community Waste Reduction and Recycling Grant to purchase 36 new commercial cardboard recycling dumpsters for the City.

DISCUSS COMMERCIAL CARDBOARD RECYCLING: The City Manager advised that, as previously authorized by Council, he had provided GDS with notice that the City was terminating the City's contract for commercial cardboard recycling, effective June 30, 2012. This termination was done in an effort to reduce the $29,000 cost the City pays to GDS annually for this service.

Sanitation Superintendent Dean Ollis stated that he and the City Manager had talked to the McDowell County about the possibility of the County servicing the City's 36 cardboard dumpsters. The County is willing to collect the City's cardboard recycling for $14,500 per year and also give the City one-half of the revenue received from the cardboard. The County estimated that the City's annual cardboard revenue would be $1,250 to $5,500, based on the City's average amount of cardboard, making the City's net costs $9,000 to $13,250 per year.

Mr. Ollis stated that he had one of the City's Sanitation drivers run the commercial cardboard collection route to determine the mileage and time involved. As shown on a report presented to Council, Mr. Ollis then estimated the City's annual costs to be $4,506.32.

The City Manager advised that this estimate could be subject to some variation, but staff is confident that the City could pick up the cardboard for less than the County will charge. The City Manager stated that the County appears favorable toward giving the City one-half of the revenue for the cardboard the City brings them, making the City's high end net cost about $3,250. If cardboard prices are high, the City could possibly break even or perhaps even make a small amount, even if additional costs are incurred for vehicle maintenance. The City's projected annual savings are therefore $25,000 to $30,000.

Based on these estimates, the City Manager recommended that Council authorize commercial cardboard collection with City forces for the 2012-13 Fiscal Year as a pilot program, as long as the County will give the City one-half of the revenue for the cardboard the City brings them.

The City Manager advised that if so authorized by Council, he would ask the County for an Interlocal Agreement concerning the cardboard reimbursement.

A discussion followed.

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Upon a motion by Council Member Ramsey, seconded by Council Member Doggett, Council voted unanimously to authorize the City Manager to have City forces collect commercial cardboard recyclables, effective with the termination of the contract with GDS on July 1, 2012 and to enter into an Interlocal Agreement with McDowell County, to provide for the County to pay the City for one-half of the revenue received from commercial cardboard recyclables taken to the County by the City.

ACCEPT NORTH CAROLINA PARKS AND RECREATION TRUST FUND (PARTF) GRANT FOR PHASE 2 OF JOSEPH MCDOWELL HISTORICAL CATAWBA GREENWAY: The City Manager advised that the City received notice in January of the award of a $238,800 N.C. Parks and Recreation Trust Fund (PARTF) grant to fund one-half of the costs of Phase 2 of the Joseph McDowell Historical Catawba Greenway. The City Manager presented Council with a copy of the PARTF grant contract that gives the City three years, or until March 30, 2015, to complete the Phase 2 project.

The City Manager stated that the City hopes to receive word in the next few months on the application for a $75,000 Recreational Trails Program (RTP) grant. City staff submitted a pre-application in November and were invited to submit a full application in January, which is generally a very good sign.

The City Manager reported that the City hopes to have all funding for Phase 2 of the Greenway approved by mid-2012. The McDowell Trails Association (MTA) is working on plans for fundraising and City staff also anticipates receiving some County funds for the parking lot behind the McDowell House and/or the amphitheater. The City Manager stated that, as previously reported, he had asked the McDowell Trails Association to raise at least $35,000 toward the $126,000 local match. The City and County have talked about the City and County then splitting the remaining local match of $90,000, with each agency contributing $45,000.

The City Manager advised that Council action is requested to accept the PARTF grant and to authorize the Mayor to execute the grant contract.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Clark, Council voted unanimously accept the $238,800 N.C. Parks and Recreation Trust Fund (PARTF) grant to fund one-half of the costs of Phase 2 of the Joseph McDowell Historical Catawba Greenway and to authorize the Mayor to execute the grant contract and documents.

ADD-ON ITEM: CONSIDER APPROVAL OF PROPOSAL BY NORTH CAROLINA DEPARTMENT OF TRANSPORTATION TO COMPLETE A COMPREHENSIVE TRANSPORTATION PLAN FOR THE CITY: The City Manager presented Council with a request from Pam Cook of the Transportation Planning Branch of NCDOT, proposing the completion of a separate Comprehensive Transportation Plan (CTP) for the City of Marion.

Ms. Cook's information stated that she feels it would be beneficial to continue the McDowell County CTP in which the City is currently participating, but also pull out the City of Marion urban area and complete a separate CTP for the City. A separate City CTP would take an extra year to complete, but allow NCDOT to complete more detailed study of specific City requests.

Mayor Pro Tem Cuthbertson asked how this would affect the current County CTP.

The City Manager stated that he did not think it would affect the County CTP at all, since NCDOT will complete the County plan before starting on the City plan.

Mayor Pro Tem Cuthbertson stated that a separate City CTP would give the City more control over the plan.

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Council Member Clark asked some technical questions about the timing and composition of the proposed CTP, which the City Manager addressed.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Clark, Council voted unanimously to accept the proposal offered by the NCDOT to complete a separate Comprehensive Transportation Plan for the City of Marion.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that DOT will hold a local official's informational meeting, open house and public hearing on the US 221 widening project on Tuesday, March 13 at the Community Building. The local official's meeting will take place at 2:00 p.m. and the open house will take place between 4:30 p.m. and 6:30 p.m., with a formal presentation and public hearing at 7:00 p.m. Another meeting will have been held the day before in Rutherford County. A notice of this meeting was presented to Council. The City Manager asked that the Mayor and Council attend this meeting if they are available.

The City Manager advised that, several years ago, the City had asked DOT to construct a five lane section on US 221, at least in the area where businesses are present north and south of I-40. DOT has repeatedly stated that it intends to construct a fully divided highway, with periodic turn-arounds provided. The City Manager stated that he would welcome direction whether Council wishes us to push for the five lane section again or not.

Council Member Clark stated that he feels that it is important to continue asking for the five lane section, but that this request may be what has slowed down the widening project.

Mayor Little and Council Members agreed by consensus for the City to continue to ask DOT to construct a five lane section on US 221, at least in the area where businesses are present north and south of I-40, to provide for better vehicular access to commercial and industrial entrances.

The City Manager stated that the City had received notice advising that the City was approved for the 23rd year as a Tree City USA. He thanked Administrative Assistant Debi Sherlin for her great work compiling all of the information required for this recognition.

The City Manager reported that the Tree Board will be holding Arbor Day, to be held in conjunction with Marion and Eastfield Elementary Schools. Arbor Day will be celebrated with Eastfield Elementary School on Thursday, March 22 with the planting of trees at the new Clinchfield Park and with Marion Elementary School on Friday, March 23 with the planting of trees in the City parking lot at West Henderson and Logan Streets.

The City Manager advised that Council approved earlier in the agenda the acceptance of a $238,800 N.C. Parks and Recreation Trust Fund (PARTF) grant to fund one-half of the costs of Phase 2 of the Joseph McDowell Historical Catawba Greenway. The City is also seeking and hopes to receive a $75,000 Recreational Trails Program (RTP) grant. The City Manager advised that he had asked the McDowell Trails Association to raise at least $35,000 toward the $126,000 local match. The City and the County Managers had talked about the City and County then splitting the remaining local match of $90,000, with each agency contributing $45,000. The City Manager asked for Council permission to send a formal request for this level of funding to the County.

Mayor Little and Council Members agreed by consensus to authorize the City Manager to send a formal request to the County, asking for the City and County to evenly split a local match of up to $90,000 for Phase 2 of the Joseph McDowell Historical Catawba Greenway.

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The City Manager advised that, as temperatures allow, City crews and the City's contractor are working on the curb and sidewalk replacement on Park Avenue between Turner and Robert Streets.

COUNCIL MEMBER COMMENTS:

Mayor Pro Tem Cuthbertson stated that the mid-block crosswalks on Main Street were dark at night, obscuring the view of people in the crosswalk. The City Manager stated that he could mention this matter to DOT.

Mayor Little asked Council Members to e-mail the City Managers dates that they will be available for a Friday and Saturday Planning Session in April.

ADJOURNMENT: Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Martin, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in Regular Session on Tuesday evening, March 6, 2012 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members A. Everette Clark, Juanita Doggett, Billy Martin and Don Ramsey.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Mark Brooks, Police Chief; Brant Sikes, Public Works Director; Don Price, Water Plant Superintendent; Dean Ollis, Sanitation Superintendent; Steve Basney, Utility Maintenance Superintendent; Freddie Killough, Executive Director, Marion Business Association; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Rita Wilson, 65 Circle Lane, Marion, NC; Travis Taylor, 9543a University Terrace, Charlotte, NC; R. Yates, 60 East Main Street, Marion, NC; Harold and Judy Wright, 60 Hillcrest Drive, Marion, NC; Frank Dean, 375 South Garden Street, Marion, NC; Steve, Robin, Christina & Eric Miller, 2554 Muddy Creek Road, Nebo, NC; Traci Dusenbury and Pam Freeth, Halcon Development, 2306 – A W. Main Street, Richmond, VA 23220; Bill Griffith, 64 South Main Street, Marion, NC; Tim and Tisha Griffith and Children, 162 Pinecrest Drive, Marion, NC; Mike Cinguant, 218 Patton Valley Drive, Nebo, NC; Brad Ledbetter, 54 College Drive, Marion, NC; Grayson England, 260 Barnes Road, Marion, NC; Dean Moore, 43 Emma Jean Drive, Marion, NC;

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

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CITIZEN OF THE MONTH – SELECTED BY MAYOR STEPHEN R. LITTLE: Mayor Little selected the Citizen of the Month for March 2012.

Bill Griffith

Mayor Little stated that William "Bill" Griffith came to Marion in 1954 and one year later took over ownership of a downtown jewelry business, which became Bill Griffith Jewelry Store. Since 1955, it has been a mainstay in downtown Marion.

Mr. Griffith's late wife Charlotte worked with him for 45 years. Their son Tim has worked full time in the business since 1977.

Mr. Griffith has three children and five grandchildren and now has his wonderful wife Connie by his side.

Mr. Griffith was a founding member of the Marion Merchants Association in the 1950's and served as its president. The association organized downtown giveaways every Friday night during the Christmas shopping season with car giveaways and other promotions. In the 1980's when other small businesses were moving to the shopping centers, Mr. Griffith committed to staying in the downtown area.

Mr. Griffith served as the second President of the Marion Downtown Business Association and was still active on the Board of Directors until this past year.

Mr. Griffith was awarded Marion Downtown Business of the year in 1993. He was Parade Marshal of the July 4th Parade in 2006, at which time he was also recognized as Main Street Champion.

When asked to comment about doing business in downtown Marion for 52 years, Bill Griffith replied, " It has been quite an experience to be in business in the same place, because the people of McDowell County have been so generous."

Mayor Little and Council Members all thanked Mr. Griffith, recognizing that this recognition is long overdue, and congratulated him on being selected as Marion's Citizen of the Month.

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Clark, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – February 21, 2012 Regular City Council Meeting Minutes.

B. Endorse Governor's Proclamation – 2012 Spring Litter Sweep:

Council endorsed Governor Beverly Eaves Perdue's Proclamation for Spring Litter Sweep 2012 to take place between April 14 and 28.

C. Approve Waiver of Charges for Collection of Bulky Trash Items During Spring Litter Sweep 2012:

Council approved the waiver of charges for the collection of bulky trash items and authorized the collection of tires from April 16-20 during Spring Litter Sweep 2012.

PRESENTATION OF NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AWARD FOR WATER PLANT: The City Manager advised that, for the 10th year in a row, the City's Water Plant received a Facility Optimization award for

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turbidity removal from the North Carolina Department of Environment and Natural Resources. The City of Marion is one of only two water plants in the State to have received this award for all 10 years it has been presented. The City Manager stated that the low level of turbidity in the City's drinking water is an indicator of how clean the City's water is.

Mayor Little presented the award to recently retired Water Plant Superintendent Steve Miller.

The Award read as follows:

NC's Area Wide Optimization Program
Certificate of Facility Optimization
Turbidity Removal
2010
City of Marion Water Treatment Facility
NCDWR
NC Public Water Supply Section

Thomas A. Reeder	Jessica C. Godreau, P.E., BCEE
Director	Chief
Division of Water Resources Section	Public Water Supply Section

Mayor Little and Council Members congratulated Mr. Miller on the receipt of this award and stated how proud they were of the fact that the City had reliable, clean and high quality drinking water.

RECOGNITION OF RETIREMENT OF WATER PLANT SUPERINTENDENT STEVE MILLER: The City Manager advised that Mr. Steve Miller had officially retired from City employment on February 29, after 30 years of dedicated service. He described Mr. Miller as one of the unsung heroes of Marion, who had done a tremendous job to keep the City's Water Plant in good condition and to produce safe and clean drinking water for the City and surrounding areas.

The City Manager presented Mr. Miller with a beautiful plaque that read as follows:

In Appreciation
To

Steve Miller

For Your Years of Dedication and Service
While Serving as Water Plant Superintendent
For the City of Marion Water Department
June 1, 1982 - March 1, 2012

Presented this 2nd Day of February, 2012
By
Mayor Stephen R. Little and Marion City Council

Mayor Little, Council Members and City staff thanked Mr. Miller for his dedication and service to the City for the past 30 years and wished him well in his retirement.

CIVIL CITATION APPEAL: The City Manager advised that the City had received a civil citation appeal from Ms. Rita Wilson of 65 Circle Lane in the Clinchfield neighborhood,

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requesting that the penalty be waived for the $50.00 citation issued to her on February 1 for her dog running loose. Ms. Wilson's appeal letter was presented to Council with a copy of the citation and a statement from Ordinance Enforcement Officer April Noles regarding this citation. Ms. Noles advised in her statement that she was called to the location in reference to a dog being in the roadway and that she had previously transported this dog to the animal shelter. An Animal Capture and Release Form showing the dog being picked up in late December was also presented for Council's review. The City Manager stated that Ms. Wilson does not dispute in her letter that the dog was loose on February 1.

Ms. Wilson advised that she lives alone and has a dog for protection. She said that she has starting putting her dog in her neighbor's fenced in yard, but that the dog still sometimes escapes. Ms. Wilson stated that she does not feel that the dog is not a nuisance to anyone and would like to know who reported it.

Ms. Wilson stated that she lives on a fixed income and cannot afford the citations. Her children like for her to have the dog for a companion and that she will give the dog away if necessary.

Council Member Clark asked if perhaps there was a different type dog Ms. Wilson could have at her residence that could be more manageable. Ms. Wilson stated that she could not afford another dog.

Council Member Clark stated that citations will continue if the dog continues to get loose.

A discussion followed.

Upon a motion by Council Member Doggett, seconded by Council Member Martin, Council voted unanimously to waive the penalty issued to Ms. Rita Wilson of 65 Circle Lane for the $50.00 citation issued to her on February 1for he dog running loose contingent on Ms. Wilson securing her dog so that it cannot get loose again.

CONSIDER APPROVAL OF REQUEST BY MCDOWEL FIRE & RESCUE COLLEGE FOR HOUSE BURNING AT 49 LINCOLN AVENUE: The City Manager stated that, as shown in the information presented to Council from Mr. Brad Ledbetter, the McDowell Fire & Rescue College has submitted a request to burn a dilapidated house at 49 Lincoln Avenue during the upcoming Fire College on Saturday, March 17. The City Manager advised that the City had recently received complaints about this dilapidated house. Building Inspector Jay Suttles subsequently had discussions with the property owner, Ricky Boyd, which led to the house being proposed for burning. Jim Phillips, who lives next to the dilapidated house, has purchased the property from Mr. Boyd and is now seeking to burn the house.

The City Manager stated that, based on past direction, Council approval is required prior to any house burning in the City Limits.

The City Manager stated that a letter had been sent to property owners in the area, making them aware of the proposal and the opportunity to submit comments in advance of, or at the meeting. No negative comments were received concerning the proposed house burning.

Mr. Ledbetter provided Council with details concerning the proposed house burning. He said that an asbestos inspection has been completed and determined that there is some asbestos in the house. This asbestos will be removed in the proper manner prior to the house burning.

Mayor Little asked Mr. Ledbetter if the concerns of the neighboring property owners, Greg and Heather Anderson, had been addressed.

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Mr. Ledbetter stated that he had addressed the concerns of the Anderson by providing proof of liability insurance and the assurance that measures would be taken to keep water away from the Anderson's house.

Council Member Clark reminded Mr. Ledbetter that several years ago, the Fire College burned a house on South Main Street and that the fire was not completely put out, causing it to smolder for several days. He asked Mr. Ledbetter to make sure the fire was completely put out before Fire College personnel left the scene. Mr. Ledbetter pledged that he would make sure the fire was completely extinguished before the Fire College left the scene.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to approve the request by the McDowell Fire & Rescue College to burn a dilapidated house at 49 Lincoln on Saturday, March 17 during the McDowell Fire & Rescue College.

