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 1, 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; Gaye Noblitt, Police Administrative Lieutenant; Eddie Swofford, Retired Reserve Police Sergeant; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: T.J. Kesner, Austin Lambert, Shawn Thomas, Alex Brown, Matt Greene, Boy Scout Troop 210; Larry Greene, Boy Scout District Commissioner.

OPEN MEETING: Mayor Little opened the meeting with a moment of silence.

RECOGNITION OF BOY SCOUT TROOP 210: Mayor Little recognized and welcomed members of Boy Scout Troop 210 who were present for this meeting.

CITIZEN OF THE MONTH – SELECTED BY COUNCIL MEMBER MARTIN: The Citizen of the Month for May was held over until the June City Council Meeting.

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 17, 2012 Regular City Council Meeting Minutes and April 20-21, 2012 City Council Planning Session Minutes.

RECOGNITION OF RETIRING RESERVE POLICE SERGEANT EDDIE SWOFFORD: Police Chief Mark Brooks stated that Reserve Police Sergeant Eddie Swofford recently retired, after 26 years of service with the City of Marion, including 10 years as a full-time Police Officer and 16 years as a Reserve Police Officer. Chief Brooks stated that Sergeant Swofford did an excellent job for the Police Department, serving in several capacities, including helping train new officers and serving on the Police Department Honor Guard.

Chief Brooks stated that he had only known Sergeant Swofford for two years, but that it did not take him long to find out that the was a valuable member of the Police Department. Chief Brooks presented Mr. Swofford with a plaque honoring his 26 years of dedicated service to the citizens of Marion. Chief Brooks also presented Mr. Swafford with a challenge coin and his official retirement card.

Mayor Little presented Sergeant Swofford with a brass medallion struck for the City and County Sesqicentennial in 1993.

Mayor Little, Council Members and the City Manager all thanked Sergeant Swofford for his service to the City and congratulated him on his retirement.

RECOGNIZE POLICE CHIEF MARK BROOKS FOR GRADUATION FROM UNC SCHOOL OF GOVERNMENT MUNICIPAL ADMINISTRATION COURSE: The City Manager advised that Police Chief Mark Brooks graduated on April 20 from the UNC School of Government Municipal Administration Course. This 150 hour course teaches municipal officials

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about all aspects of municipal government in North Carolina. The City Manager stated that Chief Brooks even obtained a scholarship from the Local Government Credit Union to offset much of the cost of the course.

The City Manager advised that he took this course in 1995-96 and can attest that it is very time-consuming, but also very worthwhile.

The City Manager stated that he wanted to recognize Chief Brooks publicly for his completion of the course.

Mayor Little stated that the UNC School of Government is an outstanding institution and is the envy of other states.

Mayor Little presented Chief Brooks with a Certificate that read as follows:

School of Government
The University of North Carolina at Chapel Hill
Mark L. Brooks
Having successfully completed the course of instruction in
MUNCIPAL ADMINISTRATION
Is awarded this certificate
Given this twentieth day of April 2012

Dean, School of Government Administration Courses

Director, Municipal and County

Mayor Little and Council Members congratulated Chief Brooks on his graduation from the Municipal Administration course.

PUBLIC COMMENT PERIOD: There were several Boy Scouts present for this meeting.

One member of the Scouts asked how long is the term of a City Council member.

Mayor Little stated that the Mayor and Council Members serve four year terms and that municipal elections are held in odd numbered years.

Another Scout Member asked how many Council Members served the City.

Mayor Little stated that there are five Council Members plus the Mayor that serve the City. He noted that Council Member Everette Clark had recently achieved 40 consecutive years of service with the City as a Council Member and former Mayor. Mayor Little also introduced Council Members and City staff who were present and asked each to provide their years of service with the City.

SCHEDULE CITY COUNCIL BUDGET WORKSHOP/PLANNING SESSION: The City Manager advised that he anticipated distributing the recommended 2012-13 City Budget to Council Members at the May 15 City Council meeting. Council typically schedules at least Budget Workshop/Planning Session for late May. The City Manager stated that he would propose Tuesday, May 22 for the Planning Session/Budget Workshop.

The City Manager stated that McGill Associates had requested that Council schedule a Planning Session to discuss the Water Plant Study and recommended Water and Sewer Capital Improvements Program in more detail. The City Manager stated that the Budget Workshop and

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Planning Session to discuss the Water Plant Study and recommended Water and Sewer Capital Improvements Program could be combined or held separately.

After a brief discussion, it was the consensus of Mayor Little and Council Members to schedule the Budget Workshop/Planning Session for Tuesday, May 22, 2012 at 6:00 P.M. at City Hall and to schedule the Regular City Council Meeting on Tuesday, June 5, 2012 at 6:00 P.M. at City Hall. St the conclusion of the Regular City Council Meeting on June 5, Council will meet with McGill Associates to review the Water Plant Study and recommended Water and Sewer Capital Improvements Program in detail.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager asked Public Works Director Brant Sikes to advise Council of the upcoming water system flushing schedule. Mr. Sikes advised that the City would complete the annual water system flushing the following week, May 7-11. Mr. Sikes stated that the flushing is routine and that notices have gone out the media and been placed on the City Channel to alert the public of this work.

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 advised that the City's downtown hanging baskets were being installed this week. He noted that Planning and Development Director Heather Cotton and contracted City Arborist Lawrence Moore have worked with Banner Greenhouse to make sure that the sweet potato vine does not take over the baskets as much as last year.
Mayor Little stated that he hoped the baskets would contain a great deal of color. The City Manager stated that this was the intention.

The City Manager stated that the DOT painting contractor would hopefully soon be underway with completing the downtown crosswalk painting, as part of the Downtown Streetscape Project. The City Manager added that DOT Resident Engineer Brian Skeens is supposed to advise when this work will resume, but that he would check with Mr. Skeens to see if a date had been set to resume the work.

The City Manager advised that he had spoken with County Manager Chuck Abernathy, McDowell Chamber of Commerce Director Rod Birdsong, Marion Business Association Executive Director Freddie Killough and McDowell Tourism Development Authority Executive Director Carol Price about asking DOT to schedule some small group meetings to discuss the final design of the US 221 widening project. The City Manager stated that he would advise as he hears more or as additional meetings are scheduled.

The City Manager advised that City staff received a complaint about a vehicle for hire. Pizza Joint and Bar on Sugar Hill Road is operating a shuttle van and charging people a flat fee to take them to their homes. The complaint is that the vehicle for hire should have to follow the same policies as a taxi service.

The City Manager stated that an argument could be made that a vehicle for hire is essentially the same as a taxicab and should be regulated the same. He said that he had conducted some very preliminary research and found two cities thus far, Durham and Boone, that regulated vehicles for hire in the same manner as taxicabs.

Council Member Clark stated that he would like for further research to be done and perhaps even for the City Attorney to look into the matter to see what the City can legally do. He suggested

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that it seems unfair for one business to have to follow strict City ordinances, while another business does not have to do so.

Council Member Doggett stated that she understands the fairness issue, but would be very concerned about bars not offering the shuttle service if they were regulated too much, thereby potentially resulting in more drinking and driving.

Council Member Ramsey stated that he did not see any difference in what the shuttle van and taxicab were doing. He asked if State law would allow for both to be regulated the same.

The City Manager stated that his preliminary research seemed to indicate that the City could regulate vehicles for hire in the same manner as taxicabs.

After further discussion, it was agreed that the City Manager would look into this matter further and present information back to Council at a future meeting.

The City Manager advised that the City's 10th Annual City Open House for all third graders in McDowell County is set for 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. Baxter Healthcare will be serving lunch again at the Community Building. All eight public schools plus New Manna Christian School and Nebo Christian Academy will participate. The City Manager invited the Mayor and Council Members to attend part or all of the day's activities.

The City Manager advised that, as requested by Mayor Little at the April 17 Council meeting, City staff followed up again with the Post Office concerning the schedule for the placement of additional drive-up mailboxes in the City, to alleviate traffic flow problems at the Post Office. Police Chief Mark Brooks reported that the additional drive-up mailboxes have been approved, according to the Interim Postmaster, but that she did not have a schedule for when the installation of the new mailboxes will take place. City 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 the Street Committee met on April 23 and reviewed several items. Because some of the items will need some additional research from staff, the Street Committee recommendations will be presented at the May 15 City Council Meeting.

The City Manager advised that DOT started work in late April on the project to raise the level of Finley Road in the low spot prone to flooding and also to address drainage issues at this location. He added that DOT will also soon begin work on the Logan Street resurfacing project, which will include repairing the drains that have long created a traffic hazard on the street.

COUNCIL MEMBER COMMENTS:

Council Member Clark asked if the street sweeper was running. He noted that several streets have an unacceptable accumulation of dirt and debris.

The City Manager stated that the street sweeper had begun running its normal route, but that the frequency of sweeping would be increased to catch up for the large amount of debris on the streets.

Council Member Clark stated that the City's street right of way mowing contractor is not bagging his clippings. Council Member Doggett added that the contractor sometimes fails to weedeat all areas. The City Manager stated that Public Works Director Brant Sikes would check into these issues and make necessary corrections with the contractor.

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Mayor Little stated that there are areas in the downtown areas that need to be sprayed for weeds. The City Manager stated that City staff had been spraying for weeds, but that the City had purchased some cheaper weed killer the previous fall, which does not appear to be working very well. Mr. Sikes stated that staff have been instructed to mix the weedkiller stronger and that he will check to make sure that the weed spraying is increased.

Council Member Doggett asked if the weed spraying could be a hazard to animals. The City Manager stated that he did not think that it would be a long term hazard to animals or people. Mayor Little stated that the weedkiller should not be a hazard, unless it has just been sprayed.

Mayor Pro Tem Cuthbertson suggested painting the hangers that are holding the downtown hanging baskets. The City Manager stated that staff would look into this possibility.

Council Member Doggett stated that she recently attended her first meeting on the North Carolina League of Municipalities Legislative Action Committee in Albemarle. She provided an update to Council of legislative issues and priorities for cities.

Council Member Doggett urged Council Members to attend the North Carolina League of Municipalities Town Hall Day in Raleigh on June 6, since there were many legislative issues of importance to cities that will be discussed this legislative session.

Council Member Clark stated that he had recently attended a Southern Municipal Conference meeting in Bentonville, Arkansas. He gave a brief overview of the meeting, stating that one of the major topics discussed was annexation.

Mayor Little advised that he had been invited to welcome the National African-American Recreational Vehicle Association, which will be holding an event at Tom Johnson's Camping Center on US 70 West in late July. Mayor Little stated that the welcome would take place on July 28. He said that he spoke to this group last year and asked if Council Members could attend this event. Mayor Pro Tem Cuthbertson, Council Member Doggett and Council Member Martin stated that they could attend this event.

Boy Scout District Commissioner Larry Greene thanked Mayor Little and City Council Members for the attention and kindness given to the Boy Scouts during the meeting.

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

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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 15, 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; Heather Cotton, AICP, Planning and Development Director; Mark Brooks, Police Chief; Freddie Killough, Executive Director, Marion Business Association; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Ulysee Carson, 187 West Court Street, Marion, NC; Janice McNeil, 44 Wilhemenia Street, Marion, NC;

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

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

A. Approval of Minutes – May 1, 2012 Regular City Council Meeting Minutes.

B. Approval of Tax Release

Tax Years: 2006, 2007, 2008, 2009, 2010
Bill Number: 06-60641, 07-64140, 08-67512, 09-73061, 10-76901
Name: ROSE HILL RETIREMENT
120 FLEMING AVE
MARION NC 28752

Tax Rate $0.51
Valuation Released: $226,320 (value is the same for all years)
Marion City Tax Amount to be refunded: $1,154.23 for each year x 5 = $ 5,771.15

Per the McDowell County Tax Assessor, this building was improperly billed to Rose Hill Retirement when it actually belonged to McDowell Mission Ministries which is tax exempt for any past or future tax billing. This tax release is authorized by State law and was approved by Council.

PUBLIC HEARING – ADOPTION OF ANNEXATION ORDINANCE – MILL ROAD/HANEY/FAIRCHILD ANNEXATION: Mayor Little opened the Public Hearing.

The City Manager advised that this public hearing is required on the requested annexation of the 7.25 acre Mill Road/Haney/Fairchild annexation area. The property is located across the street from the Grandview Station Shopping Center. The property is comprised of three parcels and two houses. A multifamily apartment development is planned for the property.

There were no citizens present to discuss this item.

Mayor Little closed the Public Hearing.

Council Member Clark asked a question about the ownership of the property in the annexation area, based upon a map provided. The City Manager stated that the map in the Council packet was in error and that the property was owned by the Haney and Fairchild families.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following Ordinance annexing the Mill Road/Haney/Fairchild property:

AN ORDINANCE TO EXTEND
THE CORPORATE LIMITS OF THE
CITY OF MARION, NORTH CAROLINA –
MILL ROAD – HANEY/FAIRCHILD ANNEXATION - 2012

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, May 15, 2012, after due notice by publication on Wednesday, May 2, 2012; 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 May 15, 2012:

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

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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 2. Upon and after May 15, 2012, 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 15th day of May, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Approved As To Form:

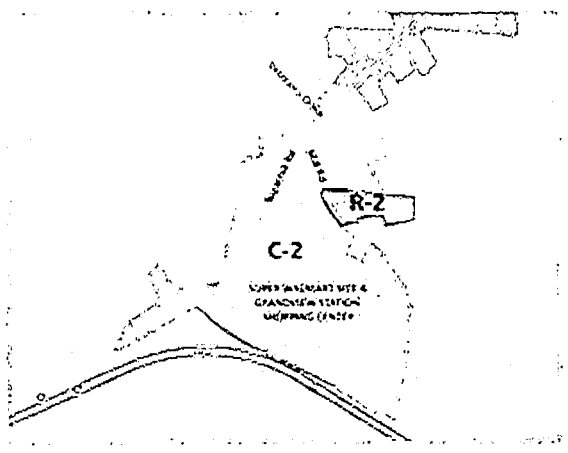
City Attorney

Ordinance Number: O-12-05-15-1

PUBLIC HEARING – ZONING MAP AMENDMENT – ASSIGN ZONING TO MILL ROAD/HANEY/FAIRCHILD ANNEXATION AREA: Mayor Little opened the Public Hearing.

Planning and Development Director Heather Cotton advised that Council action was needed to assign zoning to the newly annexed Mill Road/Haney/Fairchild annexation area. Ms. Cotton stated that the purpose of the Council action is to approve a Zoning Map Amendment 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 new land uses. Based on Marion City Code, the annexation area is most compatible with the R-2 General Residential Zoning District. Ms. Cotton reported that the R-2 General Residential Zoning District is established as a district where the principal use of land is for residential purposes.

Ms. Cotton advised that the Planning Board voted unanimously to recommend the assignment of the R-2 General Residential District to the Mill Road/Haney/Fairchild annexation area at their meeting on May 3, 2012, as shown on the proposed Official Zoning District Map below.



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 Cuthbertson, Council voted unanimously to adopt the following ordinance amending the Official Zoning District Map to assign the R-2 General Residential Zoning District designation to the Mill Road/Haney/Fairchild annexation area:.

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
MILL ROAD 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 Mill Road Annexation Territory adopted by City Council on May 15, 2012, Ordinance Number O-12-05-15-1.

Section 3: The City of Marion is assigning the R-2 General Residential 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 May 3, 2012.

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.

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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.

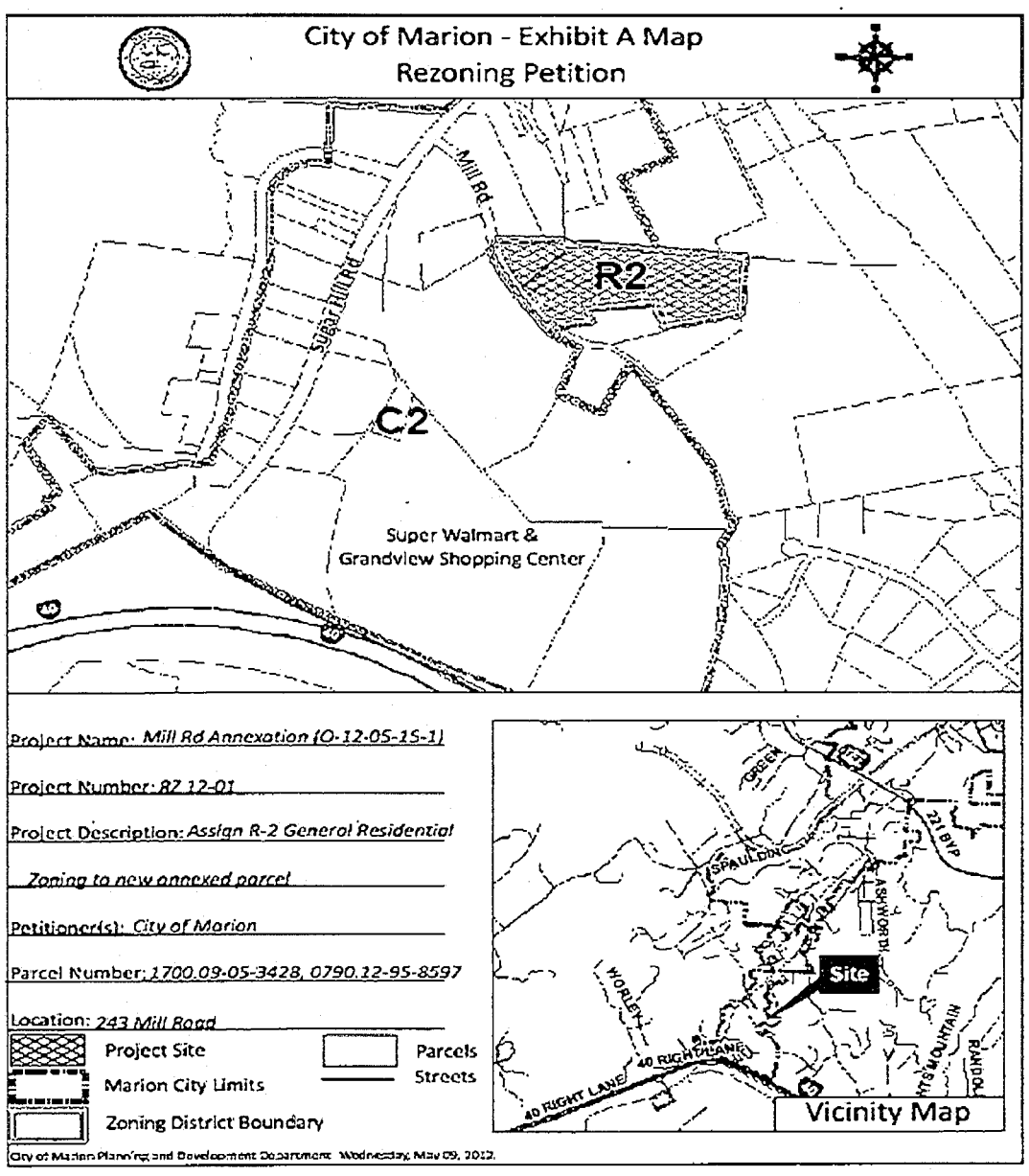
Adopted this the 15th day of May 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-12-05-15-2



PUBLIC APPEARANCE – MARION BUSINESS ASSOCIATION: Marion Business Association (MBA) Executive Director Freddie Killough appeared before Council and advised that MBA President Boyd Phillips was not able to be present. Ms. Killough presented Council with the following report.

January - March, 2012 Quarterly Report to Marion City Council
April, 2012

Economic Development Report:
New Businesses Opened – 8

Black Bear Trading Post
Imperial Shoes
Marion Tanning Salon
Nopales Mexican Grill
Oxford's Engine
Ancient Paths
Blue Ridge Outdoors
Swamp Fox Tavern

New Owners or Relocations – 2
Sharon's Café
Harper's CS&E

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Businesses Closed – 3
Main Street Gifts
Open Flame
What's Kicking

Business Opportunity Inquiries – 1
Business Technical Assistance Request - 1
Business Loan Inquiries – 3
Business Grant Inquiries – 4
Business Visits – 93
Property Referral Inquiries – 3
Property Owner Contacts w/ available bldgs – 3
Contacts with interested Commercial Developers – 1
New Businesses Breaking Ground - 1
Façade Grant Inquires – 11
Façade Grant Awarded – 0
Sign Grant Inquires – 2
Sign Grant Awarded - 0

Other Economic Activity:
MBA sponsored and conducted two Business for Breakfast events, a small business networking event held bi-monthly. Participation is a cross-mix of the business community and open to all small businesses.
MBA hosted the WNC Rail Committee. The committee continues to work to promote passenger rail service to WNC.

MBA maintains updated and active listings of commercial properties in the City of Marion.

Façade Grant Opportunities
The MBA, McDowell County, MEDA and City of Marion held their second round of Historic Marion Façade Grants for downtown property owners. The Marion Business Association Façade & Sign Grants offered a Façade/sign grant program available to any commercial property. This is the first time sign grants have been offered. A total of seven grant applications were submitted. The Design Review Committee extended the deadline to May 15 to allow more businesses to apply for available funding.

Special Events Report
January – March is planning and fund raising time for the MBA. Funding opportunities have been severely cut this year. The MBA Board is reviewing other funding options.

The Events Committee held the First Valentine's Day Dance with homemade desserts and dancing. Live music was organized by committee member Ric Luther. It was a very successful event and the committee is making plans for the event in 2013.

Volunteer Hours Committed – 165

The Events Committee is coordinated by the new Events Coordinator - Lou Godfrey. Bobbie Young gave notice of her retirement in March.

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
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 @ Depot

Business for Breakfast
January 20, March 16, May 18, July 20, September 21, November 16

Upcoming Events
Saturday, April 28 – Marion Spring Fest @ Market Shade Shelter -
Sponsored by local musicians as a fund raiser for McDowell Mission
Saturday, May 5 – Sidewalk Yard Sale
Saturday, May 5, Noon – 1:30 PM – A Taste of Marion @ Depot (Tickets required)
Tuesday, May 15, 3:00 PM – 6:00 PM - Historic Marion Tailgate Market will open for the season

Mayor Little thanked Ms. Killough for her report and for the continued work of the MBA.

FIRST PUBLIC HEARING – COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION: Mayor Little opened the Public Hearing.

The City Manager advised that Halcon Development and its partner, Bradley Housing, are proposing to build a 48 unit apartment community in Marion for low and moderate income individuals. The City is considering applying for a Community Development Block Grant in the Housing Development category, for funds through the Catalyst program or any program that might work for this type of project through the North Carolina Department of Commerce. The City and Halcon Development are looking into funding options. The funds will be used to help the development

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with water/sewer connections, road and/or sidewalk improvements or other eligible activities. The City Manager reported that no decisions have been made at this point; instead, the City is simply considering seeking funding and wishes to receive public input.

The City Manager added that this is the first of two required public hearings for a potential Community Development Block Grant application. The second public hearing will be held at the June 5 Council meeting.

No other persons spoke during the public hearing.

Mayor Little closed the Public Hearing.

PUBLIC COMMENT PERIOD: Mr. Ulysee Carson of 197 West Court Street advised that he was forming a new business that did paving and hauling and was here to try and find out what projects the City has in progress or on the planning stages.

Mayor Little stated that Mr. Carson meet with City Manager Bob Boyette, who could give Mr. Carson information regarding City projects.

Mr. Carson thanked Council for their time and stated that he would get with the City Manager at a later date.

CONSIDER ADOPTION OF RESOLUTION OF INTENT TO CLOSE AN UNOPENED PORTION OF WILHEMENIA STREET AND AN UNOPENED ALLEY: Planning and Development Director Heather Cotton advised that this proposed resolution of intent is to close an unopened portion of Wilhemenia Street and an unopened alley that subdivides property owned by Marco Antonia Cruz Reyes. As part of the resolution, a public hearing on the matter will be scheduled for June 19, 2012, notice of the hearing will 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 General Statute 160A-299.

Ms. Cotton reported that Mr. Reyes owns three parcels of land between Grayson Street and High Street. The unopened rights-of-way bisect these properties and leave one parcel with no public access. Mr. Reyes would like to have the unopened rights-of-way closed and then amend the boundary lines of the three parcels to create two buildable lots. One lot would be accessed from Grayson Street, while the other would be accessed from High Street.

Ms. Cotton stated that, in addition to the unopened rights-of-way, the City also has a force main sewer line that runs through one of the properties. The City does not maintain the unopened portion of Wilhemenia Street or the unopened alley; however it does maintain the sewer line that crosses both the unopened section of Wilhemenia and Mr. Reyes property. Ms. Cotton advised that Mr. Reyes has agreed to provide a twenty foot utility easement, giving the City permanent access to the line as part of the road abandonment request. Ms. Cotton suggested that it is unlikely that the City would ever improve the unopened rights-of-way due to steep and unlevel topography. Therefore, she said that it is staff's opinion that closing the rights-of-way would not be detrimental to public interest or limit access to other property, and in addition provide permanent access to public utilities.

Mayor Little asked if anyone had any questions.

Ms. Janice McNeil of 44 Wilhemenia Street asked to speak to Council and stated that she was born in Marion, had moved away for many years and has recently come back home to live.

Ms. McNeil stated that she had questions about the closing of this street and alleyway and concerning the West Marion neighborhood that she had discussed with Ms. Cotton the day before.

Ms. McNeil discussed concerns about drainage issues, safety and housing conditions in the West Marion neighborhood. She asked Council to reserve some grant funds for improving the conditions of housing in her home neighborhood. Ms. McNeil also said that she would like to have the City help in acquiring the old Mountainview School for public use for the community. She also questioned why property owners in the City must pay City and County property taxes.

Mayor Little explained that State law requires property owners in the City to also pay County taxes. He added that the City and County provide different types of services, for the most part, although there is some overlap.

Ms. McNeil said that, after talking to Ms. Cotton, she feels optimistic about revitalizing the West Marion community.

Mayor Little thanked Ms. McNeil for coming to the meeting and stated that she is always welcome to attend City Council Meetings.

Council Member Clark stated that he was a little unclear regarding the property and asked if Mr. Reyes owned all the property.

Ms. Cotton stated that Mr. Reyes does own all of the property that this street closing would affect and that he needs to close the street and alleyway in order to utilize his land.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to approve a Resolution of Intent to close an unopened portion of Wilhemenia Street and an unopened alleyway as follows:

RESOLUTION OF MARION CITY COUNCIL
INTENT TO CLOSE A PORTION OF WILHEMENIA STREET
AND AN UNOPENED ALLEY

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 Wilhemenia Street and an unopened alley as shown on a survey of properties belonging to Marco Antonio Cruz Reyes, and as shown on a survey prepared by R.L. Greene Surveying and Mapping dated May 3, 2012.

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 June 19, 2012 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 Marco Antonio Cruz Reyes, 93 West Wilhemenia Street, 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 15th day of May, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-12-05-15-1

RECEIVE STREET COMMITTEE RECOMMENDATIONS: The City Manager advised that the Street Committee met on April 23 with City staff and made several recommendations:

A. The City Manager stated that the first request reviewed was for a no parking designation on Old West Henderson Street. McDowell County Farm Bureau had 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. Bob Blankenship of Farm Bureau talked to the City Manager about this matter and noted that the strip of grass in front of Farm Bureau is being beaten down by vehicles being parked there while doing business across the street.

The City Manager advised that the Street Committee had noted that there was an area across Old West Henderson Street from McDonald's between Buncombe Street and the old Broyhill Plant that had some gravel and asphalt put down years ago. The Street Committee proposed discussing this issue with McDonald's to see if they would contribute to paving the area noted above for a parking area. The County tax maps indicate that the City has a 50 foot right of way in this location, so the area where the gravel and asphalt were previously placed is on the City right-of-way. The City Manager advised that Public Works Director Brant Sikes and he met with local McDonald's owners Bob Kelley and John Karas on May 2. Mr. Kelley and Mr. Karas noted that McDonald's owned the real estate, but that they were interested in the idea of paving a parking area.

Public Works Director Brant Sikes stated that he subsequently provided a cost estimate for Mr. Kelley and Mr. Karas. Mr. Kelley advised Mr. Sikes on May 8 that he would likely be willing to pay to pave this area. Mr. Sikes suggested that the City would also need a signed contract with Mr. Kelley (K-21 Corporation). Both Mr. Kelley and Mr. Karas noted that, if they do agree to pay to pave this area, they cannot be held responsible if vehicles continue to park in front of Farm Bureau. Neither Mr. Kelley nor Mr. Karas had an objection to prohibiting parking in front of Farm Bureau.

The City Manager stated that he had not talked to the adjacent property owner Mr. Allen Gurley. However, if Mr. Gurley ever utilized this property or sold it, a driveway could be placed to serve the property.

Council Member Clark stated that the Street Committee studied this request and that he would like to see this this area paved prior to putting no parking in front of Farm Bureau. Council Member Clark stated that he believed Farm Bureau would have no objection to this proposal.

Council Member Martin stated that the City needs to let McDonald's know that the City has looked at this matter and that if the paving work is not done, something else will need to be done.

Council Member Doggett asked if this proposed paved section would be for McDonald's parking only. The City Manager stated that it would be public parking, due to it being City right-of-way.

The City Manager stated that, if authorized by Council, staff could issue an encroachment for the paving work.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to authorize an encroachment to be issued for McDonald's to pave a parking lane on the City's Old West Henderson Street right-of-way, with all expenses being paid by McDonald's, and with the area being designated as public parking.

B. The City Manager advised that the next request reviewed was for a mirror at Railroad and South Main Streets. Mayor Pro Tem Cuthbertson had recently noted that it is difficult to turn out of Railroad Street onto South Main Street, either left or right, and proposed the installation of a mirror as a solution. The City Manager stated that the Street Committee looked at the location and recommended the placement of a mirror, if it would help with visibility.

The City Manager reported that Mr. Sikes had placed a temporary mirror on the South Main Street sidewalk, across from Railroad Street, and had determined that a mirror would serve to provide adequate visibility at this intersection. The City Manager proposed placing the mirror on a black pole, to fit in better with the appearance of downtown.

Council Member Clark asked if we the City would have to get DOT permission to install this mirror.

The City Manager stated that the right-of-way is owned by DOT, but the City maintains the sidewalk, so he would suggest that the City place the mirror and see if DOT objects.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Ramsey, Council voted unanimously to approve the placement of a mirror on a decorative black pole on the South Main Street sidewalk, across from Railroad Street.

C. The City Manager stated that Council Member Clark had previously 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. This restriction was put in place prior to the City Manager coming to Marion in early 2001, due to a traffic fatality at this intersection. Council Member Clark had noted that traffic must pass through the Bi-Lo Shopping Center parking lot 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.

The City Manager noted that the City also has a no left turn restriction from Bradley Street (at the northern entrance to Lady Marian Plaza) onto North Main Street. This prohibition was also put in place after a traffic fatality at this intersection

The City Manager stated that the Street Committee looked at the two locations and recommended that the left turn restrictions be repealed at both intersections. He advised that the Street Committee noted a sight distance issue involving a tree at the Montevista Avenue/North Main Street intersection. The City Manager stated that the Marion City Square Shopping Center property owner had agreed to remove the tree blocking the sight distance within the next week.

Mayor Pro Tem Cuthbertson reported that he received a comment from a resident of Montevista Avenue, stating their concern with the removal of the left turn prohibition at the Montevista Avenue/North Main Street intersection, since it would force traffic to wait longer for cars to turn left.

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Council Member Doggett stated that this is true with every left turn movement in the City.

Mayor Little said that he considered this to be a minor inconvenience.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council Members voted unanimously adopt the following Ordinance repealing left turn restrictions at the Montevista Avenue/North Main Street intersection and at the Bradley Street/North Main Street intersection:

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
BRADLEY STREET	LEFT TURN PROHIBITED	AT NORTH MAIN STREET
MONTEVISTA AVENUE	LEFT TURN PROHIBITED	AT NORTH MAIN STREET

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

Adopted this the 15th day of May, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-12-05-15-3

D. The City Manager advised that Council Member Clark had suggested making Bakersville Road, located next to Hospice of McDowell County, 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. The City Manager advised that staff had proposed some physical improvements to Bakersville Road, as was presented at the April 20-21 Council Planning Session, to make the street passable and to improve safety.

The City Manager advised that, due to the narrow width of the street, the Street Committee recommended that Bakersville Road be widened to a standard 16 foot wide street, if feasible, or else changed to a one-way street in the direction of Fleming Avenue to Montevista Avenue.

Public Works Director Brant Sikes reported that he had looked at Bakersville Road and believed that it would be feasible and not cost much more to widen Bakersville Road from its current width of 12 feet near Fleming Avenue to 16 feet, to make it a standard street.

It was the consensus of Council to close all of Bakersville Road until needed repairs can be made, due to the poor condition of the street and the fact that no occupied structures are located on the street.

Council agreed to discuss Bakersville Road further later in the agenda, when 2012 Street Resurfacing/Paving Priorities were discussed.

E. The City Manager advised that he had received a request from Ms. Hilda Dean for 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.

The City Manager stated that the Street Committee looked at the proposed sidewalk extension and felt that this project would be quite expensive, due to topographical and encroachment issues, and would serve a very limited purpose. Therefore, the Street Committee recommended no action at this time.

No action was taken by City Council on this request.

F. The City Manager advised that the last request was from Council Member Ramsey requesting the review of the three way stop at the North Madison Street/Fort Street intersection and the four way stop at the North Madison/New Street intersection.

The City Manager stated that the Street Committee reviewed these intersections and determined that the multi-way stops do serve a purpose in slowing down traffic and were put in place at the request of the neighborhood in past years. The Street Committee recommended keeping the stop signs in place, unless there is an outcry to remove the stop signs from the neighborhood.

No action was taken by City Council on this request.

CONSIDER APPROVAL OF 2012 STREET RESURFACING/PAVING PRIORITY LIST: Public Works Director Brant Sikes advised, that as discussed at the April 20-21 Council Planning Session, staff had recommended four streets for resurfacing or paving in 2012-13. These streets are as follows:

A. Overlook Drive – Pave entire street. Council had previously authorized this work, upon request of Overlook Drive residents.

B. Bakersville Road – Restructure base and repave on northern end near

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Fleming Avenue. Widen to 16 feet if at all possible, to make it a standard street.

C. Park Avenue – Replace curb and gutter and sidewalk and resurface northern end from Robert Street to dead end.

D. Ridge Street, East Marion – Rehab storm drains and resurface the entire street.

Mr. Sikes stated that he would request that Council approve this priority list. Staff would then bid out the asphalt part of this work and bring the bids back to Council for approval. The Bakersville Road improvements could be bid at both the 12 foot and 16 foot widths.

Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to approve the following 2012 Street Resurfacing/Paving Priority List and to allow staff to seek bids for the project, with said bids being brought back to Council at a future meeting:

A. Overlook Drive – Pave entire street.

B. Bakersville Road – Restructure base and repave on northern end near Fleming Avenue. Widen to 16 feet if at all possible, to make it a standard street.

C. Park Avenue – Replace curb and gutter and sidewalk and resurface northern end from Robert Street to dead end.

D. Ridge Street, East Marion – Rehab storm drains and resurface the entire street.

REVIEW REQUEST FOR SEWER CONNECTION OUTSIDE CITY: The City Manager advised that staff received an application from Mr. Richard Good, Jr., requesting sewer service at five units located on John Gilkey Road off of Valley Street, located behind the Harvest Drive-In. A map was presented to Council showing the location of the property in question. This property is located outside the City Limits. These five units, which include three apartments, a mobile home and a house, currently have City water available, although only one unit appears to have active water service.

The City Manager stated that Public Works Director Brant Sikes had estimated that a sewer extension of 1,120 feet would be required, with an estimated cost of around $50,000. Mr. Good has an additional property with a housing unit located across John Gilkey Road from the five units requested for sewer. The City Manager advised that he had completed a revenue and expenditure analysis, assuming annexing all three properties and six units owned by Mr. Good and assuming no additional sewer customers beyond the five units requested. The estimated payback period for the sewer extension and the annexation is approximately 11.5 years. This number could be lessened if there were additional sewer customers connected and additional properties annexed. It appears that 11 additional housing units would have access to City sewer as a result of the extension. In addition, the Valley Hill Apartments, with 8 units, located off of Valley Street, could be served with another short extension.

The City Manager stated that the 11.5 year payback period was more than the City typically wanted, but that it might be a good idea to determine if there is additional interest for City sewer service in this area, before Council makes a decision.

Council Member Clark stated that if Mr. Good has a problem with his septic system, he may come out better to be annexed into the City. Council Member Clark added that he would not want to undertake the sewer extension, unless there were additional properties interested in annexation and City sewer service.

Mayor Little stated that it is a good idea for the City to inquire if others in the area are having problems.

It was the consensus of Council to authorize the City Manager to survey property owners along Valley Street, John Gilkey Road and Valley Hill Drive to determine the interest level in City sewer service and annexation. The City Manager will report the results of the survey to Council at a future meeting, so that Council can make a decision regarding the sewer extension.

CONSIDER APPROVAL OF PUBLIC WORKS DEPARTMENT ROOF REPLACEMENT: Public Works Director Brant Sikes advised that the roof at the Public Works Department and Warehouse is in immediate need of repair. The roof, which is original to the building, has been patched through the years, but a recent heavy rainfall showed that replacement of the roof is needed at this time.

Mr. Sikes stated that the City had recently barely missed experiencing damage to computers and equipment in the garage and other areas of the building, so staff is very reluctant to wait on the roof replacement.

Mr. Sikes advised that bids were taken on the roof replacement and the low bid was received from Johnson Roofing Concepts, Inc. of Marion in the amount of $26,885. Johnson Roofing has the experience needed to do this work and has previously successfully completed roofing work for the City.

Mayor Little stated that his office roof had recently been repaired by Johnson Roofing and that he was satisfied with the work.

Council Member Clark asked what type of roof this would be. Mr. Sikes stated that the roof is galvanized metal.

The City Manager stated that staff would not be bringing this expenditure to Council this late in the Fiscal Year unless it was an emergency. The City Manager stated that the expense would be charged to the Public Works Administration Department. Since 42 percent of Public Works Administration expenses are charged to the Water and Sewer Fund, a total of $15,593 of the roof replacement cost would be charged to the General Fund, with the Water and Sewer Fund bearing $11,292 of the cost.

The City Manager stated that as much as he would prefer delaying the roof replacement until the 2012-13 Fiscal Year, given the urgency of the situation, he would recommend that Council award the contract for the Public Works/Warehouse roof replacement to Johnson Roofing Concepts in the amount of $26,885 and authorize the work to be completed prior to the end of the 2011-12 Fiscal Year.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Martin, Council voted unanimously to award the contract for the Public Works/Warehouse roof replacement to Johnson Roofing Concepts in the amount of $26,885 and authorize the work to be completed prior to the end of the 2011-12 Fiscal Year.

CONSIDER REAPPOINTMENTS TO CITY ADVISORY BOARDS:

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The City Manager advised that the City has several terms on City advisory boards that will expire on June 30. On the Planning Board/Board of Adjustment/Historic Preservation Commission, the term of Dudley Thompson as a Regular Member and John Morrow and Rex Wood as Alternate Members will expire. Mr. Wood has taken a position on the County Planning Board, so Council will need to find another Alternate Member. In addition, the City still has two additional vacant Alternate Member positions on the Planning Board/Board of Adjustment/Historic Preservation Commission. Mr. Thompson and Mr. Morrow are both willing to be reappointed for new three year terms.

The City Manager reported that the term of Jim Isaacs on the ABC Board will expire on June 30. Mr. Isaacs is willing to be reappointed for a new three year term.

The City Manager stated that the terms of Nancy Clark and John Reese on the Tree Board will expire on June 30. Mr. Reese is willing to be reappointed for a new three year term. Mrs. Clark does not wish to be reappointed and the City thanks her for her dedicated service.

The City Manager stated that he would request that Council make as many appointments/reappointments as they felt comfortable doing even if they cannot fill all the vacant Planning Board slots or the vacant Tree Board position at that time. The appointment of persons to fill the vacant slots could then be scheduled for the June 19 Council meeting.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Martin Council voted unanimously to make the following reappointments:

Planning Board/Board of Adjustment/Historic Preservation Commission:
Mr. Dudley Thompson, Regular Member slot, term to expire June 30, 2015
Mr. John Morrow, Alternate Member slot, term to expire June 30, 2015

ABC Board: Mr. Jim Isaacs, term to expire June 30, 2015

Tree Board: Mr. John Reese, term to expire June 30, 2015

The City Manager stated that he would put the remaining vacancies on the June 19 Council agenda for Council consideration.

APPROVE CONCURRING ORDINANCES TO ALLOW NORTH CAROLINA DEPARTMENT OF TRANSPORTATION TO MAKE TECHNICAL CORRECTIONS: The City Manager presented Council with information from DOT Division Traffic Engineer Anna Henderson requesting that Council approve a concurring ordinances to make technical corrections to State traffic ordinances related to West Court Street speed limits.

The City Manager stated that the first ordinance would repeal the current 20 mile per hour speed limit ordinance for part of West Court Street, since the street is referred to as SR 1214. The second ordinance would enact a 20 mile per hour speed limit ordinance for part of West Court Street and correctly refer to the street as SR 1195. This ordinance simply makes technical changes and no speed limit signs would change in the field.

The City Manager stated that he would recommend approving these Ordinances as presented.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, 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
SR 1214 (WEST COURT STREET)
FROM BURGIN STREET TO SOUTH LOGAN STREET (US 70E)

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 15th day of May, 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 15th day of May, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance/Resolution Number: O-12-05-15-4

CITY OF MARION
ORDINANCE
TO ENACT SPEED LIMIT AND REQUEST FOR CONCURRENCE WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION ON
(WEST COURT STREET) BETWEEN A POINT
0.137 MILES SOUTHWST OF SR 1327
AND 0.07 MILES NORTHEAST OF SR 1327

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 15th day of May, 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 15th day of May, 2012.

Stephen R. Little, Mayor

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ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance/Resolution Number: O-12-05-15-5

CONSIDER RESCHEDULING OF AUGUST 7 CITY COUNCIL MEETING: The City Manager advised that, each year, the first City Council meeting of August conflicts with the National Night Out Event, which begins at 6:00 p.m. The City Manager asked if Council wished to reschedule the August 7 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 Martin, seconded by Council Member Ramsey, Council voted unanimously to cancel the August 7 Council meeting and to schedule a special meeting on another date, if needed.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that the Tree Board met earlier that morning and suggested that the City purchase metal grates to place around the ginkgo trees in the downtown area. The City Manager stated that Planning and Development Director Heather Cotton would be obtaining estimates on the metal grates and that the costs could be presented to Council at a future meeting for review. The City Manager noted that the City would need 52 metal grates.

The City Manager advised that the 10th Annual City Open House was held for all third graders in McDowell County on Friday, May 4. All eight elementary schools, along with New Manna Christian School and Nebo Christian Academy, visited City Hall, the Police Department, the Fire Department, the Public Works Department, the Water Plant and the Wastewater Plant. Approximately 550 students participated. The City had a great day, with wonderful weather until right before the end of the Open House at 2:00 p.m. Baxter Healthcare provided and served lunch at the Community Building. The City Manager thanked Administrative Assistant Debi Sherlin for her hard work in organizing this event and doing a great job as usual, volunteers and staff who rode buses and helped out during lunch, all City departments who worked hard to put on a great event for the students and Baxter Healthcare for providing and serving the lunch. The City Manager advised that he had sent thank you notes to department heads and to Ms. Sherlin and that Mayor Little had sent thank you notes to Baxter Healthcare and to volunteers.

The City Manager advised that the North Carolina League of Municipalities Town Hall Day is coming up on June 6 and Raleigh and that he would need to know if Council Members wanted to attend.

Council Member Doggett and Council Member Clark stated that they wanted to attend. Council Member Ramsey said that he would check his schedule and would like to attend if possible. Mayor Little stated that he would like to attend, but that his work schedule would not allow him to go to Raleigh that day.

The City Manager advised that the Farmer' Market opened earlier today for the season.

The City Manager advised that he had asked DOT to schedule some small group meetings beginning in June to discuss the final design of the US 221 widening project. The City Manager stated that he would advise as he hears more or as meetings are scheduled.

The City Manager advised that Park Avenue had been resurfaced on May 3, completing the curb and sidewalk replacement project.

The City Manager advised that staff learned on May 8 that the City had received the full grant from the State for the purchase of 36 cardboard recycling dumpsters. The grant amount will be approximately $23,760. The local match will be about $4,700. Effective July 1, City forces will take the City's commercial cardboard recyclables to the County Transfer Station and the City and County will equally split revenue from the sale of cardboard.

The City Manager advised that McDowell County was recently one of three Tier 1 counties selected for the initial round of the Kate B. Reynolds (KBR) Foundation Healthy Counties Initiative. This selection could involve funding for local health initiatives of several million dollars over 10 years. The City Manager stated that the City would be involved in the process to decide how the money will be spent and that he would advise Council as he learned more about the funding process.

The City Manager advised that the City had been approached by Jeld-Wen about a water extension to their plant, located off of Highway 70 West. He noted that Columbia Forest Products, located near Jeld-Wen, also had potential interest in City water. The City Manager asked Council for permission for staff to seek grant applications for the water extensions, to determine how much grant money can be received. Mayor Little and Council Members agreed by consensus to authorize staff to seek grant applications for the proposed water extensions to Jeld-Wen and Columbia Forest Products, located off of Highway 70 West, to determine how much grant money can be received.

The City Manager provided Council with a brief overview of the proposed 2012-13 Budget. He advised that the Council Budget Workshop/Planning Session would be held on Tuesday, May 22 at 6:00 p.m. at City Hall.

COUNCIL MEMBER COMMENTS:

Council Member Doggett stated that sight distance is blocked at the intersection of Lady Marian Plaza and North Main Street due to landscaping. The City Manager stated that the landscaping in question was periodically a problem and that he would mention this matter to Lady Marian Plaza owner Harold Bragg.

Council Member Doggett commented on the beautiful new flower containers on Main Street. She noted that a few of the containers appear to be crooked.

Planning and Development Director Heather Cotton said that she was working to arrange the containers, so that they were straight.

Mayor Little stated that the City has some areas of settled bricks along Main Street that has created a potential tripping hazard. The City Manager stated that staff would address the sunken areas immediately.

Mayor Pro Tem Cuthbertson asked if the pots on South Main Street were going to be moved. Ms. Cotton stated that those pots had ferns in them that would eventually be very large. She added that the plan was for the pots to remain where they are.

Mayor Pro Tem Cuthbertson stated that the hanging baskets on Main Street look gorgeous.

ADJOURNMENT: Upon a motion by Council Member Doggett, seconded by Council Member Ramsey, 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 held a Special Meeting on Tuesday evening, May 22, 2012 at 6:00 P.M. in the Conference Room located at 194 North Main Street for the purpose of holding a Budget Workshop/Planning Session.

BOARD MEMBERS PRESENT: Mayor Steve Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members Juanita Doggett, Billy Martin and Don Ramsey.

Council Member Everette Clark was not present due to being 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 2012-13 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 2012-13 City budget will be held on Tuesday, June 19, 2012 at 7:00 p.m. at City Hall.

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

1. Citizen's Academy – Council Member Doggett stated that the North Carolina League of Municipalities Legislative Advisory Committee on which she serves had suggested the idea of holding citizen's academies for legislative candidates. Council discussed this idea, but generally felt that communication should be focused on current legislators.

2. Street and Sidewalk Project Construction Priority List – The City Manager advised that staff would be working on a recommended Street and Sidewalk Priority List. He stated that the City had received and previously discussed requests for a sidewalk or trail along Ridge Road and part of Church Street to East Court Street. Council agreed by consensus to review the Street and Sidewalk Priority List when it was presented, but to give general direction for a trail along Ridge Road and Church Street to East Court Street as a high priority.

3. Regulation of Taxicabs and Vehicles for Hire – The City Manager stated that staff had received a suggestion that shuttle vans and other vehicles for hire should be regulated as taxicabs. He noted that State law allows cities to regulate vehicles for hire in the same manner as taxicabs, but his research had indicated that typically only larger cities do so. Council held a brief discussion and gave general direction that it was not interested at this time in pursuing this matter.

4. Downtown Delivery Trucks – The City Manager reported the receipt of complaints about downtown delivery trucks parking in the center turn lane on Main Street. After discussion, it was determined that the City could deal with individual trucks that create a problem, but that in most cases, delivery trucks in the center lane or the parking lane were not a problem.

5. Water and Sewer Extension Requests – The City Manager gave an update on several utility extension requests, as follows:

   A. Jeld-Wen/Columbia Forest Products Water Extension Requests – The City Manager stated that the Rural Center grant application in the amount of $200,000 had been submitted for the proposed Jeld-Wen/Columbia Forest Products water extension off Highway 70- West. He said that the Rural Center was very optimistic that the full grant request could be approved. The City Manager stated that other grant applications would be submitted, to determine how much grant money could be obtained to offset the projected $791,000 cost of the water extension to Jeld-Wen and the project $98,000 cost of the water extension to Columbia Forest Products.

   B. Rocky Pass Free Will Baptist Church Request – The City Manager reported that Rocky Pass Free Will Baptist Church had requested the extension of City water service to their church on Highway 226 South. He stated that Public Works Director Brant Sikes had estimated that the 3,400 foot water extension would cost $137,000. Due to very sparse development in the area, the City Manager advised that staff would, without objection, tell the church that the water extension was not feasible, unless the church wished to pay for the entire cost. Mayor Little and Council Members stated no objection to this recommendation.

   C. Valley Street/John Gilkey Road/Valley Hill Drive Proposed Sewer Extension – The City Manager stated that, pursuant to Council direction at the May 15 Council meeting, he had sent a survey to property owners along Valley Street, John Gilkey Road and Valley Hill Drive to determine the interest level in City sewer and annexation. The City Manager reported that he was hearing some interest and would report back to Council, once survey forms were returned.

6. McDowell County Universal Property Advisory Committee – The City Manager stated that County Manager Chuck Abernathy had advised that the County was forming an Advisory Board for the County's Universal property, which will include two County appointments, two McDowell Tech appointments, two or more industry representatives, two representatives from MEDA, one City appointment, one McDowell County Schools appointment and one Chamber appointment. The City Manager reported that Mr. Abernathy had requested that Council make its appointment as soon as possible, since he hoped to hold the first meeting of the Committee in July. Council agreed to discuss this appointment at the June 5 Council meeting.

No action was taken on these items. Items requiring City Council action will be included in the 2012-13 budget or future budgets or placed on future City Council meeting agendas for consideration.

ADJOURNMENT: Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Ramsey, Council voted unanimously to adjourn the meeting.

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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, June 5, 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 and Billy Martin.

Council Member Don Ramsey was not present for this meeting due to a family illness.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Harriett Thomas, CPA , Finance Director ; Scott Spratt, Police Investigative Lieutenant; Brant Sikes, Public Works Director; Don Price, Water Plant Superintendent; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Ashley Chambers, Marion, NC; Mary Burleson, Marion, NC; Lucile Chambers Lewis, Marion, NC; Rev. Dr. Carl Manuel, Addies Chapel United Methodist Church, Marion, NC; Latoya Conley, Marion, NC; Connie Martin, Marion, NC; Ulysee Carson, Marion, NC; Edith Vance, 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 June 2012.

Lucile Chambers Lewis

Council Member Martin stated that it was his honor to nominate Ms. Lucile Chambers Lewis as the Citizen of the Month for June 2012 for the City of Marion.

Ms. Lewis is a life-long resident of Marion and resides on Morehead Road where she was raised. She is the daughter of Earnest and Rosemary Logan Chambers. Ms. Lewis has become an excellent care-giver for her parents since they have both become ill and incapacitated over the past few years.
Ms. Lewis graduated from McDowell High School in 1983 and attended East Carolina University. She is the wife of the late Timothy James Lewis and the mother of Ashley Lewis who recently graduated from the University of North Carolina at Charlotte. Ms. Lewis is also the proud grandmother of Rhian Ene-Rose Lewis.

Ms. Lewis has four brothers, Billy, John and Dean Chambers and Robert Logan. She has one sister, Patricia.