PRESENTATION OF PROPOSED MILL ROAD MULTIFAMLY DEVELOPMENT: Mr. Frank Dean introduced Ms. Traci Dusenbury of Halcon Development to discuss the proposed Mill Road multifamily development.

Ms. Dusenbury advised that Halcon has property under contract on Mill Road and plans to construct a 48 unit multifamily development. She stated that the project had recently been submitted this project for N.C. Housing Finance Agency tax credit funding and that she appreciated the City giving its support for this application.

Ms. Dusenbury stated that her company has built 2000 housing units through the years. She said that Marion needs high quality, affordable housing. Ms. Dusenbury stated that the proposed apartments will not be subsidized housing, except in a few cases where tenants have Section 8 vouchers.

Council Member Clark advised that he had known Ms. Dusenbury for years, dating back to when she worked for Isothermal Planning and Development Commission. He asked about how the property would be managed and what happens to the units at the end of the financing period.

Ms. Dusenbury stated Halcon had a professional management company that made sure that rules were followed, handled maintenance in a timely manner and took care of problems. She said that tenants that caused trouble were quickly evicted. Ms. Dusenbury stated that apartment complexes are often rehabilitated and turned into condominium developments at the end of the financing period.

Ms. Dusenbury reported that Halcon would learn later in the year if it received the tax credits. She said that Halcon would soon submit applications for annexation of the property and to assign zoning to the property.

Mayor Little thanked Ms. Dusenbury for making the presentation.

CONSIDER APPROVAL OF REQUESTS FOR UTILITY CONNECTIONS – GLENWOOD: The City Manager advised that, as shown in information presented to Council, a request has been submitted by England Builders for sewer only connections on Old Highway 221 in Glenwood for the Glenwood Store (owned by Willete Lawing), a new duplex apartment building (owned by Dean and Betsy Moore), an existing single family house (owned by Mr. and Mrs. Moore) and five existing apartments (owned by Charles and Emma Jean England), with more apartments possible in the future. The City Manager presented Council with a map showing the location of the requests. Gravity sewer service is available at each property line. However, the gravity sewer line flows into a pump station at Glenwood Elementary School owned by McDowell County Schools. The School System will need to grant permission to allow

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wastewater flow from these properties to flow into their pump station. Water service is not available at any of the requested properties. As shown on the map, a water extension of 200 feet would be required to serve the store, an extension of 430 feet to serve the duplex apartment site and an extension 770 feet required to serve the existing England Apartments. The City Manager also copied Council with ordinances and policies that affect this request, as follows:

A. City Code – The attached excerpt from Chapter 20 of the City Code states that Council approval is required for any sewer connection outside the City Limits. Council has typically approved sewer only requests in situations where water service was not available and not feasible. Due to several issues the City has had with sewer only customers not paying their bills and the City having to threaten and eventually in a few cases physically dig up the sewer connections, sewer only customers are strongly discouraged. The City currently has 35 sewer only locations, out of 4,300 total utility customers. More information was presented on these sewer only customers. As noted above, a water extension of 200 feet would be required to serve the store, an extension of 430 feet to serve the duplex apartment site and an extension 770 feet required to serve the existing England Apartments. The property owners in question have working wells and would prefer not to have City water service. Therefore, Council determination is needed regarding whether water service will be required for the property owners in question to receive sewer service. Regardless of whether water service is required, Council approval will need to be conditioned on the School System approving the use of the Glenwood Elementary School pump station.

B. Agreement with McDowell County Schools Concerning Glenwood Elementary School Sewer Line – The City entered into the enclosed agreement with the School System concerning the sewer line to Glenwood Elementary School in 2002. Under this agreement, the School System owns and maintains the pump station on the School property and the City maintains the gravity and force main sewer lines off of the School property. Glenwood Baptist Church currently flows into this pump station, along with Glenwood Elementary School.

C. City Policy on Providing Water and Sewer Service Outside the City Limits – Under the attached policy, annexation is required for properties receiving sewer service where water is also available or will be available within two years, as long as such properties are eligible for annexation. State law allows for satellite properties within three miles of the contiguous City limits to be annexed. The properties in question on Highway 221 are 2.42 miles from the contiguous City Limits (as the crow flies) but are practically too far from the City Limits to be served. In addition, this area would not be considered to be in even the City's longest range growth plans, so annexation would not be recommended. Therefore, a waiver of the annexation requirement is needed if Council wishes to authorize the requested sewer connections.

D. City Water Line Extension Policy Outside the City Limits – The enclosed Water Line Extension Policy Outside the City Limits allows the City to pay for the extension of up to 100 feet of six inch water line on a public street per connection served. As noted above, a water extension of 200 feet would be required to serve the store, an extension of 430 feet to serve the duplex apartment site and Moore house and an extension 770 feet required to serve the five existing England Apartments. The property owners in question have working wells and would prefer not to have City water service. If Council decides to require the property owners to take water service to receive sewer service, Council direction on the City's participation in the water extension is needed.

E. Past City Problems with Sewer Only Customers – As stated above, the City has 35 sewer only locations, out of 4,300 total utility customers. A total of 22 of these locations are inside the City, mostly along Tunnel Road in the Eastfield area. The 13 outside customers are almost all located along Forsythe Street or Virginia Avenue (these streets are next to each other) off of Virginia Road. Of the 35 locations with sewer only service, the City has had to dig up sewer service at five residences for non-payment, after repeated threats. One of these residences later

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paid to have service reconnected. One other sewer only customer paid their bill after disconnection was threatened. In one rental unit, three customers moved out before paying their sewer bill. In this case, the owner has been told that the City will hold him responsible and dig up his sewer connection if this reoccurs. With problems at seven (or 20 percent) of the 35 sewer only locations, the City clearly has much more of an issue with sewer only customers than with water only or water and sewer customers. The City averages cutting off about 60 of our 4,300 water customers per month, meaning that the City has major problems with about only 1.4 percent of water customers. This is not to forecast future trouble at the requested locations in Glenwood, but to note past problems with sewer only customers.

The City Manager stated that he had spoken with McDowell County Schools Superintendent Dr. Ira Trollinger and that this request had not yet been approved by the School Board.

Mr. Grayson England stated that he appreciates Council's consideration of this request. He said that the properties in question all have working wells but that sewer service is needed, particularly at the convenience store, which is facing the threat of being shut down by the Health Department.
A discussion followed.

Council Member Clark stated that he would recommend that an engineer look at this request to make sure that the School's pump station and the City's force main sewer line could handle the projected wastewater flow.

Council Member Clark stated that he wanted to help the property owners making the request, but that he had concerns about the City not following its policies requiring annexation of properties receiving sewer service and with sewer only customers in general, due to difficulties with cut offs for such customers in the event of non-payment. Council Member Clark suggested that Council hold this item over until the next meeting, to see what the School Board does with this request.

Mayor Pro Tem Cuthbertson suggested that the City Utility Committee look at the request and bring back a recommendation to Council.

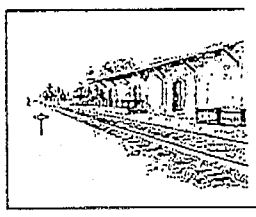
Mr. England stated that, while it is vital that an answer concerning the request be received as soon as possible, a two week delay would not be a major problem.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to refer the request for sewer only connections on Old 221 in Glenwood to the City Utility Committee for review and a recommendation back to Council.

PUBLIC APPEARANCE – MARION BUSINESS ASSOCIAITON: Marion Business Association (MBA) Executive Director Freddie Killough advised that MBA President Boyd Phillips could not be present for this meeting. Ms. Killough presented the following report to

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Council of MBA activities for the period of October 1 – December 31, 2012



Marion Business Association, Inc.
Where Main St. Meets The Mountains

(828) 652-2215 PO Drawer 700, Marion, North Carolina, 28752

October - December, 2011 Quarterly Report to Marion City Council
January, 2012

Economic Development Report:

New Businesses Opened – 5
- Texas Pizza
- Andy's Burgers
- Rue 21
- Dollar Tree
- New China

New Owners or Relocations – 4 – WalMart, Shoe Show, Cellular One, Marion Video
Businesses Closed – 1 – Domino's Pizza
Business Opportunity Inquiries – 1
Business Technical Assistance Request - 1
Business Loan Inquiries – 1
Business Grant Inquiries – 0
Business Visits – 331
Property Referral Inquiries – 1
Property Owner Contacts w/ available bldgs – 0
Contacts with interested Commercial Developers – 0
New Businesses Breaking Ground - 0
Façade Grant Inquires – 1
Façade Grant Awarded – 0
Sign Grant Inquires – 0
Sign Grant Awarded - 0

Active MBA Committees
MBA Board of Directors
Events & Promotion Committee
Economic Development Committee
Community Innovators
Mountain Glory Festival Committee
Historic Marion Tailgate Market
Business for Breakfast

Other Committees MBA Supports -
MEDA
McDowell House
Veterans Memorial Wall

Other Economic Activity:

MBA sponsored and conducted to one Business for Breakfast, a small business networking event held bi-monthly. Participation is a cross-mix of the business community and open to all small businesses.
MBA continues to work with the WNC Rail Committee & Rep Ray Rapp to promote passenger rail service to WNC.
MBA continues to update and maintain listings of commercial properties in the City of Marion.
Extending collaboration with McDowell County, MEDA and City of Marion to create the Historic Marion Façade Grant program for downtown property owners. Grant applications will be available February 1.

Special Events Report

October 8 – Mountain Glory Festival = One of the best festivals ever. Most vendors reported above average sales. Very good attendance.
October 25 – Historic Marion Tailgate Market Fall Festival = Trick or Treating for the kids; costume contest; pumpkin painting; market vendors. Great event and making plans for 2012.
November 20 – Marion Christmas Parade. Very well attended and good entry participation.
December 1 – Melodies on Main – Live Santa for the children, craft-making Christmas presents for Mom & Dad (provided by Partnership for Children), extended shopping hours. Melodies is a very good annual children's event. Largest Melodies on Main ever.
December 31 – Rotary of Marion's New Year's Eve Celebration – 3rd event!
Volunteer Hours Committed – 295

Events Committee is planning for 2012 under the direction of Events Coordinator Bobbie Young.

2012 Calendar of Events

Tuesday, February 14 - Valentine's Day Dance and Dessert
Saturday, March 31 – Easter Egg Hunt @ YMCA
Saturday, April 28 – Marion Spring Fest
Saturday, May 5 – Sidewalk Yard Sale
Friday, June 1 – Liver Mush Festival
Wednesday, July 4 – Independence Day Celebration
Monday, July 23 – Folkmoot @ East Junior High

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Friday, August 3 – Shagging in the Street
Saturday, August 4 – Sidewalk Yard Sale
Monday, September 3 – Terry McKinney Concert, Depot Lawn
Saturday, October 13 – Mountain Glory Festival
Tuesday, October 30 – Market Fall Festival
Sunday, November 18 – Christmas Parade
Saturday, December 1– Appalachian Potter's Market – McDowell High
December – Blue Ridge Artisans Craft Show @ MACA
Thursday, December 6 – Melodies on Main
Monday, December 31 – New Year's Eve Celebration

Every Thursday Night, 7:00 PM –
Bluegrass Music Jam @ Depot

Business for Breakfast
January 20, March 16, May 18, July 20, September 21, November 16

Mountain Glory Festival Update
200 + volunteer hours plus MBA staff and Public Works staff time
Estimated profit $4,000.00 - Purchased new stage canopies this year
The volunteers for Mountain Glory Festival were superb!!! They were committed, carried out the event with confidence and fulfilled the mission of Mountain Glory Festival which is to showcase the best of Marion. Each person/volunteer was Marion's best!

Most of the entertainment was regional and national competition winners that also represented the best of Marion and McDowell County.

The craft vendors were complimentary of the festival set-up and a very high majority reported better than average sales. Mountain Glory Festival is the crown jewel event for Marion and it is accomplished by partnership. The Marion Business Association is proud to partner with the City of Marion and the Festival Committee for the successful event.

Mayor Little thanked Ms. Killough for this excellent report.

PRESENTATION OF CERTIFIED RETIREMENT COMMUNITY DESIGNATION PROCESS: The City Manager advised that, as previously discussed, the City, County, Chamber, Marion Business Association and McDowell Tourism Development Authority have been working on the planning for the Certified Retirement Community (CRC) designation process. Council had previously gave their approval, in individual polling, to the concept of the City seeking this designation and paying for the $10,000 application fee in a four way split with the County, Chamber and TDA.

Marion Business Association (MBA) Executive Director Freddie Killough gave the following presentation concerning the CRC designation process:

Marion
A Certified Retirement Community

Sponsored by NC Dept of Commerce

Local Partners:
•City of Marion – Official Applicant
•McDowell County
•MEDA
•McDowell Chamber of Commerce
•McDowell Tourism Dev Authority
•Marion Business Association

Application requirements:

1) Must be an incorporated town/city.
2) Must be able to describe organizing process and why the community chose to apply for the certification. Provide relevant planning including

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committee structure (committee must have been in place for a minimum of 6 months) details with application. We identified potential committee members at our meeting last week.
3) Submit a marketing strategy.
4) Describe how local government engages the new committee.
5) Describe how committee engaged the community.
6) List partners engaged with the committee.
7) Application fee is $10,000
8) If approved, designation is for a five year period.

What does McDowell County have to offer?

Affordable housing
Moderate weather with 4 true seasons
Access to affordable healthcare
Cultural resources; local and regional
Low crime rate
Easy access to metropolitan areas
Easy access to outdoor activities
and scenic attractions
Who is the target audience?
When will they arrive?
Where do they come from?
They come from:
Northern States
Upper Midwest States
Florida
They are: Baby boomers; ages 55-70
Good Health & Physically Active
Community Volunteers
Appreciate arts
& cultural events
They are looking for:
Convenient & Affordable Housing
Low Maintenance Lifestyle
Low Taxes and Low Cost of Living
Affordable Health Care
Leisure and Culture Entertainment
Good Support Services
They are:
"LOHAS" – Lifestyle of Health and Sustainability
And they are already here!
They are your neighbors!!!!!

The City Manager advised that the Golden Leaf Foundation and N.C. Rural Center have agreed to speak to the N.C. Department of Commerce about the reasons for the $10,000 application fee for the Certified Retirement Community Designation Process. The City is continuing with the required six month planning process for this designation, in the hopes of submitting an application by the deadline of late July.

Council Member Clark asked who set the $10,000 fee. The City Manager stated that the fee is set in the application, and that he does not know who set it. Council Member Clark wondered if the Department of Commerce has the authority to change the fee and said that he could raise this issue to the Department.

Mayor Little asked if there was any opposition to the City's participation in the CRC designation.

There was no opposition from other Council Members.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council Members voted unanimously to approve the City submitting an application for the Certified Retirement Community designation process and splitting the $10,000 application fee with other local partner agencies, if necessary.

AA.00001372 (24)

INTRODUCTION OF NEW EMPLOYEE: The City Manager introduced the City's new Public Works Director Brant Sikes.

The City Manager advised that Mr. Sikes comes to the City with almost 17 years of experience in Public Works and Town Management in the Town of Robbins, Moore County and Montgomery County. He added that Mr. Sikes had come highly recommended and was very knowledgeable.

The City Manager also thanked Public Works staff for working hard during the seven months the City did not have a Public Works Director.

Mr. Sikes thanked the City Manager and Council for the opportunity to be in Marion.

Mayor Little and Council Members welcomed Mr. Sikes to Marion and wished him well in his new position.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

CONSIDER APPROVAL OF REQUEST BY BRUCE FRISBEE, JR. FOR A LICENSE TO OPERATE A PLACE OF AMUSEMENT AT PIZZA JOINT AND BAR OF MARION AT 2031 SUGAR HILL ROAD: The City Manager advised that Mr. Bruce Frisbee, Jr. had submitted an application for a license to operate a place of amusements, with four video games and two pool tables at Pizza Joint and Bar of Marion, located at 2031 Sugar Hill Road.

The City Manager stated that, last May, Council approved an ordinance lifting restrictions on selling liquor in places of amusements. Therefore, there is no issue with Pizza Joint and Bar having pool tables, given that they sell liquor.

The City Manager reported that, as required by the City Code, and as shown on a memo presented to Council, the Police Department completed a background check on Mr. Frisbee. The City Manager presented Council with information concerning this background check.

The City Manager advised that the City Code states that Council shall not issue a license for a place of amusement to any person who:

(1) Has been convicted of unlawfully selling intoxicating liquors or narcotic drugs; or
(2) Is not a citizen or resident of this state; or
(3) Is an excessive user of intoxicating liquor or narcotic drugs; or
(4) As a result of the criminal background check, is deemed by the City Council to be unfit to conduct a business for which the license is applied.

The City Manager stated that the criminal background check indicates that Mr. Frisbee has not been convicted of unlawfully selling intoxicating liquors or narcotic drugs. He satisfies subsection (2), since he is a resident of North Carolina. The City has no knowledge that Mr. Frisbee does not meet the requirements of subsection (3). The City Manager advised that Council could certainly take background check into account in determining if the requirements of subsection (4) are met. If Council feels that Mr. Frisbee satisfies subsection (4), Council action is needed to approve a license for Mr. Bruce Frisbee, Jr. to operate a place of amusements, with four video games and two pool tables at Pizza Joint and Bar of Marion, located at 2031 Sugar Hill Road.

Upon a motion by Council Member Martin, seconded by Council Member Mayor Pro Tem Cuthbertson, Council voted to approve the request of Mr. Bruce Frisbee, Jr. for a license to operate a place of amusements, with four video games and two pool tables at Pizza Joint and Bar of Marion, located at 2031 Sugar Hill Road.

AA.000001373 (24)

CONSIDER APPROVAL OF STREET CLOSURE REQUEST BY FAMILY SERVICES OF MCDOWELL COUNTY, INC.: The City Manager advised that Megan Webster, Executive Director of Family Services of McDowell County, Inc., submitted a request for the closure of North Main Street between West Henderson and Fort Streets on Saturday, September 22 from 1:00 p.m. until 5:00 p.m. for a benefit car show. The following Saturday, September 29, would be designated as the rain date. Family Services has never, to the City Manager's knowledge, held their car show on Main Street, but the City has hosted numerous car shows on Main Street without any resulting problems. The City Manager reported that Ms. Webster understood that the street could not be shut down on a Saturday morning and therefore requested the 1:00 p.m. until 5:00 p.m. time frame for the street closure.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to approve the request of Family Services of McDowell County, Inc. for the closure of North Main Street between West Henderson and Fort Streets on Saturday, September 22 from 1:00 p.m. until 5:00 p.m. for a benefit car show, with Saturday, September 29 approved as a rain date for the event.

ADOPT TRAFFIC SCHEUDLE ORDINANCE – SCHOOL ZONE SPEED LIMITS: The City Manager advised that flashing signals are being installed on Fleming Avenue in the area of Marion Elementary School, as previously authorized by Council. The ordinance presented establishes a 20 mile per hour speed limit in this school zone between 7:30 a.m. and 8:30 a.m. and 2:30 p.m. and 3:30 p.m. on days when school is in session. The speed limit and times match what is in place on the Robert Street side of the school.

The City Manager stated that when he was looking at the City Traffic Schedule to prepare this ordinance, he discovered that the City had never approved a Traffic Schedule amendment for the flashing school zone signals on State Street at East McDowell Junior High School. Therefore, there is also included in the proposed ordinance language to add the 20 mile per hour school zone speed limit on State Street around East Junior High. The language included in the ordinance matches what is in place on the flashing signals.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following Traffic Schedule Ordinance to establish school zone speed limits on Fleming Avenue and State Street:

ORDINANCE
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 18-239 is amended by adding the following:

STREET NAME	REGULATION	REG. APPLICATION
FLEMING AVENUE	SPEED 20 MPH	FROM A POINT 115 FEET NORTH OF NORTHWESTERN CORNER OF INTERSECTION OF FLEMING AVENUE AND ROBERT STREET SOUTHWARD TO A POINT 170 FEET SOUTH OF SOUTHEASTERN CORNER OF INTERSECTION OF FLEMING AVENUE AND CRESCENT DRIVE BETWEEN THE HOURS OF

AA.00001374 (24)

		7:30 A.M. TO 8:30 A.M. AND 2:30 P.M. TO 3:30 P.M. DAILY WHEN SCHOOL IS OPEN
STATE STREET	SPEED 20 MPH	FROM A POINT 25 FEET NORTHWEST OF SOUTHEASTERN CORNER OF INTERSECTION OF STATE STREET AND SOUTH MCDOWELL AVENUE TO A POINT 15 FEET NORTHEAST OF THE SOUTHEASTERN CORNER OF INTERSECTION OF STATE STREET AND ANN STREET BETWEEN THE HOURS OF 7:30 A.M. TO 8:30 A.M. AND 2:30 P.M. TO 3:30 P.M. DAILY WHEN SCHOOL IS OPEN

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 6th day of March, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-12-03-06-1

CONSIDER ADOPTION OF REVISED RIGHT OF WAY ENCROACHMENTS ORDINANCE: The City Manager advised that the City recently determined that the City's existing Street Excavations Ordinance, as presented to Council, did not sufficiently allow for Council consideration of major encroachments on City rights-of-way. Therefore, the City Manager took ordinance examples from Belmont and Charlotte and worked in needed provisions from the City's existing Street Excavations Ordinance to develop a new ordinance, as presented to Council, entitled "Right-of-Way Use." This ordinance provides for permits to be issued for all encroachments, as was currently the case, but adds a provision requiring Council approval for all encroachments of one-half mile or greater. This distance could be increased or decreased as desired by Council. The ordinance authorizes fees to be set by Council and also for Council to allow for payment in lieu of fees where adequate public benefit is provided. Fees would not be charged to utilities with which there are existing local or state franchises, such as Duke Energy, Frontier, Charter Communications and PSNC Energy. The ordinance allows for the City to establish rules for such encroachments, regulates the placement of above-ground structures, provides for City indemnification, prohibits leaving excavations open in a dangerous manner and places all encroachments under the supervision and control of the Public Works Director.

The City Manager advised that he would recommend approval of this ordinance to put in place an adequate regulatory framework for right-of-way encroachments, recognizing that Council may wish to tweak certain details of the ordinance.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following Ordinance:

ORDINANCE
AMENDING CHAPTER 15
STREETS, SIDEWALKS AND OTHER PUBLIC PLACES
MARION CITY CODE

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

AA.000001375 (24)

Section 1. That Chapter 15, Streets, Sidewalks and Other Public Places of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Section 2. Section 15-239 is amended by deleting Article II, Streets, Division 3, Excavations, in its entirety and replacing it with the following:

DIVISION 3.

RIGHT-OF-WAY USE

Sec. 15-41. Purpose.

The purpose of this division is to provide for the proper management of the public rights-of-way in order to preserve the health, safety, and welfare of the citizens of Marion. Specifically, this division is intended to provide for the reasonable regulation of the excavation and construction by private owners, utilities, contractors, and other entities within the public rights-of-way and the time, place, and manner in which such excavation and construction occurs.

Sec. 15-42. Definitions.

For the purposes of this division, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Utility. A company that owns and provides services to customers through utility facilities located in the right-of-way. This definition shall include the City of Marion for purposes of the City's ownership of water, wastewater, and stormwater utility facilities.

Utility Facility. A pole, tower, water main or line, sanitary sewer pipe or line, stormwater pipe or structure, gas pipe or gas line, telecommunications line or equipment, power line, conduit, or any like structure.

Sec. 15-43. Permit required.

All excavation and construction within public rights-of-way within the Marion City limits shall require a permit issued by the City upon application of the property owner, licensed contractor, or utility performing the work. Excavation and construction includes, but is not limited to, the installation, repair, and replacement of driveways, sidewalks, all public and other utilities, and other projects involving construction activities over, upon, or beneath the public rights-of-way. Excavations and construction extending for a linear distance of one-half mile or greater shall require the approval of the City Council, except in the case of franchise utilities exempted by franchise agreements.

Sec. 15-44. Emergencies.

In an emergency, excavation or construction may commence without a permit provided the person or entity performing the work has made a reasonable effort to inform the City and any utility whose facilities might be involved and shall make written application for a permit at the earliest practical moment. For purposes of this section, an emergency situation shall not include any new construction.

Sec. 15-45. Fees.

Fees shall be paid for all permits, such fees to be determined from time to time by the Marion City Council. Franchise utilities exempted by franchise agreement and initial installations of public improvements within new subdivisions shall not be required to pay permit fees. In lieu of fees being charged, the City Council may elect to allow the provision of alternate sources of public benefit to the City and/or local governmental, educational or non-profit organizations.

Sec. 15-46. Rules and regulations.

The City shall also establish standard specifications and details for the making of cuts, for related matters involving excavation and construction within the public rights-of-way, and requirements for backfilling of excavations and restoration of pavements or surfacing.

Sec. 15-47. Above-ground structures.

AA.000001376 (24)

New or expanded above-ground utility facilities (other than poles and facilities located on poles) such as pedestals, terminals, cross boxes, interfaces, remote terminals, and other items of industry standard nomenclature ("above-ground structure") that are part of a utility's distribution system (i.e., does not include facilities or devices that primarily serve individual properties) may be located in the right-of-way only upon issuance of a permit in accordance with the standards set forth below. Above-ground structures shall not interfere with the operation and maintenance of existing utilities, facilities, roadways, or walkways within the public right-of-way. If at any time the City determines that an above-ground structure is at a location that has a higher than average accident potential, it may require the structure to be relocated at the utility's expense.

In determining whether to issue a permit for a new or expanded above-ground structure in the right-of-way, the City shall consider the following:

(a) the technical need for the structure and the need to locate the structure at the proposed location;
(b) whether the structure would create an unacceptable sight obstruction or other safety hazard; and
(c) whether a location outside of the right-of-way is reasonably available and whether the utility has made reasonable efforts to secure such a location. This subsection shall not apply to expansions of existing equipment already located in the right-of-way.

In approving a permit for a new or expanded above-ground structure, the City may impose reasonable screening, appearance, and other conditions to minimize the impact of the structure. In the event that screening, appearance, or other conditions are not adequate to minimize the impact of the structure, the permit may be denied.

Sec. 15-48. Indemnification of City.

Any person obtaining a permit as provided for in sections 15-43 agrees, as a condition of the issuance of such permit to indemnify and hold harmless the City against any claims or expenses, including attorney's fees, for bodily injury or property damage for accidents or occurrences arising out of the person's operations, excluding only the liability of the City for its sole negligence except in connection with general supervision of work performed by such person.

Sec. 15-49. Restoration of excavation to original condition.

When any part of any street, sidewalk, alley or other public place of the City shall be torn or dug up for any purpose, the person making such excavation or opening shall have the duty of refilling such excavation or opening so as to restore it to essentially the same condition that existed prior to the excavation or opening, and such refilling shall be done in accordance with the standards and specifications issued by the Public Works Director. Any person neglecting, refusing, or failing to comply with any provisions of this section shall be guilty of a violation thereof, and where such neglect, refusal or failure is continued, after notice from the Public Works Director, every day's continuance thereafter shall constitute a separate and distinct offense.

Sec. 15-50. Leaving excavations unprotected.

It shall be unlawful for any person who obtains a permit to do any excavation of any kind which may create or cause a dangerous condition in or near any street, alley, sidewalk or public place of the City without placing and maintaining proper guard rails and signal lights or other warnings at, in or around such dangerous condition, sufficient to warn the public of such excavation or work, and to protect all persons using reasonable care from injuries on account of such excavation.

Sec. 15-51. Supervision and control.

All excavations and work in streets, sidewalks, alleys or public places of the City shall be under the supervision and control of the Public Works Director, whose duty it shall be to inspect such work from time to time during the progress thereof. Upon the completion thereof, he shall make a final inspection and see that the street, sidewalk or public place is restored to a condition as good in all respects as before the excavation or work was made or done, and that all debris, materials, tools and equipment are removed therefrom. Any person refusing or failing to comply with any provision of this section shall be guilty of a violation thereof. When such failure or refusal is continued after notice from the Public Works Director, every day's continuance shall constitute a separate and distinct offense.
(Code 1982, § 4-1026)

Sec. 15-52. Disposition of fees.

AA.0000001877 (24)

All fees collected under the provisions of this division shall be paid into the City's General Fund.

Secs. 15-53-15-60. Reserved.

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 6th day of March, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-12-03-06-2

CONSIDER ADOPTION OF FEE SCHEDULE AMENDMENTS: The City Manager advised that, as shown in information presented to Council and as related to the previous item, staff drafted a proposed ordinance to set fees for right-of-way encroachments. The ordinance adds fees for utility construction or repairs, with different fees charges depending on the length of the encroachment. The ordinance also includes fees currently charged by the City (actual costs) for installation of curb cuts, driveway approaches or repairs. A statement is added that Council can allow for payment in lieu of fees where adequate public benefit is provided. The City Manager stated that he defined public benefit as including "the City and/or local governmental, educational or non-profit organizations." Council may wish to eliminate this provision or modify the wording. The ordinance proposes some other miscellaneous charges for right-of-way encroachments and street obstructions, with public or private events approved by Council or staff specifically exempted.

Upon a motion by Council Member Clark, seconded by Council Member Doggett, Council voted unanimously to adopt the following Ordinance:

AN ORDINANCE
ESTABLISHING FEES FOR THE PUBLIC WORKS DEPARTMENT
FOR WORK IN PUBLIC RIGHT-OF-WAY

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

SECTION 1. That the City of Marion Public Works Department Fee Schedule be amended to include the following:

1. Public Right-of-Way Improvement Permit Fee
   a. Fees for general right-of-way improvements. The permit fees for all utility work, curb cuts, driveway installations, and repairs, are as follows:

Utility Construction or Repairs
200 lineal feet or less: $50.00
201 to 300 lineal feet: $100.00
301 to 500 lineal feet: $150.00
501 to 2500 lineal feet: $250.00, plus $20.00 for each additional 100 lineal feet or fraction thereof above 500 lineal feet.
2501 lineal feet and above: $500.00, plus $200.00 for each additional 1000 lineal feet or fraction thereof above 2501 lineal feet.

AA.000001378 (24)

Curb Cuts, Driveway Installations and Repairs
This work is done by the City and actual costs will be charged.

b. All other work: The permit for all other type of work in the public right-of-way, such as concrete structures, guard rail, slope protection, drainage channel work, roadway upgrading, etc: $50.00

c. Street Obstruction Fee: $15.00 per day. This fee shall not be charged for any public or private event approved by City Council or City staff.

d. Payment in lieu of fees: In lieu of fees being charged, the City Council may elect to allow the provision of alternate sources of public benefit to the City and/or local governmental, educational or non-profit organizations, as long as the public benefit is equal to or greater the amount of the applicable fee.

2. Construction inspection fee. In addition to the permit fee listed above a five (5%) construction inspection fee is required for any and all construction, reconstruction, improvement, repair, modification or removal of any transportation or flood control improvements within a public right-of-way. The construction inspection fee is calculated based on the total cost of the construction covered under the permit. The construction inspection fee is in addition to the right-of-way permit fees listed above.

SECTION 2. This ordinance shall become effective upon its adoption.

Adopted this the 6th day of March 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/ Clerk

Ordinance Number: O-10-03-06-3

CONSIDER AMENDMENT TO CITY SOLID WASTE ORDINANCE: The City Manager advised that, when he came to work for the City in January 2001, he was told that the City had just stopped collecting tires from businesses. Even before that time, the City had not collected tires from residences, except during the Clean Litter Sweep Week each Spring. Since that time, the City has not collected tires. The City Manager stated that he assumed that this action was done in the form of an ordinance. He was recently looking at the City Code and saw that the Code, as shown in the attached excerpt, still provided for the City to collect tires for a fee. The City Manager advised that Administrative Assistant Debi Sherlin researched the Council minutes and found action by Council on November 14, 2000 to stop collecting tires from businesses. This action was not done in the form of an ordinance, which is why the City Code still reads that the City will collect tires from businesses for a fee.

To make the City Code match our practice, the City Manager drafted an ordinance to clearly state that the City will not pick up tires from any business, residence or other property. This provision, like some others in the City Code, is suspended during Clean Litter Sweep week each

AA.000001379 (24)

Spring. The City Manager stated that he would request Council adoption of this ordinance, given that the City has not collected tires from businesses in over 11 years.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following Ordinance:

ORDINANCE
AMENDING CHAPTER 9
HEALTH AND SANITATION
MARION CITY CODE

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

Section 1. That Chapter 9, Health and Sanitation, of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Section 2. Section 9 is amended by deleting Section 9-35 in its entirety and replacing it with the following:

Sec. 9-35. Tires.

The city shall not collect tires from any business, residence or any other property.

Section 3. This ordinance shall become effective upon its adoption.

Adopted this the 6th day of March, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-12-03-06-4

SCHEDULE CITY COUNCIL PLANNING SESSION: The City Manager advised that, as discussed by Mayor Little at the February 21 City Council meeting, Council action is needed to set the dates for the two day Council Planning Session, as discussed by Council in January.

The City Manager stated that he had outlined a proposed schedule for the Planning Session in his last City Manager's report. He attached a proposed detailed schedule for Council. The schedule lists dates of April 20-21, but these dates can of course be changed.