Ms. Lewis has been employed at Coats America for 26 ½ years. She is now an industrial engineer clerk. Ms. Lewis is a life-long member of Addie's Chapel United Methodist Church where she serves as Secretary of the United Methodist Women, as Church Historian since 1997 and as a founding member and President of an organization called "Sistas United in Christ", which is undertaking a project to purchase a church van.

Ms. Lewis is an aspiring actress and play-writer.

Council Member Martin stated that he had personally watched Ms. Lewis grow up, go off to school and return to Marion and become a productive and respected member of our community. She is virtuous, humble and spiritual. Ms. Lewis is an excellent role-model by whom others can measure themselves.

Mayor Little, Council Members, family members and friends all shared kind words about Ms. Lucile Chambers Lewis and congratulated her on being selected as Marion's Citizen of the Month for June 2012.

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 15, 2012 Regular City Council Meeting Minutes and May 22, 2012 City Council Budget Workshop/Planning Session Minutes.

B. Approve Use of Joseph McDowell Historical Catawba Greenway for McDowell Trails Association Inner Tube event on July 4th

Council approved the McDowell Trails Association (MTA) holding its Second Annual Innertube Event at the Joseph McDowell Historical Catawba Greenway on Wednesday, July 4, from 10:00 a.m. until 2:00 p.m. at the latest. The MTA will sell hot dogs, hamburgers, and soft drinks on site and will sell or give away watermelon slices. Marion business owners will be invited to advertise and give items, but no selling will be allowed by the MTA. The tubers will go down the same part of the river as last year. The MTA obtained liability insurance last year for this and other events. The City Manager stated that he would make sure we had a copy of the MTA insurance policy, with the City listed as an additional insured party, prior to the event.

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

CONSIDER APPROVAL OF BRIDGE INSPECTION AGREEMENT WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION: The City Manager advised that federal law requires that all bridges be inspected at least every two years. Municipalities that own bridges can conduct their own inspections, if they have professional engineers on staff, can contract with an engineer to complete the inspections or can contract with NCDOT to conduct the inspections.

AA.000000026 (24)

The City Manager advised that the City had always chosen to contract with NCDOT to complete the bridge inspections. The City maintains four bridges: one on Claremont Street, two leading to the Public Works Department off of Rutherford Road and one leading to the Prison Wastewater Pump Station off of Highway 226 South near Marion Correctional Institution.

Upon a motion by Council Member Clark, seconded by Council Member Martin, those members of Council present voted unanimously to approve the following agreement authorizing NCDOT to complete the required bridge inspections for the City of Marion:

North Carolina
McDowell County

North Carolina Department of Transportation and the City of Marion
Municipal Agreement
Inspection of Bridges on the Municipal Street System
F.A. Project BRZ-NBIS (17)

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, and the City of Marion, a municipal corporation hereinafter referred to as the Municipality;

Witnesseth:

WHEREAS, 23 U.S.C. 144, Sections 1101, 1114 and 1805 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users (SAFETEA – LU), which require that federal funds be available for certain specified Federal-Aid Highway Bridge Replacement and Rehabilitation program; and

WHEREAS, the Highway Bridge Replacement and Rehabilitation portion of the law requires that all structures defined as bridges located on public roads must be inspected on a cycle, not to exceed two years in accordance with National Bridge Inspection Standards (NBIS); and

WHEREAS, the Municipality has requested the Department or a Consultant retained by the Department to inspect and analyze all public bridges located on its Municipal Street System in compliance with the National Bridge Inspection Standards; and

WHEREAS, the Department and the Municipality are authorized to enter into an agreement for such work under the provisions of G.S. 136-18(12), G.S. 136-41.3, and G.S. 136-66.1; and,

WHEREAS, the Appropriate Official of the Municipality has approved the herein above referenced inspections and analysis and has agreed to participate in certain costs thereof in the manner and to the extent as hereinafter set out.

NOW, THEREFORE, the Department and the Municipality agree as follows:

1. The Department or a Consulting Engineering firm retained by the Department shall inspect, load rate, and prepare the necessary inspection reports for all bridges on the Municipal Street System in accordance with the National Bridge Inspection Standards.

2. All work shall be done in compliance with the following documents.

   a. National Bridge Inspection Standards (23 CFR, Chapter 1 Part 650)
   b. AASHTO Manual for Bridge Evaluation-2008 including all Interim Revisions.
   c. Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges – December, 1988.

3. The Municipality shall furnish all data in the possession of the Municipality that can be released that will help the Department or its Consultant in the accomplishment of the work including but not limited to appropriate municipal maps showing the location of the bridges, plans for the bridges when available, and any prior inspection reports.

4. During the inspection process, some repairs may be discovered that require immediate attention or repair, or a regulatory sign may be missing, damaged, or incorrect. A Critical Finding Notice, Priority Maintenance Notice or Regulatory Sign Notice will be issued in these cases. It is required that the Municipality resolve or notify the Department of their plans to resolve Priority Maintenance Notices and Regulatory Sign Notices within thirty (30) days of issuance. Critical Findings require a response within seven (7) days of notice.

5. The Municipality shall designate a responsible Municipal official with whom the Department or its Consultant will coordinate the work.

6. It is understood by the parties hereto that the Federal Highway Administration, through the Department, is to participate in the costs of the work to the extent of eighty (80) percent of actual costs, subject to compliance with all applicable federal policy and procedural rules and regulations. All costs not participated in by the Federal Highway Administration shall be borne by the Municipality.

7. Upon completion of the bridge inspection, and load rating work, the Department shall invoice the Municipality for accumulated project costs not participated in by the Federal Highway Administration. Upon FHWA final audit, the Department shall invoice/refund the Municipality any differences in the amount previously invoiced and the actual costs not participated in by the Federal Highway Administration. Reimbursement shall be made by the Municipality within sixty (60) days of the invoice date. After the due date, a late payment penalty and interest shall be charged on any unpaid balance due in accordance with G.S. 147-86.23 and G.S. 105-241.21 (l). It is anticipated that the cost to the municipality will be approximately $520 per structure. The actual cost is based on the work being performed therefore, the final invoice amount will not be known until the work is complete.

8. In the event the Municipality fails for any reason to pay the Department in accordance with the provisions for payment hereinabove provided, the Municipality hereby authorizes the Department to withhold so much of the Municipality's share of funds allocated to said Municipality by the General Statutes of North Carolina,
Section 136-41.1, until such a time as the Department has received payment in full.

9. It is the policy of the Department not to enter into any Agreement with another party that has been debarred by any government agency (Federal or State). The Municipality certifies, by signature of this Agreement, 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 a Federal or State Department or Agency.

10. This Agreement shall have an effective term of ten (10) years beginning when executed by the State Highway Administrator and ending on the same date ten (10) years later, subject to the following termination conditions:

AA.000000027 (24)

(A) At any time either party may cancel the Agreement with a thirty (30) day written notice to the opposite party. On behalf of the Municipality, this Agreement may be canceled by the City Manager and/or his designee.

(B) Upon the effective date of the cancellation, neither party shall owe any obligations under this Agreement, except that all obligations performed under this Agreement, including but not limited to invoicing, record retention, and payment for work performed prior to the effective date of cancellation, shall remain in effect.

11. By Executive Order 24, issued by Governor Perdue, and N.C. G.S.§ 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor).

IT IS UNDERSTOOD AND AGREED that the approval of the work by the Department is subject to the conditions of this agreement, and that no expenditure of funds on the part of the Department will be made until the terms of this agreement have complied with on the part of the Municipality.

IN WITNESS WHEREOF, this Agreement has been executed, in duplicate, the day and year heretofore set out, on the part of the Department and the Municipality by authority duly given.

L.S Attest

Clerk

Seal of Municipality

City of Marion

Mayor

Date: _____

Approved by _____ of the _____ as the attested to by

the Signature of _____ Clerk of the _____ on

_____ (Date)

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

L.S. Attest

_____
Secretary to the Board

Board of Transportation Seal

Department of Transportation

_____
State Highway Administrator

Date: _____

CONSIDER APPOINTMENT OF CITY REPRESENTATIVE TO MCDOWELL COUNTY UNIVERSAL PROPERTY ADVISORY COMMITTEE: The City Manager advised that, as previously reported, and as shown in e-mail presented to Council from County Manager Chuck Abernathy, the County is forming an Advisory Committee for the Universal Property. The Committee will include two representatives each from the County, McDowell Tech and MEDA, at least two industry representatives and one appointment each from the City, McDowell County Schools and the Chamber of Commerce. The County is asking that each agency appoint its representative(s) as soon as possible, as the County would like to hold the first meeting of the Committee in July.

Council Member Clark stated that he would suggest that the City have two representatives. The City supported the County with the Golden Leaf project that resulted in $2 million of funding for the County's Universal property. Council Member Clark advised that he felt that the City should be allowed to appoint two representatives. He proposed that Council Member Doggett be the City's primary representative and that the City ask the County that Mayor Steve Little also be allowed to participate on the Committee.

Mayor Little stated that he thought this was a reasonable request and that he would be pleased to participate in the Committee, if allowed to do so.

Upon a motion by Council Member Clark, seconded by Council Member Martin, those members of Council present voted unanimously to appoint Council Member Doggett as the City's primary member on the McDowell County Universal Property Advisory Committee and to request that Mayor Steve Little also be allowed to serve on the Committee.

Council Member Doggett stated that she anticipated that the Committee will be very busy in the next few months, as the County is anxious to start work on the Universal project.

DISCUSS RULES ON USE OF CITY PARKS: The City Manager advised that the City recently received a complaint from Mr. Phillip Finley about an experience his family had at the Eastfield Community Park on Saturday, May 19. Mr. Finley and his family planned to have a birthday party and arrived at the park around 11:30 a.m. that day. Two people had already set up and essentially reserved use of the tables and picnic shelter for a party being held at 3:00 p.m. The group had also run an extension cord from the adjacent property, was playing music and had an inflatable toy in place. The other group told Mr. Finley they had checked with City Hall and use of the picnic shelter and park was first come, first served. The Police Department responded to a call from Mr. Finley, since the other group was very direct and used inappropriate language to communicate, but determined that there were no rules in place to require the other group to accommodate Mr. Finley. Mr. Finley said that his family ended up moving their party to Cross Mill Community Park.

The City Manager stated that the City does not have any rules in place regarding the use of any of our parks and has advised groups that use of the park, picnic shelters and picnic tables is on a first come, first served basis. However, the intention is not to allow any group to have exclusive use of an entire park. The City Manager stated that he had never heard any complaints of this nature, although people may have experienced problems and never informed the City.

The City Manager advised that he and Chief Brooks had spoken to Mr. Finley after he called on May 30. Mr. Finley understood that City employees had no rules to go on in responding to this situation. He proposed that Council put in place rules to restrict how far in advance a group

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can reserve use of a picnic shelter or individual tables to no more than 30-45 minutes. Mr. Finley further proposed a restriction on the number of tables that could be used.

In talking to Mr. Finley, the City Manager stated that he certainly agreed with his concerns, but realizes that there are many different directions that rules for City parks could go. In addition to Mr. Finley's suggestions, the City Manager stated that he believes the City may need to have rules in place prohibiting extension cords from being run from adjacent properties, prohibiting the playing of music that disturbs other users of the park, prohibiting outside inflatables, stages or other large toys or objects from being brought to the park and prohibiting anything else that provides a potential safety hazard.

The City Manager stated that staff has discussed the idea of requiring people to make reservations for use of picnic tables or shelters. Essentially, a group would not be guaranteed use of a table or shelter unless they made a reservation with the City. The City Manager stated that staff had concerns that few people would make such reservations and that this could be difficult to administer, but this could be an option if Council deemed it appropriate.

The City Manager also stated that he believes the only way to address this matter is through adoption of a set of rules for City parks, like the City has in place for the Community Building Main Level and Basement, the Depot and the Farmer's Market Shelter. The City Manager stated these rules could include the following:

1. A statement that no person or group is allowed exclusive use of the entire park, without approval of the City Council.
2. A restriction on the amount of time a picnic table or shelter could be used, perhaps two hours.
3. A limit on the amount of time a picnic table or shelter could be reserved in advance of an event, perhaps no more than 30-60 minutes.
4. A limit of using no more than two tables per event.
5. A restriction on running extension cords from other properties.
6. A restriction on playing music or using sound amplification so as to disturb other users of the park.
7. A restriction on bringing in large inflatables, stages or any other large toy or object.
8. A restriction on anything posing a potential safety hazard to users of the park.
9. A requirement for people or groups to make a reservation with the City if they want exclusive use of a picnic table or shelter. Groups would not be granted exclusive use unless they made a reservation. Such a reservation would likely need to be accompanied by a reasonable charge.

While Item 9 is an option, the City Manager stated that he would recommend first establishing rules and seeing if they prevent future problems, before taking the step of going to a reservation system. The first come, first served system has seemed to work well and may simply need some general rules and restrictions.

The City Manager stated that he would welcome general direction from Council regarding how it wishes staff to proceed with this matter

Council Member Doggett stated that she feels that whatever rules are developed will need to be posted at each City park.

Council member Clark suggested that the City look at rules patterned after rules for State Parks.

Council Member Martin suggested that the City Utility Committee look further at the idea of developing rules for City parks and bring something back for Council consideration at a later date.

Mayor Pro Tem Cuthbertson stated that he had a problem with any person or group using an entire park, except in very rare cases.

It was the consensus of those members of Council present to refer this item to the City Utility Committee for further study, with a recommendation being brought back to Council for consideration at a future meeting.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that he, McDowell Trails Association (MTA) President Bill Hendley and Planning and Development Director Heather Cotton had met with Consultant Forester John Rutland on May 11 to look at the possible sale of timber for Phase 2 of the Greenway. The City has worked with Mr. Rutland in the past to sell timber on the Water Plant property (in 2000) and at the Old Waste Treatment property (in 2000 and 2010). After looking at the trees on the Phase 2 property, Mr. Rutland said that there is simply not enough marketable trees to generate any money. Mr. Rutland advised that the clearance of the trees would be a net loss and recommended that the project contractor take out the trees. The City Manager stated that he had passed this information on to the MTA, who had a local timber buyer interested in the trees.

Council Member Clark asked if the timber could be sold before the construction. The City Manager stated that this could be explored, but that Mr. Rutland had advised that the few number of marketable trees would be make a sale more trouble than it was worth.

The City Manager reported that the MTA has proposed clearing out an area beside the Greenway and along the Catawba River as a picnic area and beach. The City Manager stated that he had asked McDowell Insurance for an opinion regarding whether encouraging people to access the river is a liability concern. McDowell Insurance indicated that the insurance carrier would want prominent warning signs posted in the area.

Council Member Clark and Mayor Little both stated that they felt the beach area would create a great liability for the City and should not be pursued. N Council Member stated any support for this idea.

The City Manager reported that Council Member Ramsey proposed at the May 30 Street Committee meeting that Council ask DOT to install a delayed left turn signal for south bound traffic on North Main Street at the New Street intersection. The delayed left turn signal would allow north bound traffic to clear the intersection, but then give south bound traffic a protected left turn. This intersection has been prone to backing up somewhat, especially at peak times. The Street Committee recommended approval of Council Member Ramsey's idea.

Council Member Clark made a motion that Council authorize the City Manager to request that DOT to install a delayed left turn signal for south bound traffic on North Main Street at the New Street intersection. The motion was seconded by Mayor Pro Tem Cuthbertson. All Council Members present for the meeting voted in favor and the motion was passed.

Mayor Pro Tem Cuthbertson asked if DOT Officials had done a study of synchronizing traffic signals downtown. The City Manager stated that such a study had not been completed by DOT.

The City Manager advised that DOT officials had reported that they would be in touch soon regarding the request of the City, County and Chamber of Commerce for DOT to hold small group meetings to discuss the final design of the US 221 widening project.

COUNCIL MEMBER COMMENTS:

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Mayor Pro Tem Cuthbertson stated that the mirror recently installed on South Main Street at Railroad Street allows for visibility of southbound traffic on South Main Street, but not of northbound traffic. The City Manager stated that staff would look at the mirror again and see if any changes could be made to improve visibility.

Council Member Doggett and Mayor Pro Tem Cuthbertson both stated that the hanging baskets on Main Street looked beautiful.

REVIEW OF WATER PLANT STUDY AND RECOMMENDED WATER AND SEWER CAPITAL IMPROVEMENTS PROGRAM WITH MCGILL ASSOCIATES: Mr. Dennie Martin and Mr. Randy Hintz of McGill Associates were present for this meeting and presented the Water Plant Study and recommended Water and Sewer Capital Improvements Program (CIP).

Mr. Martin gave a brief overview of the financial analysis of the project and the purpose of the CIP.

Mr. Hintz presented the recommended Water Plant Study and Water and Sewer CIP to Council. He discussed specific improvements recommended in the Water Plant Study and went over the recommended CIP projects.

Mr. Hintz advised that the top need for the water system is the development of alternate water supplies, to supplement the City's existing sources. Other needs include the development of off stream storage, improvements to the Buck Creek water intake and three phases of improvements at the Water Plant.

Mr. Hintz stated that the CIP projects included the projects proposed in the Water Plant Study, plus water and wastewater line replacements and extensions, equipment and vehicle purchases, maintenance items and several other projects.

Mr. Hintz advised that the Water Plant Study and Water and Sewer CIP had been primarily funded by a grant from the North Carolina Rural Center. He said that the grant project was complete and could be closed out, if the Water Plant Study and Water and Sewer CIP were accepted by Council.

The City Manager noted some minor modifications needed to the final version of the Water and Sewer CIP.

A discussion followed.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, those members of Council present voted unanimously to accept the Water Plant Study and Water and Sewer Financial Analysis and Capital Improvements Program, as presented by McGill Associates, with minor modifications as recommended by City staff and Council Members.

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 met in Regular Session on Tuesday evening, June 19, 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; Harriett Thomas, CPA, Finance Director; Brant Sikes, Public Works Director; Heather Cotton, AICP, Planning and Development Director; Scott Spratt, Police Investigative Lieutenant; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Valerie Padgett, 140 South Main Street, Marion, NC; Daron Codner, 402 New Leicester Highway, Asheville, NC; Freida Edmondson, 24 Empire Lane, Flat Rock, NC; Pam & Chris Todd, 231 Stroud Street, Marion, NC.

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 Martin, Council voted unanimously to approve the consent agenda as follows:

A. **Approval of Minutes** – June 5, 2012 Regular City Council Meeting Minutes.

B. **Approval of Budget Ordinance Amendments**

CITY OF MARION, NORTH CAROLINA
2011-2012 BUDGET ORDINANCE
(Third Amendment)

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

AA.00000030 (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 10-420-1400, Travel and Training is increased from $6,750 to $8,750.

b. General Fund Expenditures, Administration, Account Number 10-420-3300, Supplies & Materials is increased from $5,700 to $9,500.

c. General Fund Expenditures, Administration, Account Number 10-420-5300, Dues & Subscriptions is increased from $11,500 to $13,950.

d. General Fund Expenditures, Planning & Development, Account Number 10-500-0400, Professional Services is increased from $-0- to $1,100.

e. General Fund Expenditures, Planning & Development, Account Number 10-500-7400, Capital Outlay is increased from $-0- to $1,000.

f. General Fund Expenditures, Police Department, Account Number 10-510-1700, M & R Vehicles is increased from $90,000 to $95,000.

g. General Fund Expenditures, Fire Department, Account Number 10-530-1500, M & R Building is increased from $5,000 to $11,000.

h. General Fund Expenditures, Fire Department, Account Number 10-530-1700, M & R Vehicles is increased from $28,750 to $32,750.

i. General Fund Expenditures, Public Works Administration, Account Number 10-545-7400, Capital Outlay is increased from $1,300 to $11,300.

j. General Fund Expenditures, Fleet Maintenance, Account Number 10-555-7400, Capital Outlay is decreased from $16,500 to $6,500.

k. General Fund Expenditures, Powell Bill, Account Number 10-570-3300, Material & Supplies is increased from $35,000 to $45,000.

l. General Fund Expenditures, Powell Bill, Account Number 10-570-3300, Contracted Services is increased from $198,000 to $310,000.

m. General Fund Expenditures, Sanitation, Account Number 10-580-1700, M & R Vehicles is increased from $65,000 to $71,000.

n. General Fund Expenditures, Recreation, Account Number 10-620-1600, M & R Equipment is increased from $100 to $1,800.

o. General Fund Expenditures, Recreation, Account Number 10-620-6000, Mountain Glory Expenses is increased from $20,000 to $22,271.

p. General Fund Expenditures, Non-Departmental, Account Number 10-660-6000, McDowell Mission Contribution is increased from $-0- to $5,000.

q. General Fund Revenues, Account Number 10-319-1000, Prior Year Taxes is increased from $40,000 to $60,000.

r. General Fund Revenues, Account Number 10-330-0000, Planning & Zoning Fees is increased from $7,600 to $13,500.

s. General Fund Revenues, Account Number 10-334-1600, Federal Drug Asset Revenue is increased from $8,669 to $29,927.

t. General Fund Revenues, Account Number 10-335-0150, MIT – EAP Grant is increased from $-0- to $1,750.

u. General Fund Revenues, Account Number 10-341-1000, Court Costs, Fees & Charges is increased from $2,500 to $3,741.

v. General Fund Revenues, Account Number 10-341-3000, Zoning Income/Inspection Fees is increased from $26,000 to $27,500.

w. General Fund Revenues, Account Number 10-342-1000, PD Copies & Fingerprints is increased from $400 to $1,100.

x. General Fund Revenues, Account Number 10-342-1300, National Night Out Revenue is increased from $1,700 to $2,285.

y. General Fund Revenues, Account Number 10-342-2100, County Fire Protection is increased from $300,000 to $320,000.

z. General Fund Revenues, Account Number 10-347-1000, Depot Rents is increased from $12,000 to $13,900.

aa. General Fund Revenues, Account Number 10-392-1100, Sales of Surplus Equipment is increased from $84,000 to $87,500.

bb. General Fund Revenues, Account Number 10-399-0000, Fund Balance Appropriated is decreased from $399,270 to $483,257.

GENERAL FUND CAPITAL PROJECTS FUND

a. General Fund Capital Project Fund Revenues, Account Number 11-375-0000, Streetscape – NCSTEP Allocation, is decreased from $62,672 to $44,242

b. General Fund Capital Project Fund Revenues, Account Number 11-375-0100, Streetscape – NCDOT Grant, is decreased from $50,000 to $-0-.

c. General Fund Capital Project Fund Revenues, Account Number 11-375-0300, Streetscape Donations, is increased from $-0- to $1,350.

d. General Fund Capital Project Fund Revenues, Account Number 11-375-0900, Transfer from General Fund Capital Reserve - Streetscape, is increased from $343,251 to $410,331.

WATER AND SEWER FUND

a. Water and Sewer Expenditures, Water Filter Plant, Account Number 30-812-7400, Capital Outlay is increased from $50,300 to $78,000.

b. Water and Sewer Fund Revenues, Account Number 30-377-0600, Rural Center WTP Grant is increased from $23,436 to $34,596.

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c. Water and Sewer Fund Revenues, Account Number 30-392-1100, Sale of Surplus Equipment is increased from $1,000 to $5,100.

d. Water and Sewer Fund Revenues, Account Number 30-299-0000, Fund Balance Appropriated is increased from $333,422 to $345,862.

INTERNAL SERVICE FUND

a. Internal Service Fund Expenditures, Account Number 35-660-0400, Professional Fees, is increased from $-0- to $900.

b. Internal Service Fund Expenditures, Account Number 35-660-1700 Auto Supplies & Maintenance, is increased from $500 to $1,000.

c. Internal Service Fund Expenditures, Account Number 35-660-3300, Inventory Purchases, is increased from $180,000 to $270,000.

d. Internal Service Fund Expenditures, Account Number 35-660-4500, Contracted Services, is increased from $1,000 to $1,600.

e. Internal Service Fund Revenues, Account Number 35-391-0000, Sales to General Fund, is increased from $145,000 to $202,000.

f. Internal Service Fund Revenues, Account Number 35-391-0000, Sales to Water & Sewer Fund, is increased from $70,000 to $95,000.

g. Internal Service Fund Revenues, Account Number 35-399-0000, Fund Balance Appropriated, is increased from $62,786 to $72,786.

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 June 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–12–06–19–1

C. Approve Resolution Directing the Clerk to Investigate the Sufficiency of a Petition for Annexation – Sugar Hill Road – Smith/Bartlett Annexation

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-31 – SUGAR HILL ROAD – SMITH/BARTLETT ANNEXATION - 2012

WHEREAS, a petition requesting annexation of an area described in said petition was received on June 8, 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 19th day of June, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

RESOLUTION NUMBER: R-12-06-19-1

D. Receive Certificate of Sufficiency – Sugar Hill Road – Smith/Bartlett Annexation

CERTIFICATE OF SUFFICIENCY – SUGAR HILL ROAD – SMITH/BARTLETT ANNEXATION - 2012

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 19th day of June, 2012.

(SEAL)

J. Robert Boyette, City Clerk

E. Adopt Resolution Fixing the Date of Public Hearing on the Question of Annexation – Sugar Hill Road – Smith/Bartlett Annexation

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31 – SUGAR HILL ROAD – SMITH/BARTLETT ANNEXATION

AA.00000032 (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; July 17, 2012.

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

Tract One

Situate, lying and being in Marion Township, McDowell County, North Carolina, and lying off the Western side of Popular Drive, a private road leading from the subject property to Stepp Street, State Road No. 1169, and being a part of that certain property conveyed by deed dated November 1, 1947, from C. L McPeters and wife, Lena McPeters, to Dennis W. Com and wife, Belinda P. Com, and recorded in Deed Book 100, Page 523, McDowell County Deed Registry, and being more particularly described by a plat of survey by R.L Greene Surveying and Mapping, dated September 2, 1988, as follows:

BEGINNING at an iron pin which marks the beginning comer of the tract of land as described in Deed Book I 00, Page 523, and which iron pin also marks the Southwestern comer of Lindy Styles and wife, as described in Deed Book 321, Page 690, and the Northwestern comer of Hammond and Loftis as described in Deed Book 256 at Page 254, McDowell County Deed Registry; thence from said beginning point with the line of Hammond and Loftis, South 00 degrees 06 minutes 18 seconds East crossing a concrete drive and passing the property of James C. Ray and wife as described in Deed Book 162 at Page 423, and also passing an iron pin at 305.46 feet, a total of 308.23 feet to a point in the line of Paul H. Bartlett and wife as described in Deed Book 320 at Page 876, which point marks the Southwestern comer of K.D. Carson as described in Deed Book 302 at Page 880; thence with the line of Bartlett, South 78 degrees 20 minutes 39 seconds West 147.55 feet to an iron pin which marks the Easternmost comer of that certain 1.51 acre tract conveyed to Diane C. Smith by Dennis W. Com and wife, Belinda P. Com; thence with the line of Diane C. Smith, North 32 degrees 26 minutes 02 seconds West passing a utility pole at 29.26 feet, a total of 153.71 feet to an iron pin in the Northwestern line of the tract described in Deed Book I 00 at Page 523, and in the line of Charles C. Lytle as described in Deed Book 86, Page 570; thence with the line of Lytle, North 46 degrees 01 minutes 54 seconds East 156.93 feet to an iron pin which marks the Southeastern corner of Charles G. Lytle as above referenced, and the Southernmost comer of Nita Winchester Elliott as described in Deed Book 92 at Page 369, and which iron lies North 42 degrees 40 minutes 38 seconds West 46.88 feet from the Northernmost comer of the dwelling located on the property herein described; thence from said iron pin and with the line of Elliott as above referenced, North 48 degrees 47 minutes 01 seconds East 150.80 feet to the point and place of BEGINNING., and containing 1.06 acres, more or less.

THIS IS CONVEYED TOGETHER WITH the above-described property a right-of-way leading from the Eastern line thereof along a concrete drive presently in existence to Popular Drive.

SUBJECT TO a right-of-way for ingress and egress for which the above-described 1.06 acre tract is the servient tract and the dominant tract is the 1.51 acre tract conveyed to Diane C. Smith which lies Southeast from the above- described property. Said right-of-way leading from Popular Drive over the concrete drive onto the above-described property and thence in a generally Southwesterly direction to the line of the 1.51 acre tract as may be located in the future. Said right-of-way at all points to be 10.00 feet wide.

AND BEING the same property as described in and conveyed by that certain deed dated July 12, 1996, from Dennis W. Com and wife, Belinda P. Com, to Harvey C. Smith and wife, Diane C. Smith, and which is recorded in McDowell County Deed Book 513 at Page 509.

Tract Two

SITUATE, LYING and being in Marion Township, McDowell County, North Carolina, and lying on the West side of Poplar Drive, a private road leading from Stepp Street SR 1169 in a southerly direction to the subject property and being part of that certain property conveyed to Winton C. Com and wife, by deed from A. P. Curtis and wife, Olive Curtis, dated January 1, 1951 and recorded in Deed Book 113 at Page 548, and containing also a small portion of the property conveyed to Winton C. Com and wife, Ruth Com from C. L. McPeters and wife, Lena McPeters, by deed dated November 1, 1947 and recorded in Deed Book 100 at Page 523, McDowell County Registry and being more particularly described by a plat of survey by R. L. Greene Surveying and Mapping dated September 2, 1988 as follows: BEGINNING at a point in the center of Snipes Branch which point marks the beginning comer of the property described in Deed Book 113 at Page 548 as above referenced which beginning point lies in the line of James F. Lawing and wife, as described in Deed Book 161 at Page 160, and which beginning point is evidenced by an iron pin offset on the Northeastern bank of Snipes Branch at a distance of 8.44 feet; thence from said beginning point and with the line of Paul H. Bartlett, and wife, as described in Deed Book 320 at Page 876, North 49 degrees 28 minutes 21 seconds East passing the above referenced iron pin at 8.44 feet, a total of241.15 feet to an iron pin, a comer of Paul H. Bartlett and also a common comer of the properties described in Deed Book 100 at Page 523 and in Deed Book 113 at Page 548; thence continuing with Paul H. Bartlett North 78 degrees 20 minutes 39 seconds East 64.33 feet to a new iron pin in the line of the property described in Deed Book 100 at Page 523; thence a new line North 32 degrees 26 minutes 02 second West passing a utility pole at 29.26 feet, a total of 153.71 feet to a new iron pin in the Northwestern outside line of the property described in Deed Book 100 at Page 523; thence with the line of the property described in Deed Book 100 at Page 523 and with the line of Charles C. Lytle, as described in Deed Book 86 at Page 570 South 46 degrees 01 minute 54 seconds West passing an iron pin at 51.43 feet, a distance of53.21 feet, to a point which marks the southern most comer of Charles C. Lytle as above referenced; thence with Lytle and with the property described in Deed Book 113 at Page 548 North 28 degrees 37 minutes 20 seconds West 119.06 feet to an iron pin, a comer of Richard H. Wilson and wife, as described in Deed Book 224 at Page 80 in Tract 2 thereof; thence with the Wilson line South 50 degrees 41 minutes 07 seconds West passing an iron pin at 238.85 feet, a total of250.48 feet to a point in the center of Snipes Creek; being also in the line of Virginia May P. Buckner as described in Deed Book 196 at Page 353; thence with Snipes Creek the following courses and distances: (1) South 01 degrees 04 minutes 41 seconds East 6.86 feet; (2) South 37 degrees 23 minutes 04 seconds East45.61 feet; (3) South 31 degrees21 minutes47 seconds East 105.15 feet; and (4) South29 degrees 31 minutes 37 seconds East 86.66 feet to the point and place of BEGINNING, containing 1.51 acres, more or less.

AND BEING the same lands described in that certain Deed dated October 5, 1988 from Winton C. Com and wife, Ruth Com to Diane C. Smith and recorded in Book 390 Page 190, McDowell County Public Registry.

Tract Three

BEGINNING on an existing iron pin, said iron pin being the beginning corner of the tract of land conveyed from Mildred S. Burgin and husband James E. Burgin herein to Glenn H. Booher and wife, by Deed dated May 13, 1980 and which is recorded in the Office of the Register of Deeds for McDowell County in Deed Book 292 at Page 946, and runs thence from said beginning point South 67° 31' 24" W. 43.78 feet to an iron pin set in the Eastern edge of a 15 foot road right of way; thence with the Eastern edge of said 15 foot road right of way, South 23° 14' 24" East passing an

iron pin set at 61.02 feet, a total distance of 484.08 feet to an iron pin set; thence N. 66° 12' 24" E. 204.06 feet to an iron pin set in the Paul H. Bartlett line (See Deed Book 320 at Page 876); thence with the Bartlett line, N. 24° 25' 36" W. 423.07 feet to a point: thence S. 66° 12' 24" W. 1.52 feet to an existing iron pin, it being the sixth corner of the tract of land described in Deed Book 292 at Page 946; thence S. 66° 12' 24" W. 150.05 feet to an existing iron pin, it being the seventh corner of the tract of land described in Deed Book 292 at Page 946; thence N. 23° 11' 30" W. 60.01 feet to the BEGINNING, and containing 2.00 acres according to an unrecorded plat of survey prepared by R. L. Greene, Surveying and Mapping, Registered Land Surveyor, Marion, North Carolina, dated January 6, 1986, from which plat of survey all calls used in this description were taken. The Grantors do further give, grant, bargain and convey unto the Grantees, their heirs and assigns, the perpetual right and easement in and to a 15-foot road right of way for the purpose of providing ingress, egress and egress from State Road No. 1271 to the above described property. The Eastern edge of said 15 foot right of way is described as follows: BEGINNING at an iron pin set, said iron pin being the third corner of the tract of land described above, and runs thence N. 23° 14' 24" W. 484.08 feet to an iron pin set, it being the second corner of the tract of land described above; thence N. 23° 14' 24" W. 104.04 feet to a point where the maintenance ends for State Road No. 1271. Said easement shall remain open and unobstructed at all times and shall be appurtenant to and run with the title to the above-described land.

This conveyance is subject to the right of Mildred S. Burgin and husband James E. Burgin, their heirs and assigns to us a jointly with the Grantees that 15 foot road right of way described above for the use and benefit of the property retained by the Grantors. It being understood and agreed between the parties that said easement shall be for the benefit of the Grantors, the Grantees, and all persons who have heretofore acquired or who may hereafter acquire property from the Grantors.

AND BEING A PORTION of the property as described in Deed Book 108 at Page 3097 in the Office of the Register of Deeds for McDowell County.

AND BEING the identical real property described in a Deed from Mildred S. Burgin and husband, James E. Burgin to Paul H. Bartlett and wife, Patricia S. Bartlett by Deed dated January 22, 1986, and recorded in the Office of the Register of Deeds for McDowell County, North Carolina, in Dead Book 350 at Page 486.

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 19th day of June, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-12-06-19-2

F. Approve Civil Citation Ordinance Amendments

ORDINANCE
AMENDING CHAPTER 1
GENERAL PROVISIONS
MARION CITY CODE

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

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

Section 2. Chapter 1 is amended by deleting Section 1-10.6 in its entirety and replacing it with the following:

Sec. 1-10.6. Authority to issue citation assessing a civil penalty or notice of violation with opportunity to correct.

(a) Upon identifying a violation the enforcement officer is authorized to either:

(1) Issue a citation assessing a civil penalty for the violation or,
(2) In the sole discretion of the enforcement officer, issue a notice of violation with opportunity to correct violation.

(b) In determining whether to issue a citation assessing a civil penalty or a notice of violation with opportunity to correct violation, the enforcement officer shall consider the following:

(1) Whether the notice of violation with opportunity to correct will likely result in voluntary compliance with this ordinance [Ord. No. O-08-01-15-3];

(2) Whether it is reasonable under the circumstances to afford the violator the opportunity to correct the violation before issuing a citation assessing a civil penalty;

(3) Whether there are public safety and welfare reasons to issue a citation assessing a civil penalty; and

(4) Such other circumstances and conditions as are reasonable and appropriate.

(c) When a violation is not corrected within the time period established by a notice of violation with opportunity to correct, then the enforcement officer may immediately issue a civil citation.

(d) Notwithstanding the provisions of subsection (c) a violator for good cause shown may request an extension of the period of time in which the correction may be made. Requesting an extension of the period of time shall be deemed an admission of the violations by the violator.

(Ord. No. O-08-01-15-3, § 1(2), 1-15-08)

Adopted this the 19th day of June, 2012.

AA.000000034 (24)

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-12-06-19-5

G. Approve Revised City Pay and Classification Plan

CITY OF MARION
LIST OF CLASSES ARRANGED BY GRADE
EFFECTIVE 7/1/12

GRADE	CLASSIFICATION	HIRING RATE	MAXIMUM
7	Equipment Operator I Maintenance Worker Receptionist	22,179	34,101
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	23,259	35,808
9	Administrative Support Specialist Treatment Plant Operator	24,453	37,597
10	Maintenance Technician/Plant Operator	25,675	32,478
11	Crew Leader/Equipment Operator Fire Inspector Fleet Mechanic Laboratory Technician Lead Telecommunicator Senior Treatment Plant Operator Tax Collector	28,981	41,450
12	Accounting Technician Administrative Assistant Fire Equipment Officer / Field Supervisor Police Officer I Purchasing Agent Zoning Administrator/Codes Enforcement Officer	28,307	43,524
13	Fleet Maintenance Supervisor/Mechanic Payroll and Personnel Technician Streets Crew Leader I /Maintenance Technician Police Officer II Police Investigator	29,724	45,700
14	Crew Leader/ Equipment Operator II Laboratory Supervisor Master Police Officer Police Assistant Shift Supervisor Police Officer - Special Assignment Streets Crew Leader II /Maintenance Technician	31,202	47,985
15	Assistant Water Utility Maintenance Superintendent Police Shift Supervisor Sanitation Superintendent	32,772	50,385

CITY OF MARION
LIST OF CLASSES ARRANGED BY GRADE
EFFECTIVE 7/1/12

GRADE	CLASSIFICATION	HIRING RATE	MAXIMUM
16	Assistant Fire Chief Administrative Officer	34,410	51,613
17	Investigations Supervisor Public Works Superintendent Water Utility Maintenance Superintendent	36,129	55,549
18	Building Codes Inspector Water Treatment Plant Superintendent Patrol Commander	37,936	58,329
19	Wastewater Collection/Treatment Superintendent Planning & Development Director	39,834	61,245
20	Public Utilities/Projects Director	41,825	64,306
22	Fire Chief	46,113	70,897
24	Police Chief Finance Director Public Works Director	50,839	78,165

H. Approve North Carolina League of Municipalities Policy Proposal

Council authorized the City Manager to submit a policy proposal to the North Carolina League of Municipalities to seek authorization for cities to charge emergency response fees to at fault parties in motor vehicle accidents and to at least the at fault party in a fire, during the 2013-14 General Assembly Biennium, in an attempt to allow cities to recover some of the costs of emergency response.

PUBLIC HEARING – ADOPTION OF 2012-13 BUDGET ORDINANCE: The City Manager advised that this public hearing is required on the proposed 2012-13 City Budget. The proposed 2012-13 budget totals $9,726,578 which represents a decrease of 0.14 percent, or $13,198, over the original 2011-12 budget and a decrease of 1.24 percent, or $120,768, over the amended 2011-12 budget. No tax rate change is proposed. There are also no proposed changes in water and sewer rates, building and planning fees or commercial garbage rates, other than for commercial recycling fees as will be discussed later in the agenda. The City Manager stated that at the May 22 Budget Workshop, Council directed no changes to the proposed budget.

AA.000000035 (24)

Mayor Little opened the Public Hearing.

Council Member Clark stated that he was pleased that City employees were going to get a raise this year after not receiving one for several years.

Council Member Clark also stated that he would also like to see some type of pie chart designed showing the citizens just how their money is being spent.

Mayor Pro Tem Cuthbertson thanked the City Manager Bob Boyette and Finance Director Harriett Thomas for their hard work throughout the year in keeping our budget balanced and that he agreed with Council Member Clark regarding getting the word out to the citizens about how the City's money is spent.

No one else spoke during the public hearing.

Mayor Little closed the Public Hearing.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Clark, Council voted unanimously to adopt the following 2012-13 City of Marion Budget Ordinance:

BUDGET ORDINANCE

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

Section 1. The following amounts are hereby appropriated in the General Fund for the operation of the City Government and its activities for the fiscal year beginning July 1, 2012 and ending June 30, 2013 in accordance with the chart of accounts heretofore established by the City:

Administration	$	402,617
Planning and Development		257,166
Police		1,833,436
Fire		481,601
Public Works Administration		90,290
Fleet Maintenance		75,608
Street		983,483
Powell Bill		236,000
Sanitation		558,892
Recreation		109,000
Cemetery		37,500
Non-Departmental		542,727
Total	**$**	**5,608,320**

Section 2. It is estimated that the following revenues will be available in the General Fund for the fiscal year beginning July 1, 2012 and ending June 30, 2013:

Prior Year's Taxes	$	40,000
Vehicle Tax-Collected by County		147,700
City Vehicle License		20,000
Current Taxes		1,980,030
Tax Penalties & Interest		22,000
Privilege License Sales		53,000
Peddler's Permit		50
Interest Earned		10,000
Powell Bill Interest Earned		1,500
Rents and Concessions		40,320
Misc. Revenues		1,000
P/D Copies/Fingerprints		600
Refunds/ Reimbursements		6,000
Utilities Franchise Tax		480,000
Beer/Wine Revenue		35,000
Powell Bill Allocation		215,000
Sales Tax Distribution		1,100,000
ABC Revenues		60,000
Court Costs, Fees & Charges		3,000
Parking Violations		4,000
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		10,000
McDowell County Schools		24,000
Hold Harmless Revenue		70,000
Wellness Grant		1,750
Bulletproof Vest Grant		1,000
Mountain Glory Revenues		21,000
County Recycling Contribution		4,500
Cardboard Recycling Revenue		2,500
Solid Waste Disposal Tax		5,600

AA.000000036 (24)

Cardboard Recycling Grant		23,760
Dispatching Fees – Water and Sewer		4,000
GIS Mapping Fees – Water and Sewer		2,000
Powell Bill Fund Balance		50,000
Fund Balance		354,704
		5,408,320
Transfer from Water and Sewer Fund		200,000
Total	**S**	**5,608,320**

Section 3. The following amounts are hereby appropriated in the Capital Reserve Fund – General for the fiscal year beginning July 1, 2012 and ending June 30, 2013:

Reserve for Future Appropriations	$	155,428
Total	**S**	**155,428**

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, 2012 and ending June 30, 2013:

Fund Balance Appropriated	$	150,928
Interest on Investments		4,500
Total	**S**	**155,428**

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, 2012 and ending on June 30, 2013 in accordance with the accounts heretofore approved for the City:

Utility Line Operation	$	1,411,115
Water Filter Plant		610,283
Waste Treatment Plant		998,130
Non-Departmental		592,558
		3,612,086
Transfer to General Fund		200,000
Total	**S**	**3,412,086**

Section 6. It is estimated that the following revenues will be available in the Water / Sewer Fund for the fiscal year beginning July 1, 2012 and ending June 30, 2013:

Fund Balance	$	397,824
Interest Earned		4,000
Miscellaneous Income		2,100
Bad Check Fees		1,000
Reconnect / Transfer Fee		12,000
Reimbursement – Septic		7,000
Reimbursement – Pretreatment		2,394
Owner Temporary Sales		400
Water Sales		1,010,000
Late Payment Penalties		74,000
Sewer Service		620,000
Water Taps		60,000
Sewer Taps		20,000
Tank Truck Charges		1,000
Water Service Charge		882,000
Sewer Service Charge		464,000
County Reimbursement – Sugar Hill Road		51,968
Gain(Loss) on Sale of Assets		1,000
Total	**S**	**3,612,086**

Reimbursement - Pump Stations	1,400

Section 7. The following amounts are hereby appropriated in the Capital Reserve Fund – Water/Sewer for the fiscal year beginning July 1, 2012 and ending June 30, 2013:

Reserve for Future Appropriations:	$	251,492
Total	**S**	**251,492**

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, 2012 and ending June 30, 2013:

Fund Balance Appropriated	$	249,092
Interest on Investments		2,400
Total	**S**	**251,492**

Section 9. The following amounts are hereby appropriated in the Internal Service Fund for the fiscal year beginning July 1, 2012 and ending June 30, 2013:

Inventory (Supplies)	$	200,000
Warehouse and Purchasing Operations		99,252
Total	**S**	**299,252**

AA.000000037 (24)

Section 10. It is estimated that the following revenues will be available in the Internal Service Fund for the fiscal year beginning July 1, 2012 and ending June 30, 2013:

Purchase by Other Funds	$	287,000
Fund Balance Appropriated		12,252
Total	**$**	**299,252**

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, 2012 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 $410,606,820 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 19th day of June, 2012

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number O–12–06–19–2

PUBLIC HEARING – ADOPTION OF ZONING TEXT AMENDMENT: Mayor Little opened the Public Hearing.

Planning and Development Director Heather Cotton advised that an application had been made by Mr. Daron James Codner to expand the City's current zoning regulations to allow for Tattoo and Body Piercing Establishments within the C-1 Central Business District as a Special Exception Use. The Applicant is also requesting a reduction to the one thousand (1,000) foot separation requirement that prohibits such land uses within that distance of a park, playground, church, library, group home, school, child care facility, and/or other youth oriented entertainment land use. Instead, the Applicant has requested a one hundred (100) foot separation, with an additional requirement that tattoo and body piercing establishments be located on floors above or below the adjacent street level to minimize visibility that may be considered offensive or inappropriate to some members or the public.

Ms. Cotton advised that tattoo and body piercing establishments are currently permitted as a special exception within the C-2 General Business District with a distance separation of one thousand (1,000) feet from the above noted youth and family oriented land uses.

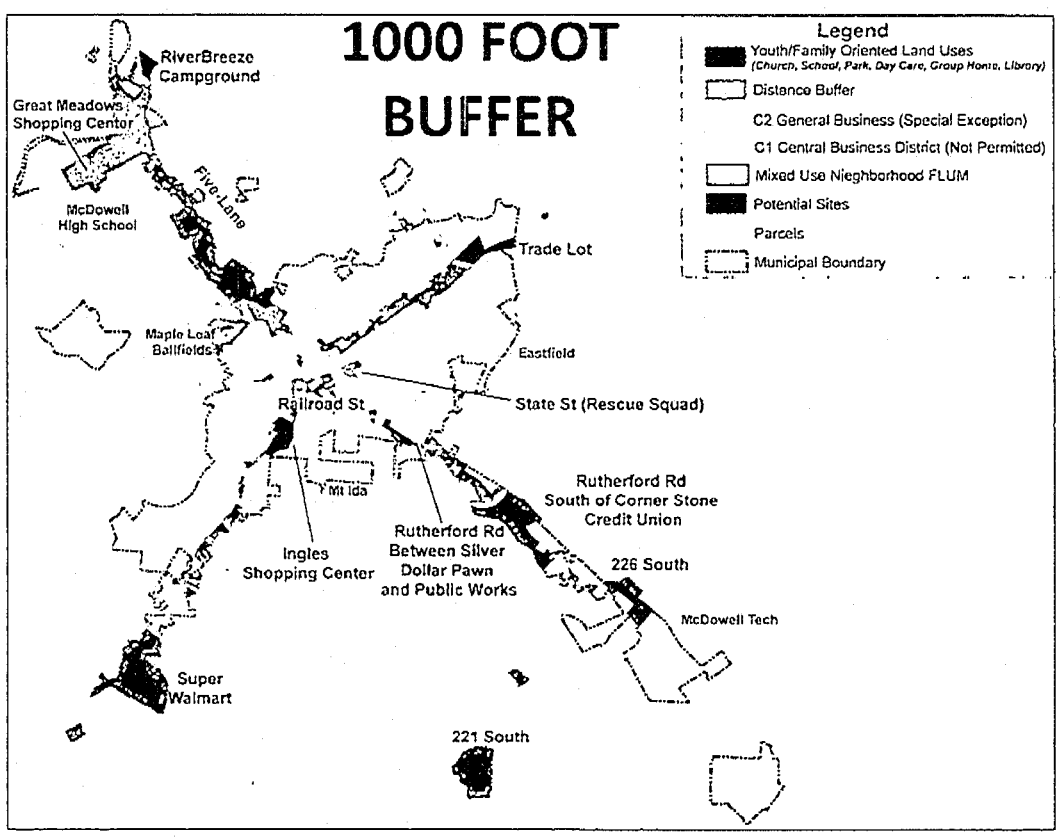
Ms. Cotton stated that she reviewed the Applicant's request and looked at additional factors including the Future Land Use Map and Comprehensive Land Use Plan. Based on the information provided and reviewed, Staff recommended the following:

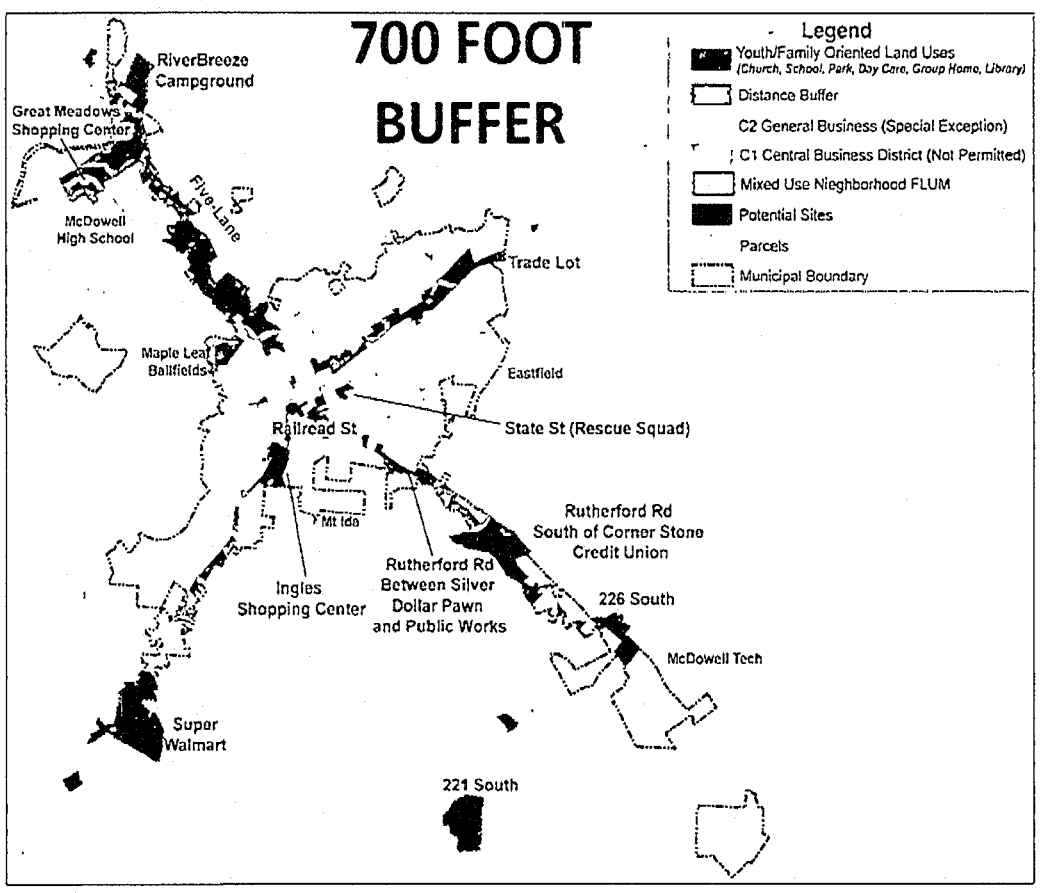
1. A separation requirement of seven hundred (700) feet from any of the above noted land uses;
2. A new provision that would exempt greenways and other public trails from the separation requirement;
3. A new provision that would prohibit such land uses located within the C-2 General Business District that are located in the Mixed Use Neighborhood Future Land Use Category as identified within the revised Comprehensive Land Use Plan's Future Land Use Map;
4. A new provision that would allow such land uses within the C-1 Central Business District as a Special Exception if such use is located above or below the adjacent street level and where no residential units are located on the same floor of such use; and
5. A new provision that would allow such uses within the C-2 General Business District as a permitted use.