Mayor Little and Council Members agreed by consensus to set the Council Planning Session for April 20-21.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that the company that completed the Cemetery stream restoration project will be coming back by the end of March to complete some plantings along the stream bank. The plantings were part of the original grant awarded for this project.

The City Manager advised that the Tree Board met on February 21. The Tree Board set Thursday, March 22 as Arbor Day for Eastfield Elementary School and Friday, March 23 as

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Arbor Day for Marion Elementary School. Fifth grade students participate in both events. Both Arbor Days will start at the respective school at 9:00 a.m. Eastfield Elementary will then plant some sweet gum trees in the new Clinchfield Park, while Marion Elementary will plant some maple trees on the edge of the City's leased parking lot at Logan and West Henderson Streets.

The City Manager stated that he had invited Dr. Trollinger and School Board Chairman Russell Neighbors to attend the Arbor Day events and also asked Dr. Trollinger to pass the invitation along to any School Board Members or staff who may wish to attend.

The City Manger advised that NCDOT will hold an open house and public hearing on the US 221 widening project on Tuesday, March 13 at the Community Building. The open house will take place between 4:30 p.m. and 6:30 p.m., with a formal presentation and public hearing at 7:00 p.m. Another meeting will have been held the day before in Rutherford County.

There will be a Local Officials Informational Meeting for the US 221 widening project from 2:00 p.m. to 3:00 p.m. on March 13 at the Community Building. The City Manager asked that Council attend this meeting if they are available.

In any manner possible, the City Manager stated that he would seek to communicate Council's continued desire for DOT to construct a five lane section on US 221, at least in the area where businesses are present north and south of I-40. The City Manager has asked the County, MEDA, MBA, Chamber and MTA to support the City on this matter as well.

The City Manager stated that the City had scheduled the 10th Annual City Open House for all third graders in McDowell County with the School System. The date of this year's Open House will be Friday, May 4. Each school will visit City Hall, the Police Department, the Fire Department, the Public Works Department, the Water Plant and the Wastewater Plant between 9:30 a.m. and 2:00 p.m. The City will again ask Baxter to serve lunch at the Community Building. The City will also invite New Manna Christian School, Nebo Christian Academy and the home school group to participate. The City Manager advised that if Council Members are available on this day, to please try to attend for some or all of the Open House, even if it is just for lunch.

The City Manager stated that he had invited Dr. Trollinger and School Board Chairman Russell Neighbors to attend the Open House and had asked Dr. Trollinger to pass the invitation along to any School Board Members or staff who may wish to attend.

COUNCIL MEMBER COMMENTS: Council Member Clark advised that he had recently been appointed to the Board of Directors of the North Carolina Rural Center and had attended his first meeting the week before.

ADJOURNMENT: Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Doggett, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.000001381 (24)

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 20, 2012 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members A. Everette Clark, Juanita Doggett, Billy Martin and Don Ramsey.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Brant Sikes, Public Works Director; Gaye Noblitt, Police Administrative Lieutenant; Jim Neal, Fire Chief; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Hunter Goosman, 151 Patton Avenue, Asheville, NC; Eric Miller, 912 Stacy Hill Road, Marion, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

CONSENT AGENDA: Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – March 6, 2012 Regular City Council Meeting Minutes.

B. Approve Resolution Directing the Clerk to Investigate the Sufficiency of a Petition for Annexation – Mill Road – Haney/Fairchild Annexation:

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-31 – MILL ROAD – HANEY/FAIRCHILD ANNEXATION - 2012

WHEREAS, a petition requesting annexation of an area described in said petition was received on March 2, 2012 by the City of Marion; and

WHEREAS, 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 of his investigation.

Adopted this the 20th day of March, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

AA.000001382 (24)

RESOLUTION NUMBER: R-12-03-20-1

DISCUSS REQUESTS FOR UTILITY CONNECTIONS – GLENWOOD: The City Manager advised that, at the March 6 Council meeting, a request was submitted by England Builders for sewer only connections on Old Highway 221 in Glenwood for the Glenwood Store (owned by Willete Lawing), a new duplex apartment building (owned by Dean and Betsy Moore), an existing single family house (owned by Mr. and Mrs. Moore) and five existing apartments (owned by Charles and Emma Jean England), with more apartments possible in the future. As requested by Council, the City Utility Committee looked at this request on March 9. At this meeting, Grayson England offered to pay for an engineer to evaluate the pump station and force main sewer line to determine what upgrades would be needed to the pump station and force main or if other options, such as pumping to the City's existing gravity sewer line, were needed. The City Manager stated that the Utility Committee recommended that Mr. England be allowed to retain an engineer, at no City expense, to study the pump station and force main, with the condition that City Public Works Director Brant Sikes be consulted and kept in the loop with the evaluation, and that the City bear no expense in any improvements that need to be made to the pump station or force main. The City Utility Committee also recommended requiring any sewer only connections to be put in the property owner's name. The City Manager advised that City Council approval would still be needed for any improvements done to the force main and for the actual sewer connections.

The City Manager also noted that Mr. England asked if the private property owners would be allowed to construct their own private pump station and pump to the City's gravity sewer line, if it was not feasible or possible to upgrade the Glenwood Elementary School pump station or the City's force main sewer line. Under such a scenario, the City would almost certainly have to maintain the force main on the DOT right-of-way.

Council Member Clark stated that, when the City worked out an agreement with McDowell County Schools for the sewer line to Glenwood Elementary School on Old 221, it was dealing with a public entity. In this case, the City would be dealing with private property owners. He suggested that the City needs to determine who would be responsible for sewer overflows and fines if there are problems at either the School pump station or a private pump station.

The City Manager stated that he would check with the North Carolina Department of Environment and Natural Resources and determine who is responsible for a sewer overflow at a pump station. The City Manager said that he had previously been told that the owner of the pump station would be responsible, but that he would verify this point with the State.

Council Member Clark also suggested that staff check on whether the City would have to own and maintain additional force main sewer lines constructed to connect private pump stations with the City's gravity sewer system. The City Manager stated that he would check with the North Carolina Department of Transportation on this point.

Mayor Little said that he agreed that the City needs to have this information.

The City Manager will obtain the requested information from the North Carolina Department of Environment and Natural Resources and from the North Carolina Department of Transportation and report the findings back to Council as soon as possible.

PUBLIC APPEARANCE – MCDOWELL MISSION MINISTRIES: The City Manager advised that McDowell Mission Ministries Executive Director Rev. Bill Warren had contacted City staff and asked that this public appearance be rescheduled to the April 17 City Council Meeting.

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PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

CONSIDER APPROVAL OF REQUEST FOR ENCROACHMENT ON CITY RIGHTS-OF-WAY: The City Manager advised that, as shown in the information presented to Council, the Education and Research Consortium of the Western Carolinas (ERC) has submitted an application on behalf of MCNC for a Public Right-of-Way permit to install one 2 inch conduit with multiple ¾ inch innerducts, 144-SM fiber optic cable and associated equipment along City streets including Fleming Avenue, Robert Street, McDowell Avenue, Oak Street, Lamar Street, 6th Street (CF) and 4th Street (CF). The proposed length of the installation is 8,003 feet.

The City Manager stated that City staff looked at the locations in question on March 14. City staff recommended that the installation location be switched from the south side (Marion Elementary School side) of Robert Street to the north side (First United Methodist Church side) to avoid disruptions to the School and to the new sidewalk in front of the School. In addition, staff recommended that the fiber optic installation follow either North McDowell Avenue or Gilkey Street to get to East Court Street, instead of continuing down Oak Street to Lamar Street, 6th Street (CF) and 4th Street (CF). Lamar Street has no shoulder where the fiber optic installation is proposed and 6th Street is extremely tight. The installation on 6th Street would essentially be on top of carports, front porches and houses.

The City Manager advised that Planning and Development Director Heather Cotton communicated these recommendations to the engineer who designed the project. The engineer agreed to relocate the routing of the fiber optic installation away from Lamar Street, 6th Street (CF) and 4th Street (CF). Instead, the installation route will cross Oak Street on North McDowell Avenue and proceed to East Court Street, a State maintained highway. The engineer advised that installing the fiber optic cable on the Marion Elementary School side of Robert Street would still be requested, but that the fiber optic would be bored, with only small impacts to the City sidewalk. Any damage to the City sidewalk would be repaired to look as good as new.

Public Works Director Brant Sikes said that he had spoken to Mr. Goosman about the plans for the fiber optic installation under the Robert Street sidewalk, that he was satisfied that the installation could take place with only minimal impact to the sidewalk and that Mr. Goosman understood that any damage to the sidewalk would have to be repaired to look as good as new.

Mr. Hunter Goosman of ERC gave an overview of the project. He said that ERC is a non-profit organization dedicated to providing high speed internet across the region. Mr. Goosman reported that ERC has received Federal funding to install middle mile fiber optic and that the proposed project will run from Spruce Pine through Marion to points east. He added that the fiber optic will have future benefit to schools, health care facilities, government facilities and eventually the entire community. Mr. Goosman stressed that the fiber optic would be bored under the City's Robert Street sidewalk and that the only impact to the sidewalk would be handholes every 600-700 feet. Mr. Goosman said that any damages to the sidewalk would be repaired and that the sidewalk would be left in perfect condition.

A brief discussion followed.

Council Member Clark stated that the contractor needs to understand that they are not allowed to park or drive on City curbs or sidewalks. Mayor Little added that such parking or driving damages City curbs and sidewalks.

Mr. Goosman stated that the contractor would be instructed to stay off of City curbs and sidewalks.

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The City Manager advised Mr. Goosman that there would be a permit fee for the encroachment in the range of $1,000 to $1,200, depending on the exact length of the encroachment. Mr. Goosman said that the permit fee would be no problem.

Upon a motion by Council Member Doggett, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to approve the request for a Public Right-of-Way permit to allow the Education and Research Consortium of the Western Carolinas to install one 2 inch conduit with multiple ¾ inch innerducts, 144-SM fiber optic cable and associated equipment along City streets including Fleming Avenue, Robert Street and McDowell Avenue, with the condition that any damages to City sidewalks be repaired to make the sidewalks look as good as new.

CONSIDER AWARD OF CEMETERY AND STREET RIGHT-OF-WAY MOWING BIDS: The City Manager advised that the City had recently sought bids for cemetery and street right-of-way mowing services. A total of six bids were submitted for Oak Grove Cemetery mowing, with the low bid received from Miller's Lawn Care and Landscaping (Eric Miller, Owner) in the amount of $760 per week. Mr. Miller had completed the Cemetery mowing work in 2002-03 and also was a subcontractor for Bailey Lawn Care in recent years, without the knowledge of the City, so he has demonstrated his ability to complete mowing work for the City. The City paid RJ's Lawn & Landscaping $700 per week last year for this work, but RJ's chose not to submit a bid this year.

Public Works Director Brant Sikes advised that he has spoken to Mr. Miller and checked references on him. Mr. Sikes said that he determined that Mr. Miller is dependable, that he does good work and has the proper equipment needed for the job.

The City Manager stated that he would therefore recommend that Council award the Cemetery mowing contract to Miller's Lawn Care and Landscaping in the amount of $760 per week.

Council Member Doggett asked if Mr. Miller had the proper insurance for this contract.

The City Manager stated that he does.

Mayor Pro Tem Cuthbertson noted that the public is very sensitive to the appearance and maintenance of Oak Grove Cemetery and stressed to Mr. Miller the need to make sure the Cemetery looks good, to keep grass off of tombstones, etc.

Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to award the Oak Grove Cemetery mowing contract to Miller's Lawn Care and Landscaping in the amount of $760 per week.

The City Manager advised a total of three bids were submitted for street right-of-way mowing, with the low bid received from Appalachian Grounds Management (Richie Atkins, Owner) in the amount of $1,175 per week. The City paid Truett Insulation $1,150 per week last year for this work, but Truett chose not to submit a bid this year.

Mr. Sikes advised that he had talked to Mr. Atkins and checked references on him. Mr. Sikes said that he had determined that Mr. Atkins is dependable, that he does good work and has the proper equipment needed for the job.

The City Manager stated that he would recommend that Council award the street right-of-way mowing contract to Appalachian Grounds Management in the amount of $1,175 per week.

City crews will likely start mowing in Oak Grove Cemetery and along street rights-of-way at the end of March, as needed, and complete the mowing work until the contract takes effect.

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Upon a motion by Council Member Ramsey, seconded by Council Member Clark, Council voted unanimously to award the street right-of-way mowing contact to Appalachian Grounds Management in the amount of $1,175 per week.

DISCUSS FEDERAL AID TO FIREFIGHTERS GRANT – PURCHASE OF FIRE DEPARTMENT VIPER RADIOS: Fire Chief Jim Neal advised that the City had recently participated in the Toe River Hazard Mitigation Plan recently and joined with McDowell, Mitchell, Avery and Yancey Counties to receive a 2011 Federal Aid to Firefighters Grant to purchase Viper radios for emergency services in the region.

Chief Neal stated that, as part of the grant, the City can purchase 16 Viper radios for the Fire Department at 16 percent of the normal $2,500cost per radio, or $400 each, for a total expenditure of $6,400. These radios would be used for paid firefighters and volunteer officers. Chief Neal reported that, according to County Emergency Management Director Terry Young, the grant match cannot be deferred until the 2012-13 budget and County 911 funds cannot be used to purchase the radios.

Chief Neal stated that the Viper radios would allow the Fire Department to maintain interoperability with federal, state, regional and local emergency services, something not possible with current radios. The Viper radios could also serve as backup radios for other departments in the event there is a problem with the City's radio repeater. McDowell County EMS has already begun using Viper radios. EMS, the Rescue Squad and other fire departments also plan to purchase Viper radios under this grant.

The City Manager stated that, while a mid-year budget amendment is generally not the most desirable option, the City budget can handle the $6,400 grant match.

Upon a motion by Council Member Clark, seconded by Council Member Doggett, Council voted unanimously to approve the expenditure of $6,400 to purchase 16 Viper radios for the Fire Department, as part of the grant match for the Toe River Region 2011 Federal Aid to Firefighters Grant.

CONSIDER ADOPTION OF RESOLUTION AUTHORIZING THE SALE OF CITY PROPERTY ON MEADOW LANE BY NEGOTIATED OFFER AND UPSET BID: The City Manager advised that Mr. L. Ray Broome had submitted an offer to purchase 0.12 acres of City property owned by the City on Meadow Lane off of Sugar Hill Road for $1,000. The property in question is part of the City's Meadow Lane Pump Station property, which contains a total of 0.32 acres. Therefore, Mr. Broome is proposing to purchase 37.5 percent of the property. Mr. Broome asked to buy a strip of this property extending up to 45 feet from his property line.

The City Manager reported that the City purchased this property from NCDOT for $5,900 a few years ago, as part of the Sugar Hill Road Water and Sewer Extension Project. The strip of property Mr. Broome has requested to buy is excess property that is not currently needed by the City. This property has not been surveyed, so staff has recommended reducing the 45 foot strip down to 37.5 feet, or 0.10 acres. The 37.5 foot width corresponds with a point in a legal description of the property. A map showing the property recommended for sale was presented to Council Members.

The City Manager noted that Mr. Broome has also requested that the City plant some non-pine evergreen trees as a barrier and screen between the pump station and his property. The City has typically planted trees as a screen, at the request of neighboring property owners.

The City Manager stated that it would not be cost effective to survey the property, so it would be preferable to avoid a survey if a description of the property to be sold could be generated without

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a survey. Mayor Little stated that a survey is not necessary, as the City could supply its own description of the property to be sold to an attorney, who could then handle the closing.

The City Manager advised that, to accept the offer of Mr. Broome, Council action is needed to adopt a resolution, which calls for the sale of 0.10 acres of property, representing a strip of property extending 37.5 feet from Mr. Broome's property line. The City would then ask Mr. Broome to submit the required five percent bid deposit, publish notice of Council's acceptance of the offer and allow the public ten days to submit an upset bid. Council may also reject the offer or make a counteroffer.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted to adopt the following Resolution accepting the offer for Mr. L. Ray Broome to purchase 0.10 acres of City property on Meadow Lane for $1,000, subject to publication of the proposed sale and upset bid, and also to authorize City staff to plant non-pine evergreen trees as a barrier and screen between the pump station and Mr. Broome's property, regardless of whether the property is sold to Mr. Broome:

Resolution Authorizing the Sale of Certain Property Owned by the City of Marion by Negotiated Offer and Upset Bid

WHEREAS, the City Council of the City of Marion desires to dispose of certain surplus property of the City; and

WHEREAS, N.C.G.S. 160A-269 authorizes a city to convey by negotiated offer and upset bid any real or personal property; and

WHEREAS, Mr. L. Ray Broome has submitted a bid in the amount of $1,000 for the purchase of up to 0.12 acres of property owned by the City of Marion located on Meadow Lane; and

WHEREAS, the City Council is willing to sell 0.10 acres of excess property owned by the City of Marion located on Meadow Lane, as shown in the attached Exhibit A.

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

1. The property owned by the City of Marion on Meadow Lane, as shown in the attached Exhibit A, that is approximately 0.10 acres in size is hereby declared to be surplus to the needs of the City of Marion.

2. The City Council accepts the offer of Mr. L. Ray Broome to purchase the above described property for $1,000, subject to the upset bid process being followed as required by N.C.G.S. 160A-269.

3. The City Clerk shall notify Mr. L. Ray Broome of the acceptance of this offer, receive a five percent bid deposit from the bidder, and cause a notice of this resolution to be published in accordance with G.S. 160A-269. Such notice shall state that prospective bidders have ten days from the date the notice is published to offer an upset bid, pursuant to G.S. 160A-269.

4. Once the upset bid process is completed, in accordance with G.S. 160A-269, the City Manager is designated to dispose of the above described property to the bidder selected by City Council, for a minimum price of $1,000.

Adopted this the 20th day of March, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-12-03-20-2

Council Member Clark asked if the City was having any odor issues at the Meadow Lane pump station, as he had been told that the pump station is emitting odors at times.

The City Manager stated that Mr. Broome had reported some odors and that City staff was working to add odor blocking chemicals to address the problem.

CONSIDER APPROVAL OF SMART GRID GRANT: The City Manager advised that the City has been invited by the State Energy Office (SEO) to participate in a pilot project involving radio frequency fuel tank measurement to enhance and improve fuel planning across the State. The project will provide the SEO with access to fuel consumption data of municipal governments to help them analyze how fuel is used by public entities. As part of this project, radio frequency monitors will be installed on the fuel tanks owned by the City at the Public Works Department. These monitors would transmit real-time information regarding fuel levels to authorized users on-line. The City Manager reported that the City benefits by having constant information regarding fuel volumes, which currently have to be checked manually, and receiving educational information and technical assistance regarding fuel supply planning. The information gathered through this study would be used to help the SEO develop a model fuel shortage emergency plan for the State and for local governments.

The City Manager stated that the grant will provide $10,000 in funding for this project, using Federal American Recovery and Reimbursement Act (Federal Stimulus) funds. No local match is required of the City. The installation of the fuel monitors will be handled by a vendor. The City would need to develop a fuel supply emergency plan using a template provided by the SEO, something that will be of use to the City in the event of a fuel emergency like the City experienced after Hurricane Katrina in 2005. Given the fact that the State invited the City to participate, that there is little effort required of the City and the issue of fuel supply is important, the City Manager stated that he would recommend that Council approve this grant and authorize Mayor Little and/or himself to execute the grant documents. A copy of the draft grant contract was presented to Council for their information.

Council Member Clark asked if the project would take a lot of staff time for minimal amount of benefit to the City.
The City Manager stated that City Finance Director Harriett Thomas had looked at the grant document and felt that the project is manageable and will not take a great deal of staff time.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Ramsey, Council voted to approve the City participating in the Smart Grid Pilot Project and to authorize the Mayor and/or City Manager to execute all needed grant documents.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that the City had closed out all of the grants for the $6.6 million Wastewater Improvements Project. The project was completed last summer and all of the City's invoices were submitted many months ago, but the State grant agencies took several months to close out the grants.

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The City Manager advised that City crews are nearing completion on the replacement of about 800 feet of water line on Finley Road near Reservoir Road, to address water quality complaints. Public Works Director Brant Sikes said that the new water line should be activated any day now.

The City Manager advised that the County Commissioners had approved evenly split the local match with the City for Phase 2 of the Joseph McDowell Historical Catawba Greenway, up to a maximum $45,000 County contribution, which is exactly what the City had requested. The City Manager stated that the next steps are to await word on the City's application for a $75,000 Recreational Trails Program (RTP) grant and for the McDowell Trails Association to undertake needed fundraising for their $36,000 share of the project.

The City Manager advised that the County Commissioners had approved an Interlocal Agreement between the County and City regarding commercial cardboard recyclables. The proposed agreement provides for the City to take commercial cardboard recyclables to the County Transfer Station and for the City and County to equally split revenue from the sale of cardboard, effective July 1.

The City Manager reminded Council of the Council Planning Session on Friday, April 20, and Saturday, April 21. He said that McGill Associates, the Marion Business Association and City departments are working on preparing presentations to City Council to take place on the afternoon of April 20.

The City Manager advised that the Tree Board has set Thursday, March 22 as Arbor Day for Eastfield Elementary and Friday, March 23 as Arbor Day for Marion Elementary. Fifth grade students participate in both events. The Eastfield Arbor Day starts at the school at 8:30 a.m. and the Marion Elementary Arbor Day starts at the school at 9:00 a.m. Eastfield Elementary will then plant some sweet gum trees in the new Clinchfield Park, while Marion Elementary will plant some maple trees on the edge of the City's leased parking lot at Logan and West Henderson Streets.

The City Manager advised that City crews are nearly completed with work on the curb and sidewalk replacement on Park Avenue between Turner and Robert Streets. The City contractor is also nearing completion on the curb and sidewalk replacement between East Court Street and Turner Street. Upon completion of this work, the street can be resurfaced, as soon as asphalt becomes available. Mr. Sikes stated that the entire project should be completed by mid-April.

Council Member Clark asked what the thickness of the asphalt was going to be, since there is concrete under the asphalt. The City Manager and Mr. Sikes stated that they believed the paving had been specified to be the City normal resurfacing depth of 1.25 inches. Mr. Sikes said that he would check to make sure this depth was adequate for Park Avenue.

The City Manager advised that the Marion Business Association continues to accept applications for the Historic Marion Façade Grant Cycle, funded by the Marion Business Association and the McDowell Economic Development Association. Applications will be accepted until March 30.

The City Manager thanked Police Administrative Lieutenant Gaye Noblitt for filling in for Police Chief Mark Brooks, while Chief Brooks has been enrolled for several weeks this past year in the Municipal Administration Course in Chapel Hill.

The City Manager stated that Public Works Director Brant Sikes is off to great start with the City and in the process of learning City streets and operations.

Mayor Little noted that he looked forward to the April 20-21 Council Planning Session and that this should be a good time for Council to brainstorm and plan for the future.

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Mayor Little asked if the City had heard an update from the Post Office on the City's request for relocation of several mailboxes in the Downtown area to create more alternatives for drive-up mailboxes.

The City Manager stated that the Post Office had apparently had significant turnover in personnel which has delayed implementation of this request, but that City staff would follow up with the Postmaster to determine the status of this work.

COUNCIL MEMBER COMMENTS:

Council Member Doggett stated that the Street sign at the intersection of Fleming Avenue and Madison Street was in need of repair. The City Manager stated that City staff would take care of this matter.

Mayor Pro Tem Cuthbertson stated that he had recently learned that the County had received the same type of letter the City had received several months ago, alleging illegal downloads of movies from the County's closed wireless network. He advised that the County ignored the letter, as had the City.

Mayor Pro Tem Cuthbertson stated that the reflective tape on the northernmost bump out next to the Community Building Park on North Main Street was loose and could be removed, now that DOT had added striping and permanent reflectors on the bumpout. The City Manager said that City staff would remove the tape.

Mayor Pro Tem Cuthbertson also stated that the mirror at the intersection of Willow and Railroad Street is askew and needs to be adjusted. The City Manager advised that City staff would realign the mirror and look again at ways to stop this problem from continually reoccurring.

Council Member Clark noted that the City's health insurance premiums would remain flat for 2012-13 and possibly even decline slightly, if the City receives Wellness credits. He advised that the North Carolina League of Municipalities Risk Management Board of Trustees, on which he serves had taken several steps to save the League's insurance pools millions of dollars, which should result in future savings for cities like Marion.

ADJOURNMENT: Upon a motion by Council Member Ramsey, seconded by Council Member Doggett, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.000001390 (24)

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 3, 2012 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members A. Everette Clark, Juanita Doggett, Billy Martin and Don Ramsey.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Brant Sikes, Public Works Director; Mark Brooks, Police Chief; Harriett Thomas, CPA, Finance Director; Dean Ollis, Sanitation Superintendent; Steve Basney, Utility Maintenance Superintendent; Freddie Killough, Executive Director, Marion Business Association; Bobbie Young, Events Coordinator, Marion Business Association; Mike Conley, News Reporter, McDowell News; Van McKinney, News Reporter, WBRM Radio.

GUESTS PRESENT: Cecil Owenby, Marion, NC; J. Earl Daniels, Marion, NC; Perry & Beth Lawing, Marion, NC; Ellis Hankins, Executive Director, North Carolina League of Municipalities, Raleigh, NC; Nancy Hodges, Marion, NC; Jerry Barfield, Marion, NC; Johnny Patton, Marion, NC; Clifford Seagle, Marion, NC; Ansel, Amy, Sara and Emily Clark, Marion, NC; Todd, Jane, Tucker and Ethan Clark, Newton, NC; Kaye McMahan, Marion, NC; Bob and Judy Jarrett, Marion, NC; Gwyn and Sandra Revis, Marion, NC; Danny Bridges, Randy Hintz and Dennie Martin, McGill Associates, Asheville,. NC; Mayor Jimmy Dancy, Town of Rutherfordton; Ethel Kanipe, Marion, NC; Chris Blanton, Marion, NC; Whit Blanton, Marion, NC; Alice Little, Marion, NC; Robert Parker, Marion, NC; Jay, Michelle, Sarah, Hannah and Manoah Suttles, Marion, NC; Mary and Brett Boyd, Marion, NC; Sylvia Davis, Marion, NC; Dr. Scott Hagaman, Marion, NC; Charles Presnell, Marion, NC; Dana Walker, Marion, NC; Richard McMillian, High Point, NC; Betty Wall, Marion, NC; Harriett Herndon, Bennettsville, S.C.; Iris Powers, Barnwell, S.C; Larry & Dee Clark, Florence, S.C.; Lou Godfrey, Marion, NC; Mayor Anne Stedman, City of Newton; Council Member Mary Bess Lawing, City of Newton; David Walker, Chairman, McDowell County of Board of Commissioners.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

SPECIAL RECOGINATION OF COUNCIL MEMBER CLARK FOR FORTY YEARS OF SERVICE TO THE CITY OF MARION: Mayor Little stated that it was his pleasure to recognize former Mayor and Council Member A. Everette Clark, who will celebrate 40 years of continuous service to the City of Marion the following day, April 4, 2012, having been first sworn in to the City Council on April 4, 1972 to fill an unexpired term and having been elected ten consecutive times by the voters of the City since that time.

Council Member Clark was surprised by this recognition and the over 100 guests in attendance to celebrate this occasion with him, including family, friends and current and former City employees.

Mayor Little read and presented Council Member Clark with a Proclamation declaring April 4th as Everette Clark Day in the City of Marion as follows:

Proclamation
EVERETTE CLARK DAY IN THE CITY OF MARION, NC
Wednesday, April 4, 2012

WHEREAS, A. Everette Clark was appointed to the Marion, NC City Council on March 21, 1972 and administered the oath of office as a Council Member on April 4, 1972, following the

death of Mayor Albert Neal and the appointment of Mayor Pro Tem James Segars as Mayor, thereby creating a vacancy on the City Council;

AND WHEREAS, Everette Clark was subsequently elected to the Marion City Council in 1973, and served on the City Council from 1973-1985, including many years as Mayor Pro Tem;

AND WHEREAS, Everette Clark served as Mayor of the City of Marion, NC from 1985-2009 and has served again on the City Council since 2009, having been elected for a total of ten consecutive four-year terms by the voters of the City of Marion;

AND WHEREAS, Everette Clark has served in numerous leadership positions in local, regional, state and national organizations, including serving as President of the North Carolina League of Municipalities, Chairman of the National League of Cities' Small Cities Council and has served on the Board of Directors and Advisory Council of the National League of Cities, thereby promoting the City of Marion throughout North Carolina and the entire nation;

AND WHEREAS, Everette Clark has served the City for the past 40 years with dedication, integrity and passion, always looking for opportunities to improve the City, the local economic climate and the quality of life for City residents, and has been directly responsible for many accomplishments and improvements by the City of Marion for its people;

AND WHEREAS, on April 4, 2012, Everette Clark will have the distinction of being the first elected official in the 169 year history of the City of Marion and McDowell County to reach 40 years of uninterrupted elected public service;

AND WHEREAS, the Marion City Council, on behalf of the 8,100 citizens of Marion, wish to express sincere appreciation and gratitude for Everette Clark's 40 years of service to the City of Marion and for all he has accomplished during his unprecedented tenure, and look forward to his continued service in the future.

NOW THEREFORE, I, Stephen R. Little, Mayor of the City of Marion, North Carolina, on behalf of the Marion City Council, do hereby proclaim Wednesday, April 4, 2012 as Everette Clark Day in the City of Marion, North Carolina and extend the sincere thanks of the City Council and the citizens of the City of Marion to Council Member and former Mayor A. Everette Clark on his 40 years of dedicated service to the citizens of our community.

Proclaimed this the 3rd day of April, 2012.

Stephen R. Little, Mayor

North Carolina League of Municipalities Executive Director Ellis Hankins extended the congratulations of the North Carolina League of Municipalities to Council Member Clark and presented him with the following Resolution on behalf of the League that read as follows:

RESOLUTION
of the
North Carolina League of Municipalities

WHEREAS, A. Everette Clark has served the City of Marion faithfully and well for 40 years; and

WHEREAS, the work, of A. Everette Clark has benefitted the citizens of the City of Marion and upheld the standards of excellence in municipal governance;

AA.00001392 (24)

NOW, THEREFORE, BE IT RESOLVED the membership of the North Carolina League of Municipalities, hereby honors A. Everette Clark, former Mayor and Council Member, of the City of Marion for faithful service and lasting contributions to municipal government.

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

_____ _____

Executive Director President

Date: April 3, 2012

Mr. Hankins also stated that he had spoken with Governor Beverly Purdue and that she also sent her congratulations. Mr. Hankins noted that Governor Perdue had nothing she could present to Council Member Clark since she had already awarded him North Carolina's highest honor, the Order of the Longleaf Pine, in 2009, upon his retirement as Mayor.

Mayor Little recognized Council Member Clark's family, including his wife Nancy Clark, his sons Ansel Clark and Todd Clark, his daughters-in-law Amy and Jane Clark, his grandchildren Sara, Emily, Tucker and Ethan Clark, his brother and sister-in-law Larry and Dee Clark, his sister-in-law Sylvia Davis and his sisters Iris Powers and Harriett Herndon.

Mayor Little recognized several visiting elected officials including Mayor Jimmy Dancy of the Town of Rutherfordton, Mayor Anne Stedman and Council Member Mary Bess Lawing of the City of Newton and McDowell County Board of Commissioners Chairman David Walker. Each offered their congratulations to Council Member Clark on his 40 years of service to the City of Marion.

Mayor Little presented Council Member Clark with a 40 year City service pin.

Mayor Little presented Council Member Clark with a large framed card signed by current and former City elected officials and staff and friends of Council Member Clark that read as follows:

HAPPY 40th
ANNIVERSARY
THANK YOU
SO VERY MUCH
FOR
40 YEARS AND COUNTING
OF SERVICE TO THE CITIZENS OF MARION
A . Everette Clark....
A Man....
A Christian....
A Husband....
A Father....
A Grandfather....
A Fisherman....
A Hunter....
A Citizen....
A Neighbor....
A Mentor....
A Friend....

A Realtor....
A Mayor....
A Council Member....

The City Manager presented Council Member Clark with cards and notes sent in by people unable to attend the recognition.

Council Members, City staff, family and guests all shared kind words about former Mayor and current Council Member Clark and thanked him for his 40 years of service to the City.

Mrs. Nancy Clark read a poem she had written about her husband a few years ago, reflecting on his service to the City.

Council Member Clark thanked everyone for their time and kind words and said that he was truly humbled. Council Member Clark said that he was honored to have been able to serve the City of Marion for the past 40 years.

An agenda for this recognition was presented to each guest that read as follows:

Agenda of Recognition of
A. Everette Clark
Upon His
40 Year Anniversary with the City of Marion, North Carolina
Marion City Council Meeting
April 3, 2012 – 7:00 p.m.
Marion, NC City Hall

I. Opening Comments and Recognition by Mayor Stephen R. Little

II. Presentation by Mayor Little of Proclamation that proclaims April 4, 2012 as "Everette Clark Day" in the City of Marion

III. Presentation by North Carolina League of Municipalities Executeive Director Ellis Hankins of a Resolution from the League Honoring Everette Clark's 40 Years of Service

IV. Presentation of Notes from People Unable to Attend

V. Presentation by Mayor Little of 40 Year Service Pin to Council Member Clark

VI. Presentation of Card Signed by City Staff and City Council

VII. Display of Scrapbooks (courtesy of Mrs. Nancy Clark) Detailing Council Member Clark's 40 Years of Service to the City of Marion

VIII. Comments from Council Members and Guests

IX. Break for Refreshments

Timeline of Service
Council Member and Former Mayor
Ansel Everette Clark
With the City of Marion, North Carolina

AA.000001394 (24)

April 3, 2012

Tonight we honor Council Member and former Mayor Ansel Everette Clark on an achievement that is unprecedented in Marion and McDowell County and in all but a few cases across the State of North Carolina: attaining 40 consecutive years of service with a local government.