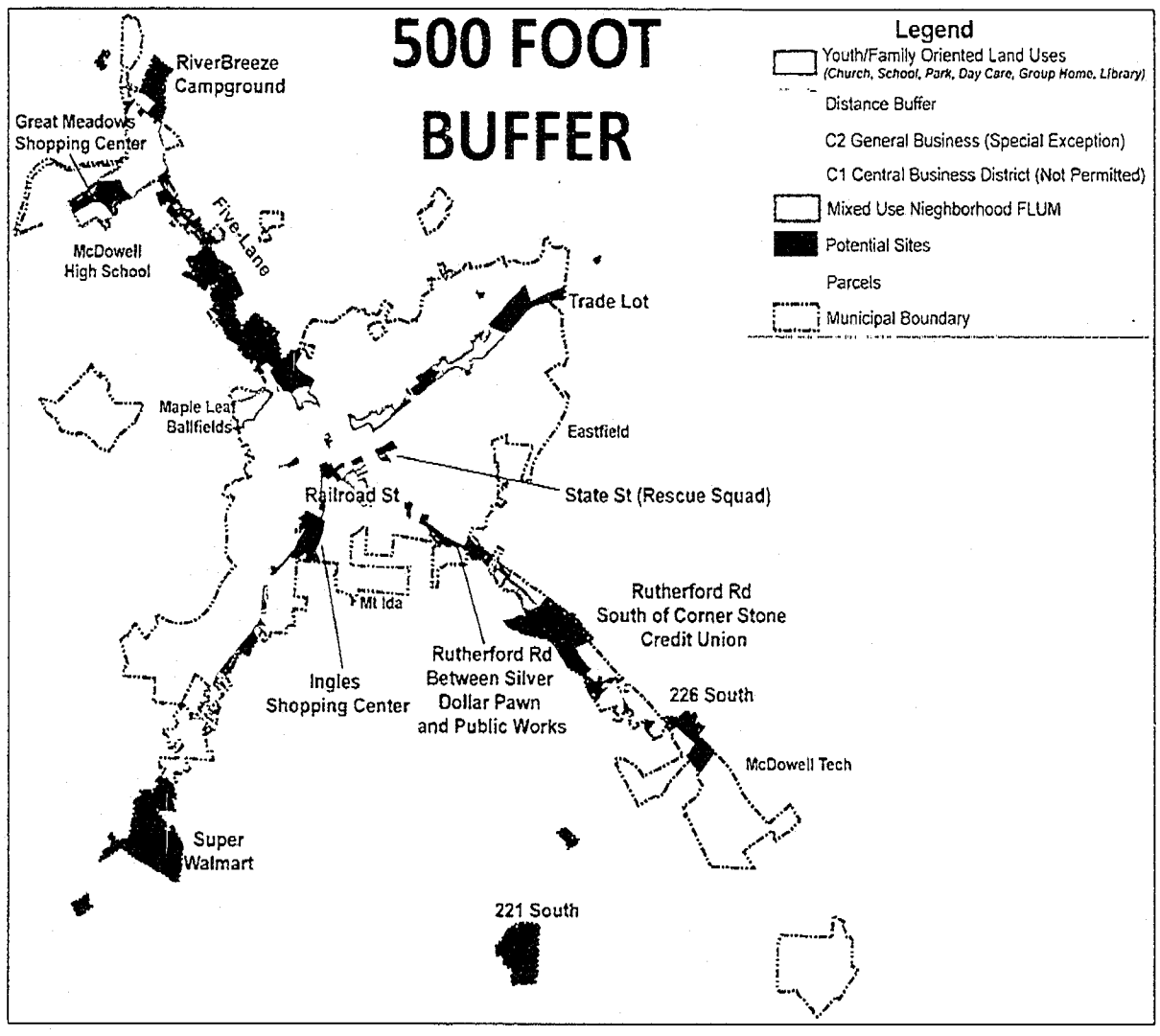
Ms. Cotton stated that the Planning Board met on June 7 and reviewed Staff's recommendations. The Planning Board recommended approval of the amended ordinance, as recommended by Staff, with one modification. The Board is recommending a five hundred (500) foot separation requirement instead of Staff's recommended seven hundred (700) foot separation requirement.

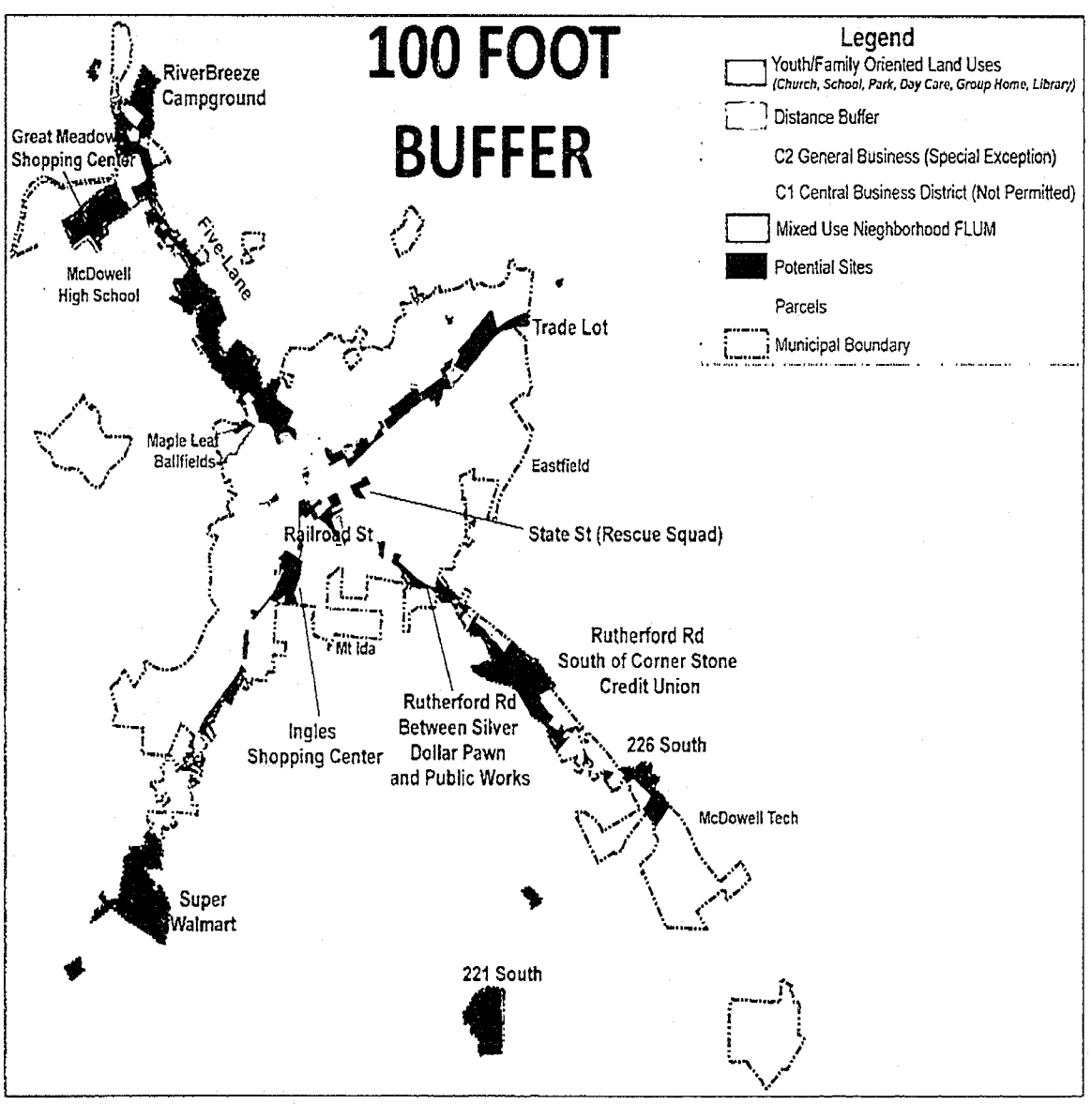
Ms. Cotton presented a brief power point presentation to further clarify the proposed amendment. The presentation included the following maps that clearly showed the difference between each distance separation proposed.

AA.00000038 (24)









Mr. Chris Todd and his wife Pamela Williams Todd were present for this meeting.

AA.000000040 (24)

Mrs. Todd advised that she and her husband had found a place to open a Tattoo Parlor on Railroad Street. However, based on the City's current Zoning Ordinance, the property is 60 foot short of falling within the 1,000 foot separation requirement. Mrs. Todd stated that she does not feel that a tattoo parlor is bad for Marion. This would bring something to Marion that is not here and would be governed by State laws. She feels this is a good idea and not a negative one. Mrs. Todd stated that a large percent of the population have tattoos.

Mr. Todd advised that he and his wife were at this meeting to talk about a family owned tattoo studio that specializes in custom tattooing and artwork. Mr. Todd and his wife Pam would own and operate the business as a general partnership. They want to offer a safe, sterile, and friendly environment where the clients can relax and participate in the creative process of designing their perfect tattoo. The tattooing and artwork would be carried out by Mr. Todd. He has nine years of experience tattooing and has been an artist all of his life. The clerical and managerial aspect of the business would be handled by Mrs. Todd. Mr. Todd stated that together, they both have the necessary skills needed to run a successful business.

Mr. Todd stated that they would like to open a tattoo parlor here in Marion at 121 Railroad Street. This location is only 60 feet shy of being in compliance with the current city ordinance. They are here tonight to request approval of the Zoning Text Amendment, as recommended by the Planning Board.

Mr. Todd stated that he and his wife would like to have the current ordinance amended for several different reasons:

(1) It infringes on their basic given rights in the 1st & 14th Amendments of the United States:
(2) It is imperative for the health and safety of the public that a legitimate tattoo shop is opened, because this type of business is regulated by the state health department. The current ordinance promotes (instead of discouraging) "underground tattoo places", which are not regulated by any laws or health codes what so ever. This puts the customers at risk of getting a potential disease or major infection while being tattooed in this environment. By allowing a legitimate tattoo shop in Marion there will be a professional tattoo artist who is trained in proper clean room and sterilization techniques, which will be inspected and licensed by the state health department. A professional shop could also promote an environment for up and coming artist to learn proper procedures and techniques.
(3) This ordinance makes people who get tattooed look like they are against the church and religion.
(4) His clients will not have to travel to another county or city to get tattooed anymore. Also, the tattoo business will generate more revenue here at home instead of in other cities or in "underground places".
(5) This ordinance was put in place when the city limits did not stretch out to all county. Ultimately the city limits were extended to allow more alcohol to be sold. Mr. and Mrs. Todd stated that they do not understand why the restrictions on alcohol sales are so liberal that alcohol can be sold within 100 feet of every establishment listed on the same ordinance that is being discussed this evening. Also, in accordance with the current ordinance, there are no reasonably priced rental properties inside the city limits that do not violate this separation requirement. Property holders are afraid to rent available space to a tattoo shop out of fear of persecution by the church or important officials in the city and county.

Mr. Todd stated that ultimately this is why they are here to ask that the separation requirement be reduced from the current amount of one thousand (1,000) feet be to a more reasonable five hundred (500) feet.

Mr. Darren Codner was present for this meeting thanked Council Members for their consideration and time to this request. Mr. Codner stated that he lived in Asheville and that he had been drug and alcohol free for ten years.

Mr. Codner stated that through various organized events he had brought in over a million dollars and that recently he was involved in a Tattoo Festival in Asheville that made over two million in revenue for Asheville. He has also done benefits for orphans, benefits to help dogs, had bought computers for art classes in the school system and more.

Mr. Codner stated that it had been a dream of his and had recently got to buy his mother a home. He has good intentions and is asking for a chance to open a reparable establishment in Marion and would like the chance to add class to the city. His current business in Asheville is already funding this new venture here in Marion and would like a chance to open a business and work with and be a part of the Marion Business Association.

Mr. Codner again thanked Council Members for their time and consideration.

Council Member Clark asked what the possibilities are before Council.

Mayor Little stated that five changes were included in the Zoning Text Amendment recommended by the Planning Board, as follows:

1. Reducing the separation requirement between tattoo parlors/body piercing establishments and parks, playgrounds, churches, libraries, group homes, schools, child care facilities, and/or other youth oriented entertainment land uses from 1,000 feet to 500 feet;
2. A new provision that would exempt greenways and other public trails from the separation requirement;
3. A new provision that would prohibit tattoo parlors/body piercing establishments located within the C-2 General Business District that are Located in the Mixed Use Neighborhood Future Land Use Category as identified within the revised Comprehensive Land Use Plan's Future Land Use Map;
4. A new provision that would allow tattoo parlors/body piercing establishments within the C-1 Central Business District as a Special Exception if such use is located above or below the adjacent street level and where no residential units are located on the same floor of such use; and
5. A new provision that would allow tattoo parlors/body piercing establishments such uses within the C-2 General Business District as a permitted use, rather than as a Special Exception.

Council Member Clark stated that the Planning Board had recommended a separation requirement of 500 feet, while City staff had recommended 700 feet. He said that, if Council wished to change the current Ordinance, it should choose one of the two numbers.

The City Manager stated that Council was not constrained to the separation requirements proposed by City staff or the Planning Board. He noted that, while specific locations have been proposed for two potential businesses, the Zoning Text Amendment will apply to the City as a whole, not just to applicants present for the meeting. The City Manager stated that the location on Main Street proposed by Mr. Codner is zoned C-1 Central Business, while the location proposed by Mr. Todd is C-2 General Business.

Mayor Little stated that the first question to be answered by City Council is should there be a change to the City's Zoning Ordinance regulations for tattoo parlors/body piercing establishments. If yes, then what should the specific changes be.

Mayor Little made mention that a section of the information Mr. Todd had read stating that the City Limits had been extended to accommodate alcohol sales was untrue. Mayor Little stated that was not the case.

Mr. and Mrs. Todd stated that it appeared that way to them.

Mr. Todd stated that he had found property on Hankins Road and could not get a city license due to being located to close to a church. However, alcohol sales are located near there. He therefore feels that tattoo parlors are being discriminated against and alcohol establishments are not.

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Mr. Todd apologized for putting that statement in the letter, although that is how it looks.

Council Member Ramsey pointed out that another section of Mr. Todd's statement is untrue, where he states that tattoo parlors cannot open due to fear of retribution from church and government officials. Council Member Ramsey stated that he has lived here for a long time and served in the public sector for many years. Council Member Ramsey advised that he has never heard of a church or government official proposing retribution against a tattoo business or a property owner that leases to such a business.

Council Member Ramsey also pointed out that the United States Constitution does not discuss tattoo parlors, but it does give citizens the right to make request such as is being deliberated in a civil manner by the City Council tonight.

Mayor Little stated that Council has to look out for the best for all the people. In doing that, Council is not always perfect, but tries its best to do a good job. Mayor Little advised that Council is genuinely interested in trying to provide a good environment for families and a good quality of life for all citizens, while also trying to be fair.

Mayor Little advised that when allowances were created for tattoo parlors several years ago for the first time, he and most members of the Council were in office. He said that Council carefully studied the issue and determined that tattoo parlors/body piercing establishments were not appropriate for Main Street. Mayor Little stated that not every business should be a Main Street business. In his opinion, tattoo parlors/body piercing establishments do not belong in or near the downtown area. The fact that allowances were adopted at all by the City a few years ago shows that Council did not dismiss the idea.

Mayor Little stated that the first question tonight is should the ordinance be changed. He noted to Mr. Codner and Mr. Todd that there are a lot of options outside the City for this type of business.

Mr. Todd stated that he does not feel that the ordinance is fair and he feels that he is being discriminated against. He feels angry regarding his options being so limited in Marion.

Mr. Codner's mother, Ms. Freida Edmondson, was also present for this meeting and advised that this type of business could create a lot of foot traffic in the downtown area. Tattoo parlors in Asheville blend in with the downtown businesses and she feels that their business could bring more traffic into the downtown area.

Council Member Clark asked what the Planning Board used to base their decision on regarding the separation requirements.

Ms. Cotton stated that the Planning Board felt that 500 feet was a more rounded number than 700 feet.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Martin, seconded by Council member Clark, Council voted to make a change in the current Zoning Ordinance regulations regarding tattoo parlors/body piercing establishments.

The vote carried 4 to 1 as follows.

Mayor Pro Tem Cuthbertson	Yes
Council Member Clark	Yes
Council Member Martin	Yes
Council Member Ramsey	Yes
Council Member Doggett	No

Council Member Martin stated that he personally had a bias against tattoo parlors, but felt that his personal bias should not cause him to keep such businesses out of an empty space in the downtown area.

Council Member Doggett stated that she meant nothing personal toward the applicants with her opposition to further allowances for tattoo parlors/body piercing establishments, but she strongly believe that no further allowances were needed.

Council Member Martin made a motion to accept the recommendation of the Planning Board to reduce the separation requirement between tattoo parlors/body piercing establishments and parks, playgrounds, churches, libraries, group homes, schools, child care facilities, and/or other youth oriented entertainment land uses from 1,000 feet to 500 feet.

Council Member Clark asked Council Member Martin to amend his motion and go with the 700 feet as recommended by City Staff, stating that he could support the 700 foot separation requirement.

Council Member Martin withdrew his motion.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted to amend the Zoning Ordinance to reduce the separation requirement between tattoo parlors/body piercing establishments and parks, playgrounds, churches, libraries, group homes, schools, child care facilities, and/or other youth oriented entertainment land uses from 1,000 feet to 700 feet.

Mayor Little stated that, as Mayor, he does not get to vote but would go on record saying that he would not vote for this change.

The voted carried 4 to 1 as follows:

Mayor Pro Tem Cuthbertson	Yes
Council Member Clark	Yes
Council Member Martin	Yes
Council Member Ramsey	Yes
Council Member Doggett	No

The City Manager stated that the above motion covers the separation requirement.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to add a provision to the Zoning Ordinance exempting greenways and other public trails from the separation requirement between tattoo parlors/body piercing establishments and parks, playgrounds, churches, libraries, group homes, schools, child care facilities, and/or other youth oriented entertainment land uses.

AA.00000042 (24)

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to add a provision to the Zoning Ordinance prohibiting tattoo parlors/body piercing establishments in areas of the C-2 General Business District that are designated in the Comprehensive Land Use Plan in the Mixed Use Neighborhood Future Land Use Category.

Mayor Little stated that the next part of the recommendation involved whether to allow tattoo parlors/body piercing establishments in the C-1 Central Business District. He advised that a lady had contacted him, upset because Second Chance Furniture on Main Street will move if a tattoo parlor is allowed in the C-1 district above the store. Mayor Little stated that he would again vote against such an allowance if he had a vote.

The City Manager advised that the actions taken by Council had already opened up quite a bit of area for tattoo parlors/body piercing establishments as compared to the previous ordinance.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to reject adding a new provision to the Zoning Ordinance that would allow tattoo parlors/body piercing establishments as a Special Exception in the C-1 Central Business District.

Mr. Codner stated that, with all due respect, he had visited local businesses and they had been supportive of plans. He also had planned on opening a salon, a clothing store, a jewelry store and other businesses.

Mayor Little stated that, even with the decisions made by Council, he could still put in a clothing and jewelry store.

Ms. Edmonson stated that her son does a good business. She keeps his books for him. Mr. Codner asked to say one last thing. He wants to have a classy establishment, which is one of the reasons he had looked for an upstairs property and not street level.

Council Member Doggett stated that she had received calls all week from business owners not wanting this establishment on Main Street.

Mayor Little stated that the motion carried not to allow tattoo parlors/body piercing establishments in the C-1 district.

Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to reject adding a new provision to the Zoning Ordinance to allow tattoo parlors/body piercing establishments within the C-2 General Business District as a permitted use.

Ms. Cotton advised that the Zoning Ordinance language involving the 1,000 separation requirement also included fortune tellers, but no motions of Council involved changes to the separation requirements for fortune tellers. Mayor Little and Council Members agreed that no changes were made to any regulations regarding fortune tellers.

The result of the changes approved by Council was the following ordinance:

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 section 21-205.3 Special exceptions of the C-2 General Business District are amended by deleting the following to the list of uses:

Tattoo parlor, body piercing shops, and fortune telling or any combination thereof, provided that the business is not located or operated within one thousand (1,000) feet of:

(A) A church, synagogue, or regular place of worship:

(B) A public or private elementary or secondary school;

(C) A public library;

(D) A park or playground;

(E) A licensed child-care facility;

(F) A licensed group-home facility;

(G) An entertainment business that is oriented primarily towards minors.

For the purpose of this article, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where tattoo and/or body piercing is conducted, to the nearest property line of the premises of any use listed above.

Section 3. That section 21-205.3 Special exceptions of the C-2 General Business District is amended by adding the following to the list of uses:

Sec. 21-205.3 Special Exception. The following uses are permitted within the C-2 General Business District.

Tattoo parlor, body piercing shops, or any combination thereof, provided that the business is not located or operated within seven hundred (700) feet of:

(A) A church, synagogue, or regular place of worship:
(B) A public or private elementary or secondary school;
(C) A public library;
(D) A park or playground with the exception of a greenway or other public trail;
(E) A licensed child-care facility;
(F) A licensed group-home facility; and
(G) An entertainment business that is oriented primarily towards minors.

AA.00000043 (24)

And where such use is not located within the Mixed Use Neighborhood Land Use Category as identified on the Future Land Use Map adopted as part of the City of Marion Comprehensive Land Use Plan, as may be amended from time to time.

For the purpose of this article, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where tattoo and/or body piercing is conducted, to the nearest property line of the premises of any use listed above.

Fortune telling provided that the business is not located or operated within one thousand (1000) feet of:

(A) A church, synagogue, or regular place of worship:
(B) A public or private elementary or secondary school;
(C) A public library;
(D) A park or playground with the exception of a greenway or other public trail;
(E) A licensed child-care facility;
(F) A licensed group-home facility; and
(G) An entertainment business that is oriented primarily towards minors.

For the purpose of this article, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where fortune telling is conducted, to the nearest property line of the premises of any use listed above.

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 19th day of June 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/ Clerk

Ordinance Number: O-12-06-19-7

PUBLIC HEARING – ADOPTION OF ORDINANCE APPROVING CLOSURE OF UNOPENED PORTIONS OF WILHEMENIA STREET AND AN UNOPENED ALLEY: Mayor Little opened the Public Hearing.

Planning and Development Director Heather Cotton advised that this item involves an ordinance to permanently close an unopened portion of Wilhemenia Street and an adjacent alley that subdivides property owned by Mr. Marco Antonio Cruz Reyes. A Resolution of Intent on the matter was adopted by City Council on May 15, 2012, a 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 Statute 160A-299.

Ms. Cotton reported that the unopened streets are approximately 0.17 acres according to a survey completed by Larry Greene Surveying dated May 3, 2012. Property located on either said of Wilhemenia Street is owned by Mr. Reyes. The City of Marion does not maintain any portion of Wilhemenia Street, and there is no indication that closing the street would be detrimental to public interest or limit access to any other property.

Ms. Cotton advised that, while the City does not maintain said portion of the street, a 16.12 foot section of sewer line does bisect a corner of the portion to be closed. The property owner has signed an easement agreement that provides the City with permanent access to the sewer line and in addition has granted an easement to a 93.54 foot section of line not located within the unopened portion of street for the purposes to reconstruct, repair, replace, operate, and maintain the line as necessary.

There were no unscheduled citizens present to discuss this item.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to adopt the following Ordinance permanently closing a portion of Wilhemenia Street as presented.

AN ORDINANCE
PERMANENTLY CLOSING
A PORTION OF WILHEMENIA STREET

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 May 15, 2012 adopted a resolution declaring its intent to permanently close a portion of Wilhemenia Street, hereinafter described, and calling for a public hearing on the question; and

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

WHEREAS, A public hearing was duly held in the City of Marion City Council Chamber on May 15, 2012, at which no owner of property adjoining Wilhemenia Street intended to be closed appeared to express opposition to the closing; and

WHEREAS, After the hearing, it appears to the satisfaction of the City Council that closing the described Wilhemenia 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 2. IT IS, THEREFORE, ORDAINED AND ORDERED that Wilhemenia Street as shown, for identification and location purposes only, on a survey of property belonging to Marco Antonio Cruz Reyes as recorded in Deed Book 1033, page 478 in the Office of the McDowell County Register of Deeds, be, and it is hereby, permanently closed.

AA.000000044 (24)

Section 3. IT IS FURTHER ORDAINED AND ORDERED that a permanent twenty (20) feet in width easement is conveyed for the purposes to reconstruct, repair, replace, operate, and maintain on the premises an underground sewer and/or water pipeline system as shown, for identification and location purposes only, on a survey prepared by R.L. Greene dated May 3, 2012, and provided herein as Attachment A.

Section 4. 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 5. This Ordinance and Order shall be in full force and effect from and after the date of its adoption.

Adopted this the 19th day of June 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-12-06-19-6

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL

I, _____, 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 19th day of June, 2012.

_____
NOTARY PUBLIC

My Commission Expires:

CIVIL CITATION APPEAL – DOG NOT HAVING ADEQUATE SHELTER: The City Manager advised that he had received a copy of a civil citation appeal from Ms. Wanda Chapman of 190 Church Street. Ms. Chapman is appealing the $50.00 civil citation issued to her on May 7 for her dog not having adequate shelter. The City Manager reported that, as indicated in the information presented to Council, Animal Enforcement Officer April Noles advised that she had responded to this location for animal complaints twice previously, on March 8, 2012 and March 20, 2012. On March 8, Officer Noles responded to this location in reference to a complaint of dogs barking and one dog running loose. On March 20, Officer Noles responded to this location in reference to a complaint and found three dogs chained in the back yard with no water or food. At this time, Ms. Chapman was advised that the dogs needed appropriate shelter. On May 7, Officer Noles was approached by a person complaining about the welfare of a dog at 190 Church Street. Upon responding, Officer Noles found a dog lying on the asphalt on a hot day with no water. Based on the prior responses at this location and the warning issued on March 20, Ms. Chapman was issued a $50.00 civil citation for the dog not having adequate shelter.

The City Manager stated that Section 3-8.1 of the City Code requires pet owners in the City to provide adequate shelter for their animals. Shelter is defined as an enclosure of at least three sides, a roof and a floor. The City Manager advised that this section was added to the City Code a few years ago when Council added language to the Animal Ordinance regarding animal welfare.

The City Manager stated that Ms. Chapman offered no reason in her appeal letter why the citation should not have been issued. After being warned about her dogs not having adequate shelter on March 20, a doghouse was not purchased until May 7, after the civil citation was issued.

The City Manger stated that he would therefore recommend that Council deny Ms. Chapman's appeal.

The City Manager stated that he had advised Ms. Chapman of when the civil citation appeal would be heard by Council and she is not present for this discussion.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Clark, Council Members voted unanimously to deny the civil citation appeal from Ms. Wanda Chapman of 190 Church Street for the $50.00 civil citation issued to her on May 7 for her dog not having adequate shelter.

CONSIDER WAIVER OF PENALTIES – NUISANCE ORDINANCE VIOLATIONS: The City Manager advised that Council had copies of three civil citation appeals he had received, related to nuisance ordinance violations. In the past, the City always simply mowed or cleaned a property having a Nuisance Ordinance violation if the property owner did not correct the problem after receiving notice. The City did not traditionally issue civil citations, since the City had the authority to correct the violation. When the City Attorney drafted the revisions to the City's Civil Citation Ordinance a few years ago, language was included that required the Enforcement Officer to issue a citation if the violation was not corrected after notice from the City.

The City Manager stated that he did not realize that this mandatory language was included in the Civil Citation Ordinance revisions. For many types of violations, a citation is appropriate and effective. However, the City Manager stated that he had never thought that a citation for a Nuisance Ordinance violation was necessary, since the City has the authority to correct the violations in question after notice to the property owner and since the City adds on a $50.00 administrative fee to the mowing or cleaning costs, an amount equivalent to a civil citation.

The City Manager advised that under the Consent Agenda, Council had approved amendments to the City's Civil Citation Ordinance to remove the language that the Enforcement Officer must issue a citation after a violation is not corrected by the property owner.

Due to that item being approved under the consent Agenda, the City Manager stated that he would recommend that Council waive the $50.00 penalty for the three civil citations related to Nuisance Ordinance violations:

A. An appeal from Mr. J.H. Eckerd regarding his property on Vale Street. Mr. Eckerd was issued this citation due to the presence of tall grass and weeds on the property, in violation of the City's Nuisance Ordinance. After receiving the citation, the property was mowed. Mr. Eckerd states that the property was supposed to be mowed, but was not due to the rainy weather.

B. An appeal from Ms. Sue Taylor concerning her property on Rutherford Road next to Mi Pueblito Mexican Restaurant. Ms. Taylor was issued this citation due to the presence of tall grass and weeds on the property, in violation of the City's Nuisance Ordinance. After receiving the citation, the property was mowed.

A#:000000045 (24)

C. An appeal from Mr. Thomas Lael concerning his property on Carroll Street. Mr. Lael was issued this citation due to the presence of tall grass and weeds on the property, in violation of the City's Nuisance Ordinance. After receiving the citation, the property was mowed.

The City Manager stated that he had advised Mr. Eckerd, Ms. Taylor and Mr. Lael that their appeals would be heard tonight by Council. These property owners were not present for this meeting and discussion.

Upon a motion by Council Member Martin, seconded by Council Member Ramsey, Council voted unanimously to waive the $50.00 penalty for the three civil citations issued to Mr. J.H. Eckerd for the presence of tall grass and weeds on his property on Vale Street, to Ms. Sue Taylor for the presence of tall grass and weeds on her property on Rutherford Road next to Mi Pueblito Mexican Restaurant and to Mr. Thomas Lael for the presence of tall grass and weeds on his property on Carroll Street.

PUBLIC APPEARANCE – MR. BOBBY PATEL: Mr. Bobby Patel appeared before Council to request again the annexation of his property containing a convenience store on Sugar Hill Road just north of Goose Creek Road. Mr. Patel stated that competition from other stores farther north on Sugar Hill Road in the City Limits that can sell alcohol have hurt his business. He asked that Council annex his property.

The City Manager advised that, based on the guidance of the School of Government, he could not recommend that Council pursue the annexation of Mr. Patel's property, at least until the City has the ability to provide full services, particularly water and sewer. The City Manager reported that State law allows cities to offer septic tank maintenance in lieu of sewer service, but water service is also not available. The City Manager said that the only likely way water service could be extended to this area of Sugar Hill Road would be if McDowell County Schools wished to fund a water extension along Sugar Hill Road to West Marion Elementary School.

Mayor Little stated that Council sympathizes with his situation. However, Mr. Patel's property is a good distance from the City Limits and the City has to follow State law regarding annexation. He added that the North Carolina General Assembly has very strict laws regarding municipal annexation, with the laws becoming more restrictive each session.

The City Manager advised that the UNC School of Government states that there are no firm rules on when full City services must be made available to a property requesting annexation, but advises that the City have a plan to provide full services within a reasonable period of time. The City could initiate discussions with McDowell County Schools to see if there is interest in the School System funding a water extension to West Marion Elementary School, which would make water service available to this area.

Council Member Clark stated that, unless Mr. Patel's property could someday possibly become contiguous with the City Limits, Council could not justify annexing a property just so alcohol could be sold.

Mayor Little stated that Mr. Patel's circumstances are compelling; however, if the City took such an action for Mr. Patel, the City would have to take the same action for other properties in similar circumstances.

Council Member Clark stated that he sympathizes with Mr. Patel, as he used to be a retail business owner and knows firsthand how hard it is to be successful. Council Member Clark stated that there are cities in North Carolina having property de-annexed by the General Assembly, so cities have to be very careful with their annexation decisions.

It was the consensus of Council not to take any action on this item at this time. By consensus, Council stated no objection to the City Manager talking to new McDowell County Schools Superintendent Dr. Gerri Martin in July to determine the possible interest of the School System funding a water extension to West Marion Elementary School, which would make water service available to Mr. Patel's property.

Mr. Patel stated that he appreciated Council's time and consideration.

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

CONSIDER APPROVAL OF GARBAGE ORDINANCE REVISIONS:
Finance Director Harriett Thomas advised that, about two years ago, the General Assembly passed a law requiring restaurants and bars to recycle glass bottles. Since that time, the City has seen several new restaurants and bars open and contract with the City for garbage and recycling collection. The City's Commercial Garbage and Recycling Fee Schedule has one recycling plan for businesses, costing $16.00 per month. This plan provides for one collection per week in recycling bins provided by the City. Ms. Thomas reported that restaurants and bars producing large volumes of glass bottles have required additional collections. Because of the large volume, the Sanitation Division is spending a considerable amount of time collecting recycling from a few customers producing large volumes of glass bottles.

Ms. Thomas stated that the ordinance proposed would add Plan E for Commercial Recycling Services for Restaurants and Bars. Instead of Plan D, with one recycling collection per week in recycling bins provided for the City, Plan E allows for Restaurants and Bars to put their recyclables in up to five 15 to 35 gallon cans. The charge for recycling collection would range from $25 to $85 per month, depending on the number of collections. There would be an additional charge of $5 per month for each excess can above five.

The City Manager stated that he would recommend approval of this ordinance, to allow for greater cost recovery of the recycling services provided to restaurants and bars producing large volumes of glass bottles.

Council Member Clark stated that he feels that the 35 gallon container of glass is too much weight for an employee to lift and would like to see the can size lowered. Council Member Clark advised that he would not want the City to open itself to Worker's Compensation claims.

Mayor Little stated that he agrees with Council Member Clark.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following Commercial Garbage/Recycling Collection Rates Ordinance to add Plan E for commercial recycling services for restaurants and bars:

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

Pick-ups per Week	Monthly Charge
1	$ 125

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2	302
3	482
4	660
5	840

Pick-ups per Month	Monthly Charge
1	$ 35
2	60
3	88

Plan "B"
Apartment Complexes

Pick-ups 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)

Pick-ups per Week	Monthly Charge
1	$ 16 (minimum charge)

Plan "D"
Commercial Recycling Services (2 - 14 gallon bins)

Pick-ups per Week	Monthly Charge
1	$ 16 (minimum charge)

Plan "E"
Commercial Recycling Services – Restaurants & Bars (5 - 15 to 35 gallon cans; additional charge of $5 per month for each excess container)

Pick-ups per Week	Monthly Charge
1	$ 25
2	40
3	55
4	70
5	85

Other Miscellaneous Charges

First Late Penalty	$ 5.00
Second Late Penalty:	
1-3 Occurrences	15.00
4 or More Occurrences	25.00

Section 2. The Ordinance adopted on June 21st 2011 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, 2012.

Adopted this 19th day of June 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-12-06-19-3

The City Manager stated that he would work with Public Works Director Brant Sikes to determine a smaller maximum size for recycling containers.

CONSIDER APPROVAL OF CITY FEE SCHEDULE AMENDMENTS: Finance Director Harriett Thomas advised that in reviewing the City's current Fee Schedule and in conversations with Public Works Director Brant Sikes, it was found that the City is occasionally providing services or issuing permits for which the City is incurring costs but not charging a fee.

The items recommended for charging a fee are:

1. Utility Trailer Temporarily Placed at a Residence – The typical time incurred for delivery, pick-up and unloading by hand is three man hours plus fuel for the truck. A fee of $50 per use is recommended.

2. Portable Toilet Permits – Staff time is incurred to inspect the site and complete paperwork. A fee of $20 per permit is recommended.

3. Driveway Permits – The City currently charges actual costs for the curb cut and approach; however, staff time is incurred to inspect the site and complete paperwork. A fee of $30 is recommended.

A discussion followed.

AA.00000047 (24)

Upon a motion by Council Member Clark , seconded by Council Member Martin, Council voted unanimously to amend the City Fee Schedule as follows:

1. To add a fee of $50 per use for the placement of the City's utility trailer at a residence.

2. To add a fee of $20 for portable toilet permits.

3. To add a fee of $30 for driveway permits.

CONSIDER APPROVAL OF NUISANCE ORDINANCE AMENDMENTS: The City Manager advised that the City's current Nuisance Ordinance, which applies to tall grass, junk, trash and junked vehicle violations, allows property owners 10 days to correct violations. Staff recommends that the time period to correct violations be reduced to seven days. In addition, State law now allows cities to notify chronic violators of a Nuisance Ordinance once per calendar year. A chronic violator is defined as a property owner that received three or more notices in the prior year concerning the Nuisance Ordinance. The City has several properties that fall within this definition. Under the proposed ordinance, which is enclosed, the City could save the cost of certified mail for these chronic violators by only having to send one certified letter per year. The City Manager stated that he would recommend approval of this ordinance to streamline the City's nuisance abatement process.

Upon a motion by Council Member Martin, seconded by Council Member Ramsey, Council voted unanimously to adopt the following Ordinance as recommended.

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 9-124.1 in its entirety and replacing it with the following:

Sec. 9-124.1. Notice; abatement.

(a) When any condition in violation of this Article is found to exist, the City Manager or his designee shall give notice of the owner of the premises to abate or remove such conditions within seven (7) days. Such notice shall be in writing, shall include a description of the premises sufficient for identification and shall set forth the violation and state that, if the violation is not corrected within seven (7) days, the City may proceed to correct the same as authorized by this Article. Service of such notice shall be any one of the following methods:

(1) By delivery to any owner personally or by leaving the notice at the usual place of abode of the owner with a person who is over the age of sixteen (16) years old and a member of the family of the owner.
(2) By mailing a copy of the notice by registered or certified mail, return receipt requested, addressed to the person to be served and delivered to the addressee;
(3) By delivering a copy of the notice to any officer, employee or agent of a corporation, partnership or business; or
(4) By posting, for ten (10) days, a copy of the notice in placard form, in a conspicuous place on the premises on which the violation exists, when notice cannot be served by (1), (2) or (3) above.

(b) When the owner of any property fails to comply with a notice given pursuant to this Article, within seven (7) days after the service of such notice, he or she shall be subject to any criminal or civil penalties authorized by Chapter 1 of the City Code in accordance with law and each day that such failure continues shall be a separate offense. In addition, the City Manager or his designee may have the condition described in the notice abated, removed or otherwise corrected and all expenses incurred thereby shall be chargeable to and paid by the owner of the property and shall be collected as taxes and levies are collected. All such expenses shall constitute a lien against the property on which the work was done.

(c) The city may notify a chronic violator of the City's public nuisance ordinance that, if the violator's property is found to be in violation of the ordinance, the City shall, without further notice in the calendar year in which notice is given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The notice shall be sent by certified mail. A chronic violator is a person who owns property whereupon, in the previous calendar year, the City took remedial action at least three times under any provision of the public nuisance ordinance.

(d) The procedure set forth in this article shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances, and this chapter shall not prevent the City from proceeding in a criminal action against any person, firm or corporation violating the provisions of the Article as provided in G.S. 14-4.

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

Adopted this the 19th day of June, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-12-06-19-4

CONSIDER APPROVAL OF CITY COMPREHENSIVE LAND USE PLAN: Planning and Development Director Heather Cotton advised that she had completed work on the City's Comprehensive Land Use Plan, which provides detailed data and analysis on many factors that will influence land use development and growth in the future. The plan also includes goals, policies and objectives that articulate the desires of the public that were identified during the N.C. STEP Program citizen engagement process, and which will help the City plan for and make decisions on land use activities that occur in the future.

Ms. Cotton stated that she had presented the Comprehensive Plan at two previous City Council Planning Sessions providing updates as to the Plan's status. All changes, deletions, and amendments as a result of those sessions were made to the final document. Staff has included a revised set of goals, policies, and objectives in the final document, as well as updated all data and analysis with newly published 2010 Census data.

AA\00000048 (24)

Ms. Cotton said that the new Plan will officially retire the 1978 Land Use Plan and become the City's new twenty (20) year Comprehensive Land Use Plan.

Ms. Cotton reported that the Planning Board reviewed the proposed Plan at their regularly scheduled meeting on June 7, 2012 and unanimously recommended its adoption.

Upon a motion by Council Member Clark, seconded by Council Member Martin, council voted unanimously to approve the following Resolution which adopts the 2012 Comprehensive Land Use Plan as presented:

RESOLUTION BY THE MARION CITY COUNCIL
TO ADOPT THE 2012 COMPREHENSIVE LAND USE PLAN

WHEREAS, the 2012 Comprehensive Land Use Plan is a policy document created to assist in making decisions concerning the physical, social, economic, and environmental character of the community; and provides a process to accomplish various community goals;

WHEREAS, the purpose of the 2012 Comprehensive Land Use Plan is to provide general guidance on local government policy and zoning decisions, and serve as a means to identify, prioritize, and plan for capital improvements, preparation of budgets and ordinances, and operating procedures to implement the Plan.

WHEREAS, the 2012 Comprehensive Land Use Plan provides guidance to staff and elected officials, other public agencies, citizens, developers, and organizations concerned with future growth and development of the community; and

WHEREAS, the City Council, Planning Board, and citizens have worked to develop the 2012 Comprehensive Land Use Plan to address land use and development, public health and the environment, housing and neighborhoods, municipal facilities and services, transportation, economic development, parks and recreation, and community character over the next twenty years.

WHEREAS, it is the intent of the City Council to maintain and amend the 2012 Comprehensive Land Use Plan as a matter of policy to guide future growth and development; and

NOW, THEREOFRE, BE IT RESOLVED BY THE MARION CITY COUNCIL, NORTH CAROLINA, THAT:

Section 1. That this policy document be adopted as the 2012 Comprehensive Land Use Plan for the City of Marion.

Section 2. The 2012 Comprehensive Plan replaces the 1978 Comprehensive Land Use Plan as the guiding land use policy document.

Section 3. All zoning map amendments heard at public hearings conducted after the adoption date of this resolution will be subject to the new 2012 Comprehensive Land Use Plan, as may be amended from time to time.

Section 4. This resolution shall be effective upon its adoption.

Adopted this the 19th day of June, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-12-06-19-4

A copy of the 2012 Comprehensive Land Use Plan can be found on file in the office of the Planning and Development Department.

CONSIDER APPROVAL OF SIDEWALK PRIORITY LIST AND PARK PRIORITY LIST: The City Manager advised that Council periodically approves a Street and Sidewalk Priority list to give staff direction on which construction projects to pursue. The City Manager presented Council with a draft Street and Sidewalk Priority List and a draft Park Priority List for consideration. In preparing these lists, the City Manager stated that he had tried to keep in mind the conditions and needs of each location and direction provided by Council at the April 20-21 Planning Session.

Council Member Doggett asked how close the City was to finishing the Clinchfield park. Public Works Director Brant Sikes gave a brief update advising that the park is almost completed, except for paving, which will take place in July.

Motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to approve the following Street/Sidewalk and Park priority lists, with the stipulation that the priority lists can be amended at any time by Council:

Street/Sidewalk Priority List
June 2012

1 Crescent Drive – Curb and Gutter replacement, along with water line replacement – To be completed by City crews in 2012-13

2 East Court Street – Sidewalk – Add new section of sidewalk from Branch Street to Yancey Street – Seek DOT funding again in Fall 2012

3 Ridge Road/Church Street – Construction of asphalt trail along road between East Court Street and School Street – Contract out in 2012-13

4 New Street/North Garden Street – Complete drainage improvements – To be completed by City crews in 2012-13 or 2013-14, as schedule allows

5 West Fourth Street (East Marion) – Pave street – Contract out in 2013-14

6 North Garden Street – Curb and Gutter replacement – To be completed by City crews or be contracted out in 2013-14

7 Logan Street – Sidewalk – Add new section of sidewalk behind Wachovia Bank – Seek DOT funding again in Fall 2012 or have City crews complete work in 2013-14

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8 Open up Washington Street to Miller Avenue - Contract out in 2013-14 or 2014-15, depending on budget

9 Cross Street – Curb and gutter and sidewalk replacement (Water line replacement needed) – Evaluate timing of project in 2012-13

10 Morgan Terrace – Asphalt curb replacement (Repair sections and add new sections where needed) – (Sewer work needed at area near intersection with Clay St.) – Evaluate timing of project in 2012-13

11 Morehead Road – Curb and possible gutter installation – Evaluate timing of project in 2012-13

Park Priority List
June 2012

1 Community Building Park – Complete Master Plan renovations to park including sidewalk from picnic area to small children's area, retaining wall for small children's area. Also install adult swings and benches in playground area. – To be completed by City crews in 2012-13

2 Clinchfield Park – Construct greenway between park and Virginia Road - To be completed by City crews in 2013-14, with contractor assistance as needed

CONSIDER APPROVAL OF CONTRACT WITH MARION BUSINESS ASSOCIATION: The City Manager advised that the document presented to Council would extend the contract between the City and Marion Business Association (MBA) for three years, retroactive to July 1, 2011, for the MBA to perform economic development, downtown development and special events/promotions functions for the City. The contract amount begins at $67,000 per year and can be adjusted each year, as deemed appropriate by Council. The 2012-13 budget contains $69,000 of funding for the MBA. The contract would run until June 30, 2014.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to approve the following contract with the Marion Business Association:

CITY OF MARION
FUNDING AGREEMENT FOR
DOWNTOWN DEVELOPMENT, ECONOMIC DEVELOPMENT
AND PROMOTIONS/SPECIAL EVENTS SERVICES

STATE OF NORTH CAROLINA
CITY OF MARION

This Agreement is effective as of the 1st day of July, 2011 by and between the City of Marion, North Carolina, hereinafter referred to as the "CITY", and the Marion Business Association, hereinafter referred to as the "AGENCY" And shall extend for a three year period, until the 30th day of June, 2014.

WHEREAS, the CITY has requested services from the AGENCY to carry out its programs and activities; and

WHEREAS, the City Council has agreed to appropriate the sum of $67,000.00 in funding for the fiscal year ending June 30, 2012 to support the services provided by the AGENCY. The CITY and AGENCY shall mutually agree on the funding level for the fiscal years ending June 30, 2013, and June 30, 2014 to support the services provided by the AGENCY; and

WHEREAS, it is desirable and necessary to enter into this Agreement in order to set forth the terms and conditions for receiving said funds from the CITY.

NOW, THEREFORE, in consideration of the following the parties hereto do mutually agree as follows:

1. The AGENCY agrees to use the funds appropriated by the CITY in a manner and for the purposes specified in Attachment A, a copy of which is attached hereto and incorporated by reference as if to set forth fully herein.

2. In consideration for the performance by the AGENCY of the services outlined in its application, the CITY agrees to pay the AGENCY up to the amount of money authorized in the City of Marion budget for the fiscal year and as specified above. Payment of such amount shall be made in quarterly allotments requested by the AGENCY.

3. If the AGENCY fails to perform its obligation under this Agreement, or if the AGENCY shall violate any of the provisions of this Agreement, the CITY shall have the right to terminate this Agreement by giving written notice to the AGENCY of such termination at least thirty (30) days before the effective date of such termination. In such event, all unexpended funds at the time of such termination shall remain with the CITY.

4. The AGENCY shall not assign any interest in this Agreement and shall not transfer any interest in the Agreement without prior written approval of the CITY.

5. In connection with the performance of this Agreement, the AGENCY shall not discriminate against any employee, applicant for employment, or program participant because of race, religion, color, sex, age, handicap, or national origin.

6. The AGENCY shall maintain all accounts, books, ledgers, journals, and records in accordance with generally accepted accounting principles, practices and procedures.

7. The AGENCY shall submit to the CITY an annual status report of all program activities including a summary of the accomplishment of stated goals and objectives.

8. The AGENCY shall provide an accounting of CITY funds to the CITY to demonstrate that funds allocated to the AGENCY have been used for the purpose(s) specified herein. The accounting report shall be submitted to the CITY within 30 days of the end of each Fiscal Year. Further, the CITY shall be entitled to audit the financial records and operations of the AGENCY at the CITY's discretion. Any excess funds or funds not used for the expressed purpose(s) stated herein must be returned to the CITY within thirty (30) days of the CITY's request for said funds.

9. The CITY shall be entitled to conduct an evaluation of the AGENCY's programs and activities particularly as it relates to the accomplishments of established goals and objectives and the measurement of services being delivered.

AA.0000000050 (24)

10. All books and records shall be maintained by the AGENCY for a period of at least three years from the date of the final payment under this Agreement and shall be made available for audit or evaluation upon request during regular business hours of the AGENCY.

11. The AGENCY must adopt a Drug-Free Workplace Policy in accordance with the Drug-Free Workplace Policy of 1988 (41 U.S.C. 701).

12. As a condition of receiving funds from City of Marion, the AGENCY agrees to fully indemnify and hold harmless City of Marion, its officers, agents, and employees from and against any and all claims, demands, payments, suits, actions, costs, recoveries, and judgments of every kind and description brought out of or occurring in connection with, directly or indirectly, activities funded in part or in whole with funds made available under this Agreement.

13. The CITY is in no way responsible for the administration and supervision of the AGENCY's officers, employees, and agents, which persons it is agreed are not officers, employees, or agents of the CITY.

14. The Agreement may only be amended by written amendments mutually agreed upon by and between the CITY and the AGENCY.

15. The City Manager is designated as a non-voting ex-officio member on the Governing Board of the AGENCY, shall be allowed to attend all Board and Committee meetings of the AGENCY and shall receive regular written updates, on at least a monthly basis, of activities related to this agreement.

16. Pursuant to the CITY Budget Ordinance, the CITY will release approved non-profit allotments in quarterly installments.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their name by their duly authorized officers, their seals to be hereto affixed the day and year first above written.

ATTEST: CITY OF MARION

City Manager/Clerk Date BY: Mayor Date

ATTEST:

Executive Director, Marion Business Association Date

BY: President, Marion Business Association Date

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

City Finance Director Date

ATTACHMENT A
DUTIES AND RESPONSIBILITIES AND PROJECTED BUDGET OF THE MARION BUSINESS ASSOCIATION UNDER THE FUNDING AGREEMENT FOR DOWNTOWN DEVELOPMENT, ECONOMIC DEVELOPMENT AND PROMOTIONS/SPECIAL EVENTS SERVICES

Duties and Responsibilities

1. Serve as the designated economic development agency of the City of Marion in relation to all commercial, retail, service, tourism and governmental facility related development (not to include industrial development).

2. Maintain up-to-date files on all available properties within the Marion City Limits or in areas considered for annexation by the City of Marion.

3. Assist prospective new businesses with providing information about the community and local requirements such as permits, licenses, ordinances and other pertinent information.

4. Maintain current information of available financial assistance and sources of capital for small businesses and seek opportunities for new programs.

5. Actively recruit new businesses in the areas listed under Item 1 above with primary focus in Downtown Marion and then throughout the existing or prospective City Limits.

6. Pursue grant writing opportunities in the areas of downtown and economic development and beautification for the City of Marion.

7. Coordinate the City's Main Street Program and downtown development activities.

8. Coordinate the City's participation in the N.C. STEP Program.

9. Coordinate all downtown and assigned events including, but not limited to, Mountain Glory Festival, Christmas Parade, July 4th Celebration, First Friday Concerts and Melodies on Main. Other events may be added or events deleted as agreed to by the MBA and the City.

10. Conduct business visits and provide small business outreach services.

11. Participate in the City's Certified Retirement Community Program.

12. Any related duties requested or assigned by the City Council or City Manager.

CONSIDER APPROVAL OF USE OF HISTORIC MARION TAILGATE MARKET SHELTER FOR ERA MOUNTAIN VIEW PROPERTIES COMMUNITY APPRECIATION DAY ON SATURDAY, MAY 11, 2013: The City Manager advised that Ms. Jacque Mentink of ERA Mountain View Properties has requested approval to use the Historic Marion Tailgate Market Shelter for a Community Appreciation Day on Saturday, May 11, 2013 between 4:00 p.m. and 8:00 p.m. The event will be similar to ones ERA has held previously, including in May, on Main Street. The event would be open to the public, include music, food and drinks, a car show, balloons, face painting and other entertainment.

AA.00000051 (24)

At the proposed time of day, there should be no conflicts with the Farmer's Market. The City Manager noted that Council previously allowed Caffiend Underground to hold a concert open to the public under the Shelter.