On February 13, 1972 Mayor Albert Neal passed away. On February 22, 1972, the Marion City Council appointed Mayor Pro Tem James Segars as Mayor to replace the late Mayor Neal. This appointment left a vacancy on the Marion City Council.

On March 22, 1972, the Marion City Council appointed A. Everette Clark to fill the unexpired term of the newly appointed Mayor Segars on City Council. On April 4, 1972, Robert Jarrett, Clerk of Court for McDowell County, administered the oath of office to Councilman Clark.

On November 6, 1973, Councilman Clark was elected to City Council with the highest vote total of the four candidates running for Council.

On December 6, 1977, Everette Clark was elected as Mayor Pro Tem by the Marion City Council.

On November 7, 1985, Everette Clark was elected as Mayor of the City of Marion, replacing the retiring Mayor James H. Segars. Mayor Clark was administered the oath of office on December 3, 1985 and served as Mayor for twenty-four consecutive years, until 2009.

Mayor Clark chose to run for Marion City Council in 2009 and was elected in November 2009. He currently serves on the Marion City Council.

The voters of Marion have shown their confidence in Everette Clark by electing him to office 10 consecutive times since his initial appointment to City Council in 1972.

Tomorrow, April 4, 1972, is the 40th Anniversary of A. Everette Clark being sworn in as a City Council Member and starting his service with the City of Marion, NC. We honor him tonight on this tremendous achievement.

Mayor Little stated that Council would break for a few minutes and have a time of fellowship and refreshments with Council Member Clark and guests.

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Doggett, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – March 20, 2012 Regular City Council Meeting Minutes.

B. Approve Use of Main Street Sidewalks for Marion Business Association Sidewalk Sales to be held on Saturday, May 5 and Saturday, August 4 – Council approved the requested use of the sidewalks, which will not involve any street closing.

C. Approve Budget Ordinance Amendments

CITY OF MARION, NORTH CAROLINA
2011-2012 BUDGET ORDINANCE
(Second Amendment)

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

AA.000001395 (24)

Section 1. That the Budget Ordinance for the City of Marion, North Carolina for the fiscal year 2011-12 as adopted by the Marion City Council on the 21st day of June, 2011 is hereby amended as follows:

GENERAL FUND

a. General Fund Expenditures, Administration, Account Number 10-420-0600, Insurance is decreased from $61,912 to $57,412.

b. General Fund Expenditures, Administration, Account Number 10-420-1400, Travel & Training is increased from $3,750 to $6,750.

c. General Fund Expenditures, Planning & Development, Account Number 10-500-0600, Insurance is increased from $22,548 to $27,048.

d. General Fund Expenditures, Fire, Account Number 10-530-7400, Capital Outlay is increased from $7,800 to $14,200.

e. General Fund Revenues, Account Number 10-321-0000, Privilege License Revenue is increased from $52,000 to $54,500.

f. General Fund Revenues, Account Number 10-334-1600, Federal Drug Asset Revenue is increased from $-0- to $8,669.

g. General Fund Revenues, Account Number 10-335-0200, DENR – Trail Grant is increased from $-0- to $5,000.

h. General Fund Revenues, Account Number 10-341-0500, Refunds & Reimbursements is increased from $6,000 to $8,000.

i. General Fund Revenues, Account Number 10-341-3000, Zoning Income/Inspection Fees is increased from $19,000 to $26,000.

j. General Fund Revenues, Account Number 10-354-1000, Miscellaneous Revenue is increased from $1,000 to $2,500.

k. General Fund Revenues, Account Number 10-361-0000, Interest earned is decreased from $20,000 to $8,000.

l. General Fund Revenues, Account Number 10-365-1000, Donations - Restricted is increased from $-0- to $500.

m. General Fund Revenues, Account Number 10-370-0000, Powell Bill Allocation is increased from $200,000 to $211,313.

n. General Fund Revenues, Account Number 10-392-2000, Property Insurance Reimbursement is increased from $2,540 to $4,617.

o. General Fund Revenues, Account Number 10-399-0000, Fund Balance Appropriated is decreased from $418,429 to $399,270.

GENERAL FUND CAPITAL RESERVE FUND

a. General Fund Capital Reserve Fund Expenditures, Account Number 75-491-0000, Transfer to General Fund Capital Projects – Streetscape, is increased from $317,470 to $337,470.

AA.000001396 (24)

b. General Fund Capital Reserve Fund Revenues, Account Number 75-361-0000, Interest on Investments - GF, is increased from $3,500 to $4,500.

c. General Fund Capital Reserve Fund Expenditures, Account Number 75-999-0000, Future Expenses, is decreased from $423,575 to $404,575.

GENERAL FUND CAPITAL PROJECTS FUND

a. General Fund Capital Projects Fund Expenditures, Account Number 11-505-0000, Greenway Phase II – Construction, is increased from $261,000 to $358,000.

b. General Fund Capital Projects Fund Expenditures, Account Number 11-505-0100, Greenway Phase II – Contingency, is increased from $-0- to $17,900.

c. General Fund Capital Projects Fund Expenditures, Account Number 11-505-0200, Greenway Phase II – Land Acquisition, is increased from $-0- to $37,700.

d. General Fund Capital Projects Fund Expenditures, Account Number 11-505-0300, Greenway Phase II – Engineering, is increased from $39,000 to $64,000.

e. General Fund Capital Project Fund Revenues, Account Number 11-340-0000, Greenway Phase II – PARTF Grant, is increased from $-0- to $238,800.

f. General Fund Capital Project Fund Revenues, Account Number 11-340-0100, Greenway Phase II – RTP Grant, is increased from $-0- to $75,000.

g. General Fund Capital Project Fund Revenues, Account Number 11-340-0300, Greenway Phase II – McDowell County Matching Funds, is increased from $-0- to $45,000.

h. General Fund Capital Project Fund Revenues, Account Number 11-340-0400, Greenway Phase II – McDowell Trail Association Matching Funds, is increased from $-0- to $36,100.

i. General Fund Capital Project Fund Revenues, Account Number 11-340-0500, Greenway Phase II – Land Donation, is increased from $-0- to $37,700.

j. General Fund Capital Project Fund Revenues, Account Number 11-381-0200, Greenway Phase II – Transfer from General Fund, is decreased from $300,000 to $45,000.

WATER AND SEWER FUND

a. Water and Sewer Fund Revenues, Account Number 30-335-0000, Miscellaneous Income is increased from $200 to $8,000.

b. Water and Sewer Fund Revenues, Account Number 30-335-2600, Refunds & Reimbursements is increased from $100 to $1,600.

c. Water and Sewer Fund Revenues, Account Number 30-335-2900, Reconnect & Transfer Fees is increased from $6,000 to $11,000.

d. Water and Sewer Fund Revenues, Account Number 30-377-0600, Rural Center WTP Grant is increased from $-0- to $23,436.

e. Water and Sewer Fund Expenditures, Account Number 30-812-0400, Professional Fees is increased from $1,000 to $35,000.

AA.000001397 (24)

f. Water and Sewer Fund Revenues, Account Number 30-299-0000, Fund Balance Appropriated is decreased from $337,158 to $333,422.

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 3rd day of April 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–12–04–03–1

INTRODUCTION OF NEW POLICE CHAPLAIN: Police Chief Mark Brooks introduced the City's new volunteer Police Chaplain, Rev. Bob Ritter and his wife Tammy. Rev. Ritter is the Pastor of Nebo Crossing Church.

Rev. Ritter said that he and his wife vacationed on Lake James for several years and fell in love with McDowell County, later moving here from Arkansas. They have now been in McDowell County for four years. He said that he is honored to serve as the Police Chaplain and is happy to assist the City in any way possible. Rev. Ritter said that he had recently completed training regarding his duties as Chaplain.

Mayor Little and Council Members thanked Rev. Ritter for his service to the City and welcomed him as the new Police Chaplain.

RECOGNITION OF POLICE OFFICERS RECEIVING ADVANCED LAW ENFORCEMENT CERTIFICATES: Police Chief Mark Brooks stated that it was his privilege to recognize two police officers who had achieved a level of professionalism by receiving their Advanced Law Enforcement Certificates. Chief Brooks asked Corporals Josh Piercy and D.J. Barrier to come forward.

Chief Brooks presented Corporal Piercy with a Certificate that read as follows:

State of North Carolina
Department of Justice
Criminal Justice Education and Training
Standards Commission
To all to whom these presents may come
Greeting
Be it known that in recognition of the attainment of training and educational objectives commensurate with the role of a professional criminal justice officer and of personal devotion and service to the people of North Carolina, the Attorney General and the Chairman and Members of the North Carolina Criminal Justice Education and Training Standards Commission, through the authority vested in them by the laws of the State, do hereby award to
Joshua Piercy
This
General Advanced Law Enforcement Certificate
With all the rights and privileges thereunto belonging.

AA.000001398 (24)

In Testimony Whereof we fix our hand this 3rd day of April, 2012 in the City of Raleigh in the State of North Carolina in the United States of America.

_____
Attorney General

_____
Commission Chairman

_____
Director, Criminal Justice Standards Division

Chief Brooks presented Corporal Barrier with a Certificate that read as follows:

State of North Carolina
Department of Justice
Criminal Justice Education and Training
Standards Commission
To all to whom these presents may come
Greeting

Be it known that in recognition of the attainment of training and educational objectives commensurate with the role of a professional criminal justice officer and of personal devotion and service to the people of North Carolina, the Attorney General and the Chairman and Members of the North Carolina Criminal Justice Education and Training Standards Commission, through the authority vested in them by the laws of the State, do hereby award to

Dennis J. Barrier

This

General Advanced Law Enforcement Certificate

With all the rights and privileges thereunto belonging.

In Testimony Whereof we fix our hand this 3rd day of April, 2012 in the City of Raleigh in the State of North Carolina in the United States of America.

_____
Attorney General

_____
Commission Chairman

_____
Director, Criminal Justice Standards Division

Mayor Little congratulated Corporals Piercy and Barrier on receiving their Advanced Law Enforcement Certificates and thanked them for their service.

Council Member Doggett noted the numerous hours that both officers had invested in order to receiving this certificate.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

CONSIDER APPROVAL OF CONTRACTS FOR VEHICLE PURCHASES: Finance Director Harriett Thomas stated that the City had recently sought bids for the purchase of several vehicles included in the 2011-12 Budget.

Ms. Thomas stated that the City recently took bids for a long arm tractor for the Street Division. The City only received one bid for a Diesel tractor with a long arm. The low bid was received from Parker Farm Services of Kings Mountain in the amount of $86,783.00, including $34,600.00 for the tractor and $52,183.00 for the long arm and associated equipment. Two other informal bids had previously been received, but were higher. The other two bidders did not

AA.000001399 (24)

respond to the request for bids. Ms. Thomas reported that the City included $75,000 in the 2011-12 Budget for the long arm tractor, so the low bid is $11,783 over budget. However, only the tractor from Parker Farm Services can be received by the end of the 2011-12 Fiscal Year. The long arm and associated equipment will not be available until after July 1, so the costs of the long arm will have to be included in the 2012-13 Budget.

The City Manager stated that he asked staff if it was likely that the City could rebid the long arm in a few months and receive a lower price. The City Manager stated that Public Works Director Brant Sikes did not believe that rebidding the long arm will result in any lower price.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to award the contract for a long arm tractor for the Street Division to Parker Farm Services of Kings Mountain in the amount of $86,783, with $34,600 to be paid out of the 2011-12 Budget for the tractor and $52,183 to be paid out of the 2012-13 Budget for the long arm and associated equipment.

Ms. Thomas stated that the City received four bids for a utility truck for the Street Division. The low bid was received from Everett Chevrolet of Hickory for a 2012 Chevrolet Silverado 3500 HD 2WD for $33,339.42. The City inccluded $40,000 in the 2011-12 Budget for this truck, so the low bid is $6,660.58 under budget.

Upon a motion by Council Member Clark, seconded by Council Member Doggett, council voted unanimously to award the contract for a utility truck for the Street Division to Everett Chevrolet of Hickory for a 2012 Chevrolet Silverado 3500 HD 2WD in the amount of $33,339.42.

Ms. Thomas advised that the City received bids five bids for a 4 x 4 Pickup Truck for the Utility Maintenance Division. The low bid was received from Stamey Chrysler Jeep Dodge of Marion for a 2012 Dodge Ram 1500 4 x 4 for $17,985. The City included $25,000 in the 2011-12 Budget for this truck, so the low bid is $7,015 under budget.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to award the contract for a 4 x 4 Pickup Truck for the Utility Maintenance Division to Stamey Chrysler Jeep Dodge of Marion for a 2012 Dodge Ram 1500 4 x 4 for $17,985.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that the MBA Director Freddie Killough has scheduled the City's annual Downtown Cleanup event for Saturday, April 21. City staff will assist volunteers with trash pickup and weedeating in the downtown area.

The City Manager advised that, as previously reported, Grayson England says that he plans to have Brooks Engineering look at the ability of the Glenwood Elementary School pump station and the City's force main sewer line to handle the additional wastewater flow from the convenience store and residential units (9 units in total) on Old 221 in Glenwood.

The City Manager stated that he had checked with Doug McNeal of DOT, who told him that DOT would not issue an encroachment on a State right-of-way for a privately owned utility line. Therefore, any new force main line constructed along Old 221 would need to be City owned and maintained.

The City Manager stated that he had also checked with the North Carolina Division of Water Quality Regional Supervisor Chuck Cranford about who would be responsible for sewer spills in privately owned pump stations. The County Manager had stated that the pump station owner is always held responsible by the State for overflows at the pump station, regardless of whether wastewater from other sources flows into the pump station. The State recommends operation and

AA.000001400 (24)

maintenance agreements, when multiple property owners flow into a private pump station, but does not require such agreements or take them into account when issuing violation notices or fines.

The City Manager advised that city crews have completed work on the curb and sidewalk replacement on Park Avenue between Turner and Robert Streets. The City's contractor has also completed the curb and sidewalk replacement on Park Avenue between East Court Street and Turner Street. Public Works Director Brant Sikes reported that he anticipates Park Avenue being resurfaced in the next two to three weeks, completing the project.

Police Chief Mark Brooks advised he had followed up with the Post Office concerning the schedule for the relocation of a mailbox at the Library to make it a drive-up mailbox, for a drive-up mailbox to be relocated from the Bank of America parking lot to the City-County Parking Lot on South Garden Street and for drive-up mailboxes to be placed at the Marion City Square and Wal-Mart Supercenter Shopping Centers. Chief Brooks stated there has been some turnover at the post office, so staff has had to start over with this request three times. The Post Office had verbally approved these relocations, but the work had not yet taken place. The Interim Postmaster indicated that this work could take place in the next 30 days. The City Manager stated that staff will monitor the installation of the drive-up mailboxes and follow up with the Post Office again if necessary.

The City Manager advised that he attended a meeting on March 20, at County Manager Chuck Abernathy's request, to discuss Duke Energy's Site Readiness Program, which is being considered for the Universal and Ashworth Road properties. The County will likely proceed with the program for the Universal property. There is very little cost to pursuing the program. The City Manager stated that Mr. Abernathy is not asking the City for any contribution, but would request permission to include the 80 acre City owned property next to the Universal property in the Duke assessment. The assessment determines the readiness and attractiveness of potential sites for industrial projects.

Council Member Clark stated that he does not have a problem with the assessment, but feels that the City should not give away the property for free.

Council Member Ramsey asked if the assessment would create the perception that the property could be used by the County for any project they wanted. The City Manager stated that the use of the City's property for any purpose or project would be evaluated by Council on a case-by-case basis.

Council Member Clark stated that he is fine with allowing the City property to be included in the assessment, as long as it was understood that the City would not give away the property for an economic development project.

Mayor Little stated that it would be appropriate to make this condition clear to the County up front.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to authorize the City's 80 acres of property located on College Drive adjacent to the County's Universal property to be included in the Duke Energy Site Readiness Program assessment, with the condition that the City Manager communicate to the County that the City's property would remain separate and that the City would expect compensation for the property if the use of the property was needed for a particular purpose or project in the future. The City Manager stated that he would make this communication to the County Manager.

COUNCIL MEMBER COMMENTS:

AA.00001401 (24)

Council Member Clark thanked Council Members for the kind recognition earlier in the meeting.

Council Member Clark also stated that Mr. Chris Jones, Immediate Past President of the North Carolina League of Municipalities had passed away the previous day after suffering a fall at his home.

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Council Member Doggett, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, 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, April 17, 2012 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Mayor Stephen R. Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members A. Everette Clark, Juanita Doggett, Billy Martin and Don Ramsey.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Brant Sikes, Public Works Director; Gaye Noblitt, Police Administrative Lieutenant; Don Price, Water Plant Superintendent; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Becky Cross, P.O. Box 147, Marion, NC; Lee Lattimore, 368 Fleming Avenue, Marion, NC; Ronda Bokinoski, 156 Glenwood Loop, Marion, NC; Rev. Bill Warren, 3939 Harmony Grove Road, Marion, NC; Jewell McNeal, P.O. Box 333, Marion, NC: Kathy Evans, 110 Gowan Point, Marion, NC; Linda Cloherty, 215 North Garden Street, Marion, NC.

OPEN MEETING: Mayor Little opened the meeting with a moment of silence.

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Clark, Council voted unanimously to approve the consent agenda as follows:

A. **Approval of Minutes** – April 3, 2012 Regular City Council Meeting Minutes.

B. Receive Certificate of Sufficiency – Mill Road – Haney/Fairchild -Annexation

CERTIFICATE OF SUFFICIENCY – MILL ROAD – HANEY/FAIRCHILD ANNEXATION – 2012

To the City Council of the City of Marion:

A.A.000001402 (24)

I, J. Robert Boyette, City Clerk, do hereby certify that I have 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 21st day of March, 2012.

(Seal)

J. Robert Boyette, City Clerk

C. Adopt Resolution Fixing the Date of Public Hearing on the Question of Annexation – Mill Road – Haney/Fairchild Annexation

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31 – MILL ROAD – HANEY/FAIRCHILD ANNEXATION

WHEREAS, a petition requesting annexation of the contiguous 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 contiguous area described herein will be held at City Hall at 7:00 P.M. on Tuesday, May 15, 2012.

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

BEGINNING at a point at the southeast corner of Lot 6251 Block 95 on the McDowell County Tax Map 0790.12; and from said BEGINNING following the eastern boundary of said Lot 6251 in a northerly direction 450 feet, said boundary also being the boundary of the Marion Corporate Limits; thence following said corporate boundary in a northeasterly direction crossing the boundary of Mill Rd (SR No. 1189) a distance of 40 feet to a point, said point being the boundary of the Marion Corporate Limits and the northwest corner of Lot 8597 Block 95 on the McDowell County Tax Map 0790.12; thence following said corporate boundary east 249 feet to a point, said point being a point on the northern boundary of Lot 3428 Block 05 on the McDowell County Tax Map 1700.09; thence following said boundary of Lot 3428 first in a southerly direction approximately 9 feet, thence in an easterly direction 615 feet, thence in a southerly direction 267 feet, thence in a westerly direction 304.2 feet to a point, said point being a point on the boundary of said Lot 3428 and Lot 2238 Block 05 on the McDowell County Tax Map 1700.09; thence following the boundary of said Lot 2238 in a southerly direction 20 feet, thence in a southwesterly direction 214 feet to a point at the southwest boundary of said Lot 2238 and the northeast boundary of Mill Road (SR #1189); thence following said boundary in a northwesterly direction approximately 114 feet to a point, thence crossing the boundary of Mill Rd (SR No. 1189) in southerly direction back to the BEGINNING.

Section 3. Notice of the public hearing shall be published once 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.

AA.000001403 (24)

Adopted this the 17th day of April, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-12-04-17-1

PUBLIC APPEARANCE – MCDOWELL MISSION MINISTRIES:
Ms. Linda Cloherty, one of many representatives of McDowell Mission Ministries, present for this meeting appeared before Council and gave a brief update of McDowell Mission Ministries programs.

Ms. Cloherty advised that the Mission has many needs at the Women and Children's Home on Fleming Avenue, such as a new heating and air system and major plumbing work for two restrooms. The cost for this work is in excess of $100,000. A total of $15,000 has been raised so far. Ms. Cloherty thanked the City Council for providing funding last year for the roof work at the shelter. She said that the Mission Board was here tonight seeking continued support from the City of Marion in the amount of $10,000 this year and $10,000 next year.

Mayor Little thanked Ms. Cloherty and other representatives for coming to the meeting. He advised that Council has a Planning Session scheduled for April 20-21and that this request along with many others will be the discussed. Mayor Little stated that Council did not need to be convinced of the good work done by the Mission or regarding needs at the Women and Children's Home, but would need to evaluate the City's finances and ability to contribute toward the project.

Mayor Little stated that he visited the shelter a few weeks ago to donate some items and that it was really touching to see the people there who really need assistance.

Council Member Ramsey stated that this is a vital ministry in the community. He said that he was not sure if people really know what the Mission does for the community. Council Member Ramsey advised that he certainly hopes Council Members will support this Ministry.

Council Member Clark thanked the Mission Board for the hours they give of their time for the Mission. He noted how the Mission had made a significant difference through the years in getting homeless people off of the street and into a decent place to live.

Council Member Doggett stated that she likes to see a Board with passion and that the Mission Board definitely has a passion for their work.

Mayor Pro Tem Cuthbertson stated that he had some major heating and air issues at his home last night and that he understands the needs the Mission has and how urgent these needs can be.
Council Member Martin stated that he had spoken to Mission Board Member Ms. Kathy Evans and was definitely convinced of the great needs the Mission has.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present to speak to Council.

ADOPT RESOLUTION APPROVING CITY OF MARION WATER SUPPLY PLAN: The City Manager advised that, in 2008, City staff completed the City's 2007 Water Supply Plan, in

AA.00001404 (24)

accordance with State regulations. The City has been waiting ever since for the State to review the plan. In early March, Water Plant Superintendent Don Price received a letter, advising that the N.C. Department of Environment and Natural Resources had approved the City's 2007 Water Supply Plan and stating that the final step for compliance involved Council adoption of a resolution approving the Water Supply Plan.

The City Manager presented Council with the resolution that needs to be adopted for the 2007 Water Supply Plan, along with a copy of the plan. The City Manager noted that the City's 2011 Water Supply Plan, which was due on April 1, 2012 has already been submitted.

Water Superintendent Don Price gave a brief overview of the 2007 Water Supply Plan.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following Resolution approving the Water Supply Plan as presented:

RESOLUTION
APPROVING CITY OF MARION WATER SUPPLY PLAN

WHEREAS, North Carolina General Statute 143-355 (1) requires that each system that provides public water services or plans to provide such serviced shall either individually or together with other systems, prepare and submit a Local Water supply Plan; and

WHEREAS, as required by the statute and in the interests o sound local planning a Local Water Supply Plan for the City of Marion, has been developed and submitted to the City Council for approval; and

WHEREAS, the City Council finds that the Local Water Supply Pan is in accordance with the provisions of North Carolina General Statute 143-355 (1) and that it will provide appropriate gui8dance for the future management of water supplies for the city of Marion, as well as useful information to the Department of Environment and Natural Resources for the development of a state water supply plan as required by statute:

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Marion the Local Water Supply Plan entitled, Marion Water Supply Plan dated April 1, 2008, is hereby approved and shall be submitted to the Department of Environment and Natural Resources, Division of Water Resources; and

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

Approved this the 17th day of April, 2012

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Resolution Number: R:12-04-17-2

ADOPT RESOLUTION AUTHORIZING FINAL SALE OF CITY PROPERTY ON MEADOW LANE TO MR. L. RAY BROOME: The City Manager advised that, at the March

AA.000001405 (24)

20 Council meeting, Council adopted a resolution accepting the offer of Mr. L. Ray Broome to purchase 0.10 acres of City property on Meadow Lane for $1,000, subject to upset bid. This property is part of the City's 0.32 acre Meadow Lane Wastewater Pump Station property at the corner of Sugar Hill Road and Meadow Lane.

The City Manager stated that, after receiving the required five percent bid deposit from Mr. Broome, the City published notice in the McDowell News of the proposed sale on March 27. The notice stated that interested persons had ten days to submit an upset bid. The ten day period ended with no upset bids being received. Therefore, Council action is needed to approve the attached resolution to authorize the final sale of this property to Mr. Broome. The City Manager reported that, as requested by Mr. Broome, the City is in the process of planting several non-pine evergreen trees adjacent to the wastewater pump station to provide a buffer and screen for Mr. Broome's property.

Mayor Pro Tem Cuthbertson asked if the property had been surveyed. The City Manager advised that the property had not been surveyed, but that the City had a description of the property to be sold that would be given to the closing attorney.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following resolution authorizing the final sale of part of the City's Meadow Lane property to Mr. L. Ray Broome for $1,000:

Resolution
Authorizing Final Acceptance of Offer to Purchase Certain Property Owned by the City of Marion After Solicitation of Upset Bids

WHEREAS, N.C.G.S. 160A-269 authorizes a city to convey by negotiated offer and upset bid any real or personal property; and

WHEREAS, Mr. L. Ray Broome has submitted a bid in the amount of $1,000 for the purchase of approximately 0.10 acres of property owned by the City of Marion located on Meadow Lane, as described in the attached Exhibit A; and

WHEREAS, the City Council of the City of Marion adopted a resolution on March 20, 2012, in accordance with N.C.G.S. 160A-269, accepting the offer of Mr. Broome to purchase the above described property for a sum of $1,000; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion received a five percent bid deposit from Mr. Broome; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion, on March 27, 2012, caused notice of the proposed sale of the above described property to be published in The McDowell News; and

WHEREAS, the City of Marion has completed the ten day upset bid period required by N.C.G.S. 160A-269, without the receipt of any upset bids; and

WHEREAS, the City Council of the City of Marion desires to complete the sale of the property described above to Mr. Broome.

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

1. The property owned by the City of Marion on Meadow Lane that is approximately 01.0 acres in size and described in the attached Exhibit A is hereby declared to be surplus to the needs of the City of Marion.

AA.000001406 (24)

2. The City Council accepts the offer of Mr. L. Ray Broome to purchase the above described property for $1,000 and directs the City Manager to proceed with the sale of said property, as authorized by N.C.G.S. 160A-269.

Adopted this the 17th day of April, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-12-04-17-3

Exhibit A - Property Description

BEGINNING at a point being the beginning corner of tract described in Deed Book 270, Page 182, McDowell County Registry; thence from said point, S43°30'00"W, 124.00 feet passing an iron pin set at 16.50 feet to a set iron pin in the eastern margin of the right of way of SR 1271; then with said eastern margin of said right of way, N30°00'00"W, 37.50 feet to a point, said point being a point on the southwest boundary of tract described in Deed Book 1011, Page 367 McDowell County Registry; thence from said point running N43°30'00" 115.00 more or less to a point on the northeast boundary of said tract; said point also being the end of the second of four courses described in Deed Book 1011, Page 367, McDowell County Registry; thence following said courses and distances: S 32°12'58"E, 28.58 feet to a point; S25°46'00"E, 8.92 feet to the BEGINNING.

DISCUSS STREET REQUESTS: The City Manager advised that he had recently received several street and sidewalk requests, as follows:

1. Request for No Parking Designation on Old West Henderson Street - McDowell County Farm Bureau has requested that Council institute a no parking area in front of the Farm Bureau building on the west side of Old West Henderson Street between Catawba and Buncombe Streets. Mr. Blankenship reports that large vehicles use this area for parking to access McDonald's. McDonald's has roped off the area next to the street adjacent to their property, forcing large vehicles to park on the Farm Bureau side of the street. It does not appear that any houses would need to use this area for parking.

2. Request for Mirror at Railroad and South Main Streets – Mayor Pro Tem Cuthbertson recently noted that it is difficult to turn out of Railroad Street onto South Main Street, either left or right. Mayor Pro Tem Cuthbertson proposed the placement of a mirror to give motorists turning out of Railroad Street better visibility.

3. Repeal of No Left Turn Restriction from Montevista Avenue onto North Main Street - Council Member Clark suggested that it may be time to repeal the no left turn restriction from Montevista Avenue (beside the Bi-Lo Shopping Center) onto North Main Street. Council Member Clark notes that traffic must pass through the Bi-Lo Shopping Center parking lots to comply with this restriction, creating an even more dangerous situation. There are numerous other left hand turns allowed onto North Main Street from driveways, parking lots and streets.

4. Repeal of No Left Turn Restriction from Bradley Street onto North Main Street – The City Manager noted a no left turn restriction from Bradley Street (at the northern entrance to Lady Marian Plaza) onto North Main Street that Council may wish to repeal if the left turn restriction on Montevista Avenue at North Main Street is also repealed.

AA.000001407 (24)

5. Proposal to Make Bakersville Road a One-Way Street – Council Member Clark suggested making Bakersville Road, located next to Hospice between Fleming and Montevista Avenues, a one way street in the direction of Fleming to Montevista. Council Member Clark noted that the street is narrow and that visibility is poor exiting out of Bakersville Road onto Fleming Avenue. Staff will be proposing physical improvements to Bakersville Road at the next Council Planning Session, to make the street passable and to improve safety.

6. Request for Short Sidewalk Extension on North Main and Logan Streets – Ms. Hilda Dean requested a short sidewalk extension on both North Main and Logan Streets around the Joanne Howle Realty property. This would create a loop and also allow pedestrians to safely reach the North Main and Logan Street intersection on foot. The total length of the sidewalk extension would be 440 feet.

Council Member Ramsey stated that he would also make the following street related requests:

7. Request for Review of Three Way Stop at North Madison and Fort Streets.

8. Request for Review of Four Way Stop at North Madison and New Streets.

The City Manager stated that Council may wish to refer these matters to the Street Committee for review.

Mayor Little stated that he agreed with referring these items to the Street Committee, noting that the Street Committee performed a valuable service for Council in reviewing such requests in the field.

Mayor Pro Tem Cuthbertson spoke about the visibility problems at the Railroad and South Main Street intersection.

Council Member Clark spoke about the need for eliminating the left turn restriction at Montevista Avenue and North Main Street and likely at Bradley and North Main Streets as well.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Doggett, Council voted unanimously to refer the eight items listed above to the Street Committee for review and a recommendation back to Council.

CONSIDER APPROVAL OF SEWER CONNECTION – U.S. 70 WEST: Public Works Director Brant Sikes advised that a request had been submitted by Mr. Jerry Padgett for sewer service for his building containing three apartments at 2660 Highway 70 West in the Pleasant Gardens community. Mr. Padgett already has these apartments connected to City water and sewer is available. Mr. Sikes stated that the City sewer line is located on the opposite side of Highway 70 West from Mr. Padgett and the cost of boring under the highway will exceed the connection fee revenue the City will receive. The City will need to contract this bore, because the City does not have the equipment to make the precision bore needed, given that there is not a tremendous amount of fall between Mr. Padgett's property and the City's sewer line. Mr. Sikes reported that the bore would cost approximately $4,500. The City would receive $3,600 in connection fee revenue from Mr. Padgett, resulting in an upfront loss of $900. Mr. Sikes stated that the City would make up the loss in less than a year, even at minimum usage.

The City Manager added that Council would also need to waive the requirement for annexation of the property, given the distance of the property from the City Limits.

AA.000001408 (24)

Upon a motion by Council Member Clark, seconded by Council Member Doggett, Council voted unanimously to approve the request of Mr. Jerry Padgett for sewer service for his building containing three apartments at 2660 Highway 70 West in the Pleasant Gardens community and to waive the requirement for annexation of this property.

CONSIDER APPROVAL OF REQUEST FOR CLOSURE OF FORT STREET BETWEEN MAIN STREET AND LOGAN STREET FOR FIRST BAPTIST CHURCH BLOCK PARTY ON WEDNESDAY, MAY 23: The City Manager advised that, as shown on information presented to Council, First Baptist Church has requested the closure of Fort Street between Main Street and Logan Street for a Block Party on Wednesday, May 23. The event is scheduled between 4:30 p.m. and 7:30 p.m. The actual street closure would need to take place from 3:30 p.m. to 8:30 p.m. The City Manager reported that the event would open to the public, so the street closure would be consistent with past Council decisions to allow street closures for events open to the public. First Baptist Church has held this event before in the same location for the past two years without any problems. Upon approval, First Baptist Church would be asked to notify other business in this block, particularly Kirksey Funeral Home. All businesses with frontage in this block could still be accessed off of Brown Drive.

Upon a motion by Council Member Martin, seconded by Council Member Clark, Council voted unanimously to approve the request of First Baptist Church for the closure of Fort Street between Main Street and Logan Street for a Block Party on Wednesday, May 23 between 3:30 p.m. and 8:30 p.m.