Upon a motion by Council Member Martin, seconded by Council Member Ramsey, Council voted unanimously to approve the request of Ms. Jacque Mentink to use the Historic Marion Tailgate Market Shelter for the ERA Mountain View Properties Community Appreciation Day on Saturday, May 11, 2013 between 4:00 p.m. and 8:00 p.m. as requested.

CONSIDER APPOINTMENTS TO CITY ADVISORY BOARDS: The City Manager advised that there were still several vacancies that need to be filled on City Advisory Boards. He reported that the Tree Board had one vacant voting member position and that the Planning Board/Board of Adjustment/Historic Preservation Commission had three vacant alternate positions.

Council Member Doggett proposed Dr. Beverly Watts for the Tree Board. Mayor Little suggested Ms. Helen Shimp as a possibility for the Tree Board. Both Council Member Doggett and Mayor Little stated that they would determine if Dr. Watts and Ms. Shimp, respectively, were willing to serve and would report back to Council at a future meeting.

This item will be placed back on the July 17 Agenda for further discussion.

ADD ON ITEM – ADOPTION OF RESOLUTION - AUTHORIZING SUBMISSION OF NORTH CAROLINA RURAL CENTER PLANNING GRANT APPLICATION FOR WATER SYSTEM HYDRAULIC MODEL: The City Manager advised that, as previously reported, Council member Clark recently spoke to North Carolina Rural Center President Billy Ray Hall about the City applying for a Rural Center Planning Grant for the preparation of a Water System Hydraulic Model for the City. Mr. Hall stated that this sounded like a good project and encouraged the city to submit the grant application.

The City Manager stated that McGill Associates recommended that the resolution presented for Council's review be adopted to authorize the grant application to be submitted, since Rural Center Planning grant requests are considered on a first come, first served basis.

The City Manager reported that the Hydraulic Model will study water pressures and flow throughout the City's water system. The anticipated project cost is around $30,000. The Planning Grant would fund one-half of the project expenses.

A brief discussion followed.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Ramsey, Council voted unanimously to adopt the following Resolution authorizing staff to submit an application for a Rural Center Planning Grant for the preparation of a Water System Hydraulic Model for the City.

AUTHORIZING RESOLUTION
BY CITY COUNCIL 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 alternative wastewater system, for wastewater collection systems or for water supply and distribution systems, project described as a hydraulic modeling of Marion's Existing Water System; 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 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.

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 19th day of June, 2012 at Marion, North Carolina.

SIGNATURE OF CHIEF ELECTED OFFICIAL
AUTHORIZED REPRESENTATIVE

DATE

Stephen Little,
TYPED NAME

Mayor
TYPED TITLE

ATTEST: (Seal)

J. Robert Boyette, City Manager/Clerk

Resolution Number: R-12-06-19-4

AA.00000052 (24)

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that Mayor Little and Council Members are invited to participate, as usual, in the July 4th Parade. The July 4th Celebration will be held on Wednesday, July 4. The Parade line-up will take place in the Bank of America parking lot at 5:30 p.m., with the Parade beginning at 6:00 p.m. The City van will be decorated and in the Bank of America parking lot by 5:30 p.m.

The City Manager advised that Council has held an Advisory Board/Volunteer Dinner for many years. The City has usually held this dinner in August, but may wish to try a September date to allow for better attendance. Mayor Little and Council Members agreed that a September date may be preferable. This item will be further discussed at the July 17 Council Meeting and a date set for the dinner.

The City Manager stated that McDowell Trails Association President Bill Hendley, Planning and Development Director Heather Cotton and he had met with Consultant Forester John Rutland recently on the Joseph McDowell Historical Catawba Greenway Phase 2 property and determined that there is not enough timber of value to sell. The City Manager reported that Mr. Rutland had suggested that the City have the project contractor clear out timber, instead of trying to sell the few trees that may be valuable.

The City Manager stated that the City would be joining with other local agencies to learn over the next few months how the Kate B. Reynolds Foundation Healthy Places Initiative could benefit the County. He said that there is a chance that the City could obtain funding for the local match for Phase 2 of the Greenway, other City and County trail projects and maybe even some sidewalk connections.

The City Manager reported that the Mayor Pro Tem Cuthbertson had advised that the mirror that was recently placed at the intersection of South Main and Railroad Streets did not allow for good visibility of both northbound and southbound traffic on South Main Street. The City Manager stated that Public Works Director Brant Sikes looked at the location and thought that a second mirror would be needed to allow for better visibility from both directions. The City Manager added that DOT District Engineer Doug McNeal had called him earlier that day and stated that DOT would ask the City to remove at least one parking space on the southbound side of South Main Street on the bridge north of the Railroad Street intersection, to allow for adequate sight distance at the intersection.

After brief discussion, Council agreed by consensus to authorize staff, upon formal notice from DOT, to remove one parking space on the southbound side of South Main Street on the bridge north of the Railroad Street intersection, to allow for adequate sight distance at the South Main Street/Railroad Street intersection. If this change does not allow for adequate sight distance, then further changes to the mirror can be considered.

Council Member Clark asked that the City request that DOT replace the yield to pedestrian signs at the midblock crosswalks on Main Street with signs that are smaller. He said that the large signs take away from the appearance of downtown.

The City Manager reported that DOT was essentially completed with the project to raise the level of Finley Road in the low spot prone to flooding and also to address drainage issues at this location.

The City Manager stated that DOT has begun work on the Logan Street resurfacing project, which will include repairing the drains that have long created a traffic hazard on the street.

The City Manager advised that DOT has also begun work to replace some storm drainage on East Court Street between the Department of Social Services and NAPA buildings. DOT has had to remove four cherry trees planted by the City, but will replace the trees after the construction project is completed.

COUNCIL MEMBER COMMENTS:

Mayor Little advised that, in recent years, Council had met with the County Commissioners. He proposed that Council schedule a meeting with the Town of Old Fort Board of Aldermen to allow the two boards to get to know each other better. At the initial meeting, there would be no agenda.

It was the consensus of Council Members to have the City Manager determine possible meeting dates and to set something up with Old Fort.

Council Member Clark stated that he recently attended the National League of Cities Small Cities Council meeting in Lumberton. He gave a brief report on the meeting. Council Member Clark stated that the City of Lumberton holds a meeting prior to each Regular Council Meeting to allow for discussion of all items. He said this approach shortens the regular meetings. Council Member Clark said that this approach might be a consideration for the City in the future.

Council Member Martin reported that the new trees planted by DOT on Sugar Hill Road had been broken, apparently be vandals. The City Manager stated that DOT had been asked to replace trees that were not in good health and would hopefully be able to replace the broken trees as well.

Council Member Martin noted the passing earlier that day of former Council Member Larry Brown and asked that Council adjourn the meeting in Mr. Brown's memory.

Mayor Pro Tem Cuthbertson reported a junked car on Tate Street near Reservoir Road. Planning and Development Director Heather Cotton stated that staff would check this violation and take appropriate action.

Mayor Pro Tem Cuthbertson also stated that McDowell County Schools recently rented the Depot on a Sunday and the trash cans were full from an event the previous day. The City Manager stated that he would look into this situation and see what could be done.

Council Member Doggett stated that she had received complaints about speeding on School Street and asked that the Police Department look at it. Police Lieutenant Scott Spratt stated that the Police Department would look at this location.

Council Member Doggett stated that cigarette butts on the sidewalks and crosswalks on Main Street are still a problem. The City Manager advised that the Marion Business Association (MBA) is conducting a downtown survey on the possibility of prohibiting smoking on downtown sidewalks and other issues. The City should have feedback from the surveys and the MBA Board in the near future.

Council Member Doggett stated that she would like to see the City consider an ordinance to prohibit smoking on Main Street. Mayor Little agreed that litter from cigarette butts is a problem on Main Street.

Council Member Ramsey thanked Mayor and Council Members for their cards and prayers during the recent loss of his father-in-law.

Mayor Little stated that he had recently notice that some of the flowers on South Main Street are not getting watered; however, the rest of them are beautiful. The City Manager stated that staff would check with the City's contracted landscaper, Lawrence Moore, regarding these flowers.

AA.000000053 (24)

Mayor Little stated that the City has had signs in place for many years warning people of speed humps. He said that he thinks it is time that the City took the signs down, as the public should know where the speed humps are by now.

ADJOURNMENT IN MEMORY OF FORMER COUNCIL MEMBER LARRY BROWN: Upon a motion by Council Member Ramsey, seconded by Council Member Doggett, Council voted unanimously to adjourn in memory of former Council Member Larry Brown, who passed away earlier that day.

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 17, 2012 at 7:00 P.M., beginning at the Marion Community Building at 191 North Main Street for a brief tree dedication ceremony and then returned to the City Council Chamber located at 194 North Main Street for the remainder of the meeting.

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; Heather Cotton, AICP, Planning and Development Director; Brant Sikes, Public Works Director; Scott Spratt, Police Investigative Lieutenant; Pat Brown, Tree Board Member; Nancy Clark, Former Tree Board Member; Scott Eillis, North Carolina Forest Service; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Elizabeth House, McDowell County Library; Steve Clontz 30 Thole Street, Marion, NC; Brian King 97 South Main Street, Marion, NC; Geri Gorst, Marion, NC; Lillian Presnell, Marion, NC; Sarah Denuna, Marion, NC; Edith Vance, Marion, NC; John Pankow, Asheville, NC.

DEDICATION OF TREE AND PLAQUE AT COMMUNITY BUILDING IN MEMORY OF FORMER TREE BOARD MEMBER FAY ROWE: The July 17 City Council Meeting began on the lawn in front of the Marion Community Building at 191 North Main Street. Mayor Little welcomed everyone in attendance and opened this part of the City Council Meeting. Mayor Little stated that the purpose of the gathering was to dedicate a tree and plaque in memory of former Tree Board Member Fay Rowe.

While City Council Members, Tree Board Members, friends and family members of Ms. Fay Rowe looked on, Mayor Little dedicated a Red Dogwood tree that had been planted in memory of Ms. Rowe. Mayor Little also dedicated a beautiful plaque that had been uniquely designed and mounted to a rock and placed beneath the Dogwood tree that read as follows:

Making a Difference One Tree at a Time

Planted In Memory
of
Fay Rowe

For Her Many Years of Faithful and Dedicated Service on The City of Marion Tree Board

Dedicated This 17th Day of July 2012

By
Mayor Stephen R. Little

City Council Members
and
Tree Board Members

OPENING OF REGULAR MEETING: After City Council, staff and guests walked to the City Council Chamber, Mayor Little resumed this meeting at City Hall with a moment of silence.

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

A. Approval of Minutes – June 19, 2012 Regular City Council Meeting Minutes and July 10, 2012 City Council Meeting Minutes

B. Approve 2011-12 Fiscal Year Tax Adjustments

Council approved tax adjustments and releases from July 1, 2011 through June 30, 2012, mainly involving clerical errors passed through from McDowell County due to the prior year revaluations. Other reasons for adjustments include property owners being deceased, bills paid twice, personal property being moved outside the City, property outside the City being billed, balances of less than $1.00 and incorrect interest paid by property owners.

Total $47,160.69

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C. Receive Report of 2011-12 Budget Transfers

The City Manager presented Council with a list of budget transfers he had made between departments in the Water and Sewer Fund. He advised that, when reviewing year-end budget to actual financial statements for line item adjustments, it appeared the Wastewater Treatment Plant was close to being over budget due to extremely high utility costs on the pump stations added at the Catawba River and Sugar Hill Road. Therefore, money was transferred in the amount of $1,000.00 from each of the three other departments in the Water and Sewer Fund as allowed in the 2012-13 Budget Ordinance Section 12 (b), as adopted on June 21, 2011.

D. Adopt Resolution Stating the Intent of the City of Marion to Annex Property Owned by the City which is Contiguous to the Municipal Boundaries:

RESOLUTION STATING THE INTENT OF THE CITY OF MARION TO ANNEX PROPERTY OWNED BY THE CITY WHICH IS CONTIGUOUS TO THE EXISTING MUNICIPAL BOUNDARIES – SUMMIT STREET PROPERTY

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:

BEGINNING at the Southwest corner of a Lot recorded in Plat Book 1, Page 183 in the office of the McDowell County Register of Deeds, and shown on plat as "Town Reservoir Lot", said Lot also being described as Lot 8392 Block 26 on the current McDowell County Tax Map 1701-09; thence from said point, North 26° 15' 24" West a distance of 198.25 feet; thence North 52° 15' 54 East 94.86 feet to a point, said point being a point on the current Marion Corporate Limits; thence following the boundary of Marion Corporate Limits in a Southerly direction to a point on the southern boundary of said Lot 8392; thence following the boundary of said lot South 52° 15' 54" West to the Point 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, August 21, 2012.

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 17th day of July, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-12-07-17-1

E. Adopt Resolution Stating the Intent of the City of Marion to Annex Properties Owned by the City Which are Not Contiguous to the Municipal Boundaries

RESOLUTION STATING THE INTENT OF THE CITY OF MARION TO ANNEX PROPERTY OWNED BY THE CITY WHICH IS NOT CONTIGUOUS TO THE EXISTING MUNICIPAL BOUNDARIES – VARIOUS CITY PROPERTIES

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-58.7, 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:

Tract One – Pleasant Gardens Pump Station/Highway 70 West

Beginning on a #5 Rebar with cap set at the eastern edge of the right of way of U.S Highway 70, and N.C.G.S. Station "Pleasant Gardens", N=72-452.109 E=1088209.835 N.A.D. 1983 is located South 72 degrees 6' 22" West 7483.93 feet from this iron rebar control corner; thence runs 39 degrees 00' 25" East 106.33 feet to a #5 rebar with cap set, being line L5 as shown on the hereinafter referred to map; thence runs South 42 degrees 04' 46" East 42.01 feet to a #5 rebar with cap set (L1); thence runs South 47 degrees 49' 29" West 70.61 feet to a # 5 rebar with cap set (L2); thence runs South 38 degrees 55' 20" West 30.00 feet to a #5 rebar with cap set (L3); thence runs North 51 degrees 04' 40" West 30.73 feet to a #5 rebar with cap set (L4) to the BEGINNING.

Tract Two – PRP Pump Station/Old Highway 221

BEGINNING AT A RAILROAD SPIKE SET in the center of State Secondary Road 1768 (OLD U.S. 221) and which BEGINNING point is located North 01 degrees 40 minutes 30 seconds West 59.91 feet from a railroad spike set in the center of the State Secondary Road 1768 and which point is identified as the point of BEGINNING of that tract described at Deed Book 493, Page 325, McDowell County Public Registry; thence from said BEGINNING point, North 47 degrees 48 minutes 43 seconds West 81.45 feet to a number five rebar with id cap set; thence South 88 degrees 18 minutes 30 seconds West 66.52 feet to a number five rebar with id cap set; thence North 01 degrees 41 minutes 30 seconds West 50.01 feet to a number five rebar with id cap set; thence North 88 degrees 27 minutes 45 seconds East 65.05 feet to a number five rebar with id cap set; thence South 01 degrees 07 minutes 36 seconds East 25.66 feet to a number five rebar with id cap set; thence South 86 degrees 27 minutes 52 seconds East 60.70 feet to a railroad spike set in the center of State Secondary Road 1768 (Old U.S. 221); thence with the center of SSR 1768, South 01 degrees 40 minutes 30 seconds East 75.10 feet to the point and place of BEGINNING.

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Tract Three – Victory Drive Pump Station

BEGINNING at the beginning corner as set out in Deed Book 263 Page 378 and as described in Deed Book 763 Page 391 in the office of the McDowell County Register of Deeds, thence South 85 degrees 08 minutes 49 seconds East 316.14 feet to an iron pin set; thence North 4 degrees 51 minutes 01 seconds East 20.00 feet to an iron pin set, and South 85 degrees 08 minutes 49 seconds East 90.49 feet to an iron pin set, iron pin also being the Northeast corner of said property, said property being described as Lot 3395 Block 61 on the current McDowell County Tax Map 1702-19; thence in a Southwesterly direction 84.3 feet to a point; thence in a Westerly direction 345 feet to a point; said point also being on the Eastern boundary of SR 1504 (Victory Drive); thence following the boundary of said property and SR 1504 in a Northerly direction 34.4 feet to the BEGINNING.

Tract Four – Buck Creek Water Intake Part A/Highway 70 West

BEGINNING at a stake, which stake is located South 35° 10' East 537 feet from the southwest corner of the south barn of the party of the first part, and said stake also being located North 10° 25 ' East from the top of the transmitter tower of Radio Station WBRM, and said stake also being located South 64° 30' West 180 feet from the beginning corner of a tract of land conveyed to the party of the second part in fee simple in a Deed from Mrs. Eva Curtis, dated the 24th day of February, 1955, and runs thence from the said point of beginning, North 64°30' East 72 feet to a stake in the center of Buck Creek; thence down the center of said Creek, South 25° 30' East 125 feet to a stake in the center of said Creek, thence South 64° 30' West 72 feet to an iron stake; thence North 25° 30' West 125 feet to the BEGINNING, and containing 0.21 acres; said tract of land to which reference is hereby made described further in Deed Book 131 Page 562 of the office of the McDowell County Register of Deeds.

Tract Five – Buck Creek Water Intake Part B/Highway 70 West

BEGINNING at an iron stake, which stake is located South 11°35' East 804 feet from the Southwest corner of the south barn of the party of the first part, and said stake also being located north 64°30' East 180 feet from an iron stake, which stake is the beginning corner of a certain tract of land conveyed to the Town of Marion by Mrs. Minnie E. Finely, by deed dated the 25 day of February, 1955, and runs thence from said point of beginning, South 25°30' East 125 to an iron stake; thence South 64° 30' west 108 feet to a stake in the center of Buck Creek; thence North 25° 30' West up the center of said Creek125 feet to an iron stake in the center of the creek; thence North 64° 30' East 108 feet to the BEGINNING, containing 0.31 acres, more or less; said tract of land to which reference is hereby made described further in Deed Book 131 Page 564 of the office of the McDowell County Register of Deeds.

Section 3. The property described in Section 2 is not contiguous to the current municipal boundaries, but will meet the requirements of G.S. 160A-58.1(b).

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, August 21, 2012.

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 17th day of July, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-12-07-17-2

PUBLIC HEARING – ADOPTION OF ANNEXATION ORDINANCE - SUGAR HILL ROAD/SMITH/BARTLETT ANNEXATION:
Mayor Little opened the Public Hearing.

The City Manager advised that a public hearing is required on the requested annexation of the 4.6 acre Sugar Hill Road/Smith/Bartlett annexation area. The property is located off of Sugar Hill Road near Steppe Street. The property is comprised of three parcels and two houses. Commercial development of a medical nature is planned for the property. After the public hearing, Council may adopt the enclosed ordinance to annex the property effective immediately.

There were no citizens present to discuss this item.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Martin, seconded by Council Member Doggett, Council voted unanimously to adopt the following Ordinance annexing the Sugar Hill Road/Smith/Bartlett annexation area:

AN ORDINANCE TO EXTEND
THE CORPORATE LIMITS OF THE
CITY OF MARION, NORTH CAROLINA –
SUGAR HILL ROAD – SMITH/BARTLETT ANNEXATION - 2012

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, July 17, 2012, after due notice by publication on Tuesday, July 3, 2012; 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:

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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 17, 2012:

Tract One

Situate, lying and being in Marion Township, McDowell County, North Carolina, and lying off the Western side of Popular Drive, a private road leading from the subject property to Stepp Street, State Road No. 1169, and being a part of that certain property conveyed by deed dated November 1, 1947, from C. L McPeters and wife, Lena McPeters, to Dennis W. Com and wife, Belinda P. Com, and recorded in Deed Book 100, Page 523, McDowell County Deed Registry, and being more particularly described by a plat of survey by R.L Greene Surveying and Mapping, dated September 2, 1988, as follows:

BEGINNING at an iron pin which marks the beginning comer of the tract of land as described in Deed Book I 00, Page 523, and which iron pin also marks the Southwestern comer of Lindy Styles and wife, as described in Deed Book 321, Page 690, and the Northwestern comer of Hammond and Loftis as described in Deed Book 256 at Page 254, McDowell County Deed Registry; thence from said beginning point with the line of Hammond and Loftis, South 00 degrees 06 minutes 18 seconds East crossing a concrete drive and passing the property of James C. Ray and wife as described in Deed Book 162 at Page 423, and also passing an iron pin at 305.46 feet, a total of 308.23 feet to a point in the line of Paul H. Bartlett and wife as described in Deed Book 320 at Page 876, which point marks the Southwestern comer of K.D. Carson as described in Deed Book 302 at Page 880; thence with the line of Bartlett, South 78 degrees 20 minutes 39 seconds West 147.55 feet to an iron pin which marks the Easternmost comer of that certain 1.51 acre tract conveyed to Diane C. Smith by Dennis W. Com and wife, Belinda P. Com; thence with the line of Diane C. Smith, North 32 degrees 26 minutes 02 seconds West passing a utility pole at 29.26 feet, a total of 153.71 feet to an iron pin in the Northwestern line of the tract described in Deed Book I 00 at Page 523, and in the line of Charles C. Lytle as described in Deed Book 86, Page 570; thence with the line of Lytle, North 46 degrees 01 minutes 54 seconds East 156.93 feet to an iron pin which marks the Southeastern corner of Charles G. Lytle as above referenced, and the Southernmost comer of Nita Winchester Elliott as described in Deed Book 92 at Page 369, and which iron lies North 42 degrees 40 minutes 38 seconds West 46.88 feet from the Northernmost comer of the dwelling located on the property herein described; thence from said iron pin and with the line of Elliott as above referenced, North 48 degrees 47 minutes 01 seconds East 150.80 feet to the point and place of BEGINNING., and containing 1.06 acres, more or less.

THIS IS CONVEYED TOGETHER WITH the above-described property a right-of-way leading from the Eastern line thereof along a concrete drive presently in existence to Popular Drive.

SUBJECT TO a right-of-way for ingress and egress for which the above-described 1.06 acre tract is the servient tract and the dominant tract is the 1.51 acre tract conveyed to Diane C. Smith which lies Southeast from the above- described property. Said right-of-way leading from Popular Drive over the concrete drive onto the above-described property and thence in a generally Southwesterly direction to the line of the 1.51 acre tract as may be located in the future. Said right-of-way at all points to be 10.00 feet wide.

AND BEING the same property as described in and conveyed by that certain deed dated July 12, 1996, from Dennis W. Com and wife, Belinda P. Com, to Harvey C. Smith and wife, Diane C. Smith, and which is recorded in McDowell County Deed Book 513 at Page 509.

Tract Two

SITUATE, LYING and being in Marion Township, McDowell County, North Carolina, and lying on the West side of Poplar Drive, a private road leading from Stepp Street SR 1169 in a southerly direction to the subject property and being part of that certain property conveyed to Winton C. Com and wife, by deed from A. P. Curtis and wife, Olive Curtis, dated January 1, 1951 and recorded in Deed Book 113 at Page 548, and containing also a small portion of the property conveyed to Winton C. Com and wife, Ruth Com from C. L. McPeters and wife, Lena McPeters, by deed dated November 1, 1947 and recorded in Deed Book 100 at Page 523, McDowell County Registry and being more particularly described by a plat of survey by R. L. Greene Surveying and Mapping dated September 2, 1988 as follows: BEGINNING at a point in the center of Snipes Branch which point marks the beginning comer of the property described in Deed Book 113 at Page 548 as above referenced which beginning point lies in the line of James F. Lawing and wife, as described in Deed Book 161 at Page 160, and which beginning point is evidenced by an iron pin offset on the Northeastern bank of Snipes Branch at a distance of 8.44 feet; thence from said beginning point and with the line of Paul H. Bartlett, and wife, as described in Deed Book 320 at Page 876, North 49 degrees 28 minutes 21 seconds East passing the above referenced iron pin at 8.44 feet, a total of241.15 feet to an iron pin, a comer of Paul H. Bartlett and also a common comer of the properties described in Deed Book 100 at Page 523 and in Deed Book 113 at Page 548; thence continuing with Paul H. Bartlett North 78 degrees 20 minutes 39 seconds East 64.33 feet to a new iron pin in the line of the property described in Deed Book 100 at Page 523; thence a new line North 32 degrees 26 minutes 02 second West passing a utility pole at 29.26 feet, a total of 153.71 feet to a new iron pin in the Northwestern outside line of the property described in Deed Book 100 at Page 523; thence with the line of the property described in Deed Book 100 at Page 523 and with the line of Charles C. Lytle, as described in Deed Book 86 at Page 570 South 46 degrees 01 minute 54 seconds West passing an iron pin at 51.43 feet, a distance of53.21 feet, to a point which marks the southern most comer of Charles C. Lytle as above referenced; thence with Lytle and with the property described in Deed Book 113 at Page 548 North 28 degrees 37 minutes 20 seconds West 119.06 feet to an iron pin, a comer of Richard H. Wilson and wife, as described in Deed Book 224 at Page 80 in Tract 2 thereof; thence with the Wilson line South 50 degrees 41 minutes 07 seconds West passing an iron pin at 238.85 feet, a total of250.48 feet to a point in the center of Snipes Creek; being also in the line of Virginia May P. Buckner as described in Deed Book 196 at Page 353; thence with Snipes Creek the following courses and distances: (1) South 01 degrees 04 minutes 41 seconds East 6.86 feet; (2) South 37 degrees 23 minutes 04 seconds East45.61 feet; (3) South 31 degrees21 minutes47 seconds East 105.15 feet; and (4) South29 degrees 31 minutes 37 seconds East 86.66 feet to the point and place of BEGINNING, containing 1.51 acres, more or less.

AND BEING the same lands described in that certain Deed dated October 5, 1988 from Winton C. Com and wife, Ruth Com to Diane C. Smith and recorded in Book 390 Page 190, McDowell County Public Registry.

Tract Three

BEGINNING on an existing iron pin, said iron pin being the beginning corner of the tract of land conveyed from Mildred S. Burgin and husband James E. Burgin herein to Glenn H. Booher and wife, by Deed dated May 13, 1980 and which is recorded in the Office of the Register of Deeds for McDowell County in Deed Book 292 at Page 946, and runs thence from said beginning point South 67° 31' 24" W. 43.78 feet to an iron pin set in the Eastern edge of a 15 foot road right of way; thence with the Eastern edge of said 15 foot road right of way, South 23° 14' 24" East passing an iron pin set at 61.02 feet, a total distance of 484.08 feet to an iron pin set; thence N. 66° 12' 24" E. 204.06 feet to an iron pin set in the Paul H. Bartlett line (See Deed Book 320 at Page 876); thence with the Bartlett line, N. 24° 25' 36" W. 423.07 feet to a point: thence S. 66° 12' 24" W. 1.52 feet to an existing iron pin, it being the sixth corner of the tract of land described in Deed Book 292 at Page 946; thence S. 66° 12' 24" W. 150.05 feet to an existing iron pin, it being the seventh corner of the tract of land described in Deed Book 292 at Page 946; thence N. 23° 11' 30" W. 60.01 feet to the BEGINNING, and containing 2.00 acres according to an unrecorded plat of survey prepared by R. L. Greene, Surveying and Mapping, Registered Land Surveyor, Marion, North Carolina, dated January 6, 1986, from which plat of survey all calls used in this description were taken.

The Grantors do further give, grant, bargain and convey unto the Grantees, their heirs and assigns, the perpetual right and easement in and to a 15-foot road right of way for the purpose of providing ingress, egress and egress from State Road No. 1271 to the above described property. The Eastern edge of said 15 foot right of way is described as follows: BEGINNING at an iron pin set, said iron pin being the third corner of the tract of land described above, and runs thence N. 23° 14' 24" W. 484.08 feet to an iron pin set, it being the second corner of the tract of land described

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above; thence N. 23° 14' 24" W. 104.04 feet to a point where the maintenance ends for State Road No. 1271. Said easement shall remain open and unobstructed at all times and shall be appurtenant to and run with the title to the above-described land.

This conveyance is subject to the right of Mildred S. Burgin and husband James E. Burgin, their heirs and assigns to us a jointly with the Grantees that 15 foot road right of way described above for the use and benefit of the property retained by the Grantors. It being understood and agreed between the parties that said easement shall be for the benefit of the Grantors, the Grantees, and all persons who have heretofore acquired or who may hereafter acquire property from the Grantors.

AND BEING A PORTION of the property as described in Deed Book 108 at Page 3097 in the Office of the Register of Deeds for McDowell County.

AND BEING the identical real property described in a Deed from Mildred S. Burgin and husband, James E. Burgin to Paul H. Bartlett and wife, Patricia S. Bartlett by Deed dated January 22, 1986, and recorded in the Office of the Register of Deeds for McDowell County, North Carolina, in Dead Book 350 at Page 486.

Section 2. Upon and after July 17, 2012, 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 July, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Approved As To Form:

City Attorney

Ordinance Number: O-12-07-17-1

PUBLIC HEARING – ZONING MAP AMENDMENT – ASSIGN ZONING TO SUGAR HILL ROAD/SMITH/BARTLETT ANNEXATION AREA AND REZONING OF WILSON PROPERTIES ON SUGAR HILL ROAD: Mayor Little opened the Public Hearing.

Planning and Development Director Heather Cotton advised that this proposed ordinance would amend the Official Zoning District Map to assign C-2 General Business Zoning District designation to two properties currently zoned R-2 General Residential within the City and three additional properties being voluntary annexed.

Ms. Cotton stated that this ordinance would assign zoning to three properties just off Sugar Hill Road that were just annexed by Council. The property owners are requesting voluntary annexation as part of a larger land purchase including approximately eight (8) acres of land for the purpose of commercial development.

Ms. Cotton reported that there are two additional properties located within the City that are currently zoned R-2 General Residential. The property owners are requesting the rezoning of these properties to the C-2 General Business District, along with the properties being annexed.

Ms. Cotton stated that the purpose of this ordinance would be to assign a zoning designation to the annexed areas that would be most compatible with the intended future commercial land use and provide a mechanism to regulate such uses. Based on Marion City Code, the 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 C-2 District is consistent with the Comprehensive Land Use Plan, which identifies the area as being within the Community Commercial and Neighborhood Business Future Land Use Areas. She stated that the Planning Board had unanimously recommended approval of the ordinance, in their meeting on July 5, 2012.

There were no citizens present to discuss this item.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Ramsey, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to adopt the following Ordinance to assign C-2 General Business zoning to the Sugar Hill Road/Smith/Bartlett annexation area and to rezone the Wilson properties Sugar Hill Road to the C-2 General Business District, as requested:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
SUGAR HILL ROAD/SMITH/BARTLETT ZONING PETITION

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 Sugarhill Road-Smith/Bartlett Annexation Territory adopted by City Council on July 17, 2012 Ordinance Number O-12-07-17-1 and adjacent properties located within the City of Marion having the current Parcel Identification Numbers 1700.09-06-5960 and 1700.09-07-7042;

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Section 3: The City of Marion is assigning the C-2 General Business Zoning District to the subject properties 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 July 5, 2012.

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.

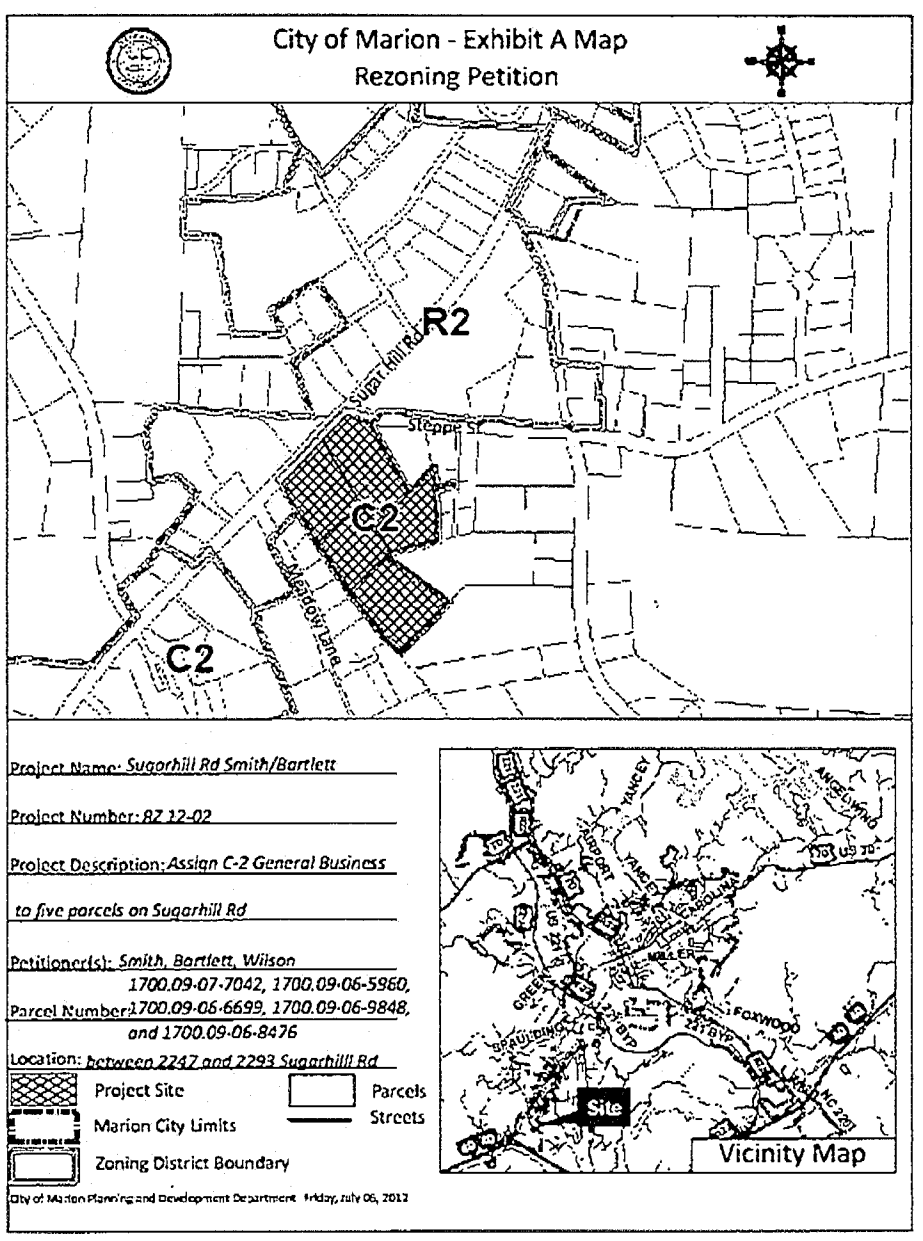
Adopted this the 17th day of July 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-12-07-17-2



CIVIL CITATION APPEAL: The City Manager advised that local attorney Brian King had submitted an appeal on behalf of his client Steve Clontz.

The City Manager advised that Mr. Clontz is appealing a civil citation issued to him on May 27 for discharging a firearm in the City at his residence at 30 Thole Street in the Cross Mill neighborhood.

The City Manager presented Council with a summary of the incident from Ordinance Enforcement Officer April Noles, along with a copy of the incident report and citation. According to the incident report and April's summary, Mr. Clontz stated that his neighbor's Jack Russell terrier came into his yard on May 27 and bit him on the ankle, breaking the skin. The dog then ran back up the street. Mr. Clontz then proceeded to walk back to his porch, where he picked up a pellet gun and shot the dog. Ordinance Officer April Noles responded to the location, picked up the dog and transported it to the County Animal Shelter, where it was euthanized due to there being no space for it to be quarantined. Subsequent testing revealed that the dog did not have rabies. Officer Noles charged both the owner of the dog and Mr. Clontz.

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The charge against Mr. Clontz is for violating Section 11-8 of the City Code. Section 11-7 states that "no person shall shoot or hurl any stone, rock, shot or other hard substance by means of a slingshot, bean shooter, air rifle, shot shooter, pop gun, bow or other similar contrivance, provided that archery shooting may be practiced in such places as may be set aside and approved by the council." Section 11-8 states that "no person shall fire any pistol, gun or other firearm, fireworks or other pyrotechnics for sport or amusement, except in shooting galleries duly licensed by the city."

Attorney Brian King was present for this meeting along with Mr. Clontz.

Mr. King stated that he would ask that this citation be dismissed. He advised that Mr. Clontz did not discharge his weapon for sport or amusement.

The City Manager advised that Code Enforcement Officer April Noles was present for this meeting if Council had any questions.

Council Member Clark stated that the City ordinance appeared to have a loophole in it that would give Council no other choice but to dismiss the citation. He suggested that the City ordinance needed to be tightened to make it clear that weapons may not be discharged in the City.

Mayor Little stated that he agreed, but that he felt that City staff did the right thing by issuing the citation.

Upon a motion by Council Member Clark, seconded by Council Martin, Council voted unanimously to dismiss the $50.00 civil citation issued to Mr. Steve Clontz on May 27 for discharging a weapon in the City Limits and to direct the City Manager to bring back to Council at the next Regular Meeting an ordinance to tighten the City ordinance to prohibit the discharge of weapons in the City.

PUBLIC HEARING – ZONING TEXT AMENDMENT – REVISE REGULATIONS FOR MANUFACTURED HOUSING: Mayor Little opened the Public Hearing.

Planning and Development Director Heather Cotton advised that the proposed Ordinance involved amending Sections 21-21 and Section 21-203 of Chapter 21, Zoning, of the Marion City Code to add regulations requiring additional design standards and placement of new manufactured "mobile" homes within the City of Marion.

Ms. Cotton stated that the City of Marion has identified the need to amend the Zoning Ordinance to add additional standards for the design and placement of manufactured "mobile" homes within the City. Based on data and analysis compiled in the 2012 Comprehensive Land Use Plan, many neighborhoods located in the R-2 General Residential Zoning District show signs of socio-economic decline. This has been attributed to the increasing number of older mobile homes that are replacing existing site built homes. The most noted impacts include the decline of property values, lower resale value of properties within those neighborhoods, as well as the overall reduced tax value that supports the operation and maintenance of public services.

Ms. Cotton reported that Goal 2.3 of the Land Use Plan states that the City shall "encourage the development and redevelopment of decent and affordable housing for present and future populations while preserving existing residential neighborhoods and protecting residential quality of life, and discouraging the installation and replacement of single-wide mobile homes." Further Objective 2.3.1 of the Plan states, "the Planning and Development Department shall amend the City Code as necessary to protect neighborhood property values by prohibiting the installation and/or replacement of single-wide mobile homes."

Ms. Cotton stated that staff looked at several other area ordinances regarding manufactured homes including Shelby, Morganton, Hickory, and Asheville to better understand how other municipalities within the region regulate the design and placement of manufactured housing to ensure that residential quality of life is protected. The proposed ordinance would add additional regulations that require manufactured homes to meet minimum manufactured design and site design standards, including but not limited to size, location, date of construction, roof design, building materials, foundation design, additions, and replacement of existing manufactured homes.

Ms. Cotton stated that, specifically, the ordinance proposes that the antiquated term "mobile home" be deleted from the Zoning Ordinance and replaced with "manufactured home". Under the proposed Zoning Text Amendment, only manufactured homes at least 24 feet wide, at least 38 feet long or at least 1,000 square in feet in area (doublewides or larger) would be permitted in the R-2 General Residential District, which is the only zoning district that currently allows for manufactured housing. Singlewide manufactured homes would only be permitted in manufactured home parks. Standards are proposed to require manufactured homes in the R-2 District to be three years old or less at the time they are placed on the site, to be placed on a permanent foundation, to have roof pitch, siding and roofing consistent with site built residential dwellings in the neighborhood and to require the front door and longest portion of the home to face the street. The Board of Adjustment could consider Special Exceptions or variances as needed, under limited circumstances.

Ms. Cotton added that manufactured housing vacant for one year or more, not having water, sewer and electrical utilities turned on, not carrying a Federal HUD sticker and not being constructed in accordance with Federal standards would have to be removed within 90 days of notice from the City. This would generally involve mobile homes built before 1976. Such mobile homes that are vacant for one year or more would likely be dilapidated anyway, so this provision should not affect large numbers of homes.

Ms. Cotton reported that staff recommended the ordinance to the Planning Board at their regularly scheduled meeting July 7, 2012. The Planning Board unanimously recommended approval of the ordinance.

There were no unscheduled citizens present to discuss this item.

Council Member Clark asked about some of the specific requirements of the new regulations. He said that he did not want the new requirements to be too strict, since Federal HUD were already very stringent.

Council Member Clark asked about the proposed 1,000 minimum size for manufactured housing, noting that this size was larger than the minimum size required for stick built housing. Ms. Cotton stated that the ordinance proposed a minimum width of 24 feet and a minimum width of 38 feet or a minimum size of 1,000 feet.

The City Manager advised that tightening the City's manufactured home regulations was one of the major goals identified by citizen committees during the NC STEP Program planning process.

There were no citizens present to discuss this matter.

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 requiring additional design standards and placement of new manufactured homes within the City of Marion as recommended by the Planning Board:

AA.00000060 (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 deleting the following from Section 21-21 Definitions.

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 nonresidential purposes. All references to mobile homes in this chapter 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 six hundred (600) square feet of gross living area.

Mobile home site. A plot of ground within a mobile home park designated for the accommodation and use of one (1) trailer or mobile home and containing all improvements and utility connections required under this chapter and other applicable city codes.

Modular housing. A form of manufactured housing unit that meets the construction standards of the North Carolina Uniform Residential Building Code for one-family and two-family dwellings regardless of how the unit or its components are transported to the site.

Section 3. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina is amended by adding the following to Section 21-21 Definitions in their proper alphabetic order.

Manufactured/ mobile home. A factory-assembled transportable home built on a permanent chassis, and designed and intended to be used as a year-round dwelling unit. For the purpose of this chapter, the terms manufactured home and mobile home are the same, and refer to a dwelling that was constructed after June 15, 1976 following the enactment of the Federal Manufactured Housing and Safety Standards Act of 1974, and not constructed in accordance with the standards of the North Carolina Uniform Residential Building Code for One- and Two-Family Dwellings. A manufactured home shall not be construed to be a modular home, travel trailer or other form of recreational vehicle, or building type permitted for nonresidential purposes. The floor area for a manufactured home shall be a minimum of twelve (12) feet in width with no less than six hundred (600) square feet of gross living area unless otherwise stated in the ordinance.

Manufactured home park. Any premises where more than one (1) manufactured home is permanently established for living and sleeping purposes, or any premises used or set apart for the purpose of supplying a space for a mobile home for living and sleeping purposes, and which includes any ancillary use, building, structure, vehicle, or enclosure used or intended for use as part of the manufactured home space or general park use.

Modular building. A factory-assembled building, or portion thereof, not affixed to a permanent chassis that is transported in one or more sections to a building site for installation on a permanent foundation, and meets all applicable construction standards of the North Carolina Building Code.

Section 4. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina is amended by deleting Section 21-203.2 (6) for Mobile Homes in R-2 General Residential and replacing it in its entirety with the following:

One (1) manufactured home per residential lot, provided that:

(A) It is the principal structure on the lot, and no other residential structure is located on the same lot;

(B) The manufactured home has the moving hitch apparatus, wheels, axles and transporting lights removed prior to receiving a Certificate of Occupancy from the Building Inspector;

(C) The manufactured home complies with all other municipal building and zoning codes, and is set up in accordance with the standards established by the North Carolina Department of Insurance;

(D) The manufacture home is constructed in accordance with the National Manufactured Housing Construction Safety Standards Act of 1974 as amended on August 22, 1981, be multi-sectional, and have an enclosed floor area of not less than one thousand (1,000) square feet or a minimum width of twenty-four (24) feet and a length no less than thirty-eight (38) feet. A manufactured home with a width less than twenty-four feet, including expandable units, pop-outs and tilt-outs shall be allowed in manufactured/mobile home parks only;

(E) Shall be permanently installed on the building site no more than three (3) years from the date of factory-assembly;

(F) Shall be placed on an excavated and/or backfilled foundation and the open portion under the home enclosed with pressure treated wood, masonry, or concrete so that the top of the perimeter wall is not more than eight inches (8") above the finish ground level, except on a sloping lot where the top of the perimeter wall shall be not more than eight inches (8") above the finish ground level at its highest point along the perimeter wall; When pressure treated wood, unfinished masonry, or concrete is used for the open portion under the home, a covering or underpinning similar in appearance to the manufactured dwelling siding or a finished masonry wall shall be used to cover all unfinished or exposed areas, except for required ventilation and access;

(G) The manufactured home shall have exterior siding and roofing with the color, material and appearances similar to the exterior siding and roofing material used on site-built residential dwellings within the neighborhood, or that is similar in appearance to the predominant materials typically used for single-family residential construction. A manufactured home shall not have unfinished metal siding or roofing;

(H). A manufactured home shall not be permitted within three hundred (300) feet of any structure listed as a locally designated historic landmark or national register property, local or national historic district, or any area listed as a Traditional Neighborhood on the Comprehensive Land Use Plan's Future Land Use Map, as may be amended;

(I) Shall not be located within a 100-year floodplain as determined by FEMA's National Flood Insurance Rate Map, as may be amended;

AA.000000061 (24)

(J) A manufactured home shall have a roof pitch greater than or equal to a nominal three to twelve (3:12) pitch, except that a manufactured home that is forty (40) feet wide or wider may have a roof pitch of 2½:12 or greater. While not required, the City encourages that the roof design include gables, dormers, or other architectural features that enhance the home's appearance;

(K) A manufactured home shall be oriented on the lot so that the front door and longest portion of the home faces to the street. The placement of a dwelling on a corner lot shall be determined by the Zoning Administrator based on the orientation of existing single-family dwellings located on either side of the street on both intersecting streets;

(L) Structural additions that alter the original shape of the structure shall only be considered as a Special Exception; shall be architecturally compatible with the original building, as determined by the Board of Adjustment; and have exterior siding and roofing with the color, material and appearance similar and complimentary in appearance to the predominant materials used in the original manufactured home construction. Unfinished metal roofing and/or siding shall be prohibited;

(M) The applicant for a permit shall submit sufficient documentation and evidence that the manufactured dwelling complies with this ordinance in the form and content required by the Building Official;

(N) Any manufactured home placed within the City of Marion after the effective date of the ordinance must have an affixed HUD seal located on the outside of the home. If the home is a multi-sectional, each section must have a seal numbered in sequential order on each section.

(O) The replacement of any manufactured home existing at the time of the effective date of this ordinance shall only be replaced in accordance with this section, except owing to exceptional conditions pertaining to particular place or property because of existing size, shape, or topography that complying with the ordinance would result in risk to public health and safety the Board of Adjustment may approve a Variance to such requirements pursuant to Section 21-303.3 Variances.

(P) Any manufactured or mobile home existing at the time of this ordinance that is not constructed in accordance with the National Manufactured Housing Construction Safety Standards Act, does not have a permanent HUD seal attached to the outside of the home, has been vacant for 365 consecutive days, and has not maintained active water, sewer, and power utilities during that time shall not be reoccupied, and the property owner shall be required to remove the home within ninety (90) days of notice from the City of Marion.

Section 5. This ordinance shall become effective upon its adoption.

Adopted this the 17th day of July 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance number: O-12-07-17-3

PUBLIC APPEARANCE – MCDOWELL TRAILS ASSOCIATION: The City Manager advised that he had received a phone call earlier in the day from Mr. Frank Dean of the McDowell Trails Association (MTA), asking that this item be removed from the agenda. The MTA will likely reschedule its appearance before Council at a future meeting.

PUBLIC APPEARANCE – ELIZABETH HOUSE – MCDOWELL COUNTY PUBLIC LIBRARY: McDowell County Library Director Elizabeth House appeared before Council and requested a handicapped parking space in front of the library on West Court Street. Ms. House advised that a handicapped parking space in this location would enhance handicapped access to the lower level of the Library. Ms. House said that, after speaking to the City Manager, she understood that there were concerns about the width required for a handicapped parking space, but felt that she needed to make the request.

Mayor Little stated that the City has had other requests for on-street handicapped parking spaces and that the main concern has always involved the width required for such spaces.

Mayor Little suggested that the Street Committee look at this request and report back to Council at a later date. The City Manager stated that there are some other items that he would request the Street Committee review: a request for a speed hump or mirror on Oak Street and a request for a street light on Mitchell Street.

By consensus, Council agreed to refer the Library request for a handicapped parking space on West Court Street, the request for a speed hump or mirror on Oak Street and a request for a street light on Mitchell Street to the Street Committee for review and a recommendation back to Council.

CONSIDER APPROVAL OF REQUEST FOR MOBILE FOOD VENDOR – COMMUNITY BUILDING PARK: Planning and Development Director Heather Cotton advised that Briseida Campos and Micheas Campos Yanez had submitted an application to operate a refreshment stand under the mobile food cart ordinance at the Marion Community Building Splash Pad. The applicant has submitted all of the necessary documentation and meets the requirements of the City of Marion's Mobile Food Cart regulations, except for wanting to locate at the Splash Pad.

Ms. Cotton stated that the following documentation had been provided:

1. Completed application;
2. Valid North Carolina driver's license;
3. Notification of exemption from N.C. Department of Environment and Natural Resources, Division of Environmental Health on June 15, 2012;
4. Quote from State Farm Insurance & Financial Services Inc. for general liability insurance.

Ms. Cotton presented Council with a picture of the Gold Metal Products snow cone machine and push cart that the applicants had proposed to use.

The City Manager advised that the City Zoning Ordinances lists specific locations where mobile food vendors may be allowed and does not give a lot of flexibility. For instance, the closest approved location to the Community Building Splash Pad is the sidewalk on Logan Street next to the Park. The City Manager stated that, if Council Members so wished, staff could draft a Zoning Text Amendment for Planning Board and Council review, to revise the locations where mobile food vendors are allowed in order to provide for greater flexibility.

Council Member Doggett stated that she feels the area of the Splash Pad is too busy for a mobile food vendor.

AA.000000062 (24)

Mayor Little stated that he would assume that, if the snow cone cart is not under shelter, the product could melt. However, he agreed that the snow cone machine should not be permitted under the Splash Pad shelter.

Mayor Pro Tem Cuthbertson suggested that the Street Committee look at this item as well. He stated that, if the applicants cannot be approved for the Splash Pad, perhaps they could advise as to their second choice.

The City Manager noted that Council would not meet again until August 21 and that Council could perhaps approve the request, subject to the siting of the exact location of the mobile food vendor by the Street Committee.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Doggett, Council voted unanimously to approve the request of Briseida Campos and Micheas Campos Yanez to operate a mobile food cart at the Community Building Park, in a location to be determined by the Street Committee.

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

APPROVE 2011-12 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.
Council was presented with a copy of the 2011-12 Tax Settlement that was prepared by Tax Collector Brett Moore. The settlement shows that charges and credits for taxes balance, as required by law.

The City Manager stated that the City collected 96.98 percent of 2011-12 property taxes by June 30, the second best tax collection percentage the City has achieved in the past 13 years. A list of delinquent real and personal property taxes was presented to Council.

The City Manager advised that this document must be approved before the current year tax bills can be mailed.

Upon a motion by Council Member Clark, seconded by Council Member Doggett, Council voted unanimously to approve the 2011-12 Fiscal Year tax settlement as presented.

APPROVE ORDER OF COLLECTION FOR 2012 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.

The City Manager presented the Order of Collection for 2012 Property Taxes. Staff anticipates mailing City tax bills by the middle of August, if not sooner.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to approve the following Order of Collection for 2012 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 2012 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 17th day of July, 2012.

_____ (Seal)
Stephen R. Little
Mayor
City of Marion

ATTEST:

_____
J. Robert Boyette
City Manager/Clerk
City of Marion

REVIEW REQUEST FOR SEWER CONNECTION OUTSIDE CITY: The City Manager advised that, as discussed at the May 15 Council meeting, staff received an application from Mr. Richard Good, Jr., requesting sewer service at five units located on John Gilkey Road off of Valley Street, located behind the Harvest Drive-In. A map was presented to Council showing the location of the property in question. This property is located outside the City Limits. These five units, which include three apartments, a mobile home and a house, currently have City water available, although only one unit appears to have active water service.

The City Manager stated that Public Works Director Brant Sikes had noted that a sewer extension of 1,120 feet would be required, with an estimated cost of around $50,000. The estimated payback period for the sewer extension and the annexation was approximately 11.5 years. This number could be lessened if there were additional sewer customers connected and additional properties annexed. The City Manager advised that Council had authorized him to survey other property owners in the area to determine their interest level in City sewer service and annexation. He reported that staff had received very little feedback from the survey, but was still in discussions with two property owners, who own a total of 15 residential units in the area.

The City Manager advised that he had hoped to have more information available for Council at this meeting. However, the owners with whom City staff is currently talking about a sewer extension and annexation will need to make a decision before Council will be in a position to decide whether the sewer extension will be pursued.

Council Member Clark suggested that Council take no action on this request, until more information is received. By consensus, Council directed the City Manager to bring this matter back for Council discussion at a future meeting, when additional information is available.

AA.00000063 (24)

APPROVE SIDEWALK ENCROACHMENT – PLACEMENT OF TABLE AND CHAIRS – MAIN STREET PUB AND DELI – WEST HENDERSON STREET: The City Manager advised that, as indicated on the information presented to Council, the Main Street Pub and Deli at 84 South Main 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 for Council Members to view. The City Manager stated that the owners of Main Street Pub and Deli want to create a comfortable area for smokers, in order to move smokers from in front of the building, a location which had generated considerable complaints. The City Manager added that the owners of Main Street Pub and Deli understand that alcoholic beverages may not be served or consumed on the public sidewalk. This agreement contains a hold harmless release and is the same as previously approved for other downtown food service establishments, including the Crooked Door Coffee Shop, Low Country Dining, After Five, Bruce's Fabulous Foods and Caffiend Underground.

The City Manager reported that City 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 stated that he would recommend approval of the request, contingent on the applicant providing a copy of their liability insurance policy and any other needed information.

Mayor Little stated that he was open to whatever the solution could get the smokers in front of this establishment off of Main Street. It is not acceptable for persons walking in the downtown area to have to cross the street in order to get out of the way of persons standing and or smoking in front of this establishment.

Council Member Doggett asked why the City allows persons to stand and smoke and block pedestrian traffic; however, the City does not allow tables to be placed that can block the traffic. The City Manager stated that it could be argued that smokers could move if asked, while table and chairs would be more difficult to move. Council Member Doggett stated that she and others would not necessarily agree with the willingness of the smokers in front of Main Street Pub and Deli to move upon request.

The City Manager added that owners of this establishment had stated that if the City bans smoking on the Main Street sidewalk, it would destroy their business. Mayor Little stated that he would not be swayed by such a statement, as many businesses had successfully adapted to new smoking regulations in recent years and, in many cases, had actually seen their business increase.

Council Member Ramsey stated that he is for moving the smokers to the side street or even to the porch located behind the establishment. The sidewalk needs to stay clear. He said that he is willing to give this approach a chance before considering further action to prohibit smoking on the sidewalk.

Council Member Ramsey stated that he had seen up to 18 persons at one given time standing, talking and/or smoking while at the same time blocking the sidewalk in front of this business.

Mayor Little stated that, by the time of the next Council meeting, there should be a good idea of whether the table and chairs will actually lead to the smokers relocating to the side of the building. If this does not happen, Mayor Little said that he would support and encourage Council prohibiting smoking on the Main Street sidewalk in the downtown area.

Council Member Clark stated that, due to other establishments having been approved to place tables and chairs on the City sidewalks downtown, he feels that Council must approve this request. However, he wanted it known that he does not really like the idea in this case.

Upon a motion by Council Member Doggett, seconded by Council Member Ramsey, Council voted unanimously to approve the request by Main Street Pub and Deli at 84 South Main Street for a sidewalk encroachment to allow the placement of table and chairs on the West Henderson Street sidewalk next to the business, provided that the business provides the City with a copy of its liability insurance policy and any other information required by City staff.

CONSIDER ADOPTION OF PERSONNEL POLICY UPDATE: The City Manager advised that Finance Director Harriett Thomas had been working for some time on updates to the City Personnel Policy.

The City Manager presented the proposed policy to Council. He noted that it included updates made the policy since the last major revision in 2006, along with the revision of language. New provisions proposed for the Personnel Policy include the following:

A. Amending Article VI, Section 2, Designated On-Call Time, to change Responsibilities of the Marion Police Department to the Responsibilities of McDowell County Communications due to the consolidation of dispatching services with the County.

B. Amending Article VII, Section 4, Vacation Leave, to add subsection (b) Employees with Previous Local Government Service to allow for previous local government service to count toward vacation accruals; to revise subsection (c) Vacation Leave – Manner of Accrual, by proposing vacation accruals of 15 days per year for employees with 10-25 years of service (previously this amount of accrual was for employees with 10 or more years of service) and proposing vacation accruals of 20 days per year for employees with 25 or more years of service. This item is important for recruiting employees with experience by allowing them to count their previous local government service for purposes of vacation accruals and by adding additional vacation leave for employees with 25 or more years of service.

C. Amending Article VII, Section 4, Sick Leave, to add subsection (a) Employees with Previous Local Government Service to allow for previous local government service to count toward sick leave accruals; to revise subsection (b) Sick Leave – Manner of Accrual, by proposing sick leave accruals of 10 days per year for employees with 5-10 years of service (previously this amount of accrual was for employees with 5 or more years of service), proposing sick leave accruals of 12 days per year for employees with 10-20 years of service and proposing sick leave accruals of 15 days per year for employees with 20 or more years of service. This item is important for recruiting employees with experience by allowing them to count their previous local government service for purposes of sick leave accruals and by adding additional vacation leave for employees with 10 or more years of service. The Statewide standard amount of sick leave provided is 12 days per year. The proposal provides for 12 days of sick leave per year for employees with 10-20 years of service and 15 days of sick leave per year for employees with 20 or more years of service as a reward for loyalty and a recruiting tool for employees with other local government experience.

D. Amending Article VII, Section 6, Family Medical Leave Act to include changes required by 2009 updates to the Federal Family and Medical Leave Act regulations.

E. Amending Article X, Section 6, Law Enforcement Special Separation Allowance to add subsection (c) to state that the Law Enforcement Special Separation Allowance ceases on the first day of reemployment by a local government employer in any capacity that requires participation in the North Carolina Local Governmental Employees' Retirement System (NCLGERS). This provision is now allowed by the State and is in the City's best interest to include.

AA.000000064 (24)

F. Amending Article XI, Personnel Records and Reports to reflect changes to the North Carolina Public Records Law regarding Personnel Records effective October 1, 2010.

Council Member Clark stated that he had always had a problem with the City accepting sick leave from other governmental employers, since this was something the private sector typically did not do. He said that he understood the need to recruit experienced people, but did not like the idea of crediting previous service time for vacation and sick leave accrual purposes.

Council Member Doggett stated that she had a background in human resources and that this was a growing trend in the private sector, to allow for recruitment of experienced people. She said that she supported the proposed changes.

Mayor Pro Tem Cuthbertson advised that the only item he took issue with was the cap on sick leave accrual. He said that he thought the maximum accrual should be 12 days per year, as is more standard with the State and other local governments.

A brief discussion was held. It was the consensus of Council to direct the City Manager to revise the proposed Personnel Policy to cap the maximum annual sick leave accrual at 12 days per year and to bring the revised policy back to the next Regular City Council Meeting for approval.

CONSIDER ADOPTION OF PARK RULES AND REGULATIONS:

The City Manager advised that the Utility Committee met on June 21 and reviewed possible rules for City parks, as was discussed at the June 5 Council meeting. The Utility Committee recommended adoption of Park Rules and Regulations, which the City Manager presented to Council. These Rules and Regulations include a brief Statement of Purpose, list City ordinances pertaining to City parks and then include a few rules. The City Manager stated that no exclusive use of a City park is permitted, without the approval of City Council. The use of extension cords, loud music or sound amplification or bringing large objects such as stages or inflatables to the park is prohibited without the approval of the City Manager. The Utility Committee did not recommend placing any restriction on the number of tables that could be used, on the number of hours a picnic shelter or picnic tables could be used or on the amount of time in advance of an event a picnic table or shelter could be reserved. The Utility Committee also did not recommend requiring reservations to be made prior to using a picnic shelter or table. The Utility Committee noted that one complaint in 11 years of City mini-parks did not justify an over-reaction. These rules will be posed at each park upon adoption.

The City Manager stated that he would therefore recommend approval of the Park Rules and Regulations by Council.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to approve the following Park Rules and Regulations as recommended:

CITY OF MARION, NORTH CAROLINA
RULES AND REGULATIONS
FOR
CITY PARKS

ADOPTED JULY 17, 2012

STATEMENT OF PURPOSE/ALLOWED USES

The City of Marion operates several City parks, including the Community Building Park, West Marion Community Park, Cross Mill Community Park, Eastfield Community Park, Clinchfield Community Park, the North Main Street Gazebo Park and the South Main Street Gazebo Park. These parks are available for use by the public or by groups. The City does not reserve the use of any parks, except as otherwise stated in these Rules and Regulations. Use of the parks is first come, first served. Use of the Historic Depot Courtyard is subject to the Historic Depot Rules and Regulations.

The Marion City Code contains several ordinances pertaining to City parks. These include, but are not limited to:

1. A prohibition on smoking or tobacco use in City parks.

2. A prohibition on alcohol use in City parks.

3. A prohibition on concealed or open carry weapons in City recreational facilities, which include the parks listed above.

4. A prohibition on registered sex offenders entering City parks.

5. A prohibition on any person being in a City park between sunset and sunrise, except for the Community Building tennis and basketball courts, without written consent from the City Manager. Persons renting the Community Building Basement are exempted from this requirement, to the extent authorized by their approved rental application.

6. A prohibition on any person being on the Community Building tennis or basketball courts between the hours of 11:00 p.m. and 6:00 a.m.

7. A limit of one hour of play at the Community Building tennis courts if people are waiting to play.

8. A prohibition on any object with wheels being on the Community Building tennis courts, except for a wheelchair.

9. A prohibition on any game other than tennis being played on the Community Building tennis courts.

10. A prohibition on any person participating in any money making activities at the Community Building tennis courts without the approval of the City Council.

11. A prohibition on any person giving tennis lessons for a fee or any tournament play taking place at the Community Building tennis courts without the approval of the City Council.

RULES AND REGULATIONS

Violations of any of these rules and regulations or any damages to a City park may result in the Police Department directing persons or groups to leave a City park or the City requiring payment for damages from the responsible person(s) or group(s).

1. No person or group is allowed exclusive use of an entire park, without approval of the City Council.

2. No person or group shall run extension cords from other properties onto a City park property.

AA.000000065 (24)

3. No person or group shall play music or use sound amplification so as to disturb other users of the park.

4. No person or group shall bring large inflatables, stages or any other large toys or object to a City park.

5. No person or group shall do anything posing a potential safety hazard to users of a City park.

6. Any variance from Rules 2-4 requires the approval of the City Manager.

These new regulations shall be effective upon adoption.

Adopted this the 17th day of July, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

DISCUSS WATER EXTENSION PRIORITIES: The City Manager advised that, as discussed at the April 20 Council Planning Session, Public Works Director Brant Sikes had looked at the benefits of a possible water extension on Veterans Drive, to loop the water line between Spaulding Road and Sugar Hill Road.

Mr. Sikes stated that, due to the fact that water in this area would still be fed from only one direction (West Henderson Street), the extension along Veterans Drive would not increase fire flows or water pressure in the area. It would marginally increase water volume, as the water line on Veterans Drive would serve as a holding tank for some additional water. The City Manager stated that as previously reported, this water extension would cost an estimated $346,740, including contingency, and provide water access to about 30 houses.

The City Manager advised that Finance Director Harriett Thomas was closing out grants for the Sugar Hill Road Water and Sewer Extension Project and had accounted for all expenses related to the project. He stated that Ms. Thomas had advised that the City will have just under $298,000 in loan funds remaining from this project.

The City Manager reported that there were several options for the use of these funds, in addition to the Veterans Drive water extension. One project includes a water and sewer extension to the Oakcrest Community completely surrounded by the City Limits and located off of Sugar Hill Road. McGill estimated a cost of $482,720 for this extension, including contingency. A third project involves a water extension along Burma Road to Elliott Street. This project was estimated at $139,225, although Mayor Pro Tem Cuthbertson recently advised that he understands there may no longer be any interest in water service to this area.

The City Manager suggested that another option could be a water or sewer extension to Marion Travel Plaza on Sugar Hill Road on the south side of I-40. Given the many wastewater violations Marion Travel Plaza has experienced in recent years, the City Manager stated that he believe the City will eventually receive grant funding for such an extension. However, it is unlikely that the City will receive grant funding for a water extension. A water extension to Marion Travel Plaza is estimated to cost $436,250 from the I-40 Eastbound Rest Area along Poole Mountain Road and $319,150 if extended under I-40 from Stamey Chrysler Jeep Dodge. For another $60,000, the City could go ahead and put a force main sewer line under I-40 that could eventually serve the south side of Sugar Hill Road, once a pump station was constructed.
A final option would be not to spend the additional loan funds at all and thereby reduce the loan payments of the City and County for the Sugar Hill Road project. The City debt payments would likely decrease by $21,000 per year for the next nine years, while the County's payments would decrease by about $14,000 per year.

The City Manager suggested that, of all of these options, the water extension to Marion Travel Plaza under I-40 for $319,150 seemed to match up best with the $298,000 in remaining loan funds.

Council Member Martin stated that it could be enticing for businesses and residents to know that water is on the south side of the interstate.

Mayor Little stated that someday the Miller Engineering property may redevelop and need City water service.

The City Manager stated that County approval would be needed for the use of the loan funds, given that the County is paying 40 percent of the debt service on the loan.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Martin, Council voted unanimously to approve the extension of water service from Stamey Chrysler Jeep Dodge under Interstate 40 to Marion Travel Plaza on Sugar Hill Road, at an estimated cost of $319,150, using remaining Sugar Hill Road Water and Sewer Extension loan funds, subject to approval of McDowell County.

CONSIDER REQUEST FOR APPROVAL OF DOWNTOWN INFORMATIONAL KIOSK: The City Manager advised that, as shown in a memo presented to Council from Marion Business (MBA) Executive Director Freddie Killough, the MBA has proposed the placement of an informational kiosk in front of the North Main Street Gazebo Park. The kiosk is modeled after one in Downtown Waynesville and would be 30" x 30" in size, with a small roof on it. The kiosk would include brochures about downtown and announcements of upcoming events. The City Manager stated that Ms. Killough has proposed that the kiosk be green and that the gazebo be painted a matching color. The proposed color would match the one used for the shade shelter at the Community Building Park Splash Pad. The City would use Mountain Glory Funds for the kiosk.

Public Works Director Brant Sikes advised that City personnel could construct the kiosk.

Mayor Little stated that he had recently spoken to three different persons who did not know that McDowell County had a Visitor's Center. He suggested that the kiosk could provide a valuable service by containing brochures about the community and letting people know where additional information and resources could be found.

Upon a motion by Council Member Martin, seconded by Council Member Clark, Council voted unanimously to approve the request of the Maerion Business Association to place an informational kiosk in front of the City's North Main Street Gazebo Park, with Mountain Glory funds being used for the purchase of materials for the kiosk.

CONSIDER APPOINTMETNS TO CITY ADVISORY BOARDS: The City Manager advised that there is still one voting member vacancy on the Tree Board for the slot vacated by Nancy Clark and three alternate member vacancies on the Planning Board.

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At the June 19 Council meeting, the names of Helen Shimp and Dr. Beverly Watts were suggested for the Tree Board. Mayor Little and Council Member Doggett, respectively, were planning to contact Ms. Shimp and Dr. Watts.

The City Manager advised that any appointments that Council could make to these positions would be helpful.

Council Member Doggett stated that Dr. Beverly Watts has agreed to serve on the Tree Board.

Mayor Little stated that he had not been able to get in contact with Ms. Helen Shimp yet.

Upon a motion by Council Member Doggett, seconded by Council Member Ramsey, Council voted unanimously to appoint Dr. Beverly Watts to a three year term to the Tree Board, said term to end June 30, 2015.

The City Manager asked Planning and Development Director Heather Cotton if there is a need for Alternate Planning Board Member slots to be filled in the near future. Ms. Cotton stated that attendance is not a problem with the Planning Board, so there was no pressing need for additional alternate members at this time.

SCHEDULE ADVISORY BOARD/VOLUNTEER DINNER: By consensus, Council agreed to schedule the Advisory Board/Volunteer Dinner for Tuesday, October 9, 2012 at 6:00 p.m. at the Community Building.

ADD ON ITEM: APPROVAL OF HOUSE BURNING – MITCHELL STREET: The City Manager advised that he had received a request from Fire Chief Jim Neal requesting approval to burn a dilapidated house located at 81 Mitchell Street. This burn has been in the planning process for several months. No date has yet been set for the burn. The asbestos inspection has been completed and notification to the State will be made soon.

The City Manager stated that the property is owned by Mr. Jerry Pritchard, who needs the house to be removed so that he can place a manufactured house on the property.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Doggett, Council voted unanimously to approve the request to burn a dilapidated house at 81 Mitchell Street as requested.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that, as suggested by Council Member Ramsey and authorized by Council, he had asked DOT officials to install a delayed left turn signal for south bound traffic on North Main Street at the New Street intersection. The City Manager reported that DOT had approved the request, but stated that it would take three to four months to prepare plans, after which time the signal improvements could be installed.

The City Manager stated that there had been no further word on McDonald;s plans to pave a parking lane on the right of way of Old West Henderson Street, since concerns about this project had been raised by a neighboring property owner.

The City Manager advised that City staff had followed up again with the Post Office concerning the schedule for the relocation of a mailbox at the Library to make it a drive-up mailbox and 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. The Post Office said that this project is "on hold". The Postmaster said that she would request again that final approval be given. Once the new boxes arrive, the Postmaster pledged she would have them placed within one day.

The City Manager advised that Ms. Jane Wright had talked to him on July 3 and expressed her concern with handicapped accessibility at City Hall. She said she witnessed a man in a wheelchair struggle to get in the double doors of City Hall. Ms. Wright said that City Hall should have push button access to open the doors for handicapped people. The City Manager said that he and the Building Inspector to Ms. Wright and advised her that City Hall was in compliance with Federal ADA regulations, based on when the building was constructed in 1991. He also advised Ms. Wright that such a change would likely be expensive, but that he would pass her complaint on to City Council. The City Manager stated that he would take no further action on this request, unless so directed by Council. Neither the Mayor nor any Council Member suggested that further handicapped access improvements be made to City Hall.

The City Manager advised that the General Assembly had approved a bill annexing the US 70 West right of way between the current City Limits and the Greenway entrance in the area of the new sidewalk to be constructed by NCDOT. The City will be adding two to three streetlights in this area.

The City Manager reported that DOT District Engineer Doug McNeal had advised that DOT will soon award the contract for the construction of the sidewalk on US 70 West between the West McDowell Junior High School ballfield and the Greenway entrance. Mr. McNeal said that the contract will call for the sidewalk to be completed by November.

The City Manager reminded Council that he had scheduled the initial meeting with DOT to discuss the final design of the US 221 widening project for Tuesday, July 24 at 1:00 p.m.at the Community Building. The City Manager asked that Council attend this meeting if they were available for this meeting. He added that there will be City, County, MBA, Chamber and TDA representatives present at the meeting.

The City Manager advised that, as recently requested by Mayor Pro Tem Cuthbertson, DOT has replaced trees on Sugar Hill Road that had died or were in severe distress. DOT also replaced trees that had been broken by vandals, as noted by Council Member Martin at a recent meeting.

Public Works Director Brant Sikes stated that the City has now summed maintenance of the landscaping, after holding a final project inspection with DOT.

The City Manager advised that Council Member Martin had stated that citizens in the West Marion neighborhood have asked that the request for a traffic signal at the Wilhemenia Street/West Henderson Street intersection be resubmitted to DOT. The resident feel that, since the Wal-Mart Supercenter opened further south, traffic has greatly increased on West Henderson Street/ Sugar Hill Road much worse, maybe it could be approved now. Council agreed by consensus to authorize the City Manager to resubmit to DOT the request for a traffic signal at the Wilhemenia Street/West Henderson Street intersection.

The City Manager advised that the City would soon begin seeking participants for the third session of Marion 101, which will take place on seven consecutive Thursday evenings from Thursday, September 13 to Thursday, October 25. He asked that Council members mention Marion 101 to people who may be interested.

The City Manager advised that direction was needed from Council regarding the possible widening and right-of-way acquisition on Bakersville Road. Council held a discussion on this project. After a brief discussion, upon a motion by Council Member Clark, seconded by Mayor Pro Tem

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Cuthbertson, Council voted unanimously to pursue the widening of Bakersville Road to a standard 16' wide street and to acquire needed right-of-way from adjacent properties, paying market prices for said right-of-way, using Powell Bill funds.

COUNCIL MEMBER COMMENTS:

Council Member suggested that Mayor Little issue a proclamation marking the 150th Anniversary of First Baptist Church, the celebration of which will take place this coming Sunday. Mayor Little stated that he would be happy to issue a proclamation and invited everyone present to attend the Anniversary Celebration on Sunday, July 22.

Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to issue a proclamation in recognition of the 150th Anniversary of First Baptist Church, the celebration of which will take place on Sunday, July 22.

Mayor Pro Tem Cuthbertson stated that the new pedestrian crossing signals at New and North Main Street were installed too close to the City's hanging baskets, causing the flower baskets to partially obscure the pedestrian crossing signals. The City Manager stated that City staff would work with DOT to correct this problem.

Mayor Pro Tem Cuthbertson also stated that a pot hole keeps reoccurring at the intersection of Willow and Broad Streets. The pothole appears to stay wet year-round. Public Works Director Brant Sikes stated that the pothole needed to be cut out and properly tacked, for the first time, installed of just having asphalt placed in the pothole. Mr. Sikes advised that this location was on the City's patching list and that patching work would take place later in the summer.

Council Member Doggett asked about the traffic signal work being done by DOT on Main Street. The City Manager stated that DOT had agreed to replace the existing traffic signal heads and pedestrian crossing signals with more decorative, black fixtures. This work will hopefully wrap up in the near future.

Council Member Ramsey stated that there is a large RV convention going to be held at the Tom Johnson Camping Center on Wednesday, July 25 at 6:00 P.M. and asked that Council Members try to attend, especially since Mayor Little will be unable to attend. Mayor Little stated that he intended this event the year before and had a great time.

Mayor Little stated that the brick work on Main Street sidewalks had not been completely finished at certain intersections. The City Manager advised that DOT would finish the brick work as part of the traffic signal work currently being completed.

Council Member Clark asked if we had made any progress on the grates that could be placed around the trees on Main Street. Planning and Development Director Heather Cotton stated that the Purchasing Department is getting quotes on three different materials for these grates and also trying to get quotes from a couple of local persons who deal with metal. Once these quotes are obtained, the information can be presented to Council for review.

Mayor Pro Tem Cuthbertson stated that several businesses on Main Street are putting their "Open" signs on the bump outs. Ms. Cotton stated that City staff have asked these business to move the signs off of the bump outs, onto the main part of the sidewalk.

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, August 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 Juanita Doggett, Billy Martin and Don Ramsey.

Council Member Everette Clark was not present for this meeting due to attending a North Carolina Rural Center meeting in Raleigh.

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; Brant Sikes, Public Works Director; Don Price, Water Plant Superintendent; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Larry Scott, 141 Overlook Drive, Marion, NC; Lester Hunley, 36 Currier Avenue, Marion, NC; Harvey Souther, Old Fort, NC; Pat Davis, Lake Tahoma Road, Marion, NC; David Patneaude, 2986 US 221 North, Marion, NC; Carl Beatty, PO Box 532, Marion, NC; Harrison Corpening, 349 Capital Hill Apartments, Marion, NC; Eugene Holland, Railroad Street, Marion, NC; Jr. Edwards, Marion, NC; Michael MacDonald, 278 Church Street; Mark Shuman, 391 East Court Street, Marion, NC; Tabby Hill, 41 North McDowell Avenue, Marion, NC; Ronnie Burgin, Nebo, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

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CONSENT AGENDA: Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Doggett, those members of council present voted to approve the consent agenda as follows:

A. Approval of Minutes – July 17, 2012 Regular City Council Meeting Minutes.

B. Adopt Traffic Schedule Ordinance Amendment

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
MAIN STREET (SOUTH)	LOADING/ UNLOADING ZONE	WEST SIDE, BEGIN 14 FT. NORTH OF THE NW CORNER OF SOUTH MAIN STREET AND RAILROAD STREET AND CONTINUING 22 FT. NORTHERLY

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

Adopted this the 21st day of August, 2012.

Stephen R. Little
Mayor

ATTEST:

J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-12-08-21-1

PUBLIC HEARING – ZONING TEXT AMENDMENT: Mayor Little opened the Public Hearing.

Planning and Development Director Heather Cotton advised that Tabby Hill of Special Gifts Adults Program, Inc. has requested an amendment to the City Code to allow Adult Day Cares and similar establishments within the M-1 Industrial Zoning District.

Ms. Cotton reported that the North Carolina Administrative Code defines and regulates this type of use according to the following:

Section .5400 - Day Activity for Individuals of All Disability Groups
10A NCAC 27G .5401 Scope

(a) Day activity is a day/night facility that provides supervision and an organized program during a substantial part of the day in a group setting to individuals who are mentally ill, developmentally disabled, or have substance abuse disorders.

(b) Participation may be on a scheduled or drop-in basis.

(c) The service is designed to support the individual's personal independence and promote social, physical and emotional well-being through activities such as social skills development, leisure activities, training in daily living skills, improvement of health status, and utilization of community resources.

Further, 10A NCAC 27G.0103 defines language within the administrative code as follows:

"Adult" means a person 18 years of age or older or a person under 18 years of age who has been married or who has been emancipated by a court of competent jurisdiction or is a member of the armed forces.
"Day/night service" means a service provided on a regular basis, in a structured environment that is offered to the same individual for a period of three or more hours within a 24-hour period.

While substance abuse is not specifically defined within the North Carolina Administrative Code it is referred to in definitions for "Drug abuse and Drug dependence" as follows:

"Drug abuse" means psychoactive substance abuse which is a residual category for noting maladaptive patterns of psychoactive substance use that have never met the criteria for dependence for that particular class of substance which continues despite adverse consequences.

"Drug dependence" means psychoactive substance dependence which is a cluster of cognitive behavioral, and physiologic symptoms that indicate that a person has impaired control of psychoactive substance use and continues use of the substance despite adverse consequences.

Ms. Cotton stated that staff included definitions within the proposed code amendment that would be compatible with the State's definition of such use, and included child day care to the list of uses since both uses are regulated by the State in a similar manner.

Ms. Cotton advised that, in addition to defining the use, Staff reviewed the Comprehensive Land Use Plan to determine if the request was compatible with its recommendations. The Plan identifies Marion's older industrial mill sites, which are zoned M-1 Industrial, as Traditional Redevelopment Overlay Areas. These areas were identified in the Plan due to their limited land use activity due to changes in economic conditions;

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their close proximity to densely populated neighborhoods; and the community's desire to see these sites revitalized to serve new commercial and/or residential uses in the future. Similar to the Marion Manufacturing office building that was converted into the Employment Security Commission and Job Link Office, other sites have buildings that were originally constructed for office type uses. Day care centers offer an opportunity for adaptive reuse of these underutilized and vacant buildings, and are a type of land use that would typically be located near densely populated residential areas. While a new Redevelopment Overlay District has not yet been created, Staff finds that adult/child day care centers and similar type uses would be a compatible use within the redevelopment areas and therefore compatible with the Comprehensive Land Use Plan.

Ms. Cotton advised that staff does have a concern that adult/child day care centers might be incompatible with uses typically permitted and located within the M-1 Industrial Zoning District, and that there is a potential risk to public safety by co-locating such uses. However, it is common for modern industries to provide onsite day care centers as an employee benefit, and have facilities constructed for this purpose. Since many of these sites are older and have been modified over time, Staff has included additional regulations that improve safety, and reduce the risk to public safety or conflict between incompatible land uses.

Ms. Cotton reported that the Planning Board voted unanimously at their meeting on August 2 to recommend approval of the Zoning Text Amendment.

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 Ramsey, those members of Council present voted to adopt the following Zoning Text Amendment:

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

Day Care Center. A facility licensed by the state, that provides care, supervision, and an organized program to children or adults who do not reside in the facility, are present during daytime hours, and do not stay overnight.

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:

(10) Adult/Child Day Care Facility.

a. All outdoor activity areas are screened and/or are enclosed by six-foot high fence.

b. Facility has a primary entrance separate from any industrial or manufacturing land use activity located within the same building, and all accessible points of ingress or egress of the adult/child day care facility are equipped with security and safety features.

c. Located in a Traditional Redevelopment Overlay Area indentified in the Comprehensive Land Use Plan, as may be amended, or where such land use is ancillary to and directly serves the employees of an approved use within the zoning district.

Section 4. That Chapter 21, Zoning, Section 21.204.2 Permitted Uses within the C-1 Central Business Zoning District is amended to add the following:

(49) Adult/child day care facility provided that all outdoor activity areas are screened and/or enclosed by six-foot high fence.

Section 5. This ordinance shall become effective upon its adoption.

Adopted this the 21st day of August, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/ Clerk

Ordinance Number: O-12-08-21-2

PUBLIC APPEARANCE – MR. MARK SHUMAN: Mr. Shuman stated that he was here to request that the Zoning Ordinance amendment adopted by Council on July 17, 2012 regarding regulation of manufactured housing be repealed or significantly revised. Mr. Shuman advised that several people were present to support this request.

Mr. Shuman stated that were numerous and varied reasons that he and others oppose the recent Zoning Text Amendment. However, the following two issues are of particular concern:

1. Although it is understandable that Council wants to limit the placement of mobile homes in the city, we are concerned about people, both owner occupants, as well as investors, who already own mobile homes in the city. When a need to replace an existing mobile home arises, whether a catastrophe (fire, etc.), or for some other reason, it would be virtually impossible to find a 3 year old or newer replacement home that would make economic sense. The reason is that such newer mobile homes are simply too expensive.

Consequently, as a solution to their first concern, Mr. Shuman said that he would propose the following:

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- Please allow replacement homes to be 1976 or newer.
- Or, if that is unacceptable, please consider replacement of homes to be 1981 (1981 was year that, "National Manufactured Housing Construction Safety Standards Act of 1974" was amended) or newer.
- Or, at least allow replacement mobile homes to be no older than the existing mobile home, as is permitted in the City of Asheville Zoning Ordinance?

2. Prior to the adoption of this aforementioned amendment, people were free to put an older singlewide mobile home on a vacant lot in the R-2 General Residential District. Such a home would provide very affordable housing and make economic sense in today's local economy. With the adoption of this amendment, many vacant lots in this R-2 district will remain vacant. Placing doublewides, newer singlewides or building a house on many of these lots is simply not practical or economical.
- Consequently, as a solution to this second issue, we would simply Mr. Shuman proposed allowing singlewide mobile home 1976 or newer to be placed on these R-2 District vacant lots.

Mr. Shuman stated that the Zoning Text Amendment discriminates against people living on fixed incomes. He advised that neighborhoods like Eastfield and Clinchfield simply will not support the placement of houses or doublewides.

Council Member Doggett stated that the residents of Eastfield and Clinchfield were as much a part of Marion as any other neighborhood and also deserved reasonable protections.

Mr. Shuman thanked Council Members for their time and asked that they consider the above described issues, which are quite important to him and others present tonight, as well as many other citizens.

Mayor Little asked the City Manager to give a summary of the procedures followed to create this Ordinance.

The City Manager stated that State law requires that amendments to the Zoning Ordinance be advertised in the newspaper and, in the case of map amendments, that signs be placed on the affected property and notices sent to adjoining properties. Such requests must be reviewed by the Planning Board, with a public hearing scheduled and held before City Council. The City Manager stated that, because Mr. Shuman's request came in too late for a public hearing to be advertised and held in August, no action can be taken on this request by Council tonight. The next step will be for the request to go back before the Planning Board in September. The City Manager stated that Ms. Cotton had scheduled and was advertising the discussion of this request for the September 6 Planning Board and September 18 City Council meetings.

Mayor Little stated that he as well as City Council Members take this matter very seriously. He said that City Council realizes that there are many citizens here in support of this request. Mayor Little asked for all persons present in support of the items to stand.

Mayor Little thanked everyone for coming and stated that this item would come back before Council in September, after review by the Planning Board.

PUBLIC HEARING – ADOPTION OF ANNEXATION ORDINANCE TO ANEX PROPERTY OWNED BY THE CITY CONTIGUOUS TO THE MUNICIPAL BOUNDARIES: Mayor Little opened the Public Hearing.

The City Manager advised that this public hearing was scheduled for the annexation of part of the City's Water Tank Property on Summit Street. Annexation of this property would allow the City, rather than the State, to receive utility franchise tax revenue for electrical service for this property. The City Manager stated that Council could adopt an ordinance to annex the property immediately, after 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 adopt the following ordinance to annex the contiguous City owned property effective immediately:

AN ORDINANCE TO EXTEND
THE CORPORATE LIMITS OF THE
CITY OF MARION, NORTH CAROLINA –
CITY OWNED PROPERTY – SUMMIT STREET - 2012

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, August 21, 2012, after due notice by publication on Wednesday, August 8, 2012; 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 August 21, 2012:

BEGINNING at the Southwest corner of a Lot recorded in Plat Book 1, Page 183 in the office of the McDowell County Register of Deeds, and shown on plat as "Town Reservoir Lot", said Lot also being described as Lot 8392 Block 26 on the current McDowell County Tax Map 1701-09; thence from said point, North 26° 15' 24" West a distance of 198.25 feet; thence North 52° 15' 54 East 94.86 feet to a point, said point being a point on the current Marion Corporate Limits; thence following the boundary of Marion Corporate Limits in a Southerly direction to a point on the southern boundary of said Lot 8392; thence following the boundary of said lot South 52° 15' 54" West to the Point 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 21st day of August, 2012.

Stephen R. Little, Mayor

ATTEST:

Approved As To Form:

J. Robert Boyette, City Clerk

City Attorney

Ordinance Number: O-12-08-21-3

PUBLIC HEARING – ADOPTION OF ANNEXATION ORDIANCNE TO ANNEX PROPERTIES OWNED BY THE CITY NOT CONTIGUOUS TO THE MUNICIPAL BOUNDARIES: Mayor Little opened the Public Hearing.

The City Manager advised that this public hearing was scheduled for the annexation of four City owned parcels not contiguous to the City Limits, including the Pleasant Gardens Pump Station on Highway 70 West, the PRP Pump Station on Old Highway 221, the Victory Drive Pump Station and the Buck Creek Water Intake off of Highway 70 West. Annexation of these properties would allow the City, rather than the State, to review utility franchise tax revenue for electrical and/or telephone service for these properties. The City Manager stated that Council could adopt an ordinance to annex the property immediately, after the Public Hearing.

A citizen asked if the City's extraterritorial zoning jurisdiction (ETJ) would be expanded once the City annexed these satellite areas. The City Manager advised that the City does not exercise an ETJ and that ETJ distances are measured from the primary corporate limits, not from satellite areas.

Mayor Little closed the Public Hearing

Upon a motion by Martin, seconded by Mayor Pro Tem Cuthbertson, those members of Council present voted to adopt the following ordinance to annex the non-contiguous City owned properties effective immediately:

AN ORDINANCE
TO EXTEND THE CORPORATE LIMITS OF THE
CITY OF MARION, NORTH CAROLINA –
CITY OWNED PROPERTIES NOT CONTIGUOUS TO CITY LIMITS - 2012

WHEREAS, the City Council has adopted a resolution under G.S. 160A-58.7, 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, August 21, 2012, after due notice by publication on Wednesday, August 8, 2012; and

WHEREAS, the City Council finds that the proposed annexation meets the requirements of G.S. 160A-58.1(b), as follows:

a. The nearest point on the proposed satellite corporate limits
is not more than thee (3) miles from the corporate limits of the City of Marion;

b. No point on the proposed satellite corporate limits is closer to the primary corporate limits of another municipality than to the primary corporate limits of the City of Marion;

c. The area is so situated that the City of Marion will be able to provide the same services within the proposed satellite corporate limits that is provides within the primary corporate limits;

d. The area is not a subdivision; and

e. The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, does not exceed ten percent (10%) of the area within the primary corporate limits of the City of Marion; and

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-58.7, the following described noncontiguous property owned by the City of Marion is hereby annexed and made part of the City of Marion as of August 21, 2012:

Tract One – Pleasant Gardens Pump Station/Highway 70 West

Beginning on a #5 Rebar with cap set at the eastern edge of the right of way of U.S Highway 70, and N.C.G.S. Station "Pleasant Gardens", N=72-452.109 E=1088209.835 N.A.D. 1983 is located South 72 degrees 6' 22" West 7483.93 feet from this iron rebar control corner; thence runs 39 degrees 00' 25" East 106.33 feet to a #5 rebar with cap set, being line L5 as shown on the hereinafter referred to map; thence runs South 42 degrees 04' 46" East 42.01 feet to a #5 rebar with cap set (L1); thence runs South 47 degrees 49' 29" West 70.61 feet to a # 5 rebar with cap set (L2); thence runs South 38 degrees 55' 20" West 30.00 feet to a #5 rebar with cap set (L3); thence runs North 51 degrees 04' 40" West 30.73 feet to a #5 rebar with cap set (L4) to the BEGINNING.

Tract Two – PRP Pump Station/Old Highway 221

BEGINNING AT A RAILROAD SPIKE SET in the center of State Secondary Road 1768 (OLD U.S. 221) and which BEGINNING point is located North 01 degrees 40 minutes 30 seconds West 59.91 feet from a railroad spike set in the center of the State Secondary Road 1768 and which point is identified as the point of BEGINNING of that tract described at Deed Book 493, Page 325, McDowell County Public Registry; thence from said BEGINNING point, North 47 degrees 48 minutes 43 seconds West 81.45 feet to a number five rebar with id cap set; thence South 88 degrees 18 minutes 30 seconds West 66.52 feet to a number five rebar with id cap set; thence North 01 degrees 41 minutes 30 seconds West 50.01 feet to a number five rebar with id cap set; thence North 88 degrees 27 minutes 45 seconds East 65.05 feet to a number five rebar with id cap set; thence South 01 degrees 07 minutes 36 seconds East 25.66 feet to a number five rebar with id cap set; thence South 86 degrees 27 minutes 52 seconds East 60.70 feet to a railroad spike set in the center of State Secondary Road 1768 (Old U.S. 221); thence with the center of SSR 1768, South 01 degrees 40 minutes 30 seconds East 75.10 feet to the point and place of BEGINNING.

Tract Three – Victory Drive Pump Station

BEGINNING at the beginning corner as set out in Deed Book 263 Page 378 and as described in Deed Book 763 Page 391 in the office of the McDowell County Register of Deeds, thence South 85 degrees 08 minutes 49 seconds East 316.14 feet to an iron pin set; thence North 4 degrees 51 minutes 01 seconds East 20.00 feet to an iron pin set, and South 85 degrees 08 minutes 49 seconds East 90.49 feet to an iron pin set, iron pin also being the Northeast corner of said property, said property being described as Lot 3395 Block 61 on the current McDowell County Tax Map 1702-19; thence in a Southwesterly direction 84.3 feet to a point; thence in a Westerly direction 345 feet to a point; said point also being on the Eastern

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boundary of SR 1504 (Victory Drive); thence following the boundary of said property and SR 1504 in a Northerly direction 34.4 feet to the BEGINNING.

Tract Four – Buck Creek Water Intake Part A/Highway 70 West

BEGINNING at a stake, which stake is located South 35° 10' East 537 feet from the southwest corner of the south barn of the party of the first part, and said stake also being located North 10° 25 ' East from the top of the transmitter tower of Radio Station WBRM, and said stake also being located South 64° 30' West 180 feet from the beginning corner of a tract of land conveyed to the party of the second part in fee simple in a Deed from Mrs. Eva Curtis, dated the 24th day of February, 1955, and runs thence from the said point of beginning, North 64°30' East 72 feet to a stake in the center of Buck Creek; thence down the center of said Creek, South 25° 30' East 125 feet to a stake in the center of said Creek, thence South 64° 30' West 72 feet to an iron stake; thence North 25° 30' West 125 feet to the BEGINNING, and containing 0.21 acres; said tract of land to which reference is hereby made described further in Deed Book 131 Page 562 of the office of the McDowell County Register of Deeds.

Tract Five – Buck Creek Water Intake Part B/Highway 70 West

BEGINNING at an iron stake, which stake is located South 11°35' East 804 feet from the Southwest corner of the south barn of the party of the first part, and said stake also being located north 64°30' East 180 feet from an iron stake, which stake is the beginning corner of a certain tract of land conveyed to the Town of Marion by Mrs. Minnie E. Finely, by deed dated the 25 day of February, 1955, and runs thence from said point of beginning, South 25°30' East 125 to an iron stake; thence South 64° 30' west 108 feet to a stake in the center of Buck Creek; thence North 25° 30' West up the center of said Creek125 feet to an iron stake in the center of the creek; thence North 64° 30' East 108 feet to the BEGINNING, containing 0.31 acres, more or less; said tract of land to which reference is hereby made described further in Deed Book 131 Page 564 of the office of the McDowell County Register of Deeds.

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 21st day of August, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Approved As To Form:

City Attorney

Ordinance Number: O-12-08-21-4

PUBLIC HEARING - ZONING MAP AMENDMENTS – ASSIGN ZONING TO CITY OWNED PROPERTIES: Mayor Little opened the Public Hearing.

The City Manager advised that, as indicated on the information presented to Council, the Planning Board met on August 2 and recommended that R-2 General Residential zoning be assigned to the City owned property on Summit Street (a portion of the Water Tank property) that was annexed by Council earlier in the agenda and that M-1 Industrial zoning be assigned to the City owned properties on Highway 70 West (Pleasant Gardens Wastewater Pump Station and Buck Creek Water Intake), on Old 221 (Performance Rail Wastewater Pump Station) and Victory Drive (Victory Drive Wastewater Pump Station) that was also annexed by Council earlier in the agenda. The R-2 zoning was recommended for the Summit Street property to match zoning of the surrounding neighborhood and the portion of the Water Tank property already in the City. This zoning district permits utility facilities. The M-1 Industrial zoning was recommended to be consistent with zoning of other City water and wastewater facilities.

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 adopt the following ordinance assigning R-2 zoning to the City-owned property on Summit Street (a portion of the Water Tank property) and to assign M-1 zoning to the City-owned properties on Highway 70 West (Pleasant Gardens Wastewater Pump Station and Buck Creek Water Intake), on Old 221 (Performance Rail Wastewater Pump Station) and Victory Drive (Victory Drive Wastewater Pump Station):

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
CITY-OWNED PUBLIC UTILITY PROPERTIES

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 assign zoning to city-owned properties being voluntarily annexed having the current Parcel Identification Numbers 1619.00-36-7443, 1629.00-38-2832, 0792.00-52-3701, 1702.19-61-3395, and a portion of 1701.10-26-8392 as adopted by City Council on August 2, 2012 having the Ordinance Numbers O-12-08-21-3 and O-12-08-21-4;

Section 3: The City of Marion is assigning the M-1 Industrial Zoning District to the subject properties identified in Ordinance Number O-12-08-21-4 and having the Parcel Identification Number 1619.00-36-7443, 1629.00-38-2832, 0792.00-52-3701, and 1702.19-61-3395.

Section 4. The City of Marion is assigning the R-2 General Residential Zoning District to the subject property identified in Ordinance Number O-12-08-21-3 and having the current Parcel Identification Number 1701.10-26-8392.

Section 5. The proposed zoning map amendment is consistent with the adopted Comprehensive Plan.

Section 6. 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 August 2, 2012.

Section 7. 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 8. 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 9. The zoning map amendment is hereby adopted as part of the Official Zoning Map of the City.

Section 10. This ordinance shall become effective upon its adoption.

Adopted this the 21st day of August 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-12-08-21-5

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

REVIEW OPTIONS FOR CITY PROPERTY LIABILITY COVERAGE: The City Manager reported that the City's contracted insurance agent, Marsh Dark of Morrow Insurance, received a renewal quote for the City's property and liability insurance coverage for 2012-13 from Millenium Insurance. The City's 2011-12 premium from Millenium was $83,000. Millenium's 2012-13 premium quote is $111,000, which represents a $28,000, or 34 percent, increase over 2011-12. Millenium blamed the premium increase on the amount and frequency of claims.

The City Manager advised that Millenium agreed to bill the City's 2012-13 premium in quarters and to prorate the City's premium, if the City decided to terminate coverage with them. Marsh talked to other insurance companies, in an attempt to obtain additional quotes. Marsh could not obtain a quote from Berkley Insurance, which is not writing new local government policies now, due to high claims and concerns about local government budget cuts leading to additional claims. He could not obtain a reasonable quote from Travelers Insurance. Marsh obtained a quote of $101,416 from Houston Casualty, which, according to him, is the dominant insurance provider for local governments in Texas and the Midwest, and which has recently begun writing local government policies in North and South Carolina. Houston Casualty's proposed coverage is essentially the same as Millenium, with an additional $1 million of umbrella coverage provided per occurrence.

The City Manager stated that he had hoped to have a quote from the N.C. League of Municipalities by the time of the meeting, but reported that Finance Director Harriett Thomas had learned earlier in the day that the League's quote would not be received until the next day.

The City Manager advised that Houston Casualty's quote is good through August 22. Therefore, if the City wishes to consider Houston Casualty's $101,416 quote, Council direction will be needed at tonight's meeting.

Council Member Martin asked how time sensitive this matter was. Mayor Little stated that the longer Council waits to make a decision, the City will pay a higher premium and may lose the Houston Casualty quote altogether, costing the City $10,000.

Mayor Little suggested that Council accept the Houston Casualty bid and asked if Council wished to accept a lower bid from the N.C. League of Municipalities the next day.

Mayor Pro Tem Cuthbertson suggested that the City accept a lower bid from the League, only if the bid was five percent or more lower than that submitted by Houston Casualty.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member , Council voted unanimously to award the contract for the City's 2012-13 property and liability insurance coverage to Houston Casualty for $101,416, with the condition that the City will award the contract for the City's 2012-13 property and liability insurance coverage to the North Carolina League Municipalities, if the League quote is received no later than 2:00 p.m. local time on Wednesday, August 22, 2012 and if the League's quote is five percent or more lower than that of Houston Casualty.

CONSIDER ADOPTION OF ORDINACE TO REVISE PROHIBITIONS ON DISCHARGE OF DISCHARGE OF FIREARMS IN CITY: The City Manager advised that, as was directed by Council at the July 17 Council meeting, he had looked at ordinances from other cities related to discharge of firearms. After discussing the matter with Police Chief Mark Brooks, the City Manger stated that he would recommend Council consideration of the proposed ordinance, which states that the discharge of firearms in the City Limits is not permitted, with four listed exceptions: in self-defense, by a law enforcement officer in the discharge of his or her duties, in a licensed shooting gallery or at a historical, ceremonial or commemorative function with the approval of the Police Chief, provided that in no event shall live ammunition be used or discharged.

Upon a motion by Council Member Martin, seconded by Council Mayor Pro Tem Cuthbertson, those members of Council present voted to adopt the following Ordinance as 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 11-8 in its entirety and replacing it with the following:

Sec. 11-8. Discharge of firearms and fireworks prohibited; exceptions.

(a) No person shall fire any pistol, gun or other firearm, fireworks or other pyrotechnics in the City Limits.

(b) Subsection (a) shall not apply when a weapon is used in a lawful manner:

(1) In self-defense;
(2) By a law enforcement officer in the discharge of his or her duties;
(3) In a licensed shooting gallery; or

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(4) At a historical, ceremonial or commemorative function with the approval of the Police Chief, provided that in no event shall live ammunition be used or discharged.

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

Adopted this the 21st day of August, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-12-8-21-6

DISCUSS DOWNTOWN LANDSCAPING PLAN: Planning and Development Director Heather Cotton gave a report on recommended changes to the City's landscaping in the downtown area.

Ms. Cotton stated that staff recommends that the potted fern containers across from the intersection of Main and State Street be relocated next spring to side streets that previously had flower pots, including East and West Court Streets and West Henderson Streets. Mayor Pro Tem Cuthbertson suggested that at least one container be placed in front of Main Street Exxon on North Main Street. Ms. Cotton stated that this location could be explored as well.

Ms. Cotton further recommended that the initial plan was to removal all containers after the Mountain Glory Festival in October, but that she would now suggest that a few containers be kept with some flowers, such as pansies, that could survive colder weather.

Ms. Cotton advised that eight benches have been ordered by the City for Main Street, of which six have been sponsored, leaving two remaining to be sponsored. She stated that the new benches and trash cans would soon be placed on Main Street.

Ms. Cotton reported that she presented information to the Tree Board that morning concerning the purchase of grates to be used around the ginko trees on Main Street. Ms. Cotton stated that the grates would cost around $19,000 to $20,000. She advised that the Tree Board recommended that the City purchase these grates, by either budgeting for this expenditure in the 2013-14 budget or by seeking other funding for the grates.

Council Member Doggett asked about several flower locations on South Main Street that have not been able to sustain flowers this summer.

Public Works Director Brant Sikes stated that the City's contracted landscaper, Lawrence Moore, had replanted these locations three times this year and had finally determined that the planter locations contained contaminated soil with high levels of salt. These areas are now being replenished with sixty percent peat moss and can then be replanted.

By consensus, Council endorsed the recommendations made above by Ms. Cotton.

CONSIDER ADOPTION OF PERSONNEL POLICY UPDATE: Finance Director Harriett Thomas advised that, as was discussed at the July 17 Council meeting, updates have been completed to the Personnel Policy to incorporate amendments made in recent years and to revise some language.

Ms. Thomas stated that the new provisions proposed for the Personnel Policy include the following:

A. Amending Article VI, Section 2, Designated On-Call Time, to change Responsibilities of the Marion Police Department to the Responsibilities of McDowell County Communications due to the consolidation of dispatching services with the County.

B. Amending Article VII, Section 4, Vacation Leave, to add subsection (b) Employees with Previous Local Government Service to allow for previous local government service to count toward vacation accruals; to revise subsection (c) Vacation Leave – Manner of Accrual, by proposing vacation accruals of 15 days per year for employees with 10-25 years of service (previously this amount of accrual was for employees with 10 or more years of service) and proposing vacation accruals of 20 days per year for employees with 25 or more years of service. This item is important for recruiting employees with experience by allowing them to count their previous local government service for purposes of vacation accruals and by adding additional vacation leave for employees with 25 or more years of service.

C. Amending Article VII, Section 4, Sick Leave, to add subsection (a) Employees with Previous Local Government Service to allow for previous local government service to count toward sick leave accruals; to revise subsection (b) Sick Leave – Manner of Accrual, by proposing sick leave accruals of 5 days for year for employees with 0-5 years of service and 12 days per year for employees with 5 or more years of service (the current policy provides for 5 days of sick leave for employees with 0-5 years of service and 10 days of sick leave for employees with 5 years or more of service). This revised proposal is based on discussions at the July 17 Council meeting. The previous version included 15 day per year of sick leave for employees with 20 years or more of service, but the revised Policy proposal caps sick leave accrual at 12 days per year. This item is important for recruiting employees with experience by allowing them to count their previous local government service for purposes of sick leave accruals and by increasing sick leave for employees with 5 or more years of service to the Statewide standard amount of 12 days per year.

D. Amending Article VII, Section 6, Family Medical Leave Act to include changes required by 2009 updates to the Federal Family and Medical Leave Act regulations.

E. Amending Article X, Section 6, Law Enforcement Special Separation Allowance to add subsection (c) to state that the Law Enforcement Special Separation Allowance ceases on the first day of reemployment by a local government employer in any capacity that requires participation in the North Carolina Local Governmental Employees' Retirement System (NCLGERS). This provision is now allowed by the State and is in the City's best interest to include.

F. Amending Article XI, Personnel Records and Reports to reflect changes to the North Carolina Public Records Law regarding Personnel Records effective October 1, 2010.