APPROVE CONCURRING ORDINANCES TO ALLOW NORTH CAROLINA DEPARTMENT OF TRANSPORATION TO MAKE TECHNICAL CORRECTIONS TO TRAFFIC REGULATIONS: The City Manager advised that, as shown in the information presented to Council, DOT Division Traffic Engineer Anna Henderson has requested Council approval of several concurring ordinances to make technical corrections to State traffic ordinances, as follows:

A . North Main Street/US 221 North Business – The first ordinance repeals the designation of North Main Street and US 221 North Business between Valley Street and Hankins Road as US 70/US 221/NC 226. The second ordinance designates North Main Street and US 221 North Business between Valley Street and Hankins Road as US 221 Business. The 45 mph speed limit signs will remain in place as they are now. These ordinances officially set the speed limit on this section of the highway, so having the correct designation is important.

B. North Main Street - The first ordinance repeals the designation of North Main Street between Court and New Streets as US 221/NC 226. The second ordinance designates North Main Street between Court and New Streets as US 221 Business. The 20 mph speed limit signs will remain in place as they are now. These ordinances officially set the speed limit on this section of the highway, so having the correct designation is important.

C. South Main Street – The first ordinance repeals the designation of South Main Street between Crawford and Court Streets as US 221/NC 226. The second ordinance designates South Main Street between Crawford and Court Streets as US 221 Business. The 20 mph speed limit signs will remain in place as they are now. These ordinances officially set the speed limit on this section of the highway, so having the correct designation is important.

D. Rutherford Road – This ordinance repeals the designation of Rutherford Road between Baldwin Avenue and Young's Fork (near Cornerstone Credit Union) as US 221/NC 226, since this part of the highway is now US 221 business. The ordinance also eliminates the 45 mph speed limit on the books for this area. This section of road has been signed at 35 mph for some

AA.000001409 (24)

time. No new ordinance is needed for a 35 mph zone, since this is the standard speed limit inside a municipality unless otherwise posted. The 35 mph signs will remain in place as they are now.

E. Machine Shop Road – This ordinance repeals the 25 mph speed limit on Machine Shop Road (SR 1208) between Finley Road (SR 1209) and North Main Street (US 221 Business), because the City took over maintenance of Machine Shop Road in 2003.

F. Fleming Avenue – This ordinance repeals the 25 mph speed limit on Fleming Avenue between North Garden Street and the City Limits, because the City now maintains Fleming Avenue. The City's Traffic Schedule has the 25 mph speed limit in place for all of Fleming Avenue, as well as the recently approved school zone speed limits.

The City Manager stated that he would recommend approving all the Ordinances as presented.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to adopt the following Ordinances correcting NCDOT's traffic regulations as requested:

CITY OF MARION
ORDINANCE
TO REPEAL SPEED LIMIT AND REQUEST FOR CONCURRENCE WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION ON
US 70-US 221-NC 226 FROM SR 1206 (VALLEY SREET)
NORTHWARD TO A POINT 0.17 MILE NORTH OF US 70

I, J. Robert Boyette, Clerk of the City of Marion, do hereby certify that the municipal governing body, pursuant to the authority granted by G.S. 20-141(f), determined upon the basis of an engineering and traffic investigation and duly declared, on the 17th day of April, 2012, the repeal of a 45 mph speed limit as set forth above on the designated portion of the State Highway System, which shall become effective when the Department of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit.

In witness whereof, I have hereunto set my hand and the municipal seal this the 17th day of April, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance/Resolution Number: O-12-04-17-1

CITY OF MARION
ORDINANCE
TO ENACT SPEED LIMIT AND REQUEST FOR CONCURRENCE WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION ON
(NORTH MAIN STREET) BETWEEN SR 1206 AND SR 1501

I, J. Robert Boyette, Clerk of the City of Marion, do hereby certify that the municipal governing body, pursuant to the authority granted by G.S. 20-141(f), determined upon the basis of an engineering and traffic investigation and duly declared, on the 17th day of April, 2012, the enactment of a 45 mph speed limit as set forth above on the designated portion of the State Highway System, which shall become effective when the Department of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit.

AA.000001410 (24)

In witness whereof, I have hereunto set my hand and the municipal seal this the 17th day of April, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance/Resolution Number: O-12-04-17-2

CITY OF MARION
ORDINANCE
TO REPEAL SPEED LIMIT AND REQUEST FOR CONCURRENCE WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION ON
NORTH MAIN STREET (US 221-NC 226)
FROM COURT STREET (US 70E) TO NEW STREET

I, J. Robert Boyette, Clerk of the City of Marion, do hereby certify that the municipal governing body, pursuant to the authority granted by G.S. 20-141(f), determined upon the basis of an engineering and traffic investigation and duly declared, on the 17th day of April, 2012, the repeal of a 20 mph speed limit as set forth above on the designated portion of the State Highway System, which shall become effective when the Department of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit.

In witness whereof, I have hereunto set my hand and the municipal seal this the 17th day of April, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance/Resolution Number: O-12-04-17-3

CITY OF MARION
ORDINANCE
TO ENACT SPEED LIMIT AND REQUEST FOR CONCURRENCE WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION ON
NORTH MAIN STREET
BETWEEN US 70 AND 0.178 MILES NORTH OF US 70

I, J. Robert Boyette, Clerk of the City of Marion, do hereby certify that the municipal governing body, pursuant to the authority granted by G.S. 20-141(f), determined upon the basis of an engineering and traffic investigation and duly declared, on the 17th day of April, 2012, the enactment of a 20 mph speed limit as set forth above on the designated portion of the State Highway System, which shall become effective when the Department of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit.

In witness whereof, I have hereunto set my hand and the municipal seal this the 17th day of April, 2012.

AA.000001411 (24)

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance/Resolution Number: O-12-04-17-4

CITY OF MARION
ORDINANCE
TO REPEAL SPEED LIMIT AND REQUEST FOR CONCURRENCE WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION ON
SOUTH MAIN STREET (US 221-NC 226)
FROM CRAWFORD STRET TO COURT STREET

I, J. Robert Boyette, Clerk of the City of Marion, do hereby certify that the municipal governing body, pursuant to the authority granted by G.S. 20-141(f), determined upon the basis of an engineering and traffic investigation and duly declared, on the 17th day of April, 2012, the repeal of a 20 mph speed limit as set forth above on the designated portion of the State Highway System, which shall become effective when the Department of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit.

In witness whereof, I have hereunto set my hand and the municipal seal this the 17th day of April, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance/Resolution Number: O-12-04-17-5

CITY OF MARION
ORDINANCE
TO ENACT SPEED LIMIT AND REQUEST FOR CONCURRENCE WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION ON
(SOUTH MAIN STREET)
BETWEEN 0.201 MILES SOUTH OF US 70 AND US 70

I, J. Robert Boyette, Clerk of the City of Marion, do hereby certify that the municipal governing body, pursuant to the authority granted by G.S. 20-141(f), determined upon the basis of an engineering and traffic investigation and duly declared, on the 17th day of April, 2012, the enactment of a 20 mph speed limit as set forth above on the designated portion of the State Highway System, which shall become effective when the Department of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit.

In witness whereof, I have hereunto set my hand and the municipal seal this the 17th day of April, 2012.

Stephen R. Little, Mayor

AA.00001412 (24)

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance/Resolution Number: O-12-04-17-6

CITY OF MARION
ORDINANCE
TO REPEAL SPEED LIMIT AND REQUEST FOR CONCURRENCE WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION ON SR 1500 (FLEMING AVENUE), FROM US 70 (GARDEN STREET) NORTHWARD TO A POINT 0.10 MILE NORTH OF SR 1504, IN MARION

I, J. Robert Boyette, Clerk of the City of Marion, do hereby certify that the municipal governing body, pursuant to the authority granted by G.S. 20-141(f), determined upon the basis of an engineering and traffic investigation and duly declared, on the 17th day of April, 2012, the repeal of a 25 mph speed limit as set forth above on the designated portion of the State Highway System, which shall become effective when the Department of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit.

In witness whereof, I have hereunto set my hand and the municipal seal this the 17th day of April, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance/Resolution Number: O-12-04-17-7

CITY OF MARION
ORDINANCE
TO REPEAL SPEED LIMIT AND REQUEST FOR CONCURRENCE WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION ON SR 1208 (OLD US 70), FROM SR 1209 EASTWARD TO NC 226 IN MARION

I, J. Robert Boyette, Clerk of the City of Marion, do hereby certify that the municipal governing body, pursuant to the authority granted by G.S. 20-141(f), determined upon the basis of an engineering and traffic investigation and duly declared, on the 17th day of April, 2012, the repeal of a 25 mph speed limit as set forth above on the designated portion of the State Highway System, which shall become effective when the Department of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit.

In witness whereof, I have hereunto set my hand and the municipal seal this the 17th day of April, 2012.

Stephen R. Little, Mayor

ATTEST:

AA.000001413 (24)

J. Robert Boyette, City Manager/Clerk

Ordinance/Resolution Number: O-12-04-17-8

CITY OF MARION
ORDINANCE
TO REPEAL SPEED LIMIT AND REQUEST FOR CONCURRENCE WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION ON
RUTHERFORD ROAD (US 221-NC 226) FROM BALDWIN AVENUE (SR 1703) TO YOUNGS FORK OF MUDDY CREEK

I, J. Robert Boyette, Clerk of the City of Marion, do hereby certify that the municipal governing body, pursuant to the authority granted by G.S. 20-141(f), determined upon the basis of an engineering and traffic investigation and duly declared, on the 17th day of April, 2012, the repeal of a 45 mph speed limit as set forth above on the designated portion of the State Highway System, which shall become effective when the Department of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit.

In witness whereof, I have hereunto set my hand and the municipal seal this the 17th day of April, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance/Resolution Number: O-12-04-17-9

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager presented Council with a letter he had sent to DOT including the City's concerns about the US 221 Widening Project. He advised that the City, County, Chamber of Commerce, Marion Business Association and Tourism Development Authority would be working with DOT to schedule some small group meetings to discuss the final design. The City Manager stated that he would let Council know as he hears more or as additional meetings are scheduled.

The City Manager reported that, on Wednesday, May 9, from 10:30 a.m. to 2:00 p.m., the City will hold its annual Health Fair for City employees at the Depot. The City typically has 20 or more vendors present to discuss health, fitness, nutrition and insurance with employees. Employees also can meet with a nurse to go over the results of their blood draw. Participation in the blood draw and Health Fair is essentially mandated to avoid having to pay a portion of the insurance premium. The City Manager invited the mayor and Council to stop by the Depot during the Health Fair.

The City Manager advised that the City's Downtown Cleanup event has been scheduled for Saturday, April 21. During this event, volunteers pick up trash in the downtown area. City crews will complete weedeating work in advance of the cleanup and also assist with trash pick-up.

AA.000001414 (24)

The City Manager advised that the McDowell Trails Association (MTA) has asked that the City authorize the sale of timber on the Greenway Phase 2 property and allow the proceeds to be used toward the Phase 2 construction costs.

Council Member Clark stated that he had no problem with authorizing the sale of the timber, as long as the public had a fair shot at bidding on the timber.

Mayor Little and Council Members agreed by consensus to approve the concept of the sale of timber on the Greenway Phase 2 property and allowing the proceeds to be used toward the Phase 2 construction costs, as long as the bidding process was handled properly.

The City Manager stated that he would look back at how the City has handled past timber sales and coordinate this effort with MTA President Bill Hendley.

Mayor Pro Tem Cuthbertson stated that are several dead trees on the Greenway that are in need of removal. The City Manager stated that City staff would look at the trees with Mr. Hendley.

COUNCIL MEMBER COMMENTS:

Council Member Clark thanked Council Members again for the recognition of his forty years of service to the City of Marion at the last City Council Meeting.

Mayor Little stated that a citizen complained to him recently about traffic issues at the Post Office. Mayor Little said that there was a tremendous need for additional drive-up mailboxes away from the Post Office property and wondered why it is taking the Post Office so ling to consider this request. The City Manager reported that the Post Office has agreed to place four additional drive-up mailboxes in various locations around the City and that staff would check again with the Post Office to determine when the new mailboxes will be placed.

Council Member Clark stated that he would be attending a Southern Municipal Conference meeting in Bentonville, Arkansas the following week.

Council Member Doggett stated that she would be attending her first North Carolina League of Municipalities Legislative Action Conference meeting in Albemarle at the end of April.

ADJOURNMENT: Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Doggett, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.000001415 (24)

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion met in a Special Meeting on Friday, April 20 at 1:45 P.M. at107 Dogwood Court in Ridgecrest, North Carolina for the purpose of conducting a Planning Session.

BOARD MEMBERS PRESENT: Mayor Steve Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members Everette Clark, Juanita Doggett, Billy Martin and Don Ramsey.

OTHERS PRESENT: Bob Boyette, City Manager; Randy Hintz, P.E., Danny Bridges, P.E. and Dennie Martin, McGill Associates, Asheville, NC; Jim Neal, Fire Chief; Jay Suttles, Building Inspector; Don Price, Water Plant Superintendent; Freddie Killough, Executive Director, Marion Business Association; Lou Godfrey, Events Coordinator, Marion Business Association; Brant Sikes, Public Works Director; Harriett Thomas, CPA, Finance Director; Mark Brooks, Police Chief.

PLANNING SESSION: Mayor Little called the meeting to order at 1:45 P.M. City Council held a Planning Session and discussed the following topics:

I. Presentations by McGill Associates – Randy Hintz, Danny Bridges and Dennie Martin of McGill Associates gave a presentation on recently completed major construction projects, other recent construction projects, recent studies/engineering assistance, currently active projects and potential projects, as follows:

A. Recently Completed Major Construction Projects
   1. Wastewater Improvements Project
   2. Sugar Hill Road Water and Sewer Extension

B. Other Recent Construction Projects
   1. Wastewater System Inflow and Infiltration Reduction
   2. Finley Road Sewer
   3. Padgett Drive Sewer
   4. Garden Creek Road Sewer

C. Recent Studies/Engineering Assistance
   1. Ashworth Road Industrial Park Water and Sewer Alternatives
   2. Marion Travel Plaza Water and Sewer
   3. Rock-Tenn/Galey & Lord Pump Station Evaluation
   4. Wal-Mart Water and Sewer Construction Observation

D. Currently Active Projects
   1. Water Treatment Plant Evaluation and Source Alternatives
   2. Perry/Yancey Street Drainage and Sidewalk Improvements

E. Potential Projects
   1. Water System Hydraulic Modeling
   2. Potential Water and Sewer Extensions

II. Presentations by City Departments and the Marion Business Association – The following City Department Heads and the Marion Business Association gave presentations on departmental accomplishments over the past year, current trends being experienced for each departments and service, 2012-13 capital outlay and budget needs and future project ideas and needs, as follows:

A. Fire - Jim Neal, Fire Chief
B. Building Inspections - Jay Suttles, Building Inspector
C. Water Plant - Don Price, Water Plant Superintendent

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D. Wastewater Plant – Bob Boyette, City Manager, standing in for Larry Carver, Wastewater Treatment Superintendent, who was unable to attend
E. Marion Business Association - Freddie Killough, Marion Business Association Executive Director
F. Planning and Development - Bob Boyette, standing in for Heather Cotton, AICP, Planning and Development Director, who was out of town at a scheduled meeting
G. Public Works - Brant Sikes, Public Works Director
H. Finance/Administration - Harriett Thomas, CPA, Finance Director
I. Police - Mark Brooks, Police Chief

III. Recess Meeting – At 8:30 P.M., upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Ramsey, Council voted unanimously to recess the meeting until the following morning, Saturday, April 21, 2012 at 8:00 A.M. at City Hall, located at 194 North Main Street in Marion, North Carolina.

IV. Reconvening of Meeting – At 8:00 A.M. on Saturday, April 21, 2012, Mayor Little called the meeting back to order at City Hall located at 194 North Main Street in Marion, North Carolina.

V. Review/Discussion of Presentations – The City Council reviewed and discussed the McGill Associates, Marion Business Association and Departmental presentations. No final decisions were made on any item. All items requiring Council action will be included on a future Regular City Council Meeting agenda for consideration or in the 2012-13 or future City Budget proposals for consideration.

VI. Presentation of 2012-13 Budget Outlook and Priority Items – City Manager Bob Boyette gave a presentation of the 2012-13 City Budget Outlook and Proposed Priority Items. Council held a brief discussion on the presentation. No final decisions were made on any item. All items requiring Council action will be included on a future Regular City Council Meeting agenda for consideration or in the 2012-13 or future City Budget proposals for consideration.

VII. General Brainstorming/Identification of Items for Discussion – Council held a brainstorming exercise and identified several items for further discussion.

VIII. Priority/Goal Setting based on Brainstorming – Council held further discussion on items identified during the brainstorming exercise and set priorities and goals on these items.

IX. Determination of Next Steps/Final Discussion/Wrap Up – Council held discussion and identified the next steps to take on the priority items. No final decisions were made on any item. All items requiring Council action will be included on a future Regular City Council Meeting agenda for consideration or in the 2012-13 or future City Budget proposals for consideration.

X. Adjournment – At 5:30 P.M., upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adjourn the meeting.

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