The City Manager stated that Ms. Thomas had done a great job with the Personnel Policy revisions.

Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Cuthbertson, those members of Council present voted to adopt the following revised Personnel Policy as presented:

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CITY OF MARION
PERSONNEL POLICY

EFFECTIVE 10/1/2012

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PERSONNEL POLICY OF THE CITY OF MARION

WHEREAS, the Mayor and City Council of the City of Marion recognizes the importance of its municipal employees in meeting the service needs of City residents; and

WHEREAS, it is the desire of the Mayor and City Council to maintain a municipal work force composed of qualified, competent, dedicated employees; and

WHEREAS, the Mayor and City Council recognize the necessity of equitable rates of pay and reasonable conditions of employment in the maintenance of such a work force; and

WHEREAS, it is the desire of the Mayor and City Council to establish a system of personnel administration that will assure equity of compensation and fair and reasonable employee treatment consistent with the needs of the City and the circumstances of the situation which may be faced from time to time;

NOW, THEREFORE, THE MAYOR AND CITY COUNCIL OF THE CITY OF MARION ADOPTS the following rules and regulations to govern the appointment, classification, salary, promotion, demotion, and employment conditions of the employees of the City of Marion, North Carolina, replacing, where appropriate, the existing articles and sections on personnel, pay plans, class specifications, and benefits.

ADOPTED this 21st day of August, 2012.

Article I. Policy

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Section 1.

The employment relationship between the City and the employee is terminable at the will of either at any time, with or without cause and with or without notice. No employee, officer, agent or representative of the City has any authority to enter into any agreement or representation, verbally or in writing, which alters, amends, or contradicts this provision or other provisions in these policies. Any exception to this policy of "at will" employment must be expressly authorized in writing, approved by the City Council, and executed by the officers designated by the City Council.

Section 2.

None of the benefits or policies set forth herein is intended because of their publication to confer any rights or privileges upon employees or to entitle them to be or remain employed by the City. The contents of this document and procedure herein are presented as a matter of information.

Section 3.

These personnel policies are not a binding contract, but merely a set of guidelines for the implementation of personnel policies. The City explicitly reserves the right to modify any of the provisions of these policies at any time and without any notice to employees. Notwithstanding any of the provisions within these policies, employment may be terminated at any time, either by the employee or by the City, with or without cause and with or without advance notice.

Section 4.

Since each department of the City has particular personnel and operational requirements, each is authorized to establish supplemental written rules and regulations applicable only to the personnel of that department. All such rules and regulations shall be subject to the final approval of the City Manager and shall not in any way conflict with the provisions of this policy but shall be considered as a supplement to this policy.

Article II. General Provisions

Section 1. Purpose

The purpose of these policies is to establish a personnel system that will recruit, select, develop and maintain an effective and responsible work force. These policies are established under the authority of the General Statutes of North Carolina.

The City Personnel Policy has been designed to provide the employees of the City with a copy of the general policies as adopted by the Marion City Council. A brief summary of employee rights and responsibilities are included.

This policy is not an exclusive statement of all the terms of employment. It is also not a guarantee to any employee of the matters covered in any particular topic.

The topics covered herein are subject to change without advance notice, and the individual employer reserves the right to make final decisions as to interpretation of each policy and practice covered herein.

No policy, benefit, or procedure contained herein creates an employment contract for any period of time. All employees will be considered as employees-at-will. Employees may be terminated for failure to satisfactorily perform their duties or simply at the will of the employer, but they shall not be terminated for a discriminatory or illegal purpose.

Section 2. Coverage

This policy shall cover all regular and probationary employees except as specifically exempted. The City Manager, City Attorney, members of the City Council, members of advisory boards and Councils, and part-time employees will be exempted except in sections where specifically included.

Section 3.Definitions

(a) Probationary Employee. A person appointed to a budgeted position that has not yet completed the probationary period.

(b) Part-time Employee. An employee, either permanent regular or temporary, who is regularly scheduled less than, or not to exceed 1040 hours. Permanent part-time employees are defined as those in a regular position who work between 1000 but less than 2080 hours a year.

(c) Regular/Full-time Employee. An employee who has successfully completed the prescribed probationary periods shall be considered regular. However, all City positions are subject to budget review and approval each year by the City Council, and all employees' work and conduct must meet standards of performance and behavior. Therefore, reference to "regular" employees or permanent positions should not be construed as a contract or right to perpetual funding or employment. Regular employees are entitled to all City benefits.

(d) Seasonal/Temporary Employee. Qualified employees appointed to serve in a position for a defined time period, usually less than six months. Such employees are not entitled to City benefits.

(e) Grievance. A claim or complaint based upon an event or condition affecting the circumstance under which an employee works, allegedly caused by misinterpretation, unfair application, or lack of established policy pertaining to employment conditions.

(f) Adverse Action. A demotion, dismissal, reduction in pay, layoff, suspension or undesirable transfer.

(g) Parent. Biological or adoptive person or one who stood in loca parentis to an employee when the employee was a child.

(h) Child. Son, daughter under 18 years of age or 18 or greater who is incapable of self-care because of mental or physical disability that is either: biological, adopted, foster, step, legal ward or child for which employee is standing in loco parentis.

(i) Spouse. Husband or wife recognized by State law.

Section 4. Merit Principle

The purpose of this policy and the rules and regulations set forth is to establish a fair and uniform system of modern personnel administration for all employees of the City.

AA.000000078 (24)

The City shall embrace the following merit system principles in administering its personnel program:

(a) Applicants and employees shall be assured of fair treatment in all aspects of personnel administration without regard for political affiliation, religious creed, sex, national origin, color, race, or disability. Individuals shall likewise be treated with proper regard for their privacy and constitutional rights as citizens.
(b) Employees shall be recruited, selected, trained, and advanced on the basis of their ability, knowledge, skill, and performance.
(c) Employees shall be retained on the basis of the adequacy of their performance. They shall be guided in ways to correct inadequate performance and separated when inadequate performance cannot be corrected.
(d) Employees shall be protected against coercion for partisan political purposes.
(e) Employees shall receive equitable pay and benefits and eligible employees may receive merit pay increases based upon their performance subject to the availability of funds.

Section 5. Responsibility of City Council

The City Council will establish personnel policies and rules, including the classification and pay plan.

The position of City Clerk is appointed, promoted, suspended and dismissed by the City Council upon recommendation of the City Manager. The City Council will adopt or provide for rules and regulations, resolutions or ordinances concerning personnel policies and other measures that promote the hiring and retention of capable, diligent, and honest employees under the authority of the North Carolina General Statutes, to be administered by the City Manager

The City Council will approve all payroll deductions from employees' payroll checks to outside companies offering a product which could benefit the employee. Some examples include short-term disability, cancer coverage, and vision coverage, etc.

Section 6. Responsibility of the City Manager

The City Manager shall administer the affairs of the City within the authority granted by the adoption of the Council-Manager form of government. The City Manager shall be responsible for assisting in the preparation and maintenance of the position classification plan and the pay plan, and shall perform such other duties in connection with a modern personnel program as are required. The City Manager will prescribe the office hours, workdays, and holidays to be observed by the various offices and departments of the City. All matters dealing with personnel shall be routed to the City Manager. The manager will see that a complete system of personnel files and records are maintained. The City Manager may perform any or all of these duties and responsibilities or assign them to staff employees.

Section 7. Responsibility of Department Heads

The head of each City department, with the approval of the City Manager, shall manage operations and supervise employees assigned to the department under such rules, regulations and procedures as may be required by the City Manager's standard operational procedures manuals or guidelines as appropriate.

Article III. Recruitment and Employment

Section 1. Statement of Equal Employment Opportunity Policy

It is the policy of the City of Marion to foster, maintain, and promote equal employment opportunity. The City shall select employees on the basis of the applicants' qualification and without regard to age, sex, race, color, creed, religion or national origin. Applicants with disabilities shall be given equal consideration with other applicants for positions if such applicants can, with or without reasonable accommodation, perform the essential requirements of the position.

Section 2. Implementation of EEO Policy

All personnel responsible for recruitment and employment shall continue to review regularly the implementation of this personnel policy and relevant practices to assure that equal employment opportunity based on reasonable performance-related job requirements is being actively observed to the end that no employee or applicant for employment shall suffer discrimination because of age, sex, race, color, creed, religion, national origin, or disability. Notices with regard to equal employment matters shall be posted in conspicuous places on City government premises in places where notices are customarily posted. In addition, the City will comply with the provisions contained within the American's With Disabilities Act (ADA) as amended. It is the City Manager's responsibility to insure compliance and make recommendations for actions to bring the organization into compliance.

Section 3. Recruitment

All opportunities for employment shall be publicized, including applicable salary ranges and employment qualifications. Some jobs will only be advertised within the City workforce. Information on job openings and hiring practices may be provided to recruitment sources including organizations and various media serving the appropriate labor market. In addition, notice of vacancies shall be posted at designated conspicuous sites within City buildings. Individuals shall be recruited from a geographic area as wide as is necessary to insure that well qualified applicants are obtained for City service.

Section 4. Job Announcements

Employment announcements shall contain assurances of equal employment opportunity and shall comply with federal and state statutes prohibiting discrimination in employment matters.

Section 5. Applications for Employment

All persons expressing interest in employment with the City shall be given the opportunity to file an application for employment when a position is vacant or when the City is advertising to fill such positions. Applications will remain active only until that position is filled.

Section 6. Application Reserve File

Upon inquiring, each potential applicant shall be informed of the current job openings. After the active period of six months, applications for candidates not selected shall be kept in a file for two (2) years, in accordance with Equal Employment Opportunity and City Council guidelines and the Records Retention Schedule issued by the NC Division of Archives and History.

Section 7. Qualification Standards/Pre-Employment Requirements

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Employees shall meet the employment standards established by the position classification plan and such other reasonable, job-related minimum standards of character, aptitude, knowledge, skills, abilities, and physical condition as may be established by the City Manager with the advice and recommendation of department heads. These qualifications may also include the requirements that applicants be drug free prior to entering the workforce.

(a) Pre-employment Testing. The City Manager has the authority to require pre-employment testing for those who have a conditional offer of employment for full time, permanent positions as well as part time positions. Additionally, the State of North Carolina and the federal government may also establish requirements for pre-employment testing in some instances. In the absence of specific requirements by the City Manager, the procedures for pre-employment testing are set out as follows:

(1) Confidentiality. The results of all tests administered as part of the screening process, including the name of applicants will remain as confidential as possible taking into consideration the fact that the City is a public employer.

(2) Medical Screening for Physical Fitness. Individuals who have applied for a job and have been extended a conditional offer of employment, regardless of full-time permanent or part time status, will be required to undergo a thorough medical screening to be administered by a doctor or healthcare technician chosen and paid for by the City. The determination to require physical examinations and other medical screenings will be based on the responsibilities of the position and other relevant considerations. Normally, any medical screening will relate to and take into account the physical and/or mental requirements of the job as listed in the relevant job description, or any OSHA requirements. A Medical Review Officer, designated by the City, will review and make the final determination concerning the applicant's fitness for the job.

Current employees may also be required to undergo a physical examination to determine ability to perform the duties of his/her position. Such examinations may become particularly important when an employee is being considered for a transfer or a promotion and the City needs to take into consideration the physical requirements of the job as listed in the relevant job description.

When an applicant or an existing employee is being considered for a job that is subject to OSHA requirements for medical review, fitness for duty and the ability to meet the OSHA standards, then all OSHA requirements shall apply and shall be included in the medical screening process. If the results of any required test are unsatisfactory so that a favorable recommendation for employment cannot be obtained by the doctor or health care personnel, then any conditional offer of employment to an applicant may be withdrawn or the promotion or change in job by a current employee may be denied.

(3) Medical Testing and Fitness for Duty. Generally, employees are not required to undergo physicals, psychological or emotional testing or other types of medical testing. However, fitness for duty is a concern to the City so that the City can be assured that the employee is capable of performing his/her duties and is not a risk to the employee or coworkers. If there is any question concerning the employee's fitness for duty, the City may require the employee to undergo a physical or to otherwise participate in appropriate medical screenings to insure the ability to perform the duties and a safe workplace. Under normal circumstances, physicals and other medical testing results from workplace accidents, injuries and events are required as a condition of returning to employment and will be paid for by the City, but for accidents and injuries occurring outside the workplace or for second opinions requested by the employee, the employee may be required to pay the costs.

Certain OSHA programs require medical screenings for employees who are subject to or fall under these programs. As a condition of continued employment, the employee shall be required to participate in the screening and to have medical clearance issued by the City's medical service provider.

(4) Medical Screening for Mental or Emotional Fitness. Once an applicant is extended a conditional offer of employment, the applicant may be required to undergo an examination by a licensed psychologist for mental or emotional fitness for duty. Unsatisfactory results from such testing will result in the conditional offer of employment being withdrawn.

(5) Drug and Alcohol Testing. Applicants for full time, part time and temporary positions that have been extended a conditional offer of employment by the City will be required to undergo alcohol and drug tests. Applicants for employment with the City will be advised that a clean result on a drug and alcohol test is a condition of employment. See "Substance Abuse Policy" for more information.

(6) Criminal/Background Investigations. An applicant who has been extended a conditional offer of employment will be subjected to a background investigation in order to determine suitability for employment. A thorough investigation of personal records and background may be obtained to secure the public's interest regarding an applicant's personal and employment history.

(b) Qualifications shall be reviewed periodically to assure that requirements are fair and conform to the actual job performance requirements.

(c) The City may employ an applicant in a trainee capacity that does not meet all minimum qualifications for a particular job if the deficiencies can be eliminated through orientation and on-the-job training.

Section 8. Selection

Department heads shall make such investigations and conduct such examinations as deemed appropriate to assess fairly the aptitude, education and experience, knowledge and skills, character, physical fitness, and other qualifications required for positions in the service of the City. All selection devices administered by the City or by persons or agencies for the City shall be valid measurers of job requirements.

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Section 9. Appointments

It is the City's policy to create career opportunities for its employees when possible. Therefore, when a current employee applying for a vacant position possesses the best qualifications of all applicants, that applicant shall

be appointed to that position. However, if other applicants possess comparable qualifications and if the City would continue any historical discriminatory employment practices by automatically promoting or transferring the current employee without considering other applicants, then the City must carefully consider the qualifications of other applicants in filling this position.

Section 10. Probationary Period of Employment

An employee appointed to a permanent position shall serve a probationary period of six (6) months, however the City will provide life, medical and dental insurance for the employee at the end of one month of service. New police (sworn) employees are required to serve a twelve (12) month probationary period for certification purposes as required by the State but will be eligible to come off the City probationary period at the end of six months of service and to use leave and receive other benefits which are provided at the end of probation. This time period is to be considered a continuation of the

selection process. An employee serving a probationary period following initial appointment may be dismissed with or without cause and without right of appeal at any time during the probationary period. A regular employee serving a probationary period following a promotion shall be demoted as provided in this article if unable to perform assigned duties of the new job satisfactorily.

A probationary employee whose work is unsatisfactory may receive a written warning before being terminated by the department head. If the employee's work is not satisfactory or he/she has not met all the conditions of employment (i.e. CDL, etc.) during the probationary period, the employee may be terminated.

An employee serving a probationary period following initial employment in a permanent position will receive all benefits provided in accordance with this ordinance, with the following exception or as otherwise provided:

(a) Employees may accumulate vacation and sick leave but will not be permitted to use vacation or sick leave during the probationary period.
(b) Employees serving in a probation period following promotion will continue to receive all benefits provided in accordance with this policy.

In unusual cases, for specific reasons approved by the City Manager, the probationary period may be extended for a maximum of an additional six (6) months. In such cases, the employee must be notified of the purpose of the extension, the conditions and performance expectations, and the length of time of the extension. However, sick and vacation leave may be used by the employee in this extended probationary period with prior approval of the department head. Likewise police personnel serving in the second half of his/her twelve (12) month State probationary period may use accumulated sick and vacation with prior approval of the Police Chief.

Section 11. Performance Evaluation

A supervisor shall evaluate performance beginning with the employee's first day on the job. Through open communications with his/her supervisor, the employee should obtain a clear understanding of what is expected related to job performance and a periodic assessment of his/her job strengths and weaknesses. A formal evaluation shall be completed for an employee prior to the completion of his/her probationary period and at least once each year thereafter. The City's performance evaluation program provides a system for appraising the employee's work.

Section 12. Notification of Action and Pre-disciplinary Action

Before suspensions of three (3) days or more, demotion, or dismissal action is taken, whether for failure in personal conduct or failure in performance of duties, the Department Head will conduct a pre-disciplinary conference. At this conference, the employee may present a response to the proposed disciplinary action. The Department Head will consider the employee's response, if any, to the proposed disciplinary action, and will, within three working days following the pre-disciplinary conference, notify the employee in writing of the final decision to take disciplinary action. The notice of the final disciplinary action shall contain a statement of the reasons for the action and the employee's appeal rights.

Section 13. Promotion

Department Heads shall endeavor to anticipate retirements and turnover and to have employees trained to assume positions of greater responsibility. In filling vacancies an effort shall be made to promote qualified employees from within the City work force before seeking an outside replacement.

When a vacancy occurs, the supervisor and department head in whose department the vacancy occurs shall review all applications received, including those from current City employees wishing to be promoted into the position. If a current City employee is chosen for promotion, the department head shall forward the employee's name to the City Manager and/or the Personnel Department with written recommendations for classification, salary and reasons for selecting the employee over other applicants.

Candidates for promotion shall be chosen on the basis of existing or anticipated job openings, on their qualifications, and on their work records.
Employees being promoted must meet the qualification standards to include education, training, and experience for the classification to which the promotion is being made.

Section 14. Demotion

Any employee who fails to maintain high standards of personal conduct or whose work in his/her present position is unsatisfactory may be demoted, provided the employee shows promise of becoming a satisfactory employee in another position. Such a demotion shall be preceded by the warning procedures outlined for cases involving inability to perform duties or failure in performance of duties. An employee who wishes to accept a position with less complex duties and responsibility may be demoted for reasons other than unsatisfactory performance of duties or failures in personal conduct.

In all cases involving demotion, following the pre-disciplinary conference, the employee shall be provided with written notice citing the recommended effective date, reasons for demotion, and appeal rights available, if any.

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Section 15. Violation of Good Employment Practices Leading to Suspension, Demotion, or Dismissal

(a) Each employee will be expected to keep his/her personal affairs arranged in such a way that the City of Marion will not be embarrassed.
(b) While on duty, the use of alcohol or illegal substances is strictly prohibited and may be cause for immediate dismissal.

Should an employee require the use of a medication (prescription or over–the-counter) that has side effects (dizziness, drowsiness, etc.), that employee should report the medicine to the immediate supervisor to prevent improper accusations on the part of the supervisor. A decision shall be made as to the employee's ability to stay on his/her regular job, carry out lighter duties or be sent home. The decision will be rendered from the aspect as to the safety of the employee, other personnel and the citizens of the City. The Department Head shall determine if the employee should work or be sent home.

If there is reasonable suspicion by someone in a supervisory capacity or regular employee as to the use of an intoxicant (alcohol, drugs, etc.) by another employee arriving to the job or while on the job with the City of Marion, then the following action may be taken:

(a) The employee or employees involved shall be asked to remain at the location of the incident.
(b) A City Police Officer shall be called to the location of the incident. Upon arriving, the officer shall determine if a law has been possibly violated and take appropriate action. An employee not arrested or charged with a crime, may still be disciplined under City policies.
(c) The employee or employees may be asked to take a drug test or breathalyzer test subject to the requirements of the Substance Abuse Policy. The test shall be at the City's expense.

Refusing to remain at the location of the incident, refusing to comply with the Police Officer's request; or refusing to take either of the tests shall be grounds for a three (3) day suspension subject to dismissal. During the three (3) days, a determination will be made as to the use of an intoxicant on the employee's part. If it is determined that a reasonable suspicion does exist or actual proof is obtained, then the employee or employees will be dismissed.

Section 16. Transfer

An employee who has successfully completed a probationary period may be transferred to the same or similar class in a different department. As vacancies occur in other departments to which an employee would be eligible for transfer, the employee shall notify his/her supervisor of interest in the transfer and submit notice of a desire for transfer to the various department head(s) for consideration. If a department head wishes to hire that employee, the transfer is subject to the approval of the City Manager.

Section 17. Reduction in Force

In the event that a reduction in force becomes necessary, the quality of each employee's past performance and the needs of the City as well as seniority shall be considered in determining those employees to be retained. Regular employees who are to be terminated due to reduction in force shall normally be given at least ten (10) working days' notice of the anticipated layoff.

Article IV. Classification Plan

Section 1. Adoption

The position classification plan, as amended from time to time, is hereby adopted as the position classification plan for the City.

Section 2. Allocation of Positions

The City Manager shall allocate each position covered by the classification plan to its appropriate class in the plan.

Section 3. Administration of the Position Classification Plan

The City Manager shall be responsible for the administration and maintenance of the position classification plan so that it will accurately reflect the duties performed by the employees in the classes to which their positions are allocated. Department heads shall be responsible for bringing to the attention of the City Manager (1) the need for new positions, and (2) material changes in the nature of duties, responsibilities, working conditions or other factors that may affect the classification of any existing position.

When the City Manager finds that a substantial change has occurred in the nature or level of duties and responsibilities of an existing position, the existing class specification shall be revised or reallocated to the appropriate class within the existing classification plan, or the position classification plan shall be amended establishing a new class to which the position may be allocated.

Section 4. Amendment of Position Classification Plan

Classes of positions shall be added and deleted from the position classification plan by the City Council upon recommendation of the City Manager.

Article V. The Pay Plan

Section 1. Adoption

The schedule of salary ranges and class titles assigned to salary ranges, as amended from time to time, is hereby adopted as the pay plan for the City.

Section 2. Maintenance of the Pay Plan

The City Manager shall be responsible for the administration and maintenance of the pay plan. The pay plan is intended to provide equitable compensation for all positions, reflecting differences in duties and responsibilities, the rates of pay for comparable positions in private and public employment in the area, changes in the cost of living, the financial conditions of the City, and other factors. To this end, the City Manager shall from time to time make comparative studies of all factors affecting the levels of salary ranges and shall recommend to the City Council such changes in salary ranges as appear to be warranted.

Section 3. Use of Salary Ranges

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Salary ranges are intended to furnish administrative flexibility in recognizing individual performance among employees holding positions in the same class by rewarding employees for meritorious service. The following general provisions will govern the granting of increases within the pay range:

(a) The minimum rate established for the class is the normal hiring rate, except in those cases where unusual circumstances appear to warrant appointment at a higher rate. Appointment above the minimum rate may be made with the approval of the City Manager when deemed necessary and in the best interest of the
City. Above–the-minimum appointments will be based on such factors as the qualifications of the applicant being higher than the desirable education and experience for the class, a shortage of
qualified applicants available at the minimum rate, the refusal of qualified applicants to accept employment at the minimum rate, or other similar factors.
(b) All increases are reserved to reward employees for meritorious service. Each year, the City Manager may require department heads to consider the eligibility of employees to receive salary increases and to recommend such advancement or retention at
the same rate. Department heads shall consider all factors affecting employee performance and shall submit their recommendations in writing, giving the reasons to advance or retain the employee at the same rate. All such advancements and retention in the salary range must be approved by the City Manager.

Section 4. Payment at a Listed Rate

All employees covered by the salary plan shall be paid at a listed rate within the salary range established for their respective job classes except for employees in a "trainee status", or employees whose present salaries are above the established maximum rate following transition to a new pay plan.

Section 5. Salary of Trainee

An applicant hired or an employee promoted to a position in a higher class, who does not meet all the established requirements of the position, may be appointed at a rate in the pay plan below the minimum established for the position. In such cases, a plan for training, including a time schedule will be prepared.

Trainee salaries may be no more than ten percent below the minimum salary established for the position for which the person is being trained. An employee will remain on the trainee rate until the department head determines that the trainee is qualified to assume the full responsibilities of the position. The department head shall review the progress of each employee in a trainee status monthly, or more frequently as necessary, to determine when the trainee is qualified to assume the full responsibilities of the position. Provided, however, that a trainee shall not be in such status for longer than one (1) year.

Section 6. Pay Rates in Promotion, Demotion, Transfer, Reclassification, and Completion of Probationary Period

When an employee is promoted, demoted, transferred, or reclassified, the rate of pay for the new position will be established in accordance with the following rules:

(a) Promotion: An employee who is promoted shall receive an increase to the minimum of the new pay grade range.
(b) Demotion: The salary of an employee who is demoted may be adjusted to meet the appropriate salary range of the new position, at the recommendation of the Department Head and approval of the City Manager. If the salary of the demoted employee falls above the maximum of the new salary range, the salary shall be frozen until such time as the salary range increases sufficient to include the demoted employee's salary.
(c) Transfer: An employee transferring from a position in one class to a position in another class assigned the same pay range shall continue to receive the same salary.

(d) Reclassification: An employee whose position is reclassified to a class having a higher salary range may be eligible for an appropriate increase, with the recommendation of the City
Manager. If the position is reclassified to a lower pay range and the employee is receiving a salary above the maximum established for the new class, the salary of the employee may be adjusted to meet the appropriate salary range of the new position at the recommendation of the Department Head and approval of the City Manager.

(e) Probationary Period: An employee who successfully completes the probationary period may receive a five percent pay increase. subject to the availability of funds.

Section 7. Pay Rates in Salary Range Revisions

When the City Council approves a change in salary ranges or the City Manager changes the range for a class of positions, the salaries of employees whose positions are allocated to that class shall be affected as follows:

(a) When a class of positions is assigned to a higher pay range, employees in that class shall receive a five percent pay increase or an increase to the minimum of the new pay range, whichever is higher.
(b) When a class of positions is assigned to a lower pay range, the salaries of employees in that class will remain unchanged. If this assignment to a lower pay range results in an employee being paid at a rate above the maximum established for the new class, the salary of the employee shall be maintained at that level until such time as the employee's pay range is increased above the employee's current salary.
(c) When an adjustment is made to a pay range to reflect market changes, or as a result of a complete revision to the classification and pay plan by the City or consultant resulting in reclassification employees in classes within that pay range may or may not receive adjustments, depending on the City's financial condition or recommendations from the revision study.

Section 8. Pay for Part-Time Work

The provisions of this section of the policy apply only to full-time positions. Employees appointed to temporary and part-time positions will be paid at an hourly rate within the appropriate salary range for regular positions, or as determined by the department head.

Section 9. Overtime

To the extent that local government jurisdictions are so required the City will comply with the Fair Labor Standards Act (FLSA).

The City Manager, following FLSA regulations, shall determine which jobs are "non-exempt" and are therefore subject to the Act in areas such as hours of work and work periods, rates of overtime compensation, and other
provisions. Non-exempt employees in the general work force will be compensated at a straight time rate for hours up to the FLSA established limit for their positions (usually 40 hours in a 7 day period); non-exempt sworn law enforcement officers in the police department shall be compensated at one and one half times their regular rate of pay for all hours in excess of the maximum hours for the designated work period, as established by

FLSA. Non-exempted employees who qualify as firefighters under the FLSA shall be compensated at one and one half times their regular rate of pay for all hours worked in excess of the maximum hours for the designated work period, as established by FLSA. In determining eligibility for overtime in a work period, only hours actually worked shall be considered. Pay for time not worked such as a vacation leave and sick leave will not be counted when determining these threshold hours for overtime eligibility.

Whenever practicable, departments will schedule time off on an hour-for-hour basis within the applicable work period for non-exempt employees, instead of paying overtime. When time off within the work period cannot be granted, overtime worked will be paid at a time-and-one-half rate or taken as compensatory time at a time-and-one-half rate, in accordance with FLSA regulations. Compensatory time may be accumulated up to 80 hours with any hours in excess of this limit to be paid to the employee. Accumulated compensatory time shall be used before accumulated vacation leave. Overtime work must be of an unusual, unscheduled, or emergency nature and be directed or authorized by the department head or authorized representative of the department head. If an employee is called out for emergencies, then the employee will receive overtime pay unless constraints are placed on the budget.

Exempt Employees. Employees in positions determined to be "exempt" from the FLSA (as Executive, Administrative, or Professional staff) will not receive pay for hours worked in excess of their normal work periods. These employees may be granted occasional compensatory leave by their department heads or the City Manager where the convenience of the department allows. In rare cases, such as under conditions designated by the City Council as "Declared Emergency", exempt employees may be eligible for additional pay or time off for extra hours worked, as approved by the City Manager.

The City intends to make deductions from the pay of exempt employees for authorized reasons and prohibits improper pay deductions. Exempt employees who wish to question deductions they believe to be improper may use the City's Grievance procedure, as explained in this policy. If the deduction is found to be improper the City will reimburse the employee for lost pay.

Starting and ending times may vary depending on departmental needs and for operations on a twenty-four hour schedule.

Section 10. Merit System

When the quality of an employee's performance is worthy of special recognition, the employee's salary may be advanced within the same assigned salary rate. Such merit award shall be done only after recommendation of the department head and based on the quality of the individual's work performance. Any such increases in wages and salaries require City Council funding.

Following successful completion of an employee's probationary period, the quality of his/her performance shall continue to be reviewed and appropriate instruction and counsel shall be provided in methods for improving job performance.

Merit awards shall not be granted automatically. A merit award within the applicable salary grade may be granted with the approval of the City Manager to deserving full-time employees in accordance with the following provisions:

(a) When a new employee has completed the initial probationary period, and annually thereafter following a year of continuous service.
(b) A promoted employee shall be eligible for a merit award after a year of continuous service from the date or promotion.
(c) Such an award shall not exceed the maximum salary rate for the class of his/her position.
(d) When the work of the employee is determined to be within the requirements contained in the City of Marion's Performance Evaluation guidelines, as documented on the employee's performance evaluation. All employee awards are dependent upon City Council funding.
(e) When an employee has completed courses, certifications or the recipient of degrees beneficial to the City, the employee may be approved by the City Manager or pursuant an adopted educational incentive schedule, to receive a merit increase.

When an employee's productivity, behavior, attendance or work quality need to be improved, the department head shall not grant a merit award with the approval of the City Manager, and the employee shall be told where improvement needs to be made.

Section 11. Merit Bonus Plan

The purpose of the merit bonus is to reward employees who have reached the top of their salary range with a merit bonus when their work performance is determined to be meritorious and with City Council Funding.

All regular full-time employees of the City are eligible for a maximum of five merit awards after reaching the top of the employee's salary range. The merit bonus payment (if any) shall be awarded based on the performance of the employee as reflected on the annual performance evaluation. Merit bonuses may be awarded every other year after the employee reaches the top of the salary range for the position classification. Eligible merit bonus payments shall be made in a lump sum and will be payable at the discretion of the employer.

If an employee fails to achieve a merit bonus payment on his/her eligible year, the employee shall become eligible again the following year, provided, however, that the employee shall not earn more than one (1) merit bonus payment in a two (2) year period or a total of five (5) merit bonus payments.

Section 12. Payroll Deductions

Federal Law: Federal Income Tax, Social Security and Medicare
State Law: State Income Tax and Retirement
Employees: Dependent Coverage (Health, Life, Dental)
Credit Union
Volunteer Contributions to 401K or Loans
Child Support
Bankruptcy
Garnishment
Contributions (United Way)
Other – Coverage elected by employee

Section 13. Longevity Pay

Longevity pay is to recognize long-term service of regular, non-elected, full-time employees who have served at least one (1) year with the City of Marion. An employee who is out of work in a leave status will not earn longevity credit.

Time and Method of Payment

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(a) Longevity pay is automatic - payment shall be made when all eligibility requirements are met.
(b) Longevity payments shall be made in a lump sum.
(c) The hiring cut-off date will be November 1st, with payment being made during the month of November.

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:

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

Individuals with six (6) or more years of service will receive five (5) days plus an established fixed amount, times the number of months of service above five (5) years. This fixed amount will be the same for all regular full-time employees approved by the City Council.

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.

Eligibility Requirements

(a) To qualify for longevity pay an employee must be in a current pay status. Employees who have resigned, retired, or otherwise left employment with the City prior to this time shall not qualify for payment. In addition, employees on unpaid leave for 6 months during the previous year shall not qualify for payment.
(b) An employee shall have at least one (1) year of regular, non-elective, full-time service before being eligible for any longevity payments.
(c) The employee must have a regular appointment.
(d) Credit for the service requirement shall not be given for temporary regular or temporary part-time employment and periods of leave.

Records Responsibility

Accurate records on an employee's length of service and the amount of longevity pay shall be kept in the City's personnel department.

Effect of Longevity Pay

Longevity pay is not to be considered a part of annual base pay for classification and pay purposes, nor is it to be recorded in personnel records as a part of annual base salary.

Payroll Deductions

The following payroll deductions are to be made from each longevity payment:
Social Security Tax (FICA)
Medicare
Employee's Retirement

No other deductions are to be made. (Such as: savings bonds, credit union savings or payments, or insurance premiums.)

Continuance of Longevity

The continuance of longevity pay as an employee benefit is subject, on a year to year basis, to the availability of funds.

Article VI. Work Conditions and Expectations

Section 1. Work Period

The work period is defined as seven consecutive days. Full-time, non-exempt, employees (other than public safety shift employees) normally work 40 hours per work period and are subject to the overtime provisions set forth within these policies. Police officers and firefighter's work schedule(s) will be established and maintained in accordance with FLSA and work periods will be set as 28 consecutive days. Non-exempt police officers, regardless of rank, are subject to overtime after 171 hours of work over 28 consecutive days. Non-exempt fire-fighters, regardless of rank, are subject to overtime after 212 hours
of work over 28 consecutive days. Exempt employees in administrative, professional or managerial positions shall work the number of hours necessary to assure the satisfactory performance of their duties.

When the activities of a particular department require some other schedule to meet work needs, the City Manager may authorize department heads to create deviations from the normal schedule.

Due to the variation in work schedules and needs among departments, the City makes no attempt to define a uniform policy for rest periods or breaks.
Department heads may establish appropriate rest period practices which best serve the City's interest within the work units under their supervision. Such practices shall be subject to review of the City Manager, and shall be limited to one rest period or break in the morning and in the afternoon no longer than 15 minutes each.

All employees are normally allowed thirty (30) minutes or one hour for one (1) meal break during any normal working day. Breaks of at least 30 minutes taken for mealtime will not be counted as part of any employee's normal work hours

Section 2. Designated On-Call Time

Weekend call duty will start at 5:00 PM on Friday and continue through
to 7:00 AM Monday morning.

Responsibilities Of McDowell County Communications (located lower level of Marion Police Department)

The dispatcher will screen all calls to determine:

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(a) If a police officer can handle the situation or
(b) If the on-call person should be contacted.

Setting up cones to designate hazardous situations, checking of small leaks, etc. should be carried out by the police department. If a dead animal on a street is reported during the week-end, a police officer will remove the animal out of the travel lane to the edge of the street. The on-call person will be contacted at 8:00 AM on Saturday and Sunday to remove any animals reported during the night and at 4:00 PM for any animals reported during the day.

If the call is outside the City Limits, the on-call person will be contacted.

When the dispatcher receives any calls concerning any alarms due to pump stations or either of the treatment plants, they will call the treatment plant to reach the plant operator and if no one is reached, they will page and call the designated on call personnel.

Restrictions

The individual that participates in the weekend program is prohibited from using alcohol or taking medications that cause drowsiness in order that they are fit for duty if called to return.

This individual will have a phone and carry a cell phone with them at all times for communication with the McDowell County Communications or the Marion Police Department. All complaints are to come through the McDowell County Communications. An on-call cell phone is available at Public Words to be provided to the on-call personnel, if needed, for the weekend call duty.

A response time not exceeding thirty (30) minutes will be required. Upon receiving a call, the Public Works on-call person is to respond to the McDowell County Communications dispatcher. The on-call person for the Waste Treatment plant is to respond to the Marion Wastewater Treatment facility operator, if the operator cannot be reached then the on call person should contact the McDowell County Communications dispatcher.

This individual will have access to a City vehicle which will remain parked at the Public Works facility, or Wastewater Treatment Facility. Keys to the Public Works facility, if needed, can be checked out through the Marion Police Department.

This vehicle is not to be used for any personal business. No one is to be allowed in the vehicle except for City employees and the vehicle is to be used only as transportation to and from the job site. The consumption of alcohol or the use of medication that causes drowsiness is prohibited when driving a City vehicle. (see above)

The Public Works on-call individual is to come to the Marion Police Department to punch in on their time card. Once the work has been completed, the on-call person will return to the Marion Police Department and punch out. The Wastewater Treatment on-call individual will punch in and out at the facility.

If it is determined that a problem is too serious for one individual to deal with, the on-call person will have the police dispatcher contact the superintendent of the affected area. (Water Distribution Superintendent or Street Superintendent).

If the superintendents are unavailable, the Public Works Director is to be contacted. If none of these individuals are available, the firefighters on duty at the Marion Fire Department will have the authority to authorize additional personnel.

When it is a major problem (broken water mains, water plant failure, street cave-ins, etc.), the Public Works Director along with the superintendent of the affected area is to be contacted immediately by the Police Department.

For Wastewater Treatment personnel - if it is determined that the problem is too serious for one individual to deal with or if the problem concerns an environmental impact, then the Operator in Responsible Charge should be called. In the event that a more serious problem or the Operator in Responsible Charge cannot be contacted, then the Plant Superintendent should be called.

When the McDowell County Communications receives a complaint on week days (Monday through Friday), it is to be passed on to the superintendent of the affected area.

When the Public Works Director, the Water Distribution Superintendent or the Street Superintendent leave town, they are to report to the Marion Police Department as to the time of departure and as to the expected time of arrival back in town.

Payment for Call Duty

The on-call person will receive an established payment amount of to be determined by the City Manager (necessary tax deductions etc. will apply) as compensation for taking weekend call duty. If the individual is called out, they will receive their regular rate of pay for all hours worked up to forty and time and half for all hours over forty.

If the weekend call person cannot be contacted within 30 minutes of the first attempt by the McDowell County Communications or Plant Operator, the entire weekend call duty pay will be forfeited, and the employee may be subject to disciplinary action.

The on-call person taking duty during established holidays by the City of Marion will receive four (4) hours off with pay for each day of duty. The schedule for time taken off will be arranged through the employee's supervisor. This time off, if possible, shall be taken within one (1) work week.

Section 3. Volunteer Service

The City encourages and shall permit employees to participate as members of a volunteer emergency service to the extent that such volunteer activities do not interfere with the employee's responsibilities in the City service. However, no employee will be required or will be allowed to volunteer his/her time to the City to perform the same or similar work performed as a regular employee.

Section 4. Safety, Accidents And Driver's License

It is the intent of the City to provide for an ongoing program that assures a safe, healthy work environment for all employees and complies with all safety laws and regulations. To that end, each supervisor shall be responsible for:

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(a) Providing safe work procedures and environments;
(b) Implementing safety policies and programs;
(c) Informing and training employees in safe work habits;
(d) Detecting and correcting unsafe practices and conditions;
(e) Investigating accidents and preparing accident reports;
(f) Encouraging employees to report unsafe conditions and to submit practical safety suggestions.

Likewise, each City employee shall be responsible for:

(a) Developing and maintaining safe work habits;
(b) Promptly reporting all accidents and injuries;
(c) Pointing out what are believed to be dangerous practices and working conditions;
(d) Assisting with investigations of accidents;
(e) Taking proper care of safety equipment;
(f) Wearing proper clothing and avoiding loose sleeves, cuffs, rings, bracelets and long hair around moving machinery; and
(g) Knowing the location and use of fire extinguishers, the location of fire exits and the best method for reporting a fire.
(h) Abiding by all safety laws and regulations.

Reporting Vehicle Accidents

If a City vehicle or equipment is involved in an accident, either on a public street or private property, it is not to be moved. The Police Department and the immediate supervisor or department head must be notified immediately. Failure to do so may be grounds for dismissal or other disciplinary action.

An investigation is to be carried out by the immediate supervisor, department head, and the personnel department.

If an employee is involved in an accident that involves a fatality, or any accident in which the driver is issued a citation under state or local laws, for a moving traffic violation, arising from the accident, that employee will be required to submit to an Alcohol and Controlled Substance Test. Testing will be administered immediately following the accident or as soon as medically and legally possible.

Driver's License

Many jobs with the City of Marion require a valid North Carolina driver's license. The following is the policy of the City of Marion regarding suspended and/or revoked driver's license after employment. This policy may not apply to the Police or Fire Departments.

I. Requirement for Driver's License – All employees in the following departments are required to have a valid North Carolina driver's license:

(a) Sanitation
(b) Street
(c) Water
(d) Water Treatment
(e) Waste Water Treatment
(f) Public Works Administration
(g) Purchasing
(h) Personnel
(i) Planning and Zoning
(j) Inspections
(k) Fleet Maintenance

II. Suspension and/or Revocation of Driver's License – The following procedure shall be followed regarding suspension and/or revocation of driver's license.

(a) An employee is required to report the loss of his/her driver's license to his/her immediate supervisor the following scheduled workday. Failure to comply will lead to suspension or dismissal.
(b) Any employee may continue to work for a period of 30 days if his/her driver's license has been suspended unless such license suspension will have a detrimental impact on City operations, in which case suspension of the employee without pay, or dismissal may be authorized by the City Manager.
(c) If the employee's license is reinstated before the end of this time period, no action will be taken. A suspension or revocation for 31 days to 90 days will result in the employee having a non-disciplinary suspension, without pay. If the employee's license is reinstated before this time period ends, the employee may return to his/her position prior to suspension.
(d) An employee, whose license has been suspended or revoked for a period of time longer than 90 days, and is required to have a driver's license, will be dismissed.

III. Restricted Driver's License – If a restrictive license can be obtained whereby an employee can fulfill his/her job requirement, then employment with the City may continue.

IV. Application – Please note that all reasons for losing one's license cannot be contained in this policy. Therefore, in application of this policy, an employee's work record and reason for loss of license must be taken into consideration in determining the length of suspension, in determining dismissal or in determining reinstatement. Every effort will be made to treat every employee as fairly as possible.

In addition to the above provisions, the City will maintain a safety manual which details safety related procedures and responsibilities. Employees shall be expected to comply with those provisions.

Section 5. Gifts and Favors

(a) No elected official or employee of the City shall accept any gift whether in the form of service, loan, thing of value or promise from any person who to the employee's knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the City.
(b) No elected official or employee shall accept any gift, favor or thing of value that may tend to influence that employee in the discharge of duties.
(c) No elected official or employee shall grant in the discharge of duties any improper favor, service, or thing of value.

Section 6. Political Activity Restricted

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Each employee has a civic responsibility to support good government by every available means and in every appropriate manner. Each employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, may advocate and support the principles or policies of civic or political organizations in accordance with the Constitution and laws of the State of North Carolina and in accordance with the Constitution and laws of the United States of America. However, no employee shall:

(a) Engage in any political or partisan activity while on duty;
(b) Use official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office;
(c) Be required as a duty of employment or as a condition for employment, promotion, or tenure of office to contribute funds for political or partisan purposes;
(d) Coerce, solicit or compel contributions for political or partisan purposes by another employee of the City;
(e) Use any supplies or equipment of the City for political or partisan purposes, or
(f) Be a candidate for the City Council.

Any violation of this section shall subject such employee to disciplinary action up to and including dismissal.

Section 7. Outside Employment

The work of the City will take precedence over other occupational or special interest of employees that may interfere or be perceived as creating a conflict or interference. All outside employment for salaries, wages, or other compensation and all self-employment must be reported to and approved by the employee's department head and City Manager. Outside employment causing or perceived as a conflict of interest shall be disapproved. The City Manager shall be responsible for final interpretation. Conflicting outside employment will be grounds for disciplinary action up to and including dismissal.

The City Manager may restrict the number of hours of outside employment to be worked by an individual employee. As a guideline, the average outside employment hours worked over a calendar year should be no more than one-half the amount of hours worked weekly for the City in a normal work week with no overtime (20 hours per week for a 40 hour employee, 21 hours per week for a 42 hour employee, 28 hours per week for a 56 hour employee).

Employees working a second job are not to apply for unemployment benefits with the outside employer without notifying their supervisor in writing. Authorization to apply for unemployment benefits from an outside employer must be given in writing by the City Manager, in order for the employee to apply
for such benefits, since the City will be held responsible for the majority of the unemployment benefit as the primary employer. It is the responsibility of the employee to determine if the outside employer has filed for unemployment benefits on the employee's behalf. Failure to follow this policy shall be grounds for disciplinary action up to and including dismissal. The employee shall be required to reimburse the City for all unemployment benefits charged to the City as a result of outside employment.

Off the job injuries: An employee who sustains an injury or illness in connection with outside employment and is receiving Workers' Compensations benefits from that employer shall not be entitled to receive City Workers Compensation benefits or use accrued City sick leave. .

Section 8. Limitation of Employment of Relatives

(a) Members of an immediate family shall not be employed in the same department or same building at the same time. Neither shall two (2) members of an immediate family be employed at the same time if such employment would result in an employee directly or indirectly supervising a member of the immediate family.
(b) This policy shall not be retroactive, and no action will be taken concerning those members of the same family employed in conflict with above prior to the adoption of this policy.
(c) Immediate family is defined for the purpose of this section as spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren plus the various combinations of half, step, in-law and adopted relationships that can be derived from those names, or anyone living as a part of the same household.
(d) No member of any employee's immediate family shall be hired without prior approval of the City Manager.
(e) Immediate family members of the Mayor, City Council and City Manager shall not be employed in any capacity, either full-time, part-time, temporary or as a contract employee.

Section 9. Conformance to Immigration Law Requirements

All employees are required to furnish proof of citizenship or other required documents indicating a legal right to work in the United States. Copies of the completed form I-9 shall be a permanent part of their personnel file.

Section 10. Confidential Information

No appointed official or employee shall, without the approval of his/her department head, disclose confidential information concerning the property,
government, or affairs of the City. Nor shall they, under any circumstance, use such information to advance the financial or other private interest of themselves or others.

Section 11. Controlled Substances

No employee shall use intoxicating beverages or non-prescribed controlled drugs of any kind while on duty. Nor shall an employee report for duty while under the influence of an intoxicant or non-prescribed controlled drug. Any employee using medication or a controlled drug by prescription that
may affect job performance or safety shall notify their supervisor. The City's substance abuse, testing, referral and rehabilitation administrative policy contained in the City's drug testing policy will apply in most circumstances. The City Manager will be responsible for administration of this program.

Substance Abuse Policy

Policy Statement:

The use, possession, purchase, sale or manufacture of alcohol, illegal drugs or non – prescribed drugs or being under the influence of alcohol, illegal drugs, or non – prescribed drugs while on City property, while operating City vehicles, or while engaging in City business is strictly prohibited.

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Scope:

Employees Subject to Testing – All applicants for full or part time positions at the City and all full time and part-time employees.

Alcohol – Means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol including methyl and isopropyl alcohol.

No employee shall report for work or remain at work while having an alcohol concentration of 0.02 or greater.

No employee shall report for work within eight (8) hours after using alcohol.

No employee required to take a post-accident test shall use alcohol for eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.

Controlled Substance – The U.S. Department of Transportation (DOT)
Requires testing for amphetamines, cannabinoids, cocaine, opiates, phencyclidine, and illegal substances or non – prescribed drugs.

No employee shall report for work or remain when the employee uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate a motor vehicle.

No employee shall report for work or remain on duty, if the employee tests positive for controlled substances.

Prescribed Medications - All employees taking prescribed medications that could impair their ability to safely operate a motor vehicle or related activities associated with loading, unloading, inspection and maintenance or other activity that is classified as "on duty time" 49 CFR 395.2 must report this to their immediate supervisor as directed by this policy.

Qualifications for Employment and Prohibited Conduct

Prohibited Conduct – The City prohibits any alcohol misuse and/or drug use that could affect employee performance, including:

Alcohol

(a) Use while at work.
(b) Use during eight (8) hours before reporting for work.
(c) Reporting for work or remaining at work with an alcohol concentration of 0.02 or greater.
(d) Possession of alcohol, including the possessions of medicines containing alcohol (prescription or over the counter), unless the packaging seal is unbroken.
(e) Use during the eight (8) hours following an accident or until he/she undergoes a post-accident test.
(f) Refusal to take a required test.

Note: An employee found to have an alcohol concentration of 0.02 or greater shall not be permitted to remain at work and may be subject to disciplinary action.

Controlled Substance

(a) Use of any drug, except by doctor's prescription, and then only if the doctor has advised that the drug will not adversely affect the employee's ability to safely operate equipment.
(b) Testing positive for illegal drugs; and
(c) Refusing to take a required test.

Consequences and Disqualifications

(a) The employee shall not work or be permitted to work if any of the above listed prohibitions are violated.
(b) Any employee violating these prohibitions will be discharged from employment.

Testing Circumstances

Pre–employment Testing

All applicants for part-time or full-time positions who have been extended a conditional offer of employment or persons transferring to positions requiring commercial driver's license, will be directed to submit to an Alcohol and Controlled Substance Test.

An alcohol test result must indicate an alcohol concentration of less than 0.02 in order for the employee to be considered for employment.

A drug test will be conducted during the pre-employment process and a negative drug test result must be received before a final offer of employment is made.

Post–Accident–Testing

If an employee is involved in an accident/incident or is injured in an accident/incident involving equipment or vehicles, arising out of and in the course of employment, that employee will be required to submit to an Alcohol and Controlled Substance Test. Testing will be administered immediately following the accident/incident or as soon as medically and legally possible.

The alcohol test must be administered within (2) hours following the accident and in no case shall more than (8) hours elapse before the test is administered. It is the employee's responsibility to notify the City immediately to insure actions are taken to meet the testing requirements.

The driver must refrain from using alcohol for (8) hours following the accident, or until he/she submits to an alcohol test, whichever comes first.

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The drug test must be administered within 32 hours following the accident. The driver must remain available for testing, or the City will consider the driver to have refused to submit to the testing.

Note:

Nothing in this requirement should be construed as to require the delay of necessary medical attention for injured people following an accident.

Random Testing:

Random testing will be done on 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.

For alcohol or drug testing an employee may be tested at any time that the employee is at work for the City.

Selection of employees for random testing will be made by a scientifically valid method, such as a random number table or a computer– based random number generator that is matched with drivers' Social Security numbers, payroll identification numbers, or other comparable identifying numbers.

Each time a random selection is made, every employee will have an equal chance of being selected. Random tests will be unannounced and spread reasonably throughout the year. Employees when notified that they have been selected for random testing will proceed immediately to the collection site.

Reasonable Suspicion Testing

Any employee, while on City property, while operating a City Vehicle, or while engaging in City business, acts in a manner sufficient to cause reasonable suspicion that he/she is under the influence of alcohol or drugs will, be required to submit to an Intoxilyzer test and/or a controlled substance test upon the approval and directions of a Marion Police Officer.

Alcohol testing under this section will only be performed by a Marion Police Officer holding a permit issued by the North Carolina Department of Health and Human Services to perform chemical analysis of breath.

Alcohol testing will only be performed using an Intoxilyzer, Model 5000 in accordance with current regulations of the North Carolina Commission of Human Services.

Return to Work Testing

Any employee that, based on the City approval, is allowed to return to work following referral, evaluation, and treatment as a result of a positive alcohol or drug test will be required to submit to a return-to-work alcohol and/or controlled substance test. An alcohol concentration of less than 0.02 and a negative drug test will be required before a return-to-work decision is made.

Follow-up Testing

In the event an employee is allowed to return to work following referral, evaluation, and treatment, a minimum of six (6) unannounced alcohol and/or drug tests will be required during the next twelve (12) months of employment. Follow up testing may continue for up to 60 months following returning to work at the City's discretion, based on recommendations from the Substance Abuse Professional.

Alcohol testing and Controlled substance testing may be performed at any time the employee is at work for the City.

Discipline And Consequences

Pre–employment/Pre–duty

An applicant for part time, full time or transfer with a verified positive controlled substance test result and/or a verified positive controlled substance test result and/or a confirmed breath test result of 0.02 or greater will be denied employment.

Reasonable Cause

Any employee of the City subject to the terms of this policy, as a result of reasonable cause testing, with a verified positive controlled substance test result and/or an alcohol breath test with a confirmed test result of 0.02 or greater will be terminated from employment.

Post-accident

Any employee of the City subject to the terms of this policy as a result of a post-accident test, with a verified positive controlled substance test result and/or a confirmed alcohol breath test with a confirmed test result of 0.02 or greater will be terminated from employment.

Random

Any employee of the City subject to the terms of this policy, as a result of a random test, with a verified positive controlled substance test and/or a confirmed alcohol test result of 0.02 or greater will be terminated from employment.

Supervisory Training as required by DOT will be provided to all Supervisors.

Educational material as required by DOT will be provided to all employees in safety – sensitive positions.

If an Employee should approach the City for assistance through rehabilitation for drug abuse or alcohol abuse prior to a testing request by the City, the City will consider a medical leave of absence for treatment.

Under no circumstances will the City pay for any counseling or rehabilitation for drug or alcohol abuse except as indirectly paid by the employee's City paid medical insurance policy.

Any questions regarding this policy should be directed to the City of Marion.

Section 12. Use of City Owned Equipment

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The personal use of any City owned equipment or supplies by any employee elected or appointed official or individual is prohibited unless authorized by the City Manager. Should authorization be granted, use will be limited to the use specified in the authorization.

Use of a City owned vehicle is governed by the following:

(a) Vehicles owned by the City may be provided to one or more employees in connection with City business and shall be used only on City business. When the vehicle is not used in the City's business, it is kept on the City's business premises. Pursuant to Federal and State law, neither the employee, nor any person, whose use would be taxable to the employee, may use the City vehicle for personal use. No one is to be allowed in the vehicle except for City employees.

(b) For bona fide non-compensatory business reasons, the City may require certain employees to commute to and from work in City vehicles that are not exempted by IRS regulations. In accord with federal and state law, an employee may not use the City owned vehicle for personal uses other than commuting. Under these conditions, the City will account for commuting use as specified and required in IRS regulations.

Section 13. Travel and Expense Reimbursement

Employees and elected and appointed officials will from time to time, be involved in out-of-city travel to attend schools, business meetings, conferences, etc. All reasonable expenses (e.g., meals, lodging, etc.) shall be reimbursed at actual costs for elected and appointed officials, and at the amount set by the Travel Expense Requisitions schedule for employees, while travel in a personal car will be reimbursed at a mileage rate consistent with prevailing IRS limits to the extent authorized by the City Council for non-taxable reimbursements authorized by the City Council.

Advances of travel and expenses may be authorized in unusual cases. The City Manager will approve all requests for travel advances. Such requests shall be made at least ten (10) work days in advance of the actual expenses.

Employees attending meetings, conferences, etc., where lodging is offered and available at the institution, shall be required to use such accommodations.

Reimbursement for meal expenses shall be guided by the adopted Travel Expense Requisition schedule for employees. Meal expenses shall ordinarily be reimbursable only when incurred on overnight out-of-City travel or when the meal itself is the occasion of a business meeting. Meal expenses shall not be reimbursed when a part of lodging (i.e. breakfast included) or provided as part of the seminar.

All travel claims must be supported by detailed documentation, usually in the form of receipts or similar vouchers.

The City Manager, upon the recommendation by the Finance Director, may deny reimbursement of any questionable, unsupported, or excessive expense claims submitted by employees.

Any violation of the provisions in this section shall be deemed improper conduct and may subject the employee to discharge or other disciplinary action.

Section 14. Discrimination/Sexual Harassment

The City is committed to maintaining a work environment that is free of discrimination. In keeping with this commitment, no discrimination shall be exercised, threatened, or promised against or in favor of any applicant or employee because of his/her race, religion, color, creed, national origin, age, political beliefs, sex or disability.

Harassment consists of unwelcome conduct, whether verbal, physical, of or visual that is based upon a person's protected status. The City will not tolerate harassing conduct that affects tangible job benefits, that interferes with an individual's work performance, or that creates an intimidating, hostile, or offensive working environment.

An employee who feels they have been harassed are highly encouraged to bring it to the attention of either the Department Head or the City Manager who shall conduct a thorough investigation and develop a course of appropriate action. The complaint should be submitted in writing. If the employee works directly for the City Manager, the complaint may be filed with the Mayor.

The City forbids retaliation against anyone who has reported harassment. If allegations warrant, the City will investigate to the fullest extent practicable, and will try to keep complaints and the policy of the complaint confidential.

Sexual harassment:: The City expressly prohibits any form of sexual harassment and seeks to guarantee all employees the right to work in an environment free from such harassment.

A particular form of harassment, sexual harassment is defined as Unwelcome sexual advances, request for sexual favors, and other physical, verbal, or visual conduct based on sex, constitutes sexual harassment. Sexual harassment happens when submission to the conduct is an explicit or implicit term of condition of employment; submission to or rejection of the conduct is used as the basis for an employment decision; the conduct has the purpose or effect of reasonably interfering with an individual's work performance. Sexual harassment may include explicit sexual propositions, sexual innuendo's, suggestive comments, sexual oriented "kidding" or "teasing", "practical jokes", jokes about gender specific traits, foul or obscene language or gestures, displays of foul or printed or visual material, and physical contact, such as patting, pinching, or brushing against another's body.

The City recognizes that false accusations of sexual harassment can have a serious effect on innocent men and women. Individuals falsely accusing another of sexual harassment will be disciplined in accordance with the nature and extent of his/her false accusation.

Section 15. Personal Appearance and Property

Employees will be expected to wear clothing appropriate to the department and environmental working conditions. Clothing such as shorts and tank tops should not be worn while at work.

Facial jewelry will not be allowed (example: nose, lip, eyebrow, cheek, and tongue). Earrings should be conservative in nature and not pose a safety risk to the employee. Clothing must cover tattoos that are considered offensive in nature.

It shall be the policy of the City of Marion not to replace personal items of City employees lost, damaged, or stolen.

The City will replace, under existing policies, safety gear furnished by the City.

Section 16. Surrender of Property

An employee who is suspended or discharged shall be required to return all items of equipment and supplies, including uniforms issued, rented, or owned by the City. Return of such equipment must precede the issuance of such an employee's final pay check.

Section 17. Loaning of Equipment

The City of Marion will not loan out any equipment, chairs, tables, or other types of materials and/or supplies.

This policy does not apply to Federal, State, or local governments, including the Recreation Department, Senior Center, Health Department, School System, McDowell Technical Community College, Keep McDowell County Beautiful, the Marion Downtown Business Association, contractors working for the City of Marion, or any other organization with whom the City has a funding relationship.

Section 18. Residency

The City Manage is required to maintain a 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 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 19. Telephones, e-mail and Internet

Usage of City telephones and computers for personal communications and Internet connections or email for personal reasons should be brief. Likewise, employee use of personal cellular telephones and text messaging devices on the job should be brief.

The Internet service or City owned cellular telephones may not be used for transmitting, retrieving or storing any communications of a discriminatory or harassing nature or which are derogatory to any individual or group, obscene, pornographic or X-rated, or defamatory or threatening in nature or for "chain letters" or any other purpose which is illegal or against City policy or contrary to the City's interest.

Text messaging and receiving or transmitting photographs on City owned cellular telephones should be limited to that only necessary to conduct City business as additional charges are incurred. In addition, downloading of music or additional ring-tones is prohibited. City land line telephones shall not be used for personal long-distance calls.

These systems are intended for business use of the City and all computer information, voice mail and electronic mail messages are considered City records. Therefore, the City maintains the right and ability to enter into any of these systems and to inspect and review any and all data recorded in those systems without prior notice. Since the City reserves the right to obtain access to these systems, employees should not assume that voice mail and electronic mail messages are private and confidential.

Any employee found to be abusing the privilege of City facilitated access to the Internet, use of City owned cellular telephones or City land line telephones will be subject to disciplinary action, which may include termination.

Section 20. Inclement Weather

The Department Head may be called to determine if the offices will be open or closed. An employee unable to work due to inclement weather may use vacation or compensatory time. In emergency situations, designated supervisors or employees may be required to report to work.

Article VII. Leaves of Absence

Section 1. Holidays

The following days, and other days as the City Council may designate, are holidays with pay for employees and appointed officers of the City working the basic workweek.

New Year's Day
Martin Luther King Day
Good Friday
Memorial Day
July 4th
Labor Day
Veterans Day
Thanksgiving-Two Days-Thursday and Friday
Christmas - Two to Three Days

Christmas -The City will try to observe the same holidays or schedule as McDowell County not exceeding the established holidays as set forth in this policy.

New Year's Day, July 4th and Veterans Day are floating holidays. The day observed is the day of the week on which the holiday actually falls. If the Holiday should fall on a Saturday, Friday is observed, if the holiday falls on Sunday, Monday is observed.

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Martin Luther King Day, Memorial Day and Labor Day are taken on the Monday that these holidays are observed according to the calendar.

Christmas is usually taken the workday before, Christmas Day, and the workday after.

All employees involved in a twenty-four (24) hour, seven (7) day a week operation will be granted eleven (11) or twelve (12) days off, depending on the number of holidays granted other employees, in lieu of fixed holidays. These days can be taken at a time that is agreeable with the department head and the operational schedule of the department.

The granted time off will equal the regular scheduled shift hours that one would normally work. If one is scheduled to work eight (8) hours, then eight (8) hours will be granted off for the holiday. These days may not be taken prior to the passing of the holiday.

For employees having a workweek with greater hours than the basic workweek, holiday leave shall be granted in the same proportion as their workweek is to a forty (40) hour workweek.

Employees still on probation will be given time off, without pay, for holidays.

Section 2. Effect of Holidays on Other Types of Leave

Regular holidays which occur during a vacation, sick or other leave period of any appointed officer or employee of the City shall not be considered as vacation, sick or other leave.

Section 3. Holiday-When Work Is Required

Employees required to perform work on regularly scheduled holidays may be granted "holiday compensatory time off" or paid at their hourly rate for the hours actually worked in addition to any holiday pay to which they may be entitled. "Holiday compensatory time" shall be granted whenever feasible and shall be taken within three (3) months from the time it is earned. "Holiday compensatory time", not taken within three (3) months will be paid out to the employee, unless an extension of time is specifically requested by the employee. An extension of time up to, but not exceeding, twelve (12) months may be granted when specifically requested. Accumulated "holiday compensatory time" shall be used before accumulated vacation leave. Should an employee leave prior to being able to use the holiday, the employee will be paid for the holiday time not taken.

Section 4. Vacation Leave

Vacation leave shall be used for rest and relaxation and in emergencies when sick leave has been exhausted.

(a) Initial Appointment

Probationary Employees serving a probationary period following initial appointment may accumulate vacation leave but shall not be permitted to take vacation leave during the probationary period.

(b) Employees with Previous Local Government Service

Employees with verifiable previous local government service shall be given credit for those years served when computing annual Vacation. These years must be remaining in the employees account, i.e. not cashed out and verifiable via ORBIT.

(c) Vacation Leave-Manner of Accrual

Each full-time regular and probationary employee shall earn vacation leave annually, provided the employee is active and eligible to contribute to the North Carolina Local Government Retirement System, as follows:

Years of Service	Amount of leave earned*
0 - 10 years	10 days (80 hours)
10 - 25 years	15 days (120 hours)
25 and thereafter	20 days (160 hours)

(* hours of vacation earned annually based on an 8 hour work day)

Employees who are out of work in a leave status shall not be eligible for accumulation of vacation leave. For the purposes of vacation leave accumulation, 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 vacation leave earned 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.

(d) Vacation Leave-Maximum Accumulation

Annual 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 for hour basis. Additional accumulated vacation time may be converted to sick leave upon written request from the employee and approval by the City Manager. If the employee separates from service, payment for accumulated annual 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.

(e) Vacation Leave-Manner of Taking Leave

Vacation leave may be taken as accumulated by regular employees subject to policy and approval by the department head. General guidelines are fourteen (14) day notice for a five (5) day or longer vacation request; five (5) day notice for three (3) to four (4) day vacation request; and two (2) day notice for a one (1) to two (2) day vacation request.

(f) Vacation Leave-Previous Leave Credit

Vacation leave credit accumulated by each employee as of the adoption of these personnel administration policies shall be retained as of the effective date of these policies.

(g) Vacation Leave-Terminal Pay of Vacation Leave

An employee resigning from municipal employment shall be paid for vacation leave accumulated to the date of separation not to exceed a maximum of 200 hours for 40 hour employees, up to 210 hours maximum for 42 hour employees and up to 280 hours maximum for 56 hour employees.

(h) Vacation Leave-Payment for Accumulated Vacation upon Death

The designated beneficiary of an employee who dies while employed by the City shall be entitled to payment for all of the accumulated vacation leave credited to the employee's account, not to exceed a maximum of 200 hours 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 time of death.

Section 5. Sick Leave

(a) Employees with Previous Local Government Service

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Employees with verifiable previous local government service shall be given credit for those years served when computing annual Sick Leave. These years must be remaining in the employees account, i.e. not cashed out and verifiable via ORBIT.

(b) 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 .1 for employees with less than 5 years of service and
multiplied by 2.4 for employees with over 5 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 a 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.
(c) Sick Leave-Maximum Accrual
Sick leave shall accumulate with no maximum accumulation, and may be used as credit for service under the NC Local Governmental Employee's Retirement System.
(d) Sick Leave-Physician's Certificate
The employee's supervisor or department head may require a physician's certificate concerning the nature of the illness and the employee's physical capacity to resume duties for each occasion on which an employee uses sick leave.

Sick leave with pay is not a right that an employee may demand but a privilege granted by the City Council for the benefit of an employee when sick. Sick leave shall be granted to an employee absent from work for any of the following reasons: sickness, bodily injury, required physical or dental examinations or treatment, or exposure to a contagious disease. Sick leave may also be used for illness in the employee's family that requires the care of the employee.

Good attendance is extremely important as it allows each City department to carry out the services and projects assigned to it and expected of it. When employees are absent, projects are delayed, service delivery suffers, and other employees must work harder to complete the same amount of work. Therefore, it is in the interest of employees, supervisors, and the City as a whole to promote good attendance.

Abuse of sick time shall not be tolerated and shall subject the employee to disciplinary action. Examples of abuse of sick time shall include, but not be limited to: taking unapproved leave, failure to notify a supervisor in advance of the need to take a personal day, use of all sick time accrued, or lying about the
need for or use of sick time. Supervisors may require the presentation of a physician's note for an employee using sick time to go to a medical or dental appointment for themselves or a family member.

Notification of the desire to take sick leave shall be submitted to the employee's supervisor as early as possible, but in no case later than two hours after the beginning of the scheduled workday. Employees who resign or are dismissed from City employment shall lose all sick leave credits. Employees

who retire with the City may apply sick leave credits toward retirement, subject
to the rules of the North Carolina Local Government Employee's Retirement System. An employee may transfer sick leave from another governmental agency. Such transferred sick leave may be used in the same manner as sick leave accrued as a City employee. Retroactive transfers of sick leave from another governmental agency are allowed provided that the employee provides documentation from the previous employer of the number of hours to be transferred.

Incentives

Along with disciplining employees for abuse of sick time, it is the policy of the City of Marion to reward employees for excellent attendance. Therefore, the following incentives shall apply for various levels of attendance:

An employee who does not use any sick leave in a three (3) month period, or quarterly, shall receive four (4) hours of personal leave. Such awards shall be made on January 1, April 1, July 1 and October 1 of every year. In order to be eligible for this award, the employee must have been employed with the City of Marion as of the first day of that three (3) month period (October 1 for a January 1 award, January 1 for an April 1 award, April 1 for a July 1 award and July 1 for an October 1 award).

An employee who completes one (1) calendar year of perfect attendance without using any sick leave shall therefore receive sixteen (16) hours of personal leave. Personal leave awarded in accordance with this section will be treated as vacation time, its use approved in advance by the supervisor, with the requirements for notice as are in place for use of vacation time.

Shared Sick Leave

It shall be the policy of the City of Marion to allow a city employee to donate up to fifty percent (50%) of all accumulated sick leave time, in excess of forty (40) hours, to any other city employee having exhausted all of his/her sick leave and vacation leave due to the employee's major illness and/or major surgery.

Sick leave time contributed will remain with the employee given the time and no portion of the time contributed will be returned to the employee contributing the time. Time contributed will be on an hour for hour basis without regard to the hourly rate paid each employee.

Requests for shared sick leave time shall be submitted to the employee's department head. The department head will review the request to insure compliance with the policy and notify the City Manager. If approved by the department head and City Manager, proper notification will be given to all city employees of the request. The notice shall state only the employee's name, department, and need of donated sick leave time.

Any employee interested in donating sick leave time will complete the necessary forms provided by the city.

The employee contributing the sick time will be required to sign a notarized statement including, at least, the following information:

(a) The date the contribution is made.
(b) The name and department of the employee to receive the time.
(c) The name and department of the employee donating the time.
(d) The number of hours contributed.
(e) The balance of accumulated sick leave time left after the time contributed is deducted.

Employees Leaving

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If an employee is leaving and has already turned in their resignation with department heads well aware of their separation date, the employee will not be allowed to contribute any sick time to another employee who has exhausted their time. If the sick time is not used due to sickness on the employee's part or not applied to retirement, then it will be lost.

If an employee has decided to leave and has not turned in a resignation and the department heads are not aware of the employee quitting, the employee can complete all shared sick leave forms and contribute time to another employee who has met all the criteria to receive shared sick leave time. The forms must be fully processed with all appropriate signatures to be valid.

Section 6. Family Medical Leave Act

The City will grant up to 12 weeks of family and medical leave per rolling twelve month period to eligible employees in accordance with the Family and Medical Leave Act of 1993 (FMLA). A rolling twelve month period is measured backward from the date of any FMLA leave taken. This leave may be paid (coordinated with the City's Vacation and Sick Leave policies), unpaid, or a combination of paid and unpaid. Additional time away from the job beyond the 12 week period may be approved in accordance with the City's Leave without Pay policy.

To qualify for FMLA coverage, the employee must have worked for the City for at least twelve(12) months or fifty-two (52) weeks; these do not have to be consecutive. However, the employee must have worked at least 1,250 hours during the twelve month period immediately before the date when the FMLA time begins.

Family and medical leave can be used for one or more of the following reasons:

(a) The birth of a child and in order to care for that child;
(b) Placement of a child for adoption or foster care.
(c) To care for a spouse, child, or parent with a serious health condition;
(d) The serious health condition of the employee; or
(e) Military exigency.

An employee who takes leave under this policy will return to the same job or a job with equivalent status, pay, benefits, and other employment terms. The position will be the same or one which entails substantially equivalent skill, effort, responsibility, and authority.

Once an employee has exhausted the FMLA, or is in an unpaid leave status, the City will continue to pay the cost of medical insurance for a full thirty (30) days before the employee becomes responsible for the premiums.

A serious health condition is defined as a condition which requires inpatient care at a hospital, hospice, or residential medical care facility, or a condition which requires continuing care by a licensed health care provider.
This policy covers illness of a serious and long-term nature resulting in recurring or lengthy absences. Generally, a chronic or long term health condition which results in a period of incapacity or more than three days would be considered a serious health condition.

When the need for intermittent or reduced-schedule leave is foreseeable and is based upon a planned course of medical treatment, the employee must make a reasonable attempt to schedule his/her absences so as to disrupt workplace operations as little as possible.

If a husband and wife both work for the City and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (not parent in-law) with a serious health condition, the husband and wife together may only take a total of 12 weeks leave under FMLA.

An employee taking leave for the birth of a child may use paid sick leave for the period of actual disability, based on medical certification. The employee shall then use all paid vacation and accrued compensatory time for the remainder of the 12 week period.

The request for use of leave must be made in writing by the employee and approved by the Department Head and Town Manager.

Military Exigency is a qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a military service member (Reserve or National Guard) under a call or order to federal active duty in support of a contingency operation. Qualifying events are:

(a) Deployment of service member with seven or fewer days' notice;
(b) Military ceremonies and events such as family-assistance or informational programs related to the family member's active duty or call to active duty;
(c) Urgent, immediate childcare or arranging for alternative childcare for the children of service members;
(d) Attending school or daycare meetings relating to the child of service member;
(e) Making financial or legal arrangements related to a family member's active duty status or call to active duty; or
(f) Post-deployment activities for a period of ninety days after the termination of the service member's active duty status.

Military Caregiver Leave authorizes 26 weeks of absence for an employee whose spouse, son, daughter, parent or next of kin is a current service member who is undergoing treatment, therapy, recuperation or outpatient or has temporary disability retirement, for injury or illness sustained in the line of duty.

The amount of military caregiver leave allowed is:

(a) Limit of one-time per service member per injury;
(b) Total of 26 weeks of combined FMLA, qualifying exigency and military caregiver leave in any twelve month period in which an employee takes military caregiver leave;
(c) The twelve month period begins on the first day that an employee takes military caregiver leave and ends twelve months later, regardless of method of calculating FMLA year.

Section 7. Maternity Leave

An employee desiring to take a leave of absence from work for reasons caused by or contributed to by pregnancy, miscarriage, childbirth, or recovery from should apply in writing to her supervisor stating the nature of her condition and the anticipated dates and duration of the requested leave. The supervisor shall forward the request to the City Manager for approval.

Failure to report at the expiration of the leave of absence unless an extension has been requested and approved shall be considered a resignation.

An employee may elect to use accumulated vacation leave and/or to use sick leave for the period of actual disability. If an employee wishes to retain all accumulated sick leave and vacation leave, leave without pay may be taken for the entire period.

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Leave without pay is available as required by circumstances, agreed on by the department head and the City Manager, and/or medically determined.

Employers are prohibited from terminating, refusing to hire or failing to promote a woman solely because she is pregnant.

Employers must treat pregnancy and childbirth the same as other disabilities under their employee fringe benefit plans.

Mandatory leaves for pregnant employees based on arbitrary time periods in their pregnancy, which are not based on the individual's ability to work are prohibited.

Reinstatement rights of women on leave for pregnancy-related reasons, including credit for previous service, accrued retirement benefits, and accumulated seniority must be observed.

Section 8. Leave Without Pay

A regular employee with at least two (2) years of service may be granted a leave of absence without pay for up to one (1) year by the City Manager. The employee shall apply in writing to the City Manager for leave, stating the reason and the length of time for the leave of absence request.

The employee is obligated to return to duty within, or at the end of the time determined appropriate by the City Manager. Upon returning to duty after being on leave without pay, the employee shall be entitled to return to the same position held at the time leave was granted or to one of like classification, seniority and pay. If the employee decides not to return to work, the supervisor should be notified immediately. Failure to report at the expiration of a leave of
absence, unless an extension has been requested and approved, shall be considered a resignation.

(a) Leave Without Pay-Effect on Benefits
An employee shall retain all unused vacation and sick leave while on leave without pay. An employee ceases to earn or accrue leave credits on the date leave without pay begins. The employee may continue to be eligible for benefits under the City's group insurance plans. If the leave without pay including worker's compensation leave as described below, will continue beyond 30
consecutive days employees may continue in the various insurance plans as allowed by the rules and regulations of the insurance carriers by paying for both employee and dependent premium payments for the duration of such leave without pay.
These arrangements require prior acknowledgment and agreement by both City and employee affected. Any other benefits continuation issues should also be resolved prior to the commencement of the unpaid leave.

Section 9. Worker's Compensation Leave

An employee injured in an accident arising out of and in the course of employment may elect to use sick leave and/or vacation leave in order to receive the difference between the Worker's Compensation payment and his/her regular salary while he/she is disabled.

This will also apply to an employee injured on the job who is out of work for less than the seven day waiting period required by Worker's Compensation. Once sick/vacation leave is exhausted, the employee will only be entitled to the Worker's Compensation payment. Donated sick leave is not permitted in a Worker's Compensation situation.

Temporary and/or probationary employees will be placed in a leave without pay status and will receive all benefits for which they may be adjudged eligible under the Workers' Compensation Act subject to the provisions of Section 8 of this article.

Section 10. Funeral Leave

An employee, after completing the probationary period, may have up to three (3) days leave at full pay without charge to annual leave or sick leave when attending the funeral of an immediate family member. An immediate family member is defined as a spouse, parent, grandparent, child (or stepchild), grandchild, sibling, stepbrother, stepsister, stepparent or spouse's parents.
Additional time to settle affairs of the family may be taken with the approval of the department head and should be charged to vacation leave.
Leave to attend funerals of other than the immediate family may be granted by the department head and charged to sick leave.

Section 11. Temporary Disability Leave

Accumulated sick leave is available to employees for the period of temporary disability in the same manner as for any other illness.

Leave without pay may be used by the employee during or after the disability ends as long as a doctor's certification continues to support the disability. The employee may elect to use accumulated vacation leave (1) before going on sick leave, (2) after accumulated sick leave has been exhausted, and/or (3) after the temporary disability has ended. If an employee
is temporarily disabled and has exhausted all accumulated sick leave, that employee may be eligible to receive leave without pay for personal disability under the provisions of Section 8 of this article. If an employee wishes to retain all accumulated sick leave and vacation leave, leave without pay may be taken for the entire period.

Reinstatement to the same position or one of like classification, seniority and pay shall be made upon the employee's return to work.

Section 12. Military Leave

Regular employees who are members of the National Guard or Armed Forces Reserve will be allowed two (2) calendar weeks military training leave
annually. This leave is to be granted at no loss of regular compensation. Employees will be paid the difference between military pay and the employee's pay but only the amount to make up the difference if the military pay is lower than the regular pay. In no circumstances will the City supplement the military pay to an extent that would yield compensation that is greater than the regular pay of the employee. Employees are required to submit proof of military pay before this supplement is calculated and paid. The employee may elect to use annual leave to cover part or all of the military leave.

If such military duty is required beyond this two (2) calendar week period, the employee shall be eligible to take accumulated vacation leave or be placed in a leave without pay status. Regular employees, who are members of the National Guard or Armed Forces Reserves, have all job rights specified in the Uniformed Services Employment and Reemployment Act.

An employee ceases to accrue vacation or sick leave credits on the date military leave begins however, the time spent in military service is to be considered service to the City and upon reemployment returned to a position the employee would have held had he/she been working during

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the period of military service. In addition, upon reemployment, the City shall allocate the employer's contribution to a retirement plan for the employee for the period of military service.

Section 13. Civil Leave

(a) An employee who is called for jury duty shall be entitled to leave with pay for such duty and may keep all fees received for jury duty, provided the employee reports for work during required working hours, when not required to be in court. No charge shall be made against his/her accrued leave.
(b) If any employee is subpoenaed to testify in a court case, not related to City employment, the employee must notify his/her supervisor or department head. Charge will be made against the employee's accrued leave, if notice of the leave is provided in advance. Time spent in court by law enforcement officers and others called to testify in cases related to their City employment will be considered work time.

Section 14. Educational Leave with Pay

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 in 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.

An employee on educational leave with full pay shall continue to earn leave credits and any other benefits to which City employees are entitled.

Section 15. Light Duty

In the event of an injury, either on duty or off duty related, an employee is expected to return to duty when authorized by competent medical authority. Some light duty may be authorized but only with work within the department assigned and only within work limits described by the medical authority. The City will not be obligated to create light duty to maintain an employee on the

clock. The Department Head is responsible for supervision and assignment of light duty within these guides. Once released by the medical authority the employee is expected to return to perform the full range of regular work within the position description of the position assigned.

Section 16. Leave for Employees with Adverse Reactions to Smallpox Vaccinations.

A regular/full-time employee is entitled to continuation of salary and to leave in addition to the sick leave otherwise available under the following circumstances:

The absence from work is due to an adverse reaction resulting from the employee receiving in employment vaccination against small pox pursuant to the Administration of Smallpox Countermeasures by Health Professionals, section 304 of the Homeland Security Act. The provisions of this section shall not exceed the maximum amount allowed for such leave by the State of North Carolina. An employee qualifying for this leave shall be required to provide their department head with certification from a health care provider justifying the need for leave after the first 24 hours of leave taken pursuant to this section.

Situations involving part-time employees who have an adverse reaction resulting from the employee receiving in employment vaccination against smallpox pursuant to the Administration of Smallpox Countermeasures by Health Professionals, section 304 of the Homeland Security Act will be treated as Worker's Compensation claims.

Section 17. School Involvement Leave

In keeping with the provisions of N.C. G. S. 95-28, full-time regular employees who are parents, guardians, or persons "standing in loco parentis" of a school-aged child shall be granted four hours per year of unpaid leave to attend or otherwise be involved at their child's school. However, the leave is subject to the following conditions:

(a) The leave shall be at a mutually agreed upon time between the supervisor and the employee;
(b) A written request must be submitted to the supervisor for the leave at least 48 hours before the time desired for the leave;

For the purposes of this section, "school" means any public school, private church school, church of religious charter, non-public school, preschool and child daycare facilities.

Employees may be allowed to use accumulated vacation or compensatory time with approval of the supervisor

Section 18. Excessive Absenteeism

(a) Absence: Two (2) days of unexcused absences in a four (4) week period is reason for dismissal. Unexcused absences involve taking unapproved leave, or using sick time for an
unapproved reason as defined above. Excused absences, when possible, should be authorized in advance by the immediate supervisor. Three (3) days without reporting to work or contacting the appropriate official shall be considered a voluntary resignation.
(b) Tardiness: Twice (2) in a one- (1) week period or three (3) times in a four- (4) week period is reason for dismissal. Tardiness will be considered unexcused except in emergency situations approved by the immediate supervisor. Tardiness will be defined as follows: Reporting to work eight (8) minutes or more after the regular start work time of each employee as with the respective departments.
(c) Leaving Early: Except in emergency situations, employees will be limited to leave work early two (2) times in a four-week period. Employees are encouraged to take care of personal business on their own time.

Article VIII. Separation, Disciplinary Actions and Reinstatement

Section 1. Types of Separation

All separations of employees from positions in the service of the City shall be designated as one of the following types and shall be accomplished in the manner indicated:

(a) Resignation: A minimum of a two (2) week notice is expected of all resigning personnel. Such notice should be given to the department head (or in the case of department heads, to the City Manager). Employees who do not give proper notice will not be paid for their accumulated

vacation leave balance upon termination. Three (3) days without reporting to work or contacting the appropriate official shall be considered a voluntary resignation.

(b) Reduction in Force: In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each employee's past performance, organizational needs, and seniority, in that order, in determining those employees to be retained. Employees who are laid off because of reduction in force shall be given at least one (1) pay period notice of anticipated layoff. No regular employee shall be separated while there are temporary employees serving in the same class in the department, unless the regular employee is not willing to transfer to the position held by the temporary employee.

(c) Disability: An employee may be separated for disability when the employee cannot perform the required duties because of a physical or mental impairment and reasonable accommodations, as required by the American with Disabilities Act (ADA), cannot be made. The employee or the City may initiate action, but in all cases it shall be supported by medical evidence as certified by a competent physician. The City may require an examination at its expense and performed by a physician of its choice. Before an employee is separated for disability, a reasonable effort shall be made to locate alternative positions within the City's service for which the employee may be suited.

(d) Death: All compensation due in accordance with Article VII, Section 4 of these policies will be paid to the designated beneficiary of a deceased employee. The date of death shall be recorded as the separation date for computing compensation due.

(e) Dismissal: If the appointing authority determines that a dismissal action is appropriate, before dismissal action is taken, whether for failure in personal conduct or failure in performance of duties, the Department Head will conduct a pre-disciplinary conference. At this conference, the employee may present any response to the proposed disciplinary action. The Department Head will consider the employee's response, if any, to the proposed disciplinary action, and will, within three working days following the pre-disciplinary conference, notify the employee in writing of the final decision to take disciplinary action. The notice of the final disciplinary action shall contain a statement of the reasons for the action and the employee's appeal rights.

Section 2. Disciplinary Action

An employee may be suspended, demoted, or dismissed by the department head because of failure in performance of duties or failure in personal conduct. The department head shall provide the employee with a written notice including the effective date, reasons for the action, and appeal rights available to the employee.

(a) Failure in Performance of Duties

Failure in the performance of duties includes any aspects of the employee's job, which are not performed as required to meet the standards set by the City Manager.

The following causes relating to failure in the performance of duties are representative, but not all inclusive, of those considered to be adequate grounds for suspension, demotion or dismissal:

(1) Inefficiency, negligence or incompetence in the performance of duties;
(2) Careless, negligent or improper use of City property or equipment;
(3) Physical or mental incapacity to perform duties;
(4) Discourteous treatment of the public or other employees;
(5) Absence without approved leave;
(6) Habitual improper use of leave privileges;
(7) Habitual pattern of failure to report for duty at the assigned time and place.
(8) Willful insubordination.

Prior to making a decision to terminate employment, the Department Head or City Manager will conduct a pre-disciplinary conference.

(b) Failure in Personal Conduct

An employee may be suspended, demoted or dismissed for causes relating to personal conduct detrimental to City service without warning in order to avoid undue disruption of work to protect the safety of persons or property. Before a final decision is made the Department Head or City Manager will conduct a pre-disciplinary conference.

The following causes relating to failure in personal conduct are representative, but not all inclusive, of those considered to be adequate grounds for suspension, demotion, or dismissal:

(1) Fraud in securing appointment;
(2) Conduct unbecoming a public officer or employee;
(3) Conviction of a felony or of a misdemeanor which would adversely affect performance of duties, or the entry of a plea of "no contest" to either;
(4) Misappropriation of City funds or property;
(5) Falsification of City records for personal profit or to grant special privileges;
(6) Reporting to work under the influence of alcohol or narcotic drugs or partaking of such things while on duty or while on public property, except prescribed medication may be taken within the limits set by a physician so long as medically necessary;
(7) Willful damage or destruction of property;
(8) Willful acts that would endanger the lives and property of others;
(9) Acceptance of gifts in exchange for "favors" or "influence";
(10) Incompatible outside employment or conflict of interest;
(11) Violation of political activity restrictions.

(c) Disciplinary Suspension

An employee who is suspended for disciplinary reasons shall be relieved temporarily of all duties and responsibilities and shall receive no compensation for the period of suspension. The Department Head or City Manager will conduct a pre-disciplinary conference.

(d) Immediate Disciplinary Suspension

An employee may be suspended without notice by the department head for causes related to personal conduct in order to avoid undue disruption of work, to protect the safety of persons or property, or for other serious reasons. Before a final decision is made the Department Head or City Manager will conduct a pre-disciplinary conference. When a department head suspends an employee the employee needs to leave City property at once and remain away until further notice.

(e) Non-Disciplinary Suspension

During the investigation, hearing or trial of an employee on any criminal charge or during the course of any civil action involving an employee, the department head may suspend the employee without pay for the duration of the proceedings as a non-disciplinary action. However, the investigation, hearing, trial, or civil action must involve matters that may form the basis for disciplinary suspension, demotion or dismissal in order for the non-disciplinary suspension to be allowed.

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Full recovery of pay and benefits for the period of non-disciplinary suspension may be authorized by the City Manager, if the suspension is terminated with full reinstatement of employee.

Exempt employees: In accordance with FLSA requirements to maintain exempt status, suspensions for exempt employees shall normally be for one full work week, especially if the suspension is for failure in performance of duties issues. Under FLSA suspensions of less than a week are authorized for major safety violations or infractions of workplace conduct rules (detrimental personal conduct).

Section 3. Employee Appeal

A regular employee wishing to appeal a demotion, suspension or dismissal may present the matter in accordance with the provisions of the grievance procedure prescribed in these policies.

Section 4. Reinstatement

An employee who resigns while in good standing or who is dismissed because of reduction in force may be reinstated within one (1) year of the date of separation, with the approval of the City Manager. An employee who enters extended active duty with the Armed Forces of the United States, the Public Health Service or with a Reserve Component of the Armed Forces will be granted reinstatement rights as allowed by the Uniformed Services Employment and Reemployment Rights Act.

An employee who is reinstated shall be credited with previous service and previously accrued sick leave and will receive all benefits provided in accordance with this policy and state law. The salary paid a reinstated employee shall be as close as reasonably possible, given the circumstance of each employee's case, to the salary previously attained by the employee in the salary range for the previous class of work, plus any across-the-board pay increases.

Article IX Grievance Procedure and Adverse Action Appeal

Section 1. Policy

It is the policy of the City to provide a just procedure for the presentation, consideration, and disposition of employee grievances. The purpose of this Article is to outline the procedure and to assure all employees that a response to their complaints and grievances will be prompt and fair.

Employees utilizing the grievance procedures shall not be subjected to retaliation or any form of harassment from supervisors or employees for exercising their rights under this policy. Supervisors or other employees who violate this policy shall be subject to disciplinary action up to and including dismissal from City service.

Section 2. Grievance Defined

A grievance is a claim or complaint by an employee based upon an event or condition which affects the circumstances under which an employee works and is allegedly caused by misinterpretation, unfair application, or lack of established policy pertaining to employment conditions.

Section 3. Purposes of the Grievance Procedure

The purposes of the grievance procedure include, but are not limited to:

(a) providing employees with a procedure by which their complaints can be considered promptly, fairly, and without reprisal;
(b) encouraging employees to express themselves about the conditions of work which affect them as employees;
(c) promoting better understanding of policies, practices, and procedures which affect employees;
(d) increasing employees' confidence that personnel actions taken are in accordance with established, fair, and uniform policies and procedures;
(e) increasing the sense of responsibility exercised by supervisors in dealing with their employees.
(f) encouraging conflicts to be resolved between employees and supervisors who must maintain an effective future working relationship, and therefore, encouraging conflicts to be resolved at the lowest level possible of the chain of command through collaboration and/or mediation; and
(g) creating a work environment free of continuing conflicts, disagreements, and negative feelings about the City or its leaders, thus freeing up employee motivation, productivity, and creativity.

Section 4. Procedure

When an employee has a grievance, the following successive steps are to be taken. The number of calendar days indicated for each step should be considered the maximum, unless otherwise provided, and every effort should be made to expedite the process. However, the time limits set forth may be extended by mutual consent. The last step initiated by an employee shall be considered to be the step at which the grievance is resolved. A decision to rescind a disciplinary suspension, demotion or dismissal must be approved by the City Manager before the decision becomes effective.

Informal Resolution. Prior to the submission of a formal grievance, the employee and supervisor should meet to discuss the problem and seek to resolve it informally. Either the employee or the supervisor may involve the Finance Director as a resource to help resolve the grievance. Mediation may be used at any step in the process and is encouraged. Mediation is the neutral facilitation of the conflict between or among parties where the facilitator help the parties find a mutually agreeable outcome.

Step 1. If no resolution to the grievance is reached informally, the employee who wishes to pursue a grievance shall present the grievance to the appropriate supervisor (the person who took the action which created the grievance issue, could be immediate supervisor, Division Head, Department Head, etc.) in writing. The grievance must be presented within seven calendar days of the event or within seven calendar days of learning of the event or condition. The written grievance should identify the action that is deemed unfair and the reason the grieving employee believes it to be unfair. The supervisor shall respond to the grievance within seven calendar days after receipt of the grievance. The supervisor should, and is encouraged to, consult with any employee of the City in order to reach a correct, impartial, fair and equitable determination or decision concerning the grievance. Any employee consulted by the supervisor is required to cooperate to the fullest extent possible.

The response from the supervisor for each step in the formal grievance process shall be in writing and signed by the supervisor. In addition, the employee shall sign a copy to acknowledge receipt thereof. The responder at each step shall send copies of the grievance and response to the Finance Director.

Step 2. If the grievance is not resolved by the first level supervisor to the satisfaction of the employee by the supervisor, the employee may appeal in writing to the next level supervisor (Division Head, Department Head, City Manager, etc.) within seven calendar days after receipt of the

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response from Step 1. The next level supervisor shall respond to the appeal, stating the determination of decision within seven calendar days after receipt of the appeal.

Step 3. If the grievance is not resolved to the satisfaction of the employee at the end of Step 2, the employee may appeal, in writing, to the City Manager
within seven calendar days after receipt of the response from Step 2. The City Manager shall respond to the appeal, stating the determination of decision within ten calendar days after receipt of the appeal. The City Manager's decision shall be the final decision. The City Manager would notify the City Council of any impending legal action or any grievance that has not been resolved to the satisfaction of the City Manager and employee(s).

Department Heads. In the case of Department Heads or other employees where the City Manager has been significantly involved in determining disciplinary action, including dismissal, the City may wish to obtain a neutral outside party to either:

(a) provide mediation between the grieving Department Head and the City Manager (see definition of mediation in informal resolution above); or
(b) consider the appeal and make recommendations back to the City Manager concerning the appeal. Such parties might consist of human resource professionals, attorneys, mediators, or other parties appropriate to the situation.

The City Manager's decision shall be the final decision. The City Manager would notify the City Council of any impending legal action.

Section 5. Role of the Finance Director

Throughout the grievance procedure, the Finance Director shall:

(a) advise parties (including employee, supervisors, and City Manager) of their rights and responsibilities under this policy, including interpreting the grievance and other policies for consistency of application;
(b) be a clearinghouse for information and decisions in the matter including maintaining files of all grievance documents.
(c) give notices to parties concerning timetables of the process, etc.;
(d) assist employees and supervisors in drafting statements;
(e) facilitate the resolution of conflicts in the procedures or of the grievance at any step in the process; and
(f) help locate mediation or other resources as needed.

The Finance Director shall also determine whether or not additional time shall be allowed to either side in unusual circumstances if the parties cannot agree upon extensions when needed or indicated.

Section 6. Grievance and Adverse Action Appeal Procedure for Discrimination

When an employee, former employee, or applicant, believes that any employment action discriminates illegally (i.e. is based on age, sex, race, color, national origin, religion, creed, political affiliation, or non-job related handicap), he or she has the right to appeal such action using the grievance procedure outlined in this Article (Section 4 above). While such persons are encouraged to use the grievance procedure, they shall also have the right to appeal directly to the Finance Director or City Manager. Employment actions subject to appeal because of discrimination include promotion, training, classification, pay, disciplinary action, transfer, layoff, failure to hire, or termination of employment. An employee or applicant should appeal an alleged act of discrimination within thirty calendar days of the alleged discriminatory action, but may appeal for up to six months following the action.

Article X. Insurance/Retirement Benefits

Section 1. Insurance Benefits

The City offers group hospitalization, life insurance and a separate death benefit that is offered through the North Carolina Local Governmental Employees' Retirement System to employees. The City may make other group insurance plans available for its employees upon authorization of the City Council.

Regular employees are eligible for these benefits beginning on the 31st day of employment.

Employees retiring from City employment after serving the City of Marion
for a minimum of twenty (20) years and reaching fifty-five (55) years of age; at fifty (50) years of age retiring under disability with fifteen (15) years of service; or retiring with thirty (30) years of service at any age are eligible to remain on the City's insurance plan, subject to the provisions for payment of premiums listed below. Other employees retiring or separating from City service without meeting the service requirements listed above shall not be permitted to remain on the City's insurance plan, except as required by Federal law.

It shall be the policy of the City of Marion to pay one hundred dollars ($100.00) per month to the City's Medical Insurance Carrier toward Medical Insurance Coverage for employees retiring from City employment after serving the City of Marion for a minimum of twenty (20) years and reaching age fifty-five (55) years of age; or age fifty (50) retiring under disability with fifteen (15) years of service; or retiring with thirty (30) years of service at any age.

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

Upon becoming eligible for Medicare, a retired employee may continue to receive the one hundred dollar ($100.00) per month City contribution to go toward the purchase of a Medicare supplement. These employees will be required to purchase a Medicare supplement. Said employee will be eligible to remain on the City's insurance plan or may purchase coverage elsewhere.

Should the City of Marion, at any time, decide to discontinue this benefit to retired City employees, said employees meeting the requirements listed above will be given the opportunity to continue to carry medical insurance coverage by paying to the City, in advance, the entire premiums for medical insurance, subject to the provisions listed above for switchover to Medicare and Medicare supplements.

Section 2. Unemployment Insurance

In accordance with the North Carolina General Statutes, local governments are covered by unemployment insurance. City employees who are laid off or released from the City service may apply for unemployment compensation through the local office of the Employment Security Commission who will determine the employee's eligibility for this benefit.

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Section 3. Old Age and Survivor's Insurance

The City, to the extent of its lawful authority and power, has extended social security benefits for its eligible employees and eligible groups and classes of such employees.

Section 4. Retirement Benefits

The City provides retirement benefits for its employees through the North Carolina Local Governmental Employees' Retirement System (NCLGERS).

All employees who are budgeted to work 1000 hours or more annually are required to join NCLGERS retirement plan according to NC General Statutes.

It shall be the policy of the City of Marion to provide each employee retiring from employment with the City of Marion, after a minimum of twenty (20) years of service, a cash gift equal to two (2) weeks' pay. This gift shall be in addition to any payment for unused vacation leave.

Said gift shall not be paid from the City Taxes or from other State collected Local taxes not authorized for such purposes.

Said retiring employee shall not be paid a longevity payment for any time worked since the last longevity payment was issued by the City.

Section 5. 401K Supplemental Retirement Income Plan

The City provides a 401K plan for active law enforcement personnel, each month contributing an amount equal to five percent (5%) of each officers' salary as required by G.S. Chapter 143 Article 12E. In addition, the City provides a contribution to the 401K plan for non - law enforcement employees. City Council sets the percentage of contribution upon recommendation by the City Manager.

Section 6. Law Enforcement Special Separation Allowance

The City provides a monthly separation allowance to retired sworn law enforcement officers as required in Chapter 143-166.42 of the General Statutes of North Carolina beginning in the month in which the officer retires on basic service retirement. To qualify for the allowance, the officer shall:

(a) Have:
(1) Completed 30 or more years of creditable services: or
(2) Have attained 55 years of age and completed five or more years of creditable service
(b) Not have attained 62 years of age; and
(c) Have completed at least five years of continuous service as a law enforcement officer immediately preceding retirement.

Payment to a retired officer under the provisions of this section shall cease at the first of:

(a) Death of the officer; or
(b) The last day of the month in which the officer attains 62 years of age; or
(c) The first day of reemployment by a local government employer in any capacity that requires participation in the North Carolina Local Governmental Employees' Retirement System (NCLGERS).

This section does not affect the benefits to which an individual may be entitled from State, local, federal or private retirement systems.

Section 7. Employee Assistance Program

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:

(a) 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.
(b) Personal problems requiring assistance include alcohol/drug abuse, marital or family distress, mental illness, emotional, financial or legal problems, along with many others.
(c) 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.
(d) No employee will have his or her job security or promotional opportunities jeopardized for participating in the program.
(e) Strict confidentiality of records is essential and will be maintained.
(f) Employees are encouraged to use the EAP voluntarily when he or she needs professional help or guidance.
(g) 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.
(h) 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.
(i) Any expense incurred in seeking assistance, beyond that covered by medical insurance, will be the responsibility of the employee.
(j) 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.
(k) The program is also available to family members living within the household of regular full time employees.

Section 8. Workers' Compensation

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All employees are covered with workers' compensation insurance as required by the General Statutes of North Carolina. This insurance provides payment of medical bills and lost wages as allowed. Employees are required to notify the City as soon as possible after the accident. Failure to notify the City may jeopardize any employee claim for workers' compensation benefits.

Article XI. Personnel Records and Reports

Section 1. Personnel Records Maintained

Such personnel records as are necessary for the proper administration of the personnel system will be maintained by the City Manager or his/her designee. The City shall maintain, in personnel records, only information that is relevant to accomplishing personnel administration purposes.

Section 2. Public Personnel Records Defined

The following information on each City employee is part of an employee's public personnel record:

(a) Name;
(b) Age;
(c) Date of original employment;
(d) Terms of any contract;
(e) Current position and title;
(f) Current salary;
(g) Office to which employee is currently assigned;
(h) Date and amount of each increase or decrease in salary;
(i) Date and type of each promotion, demotion, transfer, suspension, separation or other change in position classification;
(j) The date and general description of the reasons for each promotion;
(k) The date and type of each dismissal, suspension, or demotion for disciplinary reasons;
(l) For dismissals due to disciplinary reasons, a copy of the written notice of the final decision setting forth the specific acts or omissions that are the basis of the dismissal.

Section 3. Access to Personnel Records

As required by NC General Statute, any person may have access to the information listed in Section 1 of this Article for the purpose of inspection, examination, and copying during the regular business hours, subject only to such rules and regulations for the safekeeping of public records as the City Council may adopt. Access to such information shall be governed by the following provisions:

(a) All disclosures of records shall be accounted for by keeping a written record (except for authorized persons processing personnel actions) of the following information: name of employee; information disclosed; date information was requested; name and address of the person to whom the disclosure is made; and purpose for which information is requested. This information must be retained for a period of two years.
(b) Upon request, the record of disclosure shall be made available to the employee to whom it pertains.
(c) Any individual examining a personnel record may copy the information. Any available photocopying facility may be provided and the cost may be assessed to the individual.
(d) Refusal to comply with public records request may be challenged by requesting party.
(e) If challenging party prevails, party can be awarded attorney fees if the City was not substantially justified in denying access to the records. Attorney fees can be charged directly against the local government or by order of the court, directly to any public employee or public official individually if the court finds the refusal to provide public records was knowingly or intentionally committed in violation of the law.
(f) Section 21(c) of HB 961 specifically provides that the court may not award attorney fees if the City acted in reliance upon a judgment or an order of a trial court, or a written opinion, decision, or letter of the Attorney General.

Section 4. Confidential Information

All information contained in the City employee's personnel file, other than the information listed in Section 1 of this Article will be maintained as confidential and shall be open to inspection only in the following instances:

(a) The employee or his/her duly authorized agent may examine all portions of his/her personnel file, except (1) letters of reference solicited prior to employment, and (2) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to his/her patient.
(b) A licensed physician designated in writing by the employee may examine the employee's medical record.
(c) A City employee having supervisory authority over the employee may examine all material in the employee's personnel file.
(d) By order of a court of competent jurisdiction, any person may examine such portion of the employee's personnel file as may be ordered by the court.
(e) An official of an agency of the State or Federal government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the official having custody of the personnel records to be necessary and
(f) essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee or for the purpose of assisting in an investigation of the employee's tax liability. However, such official having custody of such records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
(g) An employee may sign a written release, to be placed with his/her personnel file, that permits the person with custody of the file to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.
(h) Each individual requesting access to confidential information will be required to submit satisfactory proof of identity.
(i) A record shall be made of each disclosure and placed in the employee's file (except of disclosures to the employee and the supervisor).

Section 5. Records of Former Employees

The provisions for access to records apply to former employees as they apply to present employees.

Section 6. Records of Applicants

Applicants and other information gathered with respect to an applicant will be kept confidential. The City will not release this information without written permission from the applicant.

Section 7. Remedies of Employees Objecting to Material in File

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An employee who objects to material in his/her file may place in the file a statement relating to the material considered to be inaccurate or misleading. The employee may seek the removal of such material in accordance with established grievance procedures.

Section 8. Penalty for Permitting Access to Confidential File by Unauthorized Person

The NC General Statutes provides that any public official or employee who knowingly and willfully permits any person to have access to any confidential information contained in an employee's personnel file, except as permitted by the statute, is guilty of a misdemeanor and upon conviction shall be fined in an amount not to exceed five hundred dollars ($500.00).

Section 9. Penalty for Examining and/or Copying Confidential Material without Authorization

NC General Statutes provides that any person, not specifically authorized to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a misdemeanor and upon conviction shall be fined in the discretion of the court but not in excess of five hundred dollars ($500.00).

Section 10. Destruction of Records Regulated

No person may destroy, sell, loan, or otherwise dispose of any public record except as allowed by NC General Statute. Whoever unlawfully removes a public record from the offices where it is usually kept, or whoever alters, defaces, mutilates or destroys it will be guilty of a misdemeanor and upon conviction will be fined no less than ten dollars ($10.00) and not more than five hundred dollars ($500.00).

Article XII. Implementation of Policy

Section 1. Conflicting Policies Repealed

All policies, ordinances or resolutions that conflict with the provisions of these policies are hereby repealed.

Section 2. Separability

If any provision of these policies or any rule, regulation or order thereunder or the application of such provision to any person or circumstances is held invalid, the remainder of these policies and the application of such remaining provisions of these policies or such rules, regulations or orders to persons or circumstances other than those held invalid will not be affected thereby.

Section 3. Violations of Policy Provisions

An employee violating any of the provisions of these policies shall be subject to suspension and/or dismissal, in addition to any civil or criminal penalty that may be imposed for the violation of the same.

Section 4. Effective Date

ADOPTED by the City Council of the City of Marion this the 21st day of August 2012 with the ~~effective date of October~~ 1, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Policy Number: P–12–08–21–1

SCHEDUING OF CITY COUNCIL PLANNING SESSION: The City Manager advised that it may be helpful for City Council to schedule a Planning Session in the near future to allow for time to discuss various issues.

A brief discussion followed.

It was the consensus of those members of Council present to schedule the next City Council Planning Session for Monday, October 8 at 6:00 p.m. at City Hall.

ADD ON - REQUEST FOR USE OF CITY STAGE BY FAMILY SERVICES OF MCDOWELL COUNTY: The City Manager advised that Family Services of McDowell County contacted him requesting that they be allowed to use the City's state for a band to play at their car show fundraiser on Saturday, September 22. The car show will take place on Main Street and has previously been approved by Council. Family Services has proposed that the stage be set up on the Courthouse lawn on Friday before the event.

The City Manager reported that, in 2011, Council revised the Loaning of City Equipment to add provisions for the use of City stages for events. Family Services can meet most of the criteria.

Mayor Little stated that the section of the policy that states where the City has a funding relationship would fit Family Services, but that it would not hurt to revise the policy.

Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Cuthbertson, those members of Council present voted to approve the request of Family Services of McDowell County to use the City's stage for a band to play at their car show fundraiser on Saturday, September 22 on the Courthouse Lawn on Main Street and to adopt the following revised Loaning of Equipment Policy:

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 or has had a funding relationship. As of July 1, 2012, these agencies will be restricted to the Marion Business Association (MBA), the McDowell Chamber of Commerce, McDowell Mission Ministries, the Marion Firefighter's Association, the McDowell Economic Development Association (MEDA) and Family Services of McDowell, Inc.

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 21st day of August, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Policy Number: P-12-08-21-2

ADD ON – DISCUSSION OF WATER COMPLAINTS: Public Works Director Brant Sikes advised that the City had received complaints regarding taste and odor issues in City water. Upon investigation and consultation with the North Carolina Department of Environment and Natural Resources Public Water Supply Section (NCDENR PWSS) staff, it was determined that the City has an algae outbreak affecting the Buck Creek water intake.

Mr. Sikes stated that the NCDENR PWSS staff conducted toxicity tests at the Buck Creek intake, the results of which should come back in the next two days. He said that the State believes that the toxicity tests will be negative.

Mr. Sikes stated that the State has advised the City not to flush the water system, until it can be demonstrated that the Water Plant is producing finished drinking water free of taste and odor issues.

Water Plant Superintendent Don Price stated that Water Plant staff had implemented various changes at the Water Plant to address the problems, including reducing the use of the Buck Creek intake to the degree possible, adding a temporary carbon feed to absorb the odor causing compounds in the algae and thoroughly cleaning all of the water plant basins.

The City Manager stated that the State has worked closely with the City on this matter and assured him that City staff are taking all of the right steps. He added that the City had asked McGill Associates to thoroughly examine the City's water system and response to these problems later in the week, to make sure that all of the correct steps had been taken. Unfortunately, this is is a natural occurrence that other cities, such as Lenoir and Woodfin, have had to deal with in the past.

The City Manager stated that complaints have been received from approximately one percent of the City's water customers and that staff would continue to leave no stone unturned until the problem is completely solved.

Mayor Little and Council Members thanked City staff for this report and for the efforts to address the taste and odor complaints.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that the Street Committee met on July 20 and reviewed the following items:

A. Siting of Mobile Food Vendor at Community Building Park – The Street Committee proposed that the snow-cone mobile food vendor approved by Council at the July 17 Council meeting set up in the corner of the Community Building Upper Level parking lot closest to the steps leading down to the Splash Pad. Staff will propose a Zoning Text Amendment to change one of the allowed mobile food vendor locations from "On the sidewalk on Logan Street in front of the Marion Community Building Park" to "the Marion Community Building Park." This will grant Council more flexibility in reviewing future requests. This Zoning Text Amendment will go before Planning Board and Council in the near future.

B. Request for Handicapped Parking Space on West Court Street Next to McDowell County Library – The Street Committee had concerns about how this request could be accommodated and the possible precedent it would set. The City Manager said that he checked with DOT District Engineer Doug McNeal to see if there were requirements for an on-street parallel handicapped parking space on a DOT street such as West Court Street. Doug stated that DOT has no requirements, other than maintaining 12 foot travel lanes, and referred the City Manager to Federal ADA

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requirements. For a parallel on-street handicapped parking space, the ADA requires a width of 13 feet. A handicapped ramp adjacent to the space, with a minimum width of 5 feet, is also required.

The City Manager advised that a handicapped parking space in the requested location would either need to stick out 5.5 feet, since current spaces on West Court Street are about 7.5 feet wide, into what is now the travel lane or the City would need to cut about 5.5 feet into the sidewalk. The sidewalk is approximately 10 feet wide currently, with the brick part taking up approximately the first 3.5 feet. In addition, the City would have to add a handicapped ramp at least 5 feet wide from a point next to the parking space to the sidewalk.

The City Manager stated that Council Member Clark later asked if West Court Street could accommodate angled parking, like the City has in place on East Court Street. Public Works Director Brant Sikes took some measurements and determined that a standard angled parking space would leave only a 10.5 foot travel westbound travel lane on West Court Street, below the 12 feet DOT would require. Therefore, the angled parking idea will not work, unless the City cuts into the curbline, something the Street Committee does not recommend.

The City Manager stated that the Street Committee recommended that no action be taken on the request at this time, other than to suggest that the County perhaps designate a parking space at the Recreation Department as handicapped.

C. Request for Street Light on Mitchell Street – The Street Committee determined that there is definitely a need for a street light in the middle section of Mitchell Street, since there were no lights except at both ends of the street. A light will be added on this street.

D. Request for Speed Hump or Mirror on Oak Street – The Street Committee did not recommend placement of a speed hump or mirror in the 90 degree curve on Oak Street. The Street Committee felt that a mirror could be dangerous for motorists and noted that two speed humps are already in place close to this curve.

No objection were stated by Mayor Little or Council Members to the Street Committee recommendations. No action was required by Council regarding any of these items.

The City Manager reported that the YMCA Community Health Forum would be held on Thursday, September 13, from 9:30 a.m. to 12:00 p.m. at the YMCA. The City Manager stated that Council Member Doggett planned to attend, along with Planning and Development Director Heather Cotton and himself, but that the YMCA had asked that another Council member attend. Mayor Pro Tem Cuthbertson stated that he would try to attend the forum.

The City Manager advised that the City continues to seek participants for the third session of Marion 101, which will take place on seven consecutive Thursday evenings from September 13 until October 25.

The City Manager advised that our Tax Collector Brett Moore had mailed City tax bills on August 16, which is slightly later than last year.

The City Manager stated that the City should receive information from DOT by January regarding the preliminary plans for the US 221 widening project and the resulting impact on City water and sewer relocations and existing commercial buildings.

The City Manager advised that DOT is finalizing the replacement of traffic signal heads and pedestrian crossing signals on Main Street, as part of the Downtown Streetscape Project.

Public Works Director Brant Sikes stated that the Clinchfield Community Park paving should take place within about two weeks. The paving has been delayed to allow time for the base to set up.

The City Manager presented a map to Council, showing the proposed donation to the City of approximately three acres of property on Forest Heights Drive by Everette and Rachel Carnes. The City Manager stated that Mr. Carnes believed that this property could provide a future access to the City's property on Mt. Ida.

Mayor Little stated that the property offer from Mr. Carnes is fantastic and could be the solution to access to Mr. Ida for which the City has been looking for several years.

Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Cuthbertson, those members of Council present voted to accept the proposed donation to the City of approximately three acres of property on Forest Heights Drive by Everette and Rachel Carnes.

COUNCIL MEMBER COMMENTS:

Mayor Pro Tem Cuthbertson stated that Mr. Walter Rowe had asked that DOT be contacted regarding a hole between the sidewalk and the curb along East Court Street, related to recent drainage work completed in this area by DOT. The City Manager stated that he would pass this complaint on to DOT immediately.

Mayor Pro tem Cuthbertson stated that there are persons sitting on trash receptacles at the corner of West Henderson and Main Street. The City Manager stated that the old trash receptacles on Main Street will soon be replaced with new trash cans of a design that will be difficult to be usedc as a seat.

Council Member Ramsey noted that the tables and chairs have not been placed on the West Henderson Street side of Main Street Pub and Deli, as had been requested by the business and approved by Council in July. The City Manager reported that the Marion Business Association had reminded Main Street Pub and Deli of the need to put the tables and chairs in place as soon as possible.

Council Member Ramsey advised that the school zone flashing signals were not yet operational around Marion Elementary School. Public Works Director Brant Sikes stated that the flashing signals would be turned on prior to school starting on August 27.

Council Member Ramsey reported a street light out on South Garden Street in front of the Marion Garden Condominiums. The City Manager advised that this street light would be reported again to Duke Energy.

The City Manager commended Police Chief Mark Brooks and the entire Police Department for the great job they did with the National Night Out event on Main Street on Tuesday, August 7. It was a great event, with excellent attendance.

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, September 4, 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 and Don Ramsey.

Council Member Billy Martin was not present for this meeting due to the recent death of his mother-in-law.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Mark Brooks, Police Chief; Brant Sikes, Public Works Director; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Freddie Killough, Executive Director, Marion Business Association; Becky Poteat, President, Marion Business Association; John Lewis, 230 Woodland Drive, Marion, NC; Joseph Hall, 11 Fish Hatchery Road, Marion, NC; Harold Wilson, 1460 Stacy Hill Road, Nebo, NC; David Wooten, 420 Montevista Avenue, Marion, NC; Jon Hartman, 385 US 70 West, Marion, NC; Tony Yancey, 81 West Fort Street, Marion, NC; Ken McElreath, 53 Valley Street, Marion, NC; Tommy Rockett, 20 Woodland Drive, Marion, NC; Joe Hall, 11 Fish Hatchery Road, Marion, NC; Bob Elledge, 39 Ellis Street, Marion, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

Mayor Little advised that Council Member Martin's Mother-In-Law, Eunice Bryant Staten, had recently passed away in Kinston, North Carolina and that Mr. and Mrs. Martin would be in Kinston for at least the remainder of the week. He asked Council Members to keep Mr. and Mrs. Martin and the whole family in their thoughts and prayers.

CITIZEN OF THE MONTH – SELECTED BY COUNCIL MEMBER EVERETTE CLARK: Council Member Everette Clark selected the Citizen of the Month for September 2012.

John "Little John" Lewis

Council Member Clark stated that it was a pleasure to recognize Mr. John Lewis, otherwise known as "Little John." Mr. Lewis is the son of Vera and Otis Lewis and is a native of McDowell County. He has been the owner and operator of Main Street Exxon since 1969.

Council Member Clark stated that it is amazing that Mr. Lewis had been in business as many years as he has. His willingness to help people no matter what they need has brought him to where he is today. When Mr. Lewis first went into business, there were dozens of full service gas stations in Marion. Today they are all gone, except for Main Street Exxon. Mr. Lewis is there for his customers, winter and summer, day in day out, and always has a smile.

Mayor Little, Council Members, and an abundance of friends all shared kind words about Mr. John Lewis and congratulated him on his selection as Citizen of the Month.

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 – August 21, 2012 Regular City Council Meeting Minutes

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

PUBLIC APPEARANCE – MARION BUSINESS ASSOCIATION: Marion Business Association (MBA) President Becky Poteat appeared before Council and presented the following Annual Economic Development Report for the Marion Business Association:

July 2011 - June 2012
Annual Report of Marion Business Association

Economic Development Report

24 -New Businesses Opened
9 -Businesses Closed
10 -Business Opportunity Inquiries
9 -Business Loan Inquiries
7 -Business Grant Inquiries
799 -Business Visits
12 -Property Referral Inquiries
9 -Property Owner Contacts with Available Buildings
2 -Contacts with interested Commercial Developers
1 -New Businesses Breaking Ground
16 -Façade Grant Inquires

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9- Façade Grant Awarded (MBA & MEDA Historic Marion Façade Grant Program and MBA Sign Grant)
2- Properties sold

Other Economic Activity:

- Historic Marion Façade Grants – Awarded 6 grants to downtown businesses located in City. Funded from MBA and MEDA. Awarded 2 MBA Sign Grants
- Community Innovators sponsored the "Best of McDowell' Photo Contest. Community Innovators meet bi-monthly to discuss changes in the economy and affect on local quality of life issues.
- Partnered with MTCC Small Biz Center for two REAL class series. Had 16 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 15, 2012. 2011 was a very successful season for the market.
- MBA continues to meet with the WNC Rail Committee to promote passenger rail service to WNC.
- MBA maintains an Available Commercial Properties listing of properties in the City of Marion.
- Business for Breakfast topics covered Facebook, Customer Service/Streetscape Update, Free Local Services for Employers, Surviving Christmas & Saving Your Sanity, The IRS & State Want What??
- The MBA is working with the City of Marion, McDowell Chamber Commerce, McDowell County and McDowell Tourism to apply for Certified Retirement Community designation by the Dept of Commerce. Several presentations have been presented to community organizations. A presentation to the community is scheduled for 5:30 PM, Tuesday, April 24 at the Community Building. The application is due July 31.

Special Events Report

Bobbie Young retired and Lou Godfrey was hired in April, 2012.
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.
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. 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!
February 14 - First Valentine's Day Dance with homemade desserts and dancing. Sold out all the tickets.
March 31 – Easter Egg Hunt with YMCA. The children had a great time and loved Mr. & Mrs. Bunny
May 5 – Sidewalk Yard Sale – Great Day until a quick rain shower sent everyone in!
June 1 – 6th Liver Mush Festival –Had to move to Shade Shelter due to rainy weather forecast.
It was a great event!! "It's a Squeal!" t-shirts sold out!

Volunteer Hours Committed – 870.5

Mayor Little suggested that other Council Members try and come out early the morning of Mountain Glory Festivals to assist with the vender set up. Mayor Little stated that the setup only takes an hour or two of time is greatly appreciated by the vendors.

The City Manager stated that he appreciates all the work the staff and Board of the Marion Business Association has done establishing and promoting the Historic Marion Façade Grant Program. He said that more business and property owners are now expressing interest in this program.

Council Member Clark stated that he appreciates all the work that the MBA staff does, but noted that the volunteers also provide a great service and allow the City to have events that could not be held otherwise. He advised that the Marion Business Association does a lot behind the scenes for the City of Marion.

Marion Business Association Executive Director Freddie Killough stated that she wanted to thank the Public Works Department and the Police Department for all of their help. She said that the work performed by the MBA is a joint effort and that the City is also willing to help out in any way possible.

Ms. Poteat also stated that the MBA Board recently updated and approved a new mission and vision statement. They also created and approved a plan of work for the Association. The Plan of Work involves four areas as defined by the N.C. Main Street Office: Design, Organization, Economic Development and Promotion/Special Events.

Mission Statement: The mission of the Marion Business Association is to broaden the economic base of the community while preserving the historic character of the downtown and promoting Marion as a desirable place to visit, work, shop, play and live.

Vision Statement: Marion will continue its role as the heart of the community. It will offer a unique experience with inviting outdoor cafes, galleries and boutiques framed by distinctive historic architecture. Marion will be a walkable downtown with adjoining greenways. It will be enhanced by the civic, cultural, and economic diversity of its citizens. Marion will be a thriving center for business and entertainment.

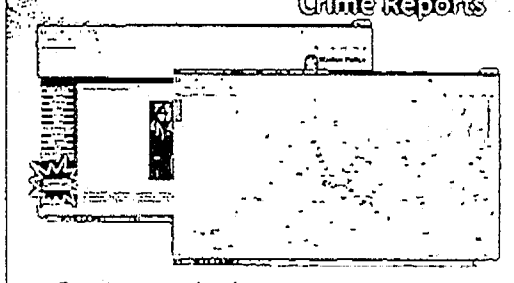
PRESENTATION BY POLICE DEPARTMENT ON USE OF TECHNOLOGY AND CRIME MAPPING: Police Chief Mark Brooks stated that he and Police Lieutenant Scott Spratt had been asked by the City Manager to give a presentation on the use of technology and crime mapping in deploying police resources throughout the City. Chief Brooks advised that the technology to be discussed is a great tool used by the Police Department, which has only so many officers on duty at a given time and cannot be everywhere at all times. Chief Brooks stated that it is easier to prevent crime than to respond to crime.

Lieutenant Scott Spratt presented the following Power Point presentation:

Marion Police Department

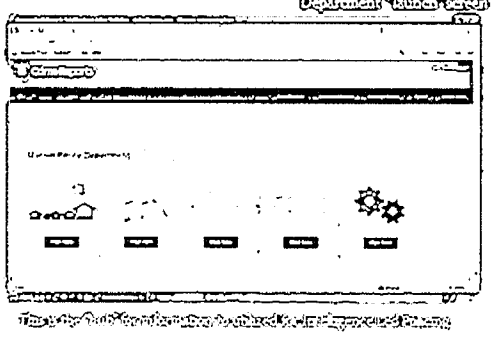
Intelligence-Led Policing

Crime Reports

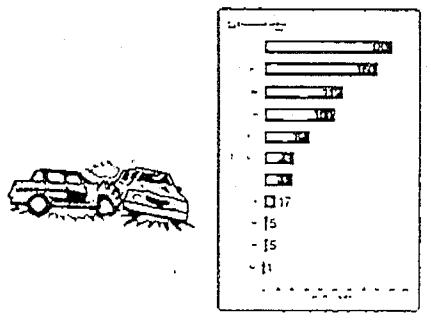


Crime Reports

Department Launch Screen



Motor Vehicle Crashes by Neighborhood: July 1, 2011 - June 30, 2012



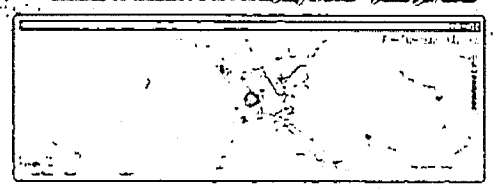
Days of the Week and Times for Motor Vehicle Crashes in the Down Town Area

July 1, 2011 - June 30, 2012



Most motor vehicle crashes happen on Friday at 3:00 PM

Trends of crashes between July 1, 2011 - June 30, 2012

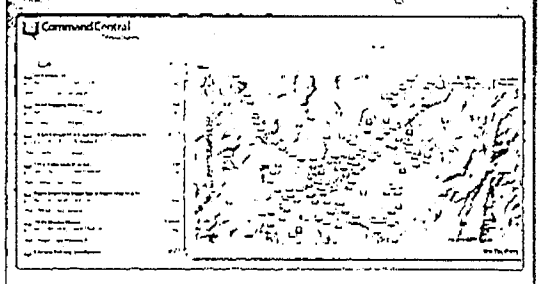


DWI Trends

July 1, 2011 - June 30, 2012

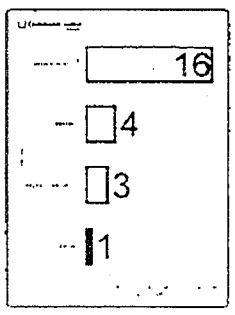


Roll Call Screen for Crime Reports

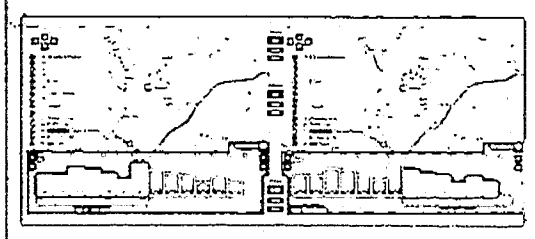


Part 1 Crimes

July 2011 - June 2012

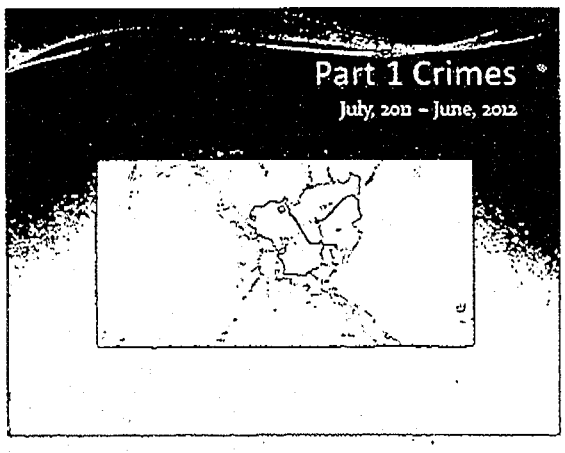


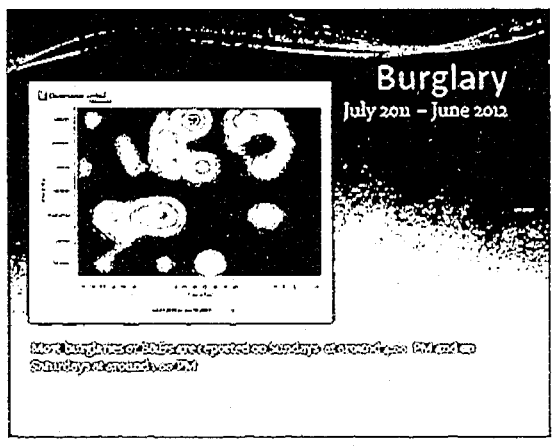
Week to week trends

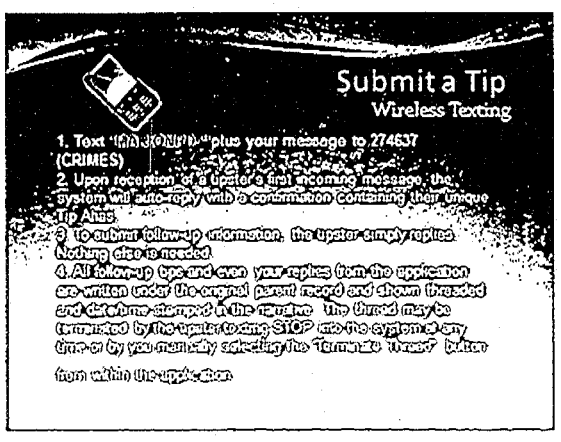


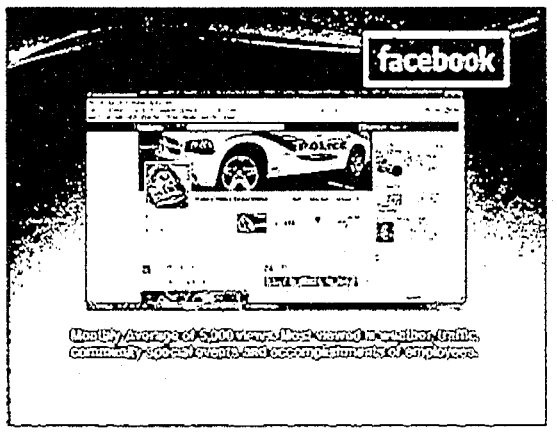
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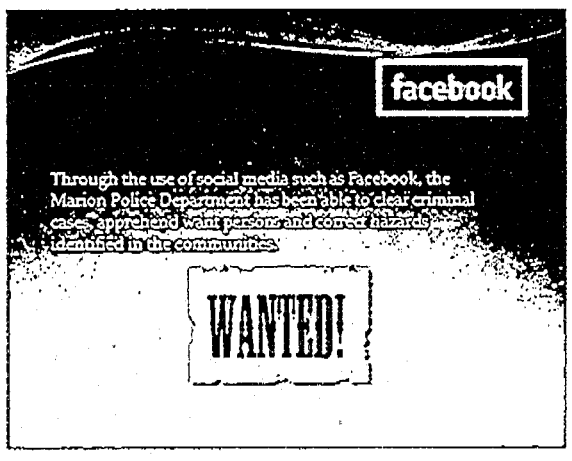
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Council Member Clark asked how many accidents in the City are on State maintained streets versus City maintained streets. Chief Brooks stated that he did not know the exact number, but could find out this information. The City Manager stated that he would guess that the majority of accidents in the City were on DOT streets. Council Member Clark stated that he asked this question, since the City was responsible for patrolling and responding to incidents on State maintained streets and highways, yet typically received little to no assistance from the North Carolina Highway Patrol with traffic control and accident response.

Mayor Little thanked Chief Brooks and Lieutenant Spratt for their presentation and providing this information to Council.

SCHEDULE DEDICATION FOR NEW CLINCHFIELD COMMUNITY PARK: Public Works Director Brant Sikes gave a brief update on the new Clinchfield Park. He stated that the only remaining item to be completed was paving and that recent wet weather had delayed the paving work. Mr. Sikes advised that the paving work would be completed as soon as there was a few days of dry weather. The soil at the Park is currently too soft to allow the paving work to be done.

The City Manager asked Council for a preferred date for the dedication of Clinchfield Park. He reported that he had spoken that day with the donors of the Park property, Frank and Debra Boldon. The City Manager provided Council with a list of dates when Mr. and Mrs. Boldon could be available.

Council Member Doggett stated that, due to weather, Council may want to push the dedication date out to the end of the month. Mayor Little agreed and suggested that Council set the time for noon.

It was the consensus of those members of Council present to set Friday, September 28 at 12:00 Noon for the dedication of the Clinchfield Park.

The City Manager stated that, in the event the ground remains too wet to pave, the dedication can be rescheduled.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that, as indicated in the spreadsheet presented to Council Members, retail sales in McDowell County grew by 13.23 percent in 2011-12 over 2010-11, compared to growth of 6.27 percent across the State as a whole. McDowell County has outpaced the State growth in retail sales for five of the past six years. Since 2005-06, McDowell County's growth in retail sales has been 23.0 percent, while the growth in State retail sales for the same time period was only 1.24 percent. The most recent data from the State indicates that the City of Marion accounts for 76 percent of retail sales in McDowell County. The City Manager advised that he had shared this information with the McDowell News.

Council Member Clark stated that years ago everyone shopped downtown. After the completion of I-40, it became easier for people to go to other surrounding communities to shop. He suggested that, if a City has the stores and the merchandise, it will get the retail sales.

Mayor Pro Tem Cuthbertson stated that high gas prices have likely played a factor as well in local retail sales increasing.

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The City Manager commended Public Works Director Brant Sikes and Water Plant Superintendent Don Price for their efforts in responding to and addressing recent taste and odor issues with City water. The City Manager stated that new complaints had virtually stopped and that City staff had flushed some dead end lines the week before, to address three final complaints that had been received.

Council Member Clark stated that the City really needs to look at another water source. Greater development and spraying of farm fields upstream of the City's Buck Creek intake will only serve to make the water quality of Buck Creek worse. The City Manager stated that the City is the victim of any poor water quality in the Buck Creek watershed and has no regulatory authority over adjacent property. He advised that the City had to rely on other units of government, such as the County and State, to protect the City.

The City Manager stated that ABC Board Chairman Mr. Robert Ayers had advised him that the ABC Board wants to make some renovations at ABC Store #1 on East Court Street. These renovations are estimated to cost around $25,000 and involve adding a drop ceiling, replacing lighting that may pose a safety hazard and changing the sales counters to provide more room and greater efficient.

The City Manager stated that Mr. Ayers wanted Council support for the recommended changes and was willing to do a presentation for Council at a future date.

Council Member Clark stated that he would suggest that Council have a conversation with the ABC Board about their vision for Store #1 and whether it makes economic sense to keep it open long term.

It was the consensus of Council Members present to direct the City Manager to ask Mr. Ayers to make a presentation on the planned ABC store renovations at the next Council Planning Session on October 8.

The City Manager reported that Mr. Sikes continued to work with the City's contracted landscaper Lawrence Moore to make sure that flowers are planted on South Main Street. Mr. Moore has replaced soil in some of the problem locations and will be replanting these spots in the near future with pansies, a flower than should be able to survive the harsh planting location.

The City Manager stated that work should soon begin on the DOT Comprehensive Transportation Plan for the City.

The City Manager advised that the City continues to seek participants for the third session of Marion 101, which will take place on seven consecutive Thursday evenings from September 13 until October 25. As of September 4, there were 13 people signed up for Marion 101. The City Manager invited the Mayor and Council Members to attend the first session on September 13, when, among other things, the role of the Mayor and City Council will be discussed.

The City Manager advised that Nancy Hollifield of Realty One has complained that the mirror placed at Railroad and South Main Streets is blocking the visibility and beauty of her building, which she recently painted. The City Manager and the Public Works Director have looked at the mirror and did not see a good way to move it, without affecting the visibility from Railroad Street. The City Manager suggested that the Street Committee look at the mirror and see if it is needed or if it should be moved.

Council agreed by consensus to refer this matter to the Street Committee for review.

The City Manager advised that he had received complaints from Ms. Vernice Francis, who lives on Francis Street across from the vacant lot next to Burger King on West Henderson Street. Ms. Francis frequently complains about the temporary events that take place on this property, which is owned by Dr. O.D. Rowe. The faith healing revival that took place for about two weeks in early to mid August particularly seemed to bother Ms. Francis. She asked that he pass this on to Council regarding the complaints about the noise that results from these events and how late these events sometimes last. The City Manager reported that Ms. Francis complained about the noise from the events and the hours of the events. A few years ago, Council put in place some zoning regulations on temporary events that set a restriction on the frequency of events, by type, for a particular property and set other restrictions on temporary events. The regulations include a requirement that temporary uses held outside of a building and within 500 feet of any residence cease operation by 10:00 p.m. and that noise be controlled so that no adjoining property owner or occupant is unduly disturbed by the temporary use.

The City Manager stated that he had asked City staff to stress to temporary event permit holders the need to keep noise down and to cease operations by 10:00 p.m. If a temporary use does not comply, then the Police Department has to deal with complaints after hours.

The City Manager asked Council if they wished to revisit the regulations for temporary events. There were no suggestions made by Mayor Little or Council Members to revisit current temporary event regulations.

The City Manager advised that the Muddy Creek Partnership had received a $152,471 grant from the N.C. Division of Water Quality (DWQ) to construct a short Greenway behind the Police Department, Dr. Nevant's property and the School Central Office property. There will also be stormwater improvements and streambank restoration, which is the main reason the grant was funded. The City Manager stated that this project should soon begin. City staff is working on needed property acquisition with Dr. Christoper Nevant and McDowell County Schools.

COUNCIL MEMBER COMMENTS:

Mayor Little reminded Council that the joint meeting with the Old Fort Board of Aldermen would take place this coming Thursday, September 6, at 6:30 p.m. in the Police Department Training Room.

Council Member Clark stated that the North Carolina Rural Center had approved a $16,500 Planning Grant for the Water System Hydraulic Model. The City Manager advised that this project could start, once we receive and sign the contracts from the Rural Center.

Council Member Clark noted that two apartment projects had not been approved for N.C. Housing Finance Agency tax credit funding. The City Manager advised that he had not heard from either developer and could not say where the applications fell short.

Council Member Doggett asked about the possibility of adding handicapped parking spaces on Main Street. The City Manager advised that Main Street was not wide enough to accommodate parallel handicapped parking spaces.

Council Member Doggett suggested that the City clean the base of City Hall, now that landscaping has been removed from directly in front of the building. The City Manager asked Mr. Sikes to have the base of the building cleaned soon.

Council Member Doggett stated that she had recently been getting severe weather alerts on her phone, without having signed up for any such service. She asked if this was a local effort. The City Manager advised that McDowell County Emergency Management could have established such a service, but that he had not heard of such action being taken. He said that he would check and report back to Council.

Council Member Clark noted that part of the paint of City Hall is beginning to rust. The City Manager advised that the painting of City Hall was included in the 2012-13 City budget and that the City will proceed with this work in the near future.

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Council Member Clark noted a school zone flashing signal on Robert Street at Marion Elementary School that was not timed correctly. Mr. Sikes said that he would have this signal checked and corrected.

ADJOURNMENT: Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Clark, those members of Council present voted to adjourn in memory of Mrs. Connie Martin's mother, Eunice Bryant Staten, who passed away the previous Sunday.

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 with the Town of Old Fort Board of Aldermen on Thursday, September 6, 2012 at 6:30 P.M. in the Training Room of the Marion Police Department located at 270 South Main Street. The meeting was held at the Police Department Training Room, due to City Hall being used that evening for the scheduled Planning Board meeting and due to the Training Room having adequate technological capabilities and being of a proper size to facilitate conversation.

BOARD MEMBERS PRESENT: Mayor Steve Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members Everette Clark, Juanita Doggett and Don Ramsey.

Council Member Billy Martin was unable to attend due to the recent passing of his mother-in-law.

TOWN OF OLD FORT BOARD OF ALDERMEN PRESENT: Mayor Garland Norton, Aldermen Sue Gibbs, Norman Logan, Greg Piercy and Charles Pyles.

Alderman Wayne Stafford was not present for this meeting.

OTHERS PRESENT: Bob Boyette, City Manager; Harriett Thomas, CPA, Finance Director; Brant Sikes, Public Works Director; Danny Bridges, P.E., McGill Associates; Dennie Martin, Martin-McGill.

WELCOME/COMMENTS: Mayor Little and Mayor Norton opened the meeting and welcomed those who were present. Both Mayor Little and Mayor Norton provided opening comments stating that they were looking forward to the presentation regarding water and sewer issues and the opportunity for cooperation or joint endeavors. The City Manager provided a brief history of cooperation between Marion and Old Fort and a summary of the objectives of the meeting, including a review of existing water and sewer assets, alternative approaches for cooperation and financial opportunities and obstacles.

PRESENTATION BY MCGILL ASSOCIATES REGARDING WATER AND SEWER ISSUES: Dennie Martin and Danny Bridges of McGill Associates, the consulting engineers for both the City of Marion and the Town of Old Fort, provided a presentation on opportunities for both municipalities to work together with their water and sewer systems. The presentation included a review of the water and sewer systems of both Marion and Old Fort. Mr. Martin outlined possible funding options to allow potential cooperative ventures to take place.

After the presentation, discussion was held regarding the options presented by McGill Associates.

It was agreed by general consensus that these options warranted further discussion between the City Council and the Board of Aldermen, but that there was more information that needed to be gathered. Both the City Council and Board of Aldermen members present agreed that any cooperative ventures undertaken in the future would need to be a win-win situation for both Marion and Old Fort. It was agreed that the Old Fort Board of Aldermen would consider appointing a Utility Committee to work with the City Utility Committee, City Manager and McGill to discuss the options further and to consider seeking grant money for a formal study of possible interconnection or consolidation.

ADJOURNMENT: The meeting was adjourned at 8:35 P.M.

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, September 18, 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; Heather Cotton, AICP, Planning and Development Director; Brant Sikes, Public Works Director; Mark Brooks, Police Chief; Mike Conley, News Reporter, McDowell News

GUESTS PRESENT: Harrison Corpening, 349 Capital Hill Apartments Marion, NC; Lester Hunley, 36 Currier Avenue, Marion, NC; Darline Atamanchuk, P.O. Box 338, Marion, NC; Carl Beatty, PO Box 532, Marion, NC; Eugene Holland, 105 Railroad Street, Marion, NC; Mark Shuman, 391 East Court Street, Marion, NC; Jr. Edwards, Marion NC; Booth Rankin, 340 Hall Estate Drive, Marion, NC; Ronnie Burgin, PO Box 150 Marion, NC; David Patneaude, 2986 221 North, Marion, NC.

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 Ramsey, Council voted unanimously to approve the consent agenda as follows:

A. **Approval of Minutes** – September 4, 2012 Regular City Council Meeting Minutes and September 6, 2012 Special City Council Meeting Minutes.

PUBLIC HEARING – ZONING TEXT AMENDMENT – MANUFACTURED HOUSING REGULATIONS: Mayor Little opened the Public Hearing.

Planning and Development Director Heather Cotton advised that the Planning Board had met and recommended changes to development standards for manufactured housing within the City. These changes were adopted by City Council on July 17, 2012. Since then, a group of stakeholders have come forward requesting changes to the ordinance.

Ms. Cotton stated that both the Planning Board and City Council have listened to comments from the stakeholder group at their meetings in August. In addition, an informal meeting was held at the end of August with the stakeholder group to discuss possible changes to the ordinance.

Ms. Cotton advised that the Planning Board met on September 6 to discuss possible revisions to the Zoning Ordinance Manufactured Housing regulations. The Planning Board recommended the adoption of two Zoning Text Amendments, as follows:

A. The first ordinance removes all references to the age of manufactured homes, except for those built prior to the establishment of the Federal HUD Code on June 15, 1976, and includes a provision to allow the replacement of any manufactured home, unless it is vacant for 180 days or more, with a home of the same size or larger. This is the same thing that Asheville allows. The ordinance also modifies some of the appearance requirements to which objections had been stated, while also setting up standards for manufactured home parks. New manufactured homes on vacant lots in the R-2 General Residential District would still have to be multi-sectional, double-wide homes.

B. The second ordinance establishes a new R-6 residential zoning district that would allow all types of manufactured homes, including single-wide homes. The R-2 district would continue to prohibit single-wide homes on vacant lots. If the Planning Board recommendations are approved, the Planning Board would need to come back, most likely in November to give adequate time for review, and recommend areas to be included in the new R-6 district.

Mayor Little asked if there was anyone present that wished to comment.

Mr. Mark Shuman of 190 Somerset Place in Marion stated concerns he had regarding the proposed ordinances and the one passed by Council in July. He thanked Council for the opportunity to speak and asked that Ordinance passed on July 17 be repealed. Mr. Shuman specifically stated opposition to provisions of the revised ordinance requiring a HUD seal to be on a manufactured home. He noted that provisions of the original ordinance related to age of manufactured homes were not consistent with State and Federal law.

Mr. Larry Scott of 141 Overlook Drive in Marion stated various concerns regarding the Ordinances, especially the requirement for the HUD seals.

Ms. Darline Atamanchuk, representing the McDowell Housing Coalition, appeared before Council and provided statistics showing that manufactured homes are not a good alternative for affordable housing.

Mr. David Patneaude of 2986 221 North in Marion advised that he is in the real estate business and that the ordinance adopted by City Council in July is in violation of State and Federal laws, due to reference to age of manufactured homes.

Mr. Eugene Holland of 105 Railroad Street stated that this whole issue infuriates him. Mr. Holland stated that the ordinance is a personal agenda on the part of one or two people and that Council Members would have to give an account of their actions someday.

Mr. Booth Rankin of 340 Hall Estate Drive expressed his concerns regarding the Ordinance. Mr. Booth stated that he had come into this issue late, but feels that if more time had gone into adopting the ordinance, things would be different. Mr. Rankin stated that he would like to see Council table this issue for further review.

Mr. Carl Beatty of West Hudgins Street also stated concerns with the ordinance and described how manufactured housing is an affordable housing option for many people.

Mr. Ronnie Burgin of 1010 Wildlife Road advised that he feels that the cost of new ordinances would be passed on the little people. He expressed concerns with a requirement for a 12 foot tall landscaping buffer around manufactured home parks. Mr. Burgin stated that he personally knows of two businesses that would have been built in the City if it had not been for City Ordinances.

Mr. Scott addressed Council again, stating that his manufactured homes are convenient to citizens as well as more affordable. He personally would prefer not to be in the manufactured home businesses; however, that is what he has done for a living.

There were no other citizens present to discuss this issue.

AA.00000112 (24)

Mayor Little asked if Council Members had anything to say.

The City Manager asked Ms. Cotton if it was correct that the purpose of the HUD seal was to determine the age of manufactured homes. Ms. Cotton stated that this was correct. The City Manager asked if there were other ways that the age of a manufactured home could be determined. Ms. Cotton stated that there likely were other ways.

The City Manager also stated that the proposed ordinances allowed for metal underpinning, a matter about which one person had expressed concern, and advised that the phase-out of non-conforming manufactured homes, after 180 days of being vacant, was longer than McDowell County's phase-out period of 120 days.

Ms. Cotton added that she did not add anything to the ordinance regarding the height of landscape buffers around manufactured home parks, as these had been present in City ordinances for many years.

Council Member Clark stated that he had kept quiet until now. He advised that he is a real estate agent and has done appraisals for 25 years. Council Member Clark stated that he knows the laws and that he should not have voted for the ordinance adopted at the July 17 Council Meeting. He advised that he would be making a motion for Council to repeal the ordinance.

Council Member Clark advised that the framework of the proposed ordinances is fine, but that Council needs to fine tune some things. He suggested that Council and staff need to sit down with the concerned group and discuss the proposed ordinances in detail.

Council Member Clark stated that he sits on the North Carolina Community Development Council and helped lobby for the funding about which the McDowell Housing Coalition representative spoke, so he knows about housing programs and requirements very well.
Council Member Clark stated that some of the items suggested by citizens should be looked at with common sense by the City Building Inspector.

Council Member Ramsey stated that he agrees with Council Member Clark. There are too many uncertainties with the proposed ordinances. He suggested that the City should look for other ways to determine the age of a manufactured home, other than a HUD label.

Council Member Clark stated that he currently has a single wide mobile home with over ten acres of land listed for sale and that there is no HUD label or seal anywhere to be found in this home.

Mayor Little stated that he would suggest that this item be tabled and not repealed, as tabling the item would still allow for Council review of the proposed ordinances.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to repeal the Zoning Text Amendment adopted by Council on July 17, 2012, Ordinance O-12-07-17-3, 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. Ordinance O-12-07-17-3, as adopted by the City Council of the City of Marion on July 17, 2012, is hereby repealed in its entirety.

Section 2. This ordinance shall become effective upon its adoption.

Adopted this the 18th day of September, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/ Clerk

Ordinance Number: O-12-09-18-1

Mayor Pro Tem Cuthbertson asked what procedure would be used to review the proposed ordinances and to determine what regulations are considered appropriate and what are not.

Council Member Clark stated that he would be willing to sit down with the citizen group and City staff and work to tweak the proposed ordinances.

Council Member Ramsey advised that he would also be willing to serve on such a Committee.

Mayor Little stated that he would invoke his authority as Mayor to appoint a Committee to review the proposed manufactured housing ordinances. He advised that the Committee would be comprised of Council Members Clark and Ramsey, City Manager Bob Boyette, Planning and Development Director Heather Cotton, Building Inspector Jay Suttles, two Planning Board representatives and representatives from the citizen group. This Committee will review the proposed ordinances and report back to Council at a later date.

Given the repeal of the July 17 Zoning Text Amendment, no action was taken by Council on the two Zoning Text Amendments recommended by the Planning Board.

PUBLIC HEARING – ZONING TEXT AMENDMENT – REVISE LOCATIONS FOR MOBLIE FOOD VENDORS: Mayor Little opened the Public Hearing.

Planning and Development Director Heather Cotton advised that the purpose of this ordinance amendment would be to give City Council greater flexibility in allowing mobile food cart vendors to operate at the Marion Community Building by deleting language within the code that requires set up in a specific location.

Ms. Cotton advised that City Council adopted an Ordinance in 2009 that provides opportunities for mobile food carts to operate within the City Limits including specific locations within the C-1 Central Business District. Since that time, there have been three mobile food vendors that have

been granted approval to operate within one of the designated locations in downtown, including one vendor approved July 2012 to operate at the Community Building. Upon further review by the Street Committee, the approval was granted in a location not specified by the Zoning Ordinance. Ms. Cotton stated that the Street Committee had concerns with vehicular access, parking, and public safety at the location established within the Code.

Ms. Cotton stated that, as a result, Staff is proposing an amendment to the City Code that would give City Council greater flexibility when approving the placement of mobile food carts at the Community Building, by revising the allowed location from the "Logan Street sidewalk in front of the Marion Community Building" to the "Marion Community Building."

Ms. Cotton reported that the Planning Board recommended approval of this ordinance at their September 6, 2012 meeting.

There were no citizens present to further discuss this item.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to adopt the proposed Ordinance Amending Chapter 21 Zoning, Division VII, Temporary Uses for Mobile Food Vendors Operating in the C-1 Central Business 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, is amended as follows:

Section 2. Chapter 21 Zoning, Article VII. General Provisions, Division VII, Temporary Uses, is amended by deleting the following:

Sec. 21-171. Purpose and Intent.

(5) Additional requirements for mobile food vendors in C-1 Central Business District.
a. 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) Marion Community Building.

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

Adopted this the 18th day of September 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/ Clerk

Ordinance Number: O-12-09-18-3

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

CONSIDER APPROVAL OF ORDINANCES TO INITIATE CONDEMNATION PROCEDURES FOR DILAPIDATED HOUSING:
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 six structures located on five 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, conductive to criminal activity, and /or create a fire hazard. Following approval of the ordinances, staff will undertake the condemnation process, which will hopefully eventually lead to the clearance of these structures.

A current list of dilapidated/abandoned structures located throughout the City was presented to Council by Ms. Cotton.

A brief discussion followed.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to approve the following Ordinances initiating condemnation procedures for dilapidated housing:

CITY OF MARION
ORDINANCE CONCERNING PARTICULAR ABANDONED STRUCTURES
LOTS 1,2,3,4, AND ONE-HALF OF 5, BLOCK 9, MT. IDA PARK SUBDIVISION

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;

AA.00000114 (24)

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 Lots 1,2,3,4, and eastern one-half of Lot 5, Block 9 Mt. Ida Park Subdivision, Marion, McDowell County, North Carolina, Tax ID 1701.14-42-0866 and as further described in the Warranty Deed recorded in Book 228, Page 453 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 18th day of September, 2012

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-12-09-18-4

CITY OF MARION
ORDINANCE CONCERNING PARTICULAR ABANDONED STRUCTURES
110 WEST HIGH 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 110 West High Street, Marion, McDowell County, North Carolina, Tax ID 1701.18-21-8933 and as further described in the Warranty Deed recorded in Book 974, Page 976 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 18th day of September, 2012

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-12-09-18-5

CITY OF MARION
ORDINANCE CONCERNING PARTICULAR ABANDONED STRUCTURES
87 WEST HIGH 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 87 West High Street, Marion, McDowell County, North Carolina, Tax ID 1701.18-21-9986 and as further described in the Warranty Deed recorded in Book 286, Page 425 of the McDowell County Register of Deeds and attached hereto as Exhibit A.

AA.00000115 (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 18th day of September, 2012

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-12-09-18-6

CITY OF MARION
ORDINANCE CONCERNING PARTICULAR ABANDONED STRUCTURES
LOT 2 FOREST PARK ROAD

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 Lot 2 Forest Park Road, Marion, McDowell County, North Carolina, Tax ID 1711.06-39-1300 and as further described in the Warranty Deed recorded in Book 1018, Page 366 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 18th day of September, 2012

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-12-09-18-7

CITY OF MARION
ORDINANCE CONCERNING PARTICULAR ABANDONED STRUCTURES
LOT 11 FOREST PARK ROAD

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 Lot 11 Forest Park, Marion, McDowell County, North Carolina, Tax ID 1711.06-39-1656 and as further described in the Warranty Deed recorded in Book 512, Page 834 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

AA.00000116 (24)

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 18th day of September, 2012

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-12-09-18-8

DISCUSS OCTOBER MEETING SCHEDULE: The City Manager advised that, with City Council holding joint meetings with Old Fort in September and a Planning Session in October, the Advisory Board dinner being held on October 9, Marion 101 taking place on seven consecutive Thursday evenings between September 13 and October 25 and the N.C. League of Municipalities conference taking place between October 21 and 23, he wanted to see if Council would be willing to cancel one of the October Council meetings. The City Manager stated it appeared that Council would have two light agendas in October, so it is likely that cancelling one meeting would not present a problem.

Upon a motion by Council Member Doggett, seconded by Council Member Clark, Council voted unanimously to cancel the October 16 Regular City Council Meeting.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that Grace Designs is now printing the walking trail brochures. This project is included in the adopted 2012-13 Budget. In the fall, City crews will complete the crosswalk painting on the downtown walking trail routes.

The City Manager advised that the Third Annual Marion 101 Citizen's Academy began on Thursday, September 13. The class runs from 6:00 p.m. until 8:30 p.m. for seven consecutive Thursday evenings between September 13 and October 25.

The City Manager advised that, on September 10, the County Commissioners approved the use of remaining Sugar Hill Road Water and Sewer Extension loan funds for the extension of water under I-40 to Marion Travel Plaza on Sugar Hill Road on the south side of I-40. The City Manager stated that the County Manager had advised that the Commissioners would request the ability to jointly approve the final bids. The City Manager stated that McGill Associates had started on the design and permitting for this project, since the City will not know for sure how much the project will cost until bids are received.

The City Manager asked Council for their opinions about whether the downtown informational kiosk at the North Main Street Gazebo Park should be painted or stained. After brief discussion, Council directed that the kiosk be stained. Future trim work can be considered if necessary.

Public Works Director Brant Sikes stated that the City's contracted landscaper, Lawrence Moore, had replaced the soil in problem planters along South Main Street and replanted these spots with pansies. The new flowers are small, but will hopefully be able to survive the harsh planting locations.

The City Manager stated that DOT officials have indicated that work should soon be starting on the City Comprehensive Transportation Plan (CTP). The City Manager presented Council with recommendations on the composition of the CTP Committee and asked Council for input. Council agreed with the City Manager's recommendations. Mayor Pro Tem Cuthbertson and possibly Council Member Martin will also serve on the CTP Committee. Mayor Pro Tem Cuthbertson suggested that County Planner Ron Harmon also be added to the Committee.

The City Manager advised that all easement had been obtained for the stormwater/greenway project along the creek behind the Police Department, Dr. Nevant's property and the School Central Office property on South Main Street. Construction has stated on this project and should be completed by November.

The City Manager advised that DOT had completed the Logan Street resurfacing project.

The City Manager advised that the final paving work at Clinchfield Park was able to be completed. Therefore, Council can proceed with the Clinchfield Park dedication on Friday, September 28 at 12:00 noon. Park donors Frank and Debra Boldon will attend the dedication.

COUNCIL MEMBER COMMENTS:

Council Member Martin thanked other Council Members for their support, thoughts and prayers during the recent death of his mother-in-law.

Mayor Pro Tem Cuthbertson stated that the City had a tremendous amount of stormwater runoff and drainage issues on DOT streets during recent rain events and asked if there was anything the City could do to get DOT officials to look at problem spots.

Council Member Clark stated that problem locations, such as in front of Marion City Square on North Main Street, had been pointed out to DOT previously, but nothing had been done. In the case of North Main Street, Council Member Clark stated that the culvert under the highway is too small. He does not know what the solution would be to correct this.

Mayor Little stated that it seems DOT would face liability for problems that had been repeatedly point out, yet they choose to ignore.

Mayor Little asked if City crews would be out to clean storm drains after the recent storms. Public Works Director Brant Sikes stated that City crews would start on this work the next day.

Council Member Doggett reported recurring drainage and pavement problems at the intersection of North Garden and New Streets. The City Manager stated that Mr. Sikes would look at solutions to this problem.

Council Member Doggett stated that someone had mentioned to her problems with bamboo in the creek off of Claremont Street. Mayor Pro Tem Cuthbertson stated that the creek is private property. Council Member Clark stated that the City cleaned this creek years ago, with permission from private property owners, by using inmate labor. The City Manager noted that the inmate labor is no longer available for such projects.

Mayor Little advised Council that the Andrews Geyser's 100th Anniversary Celebration would be held this Saturday, September 22 at 10:30 a.m. at the Geyser site. Mayor Little will be the keynote speaker at this event and has recently written a book on the history of Andrew's Geyser.

ADJOURNMENT: Upon a motion by Council Member Doggett, seconded by Council Member Ramsey, Council voted unanimously to adjourn.

AA.000000117 (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 met in Regular Session on Tuesday evening, October 2, 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 and Don Ramsey.

Council Member Martin was not present for this meeting due to being out of town for family business.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Brant Sikes, Public Works Director; Mark Brooks, Police Chief; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Michael Lavoy, Marion, NC.

OPEN MEETING: Mayor Little opened the meeting with a moment of silence.

CONSENT AGENDA: Upon a motion by Council Member Doggett, seconded by Mayor Pro Tem Cuthbertson, those members of Council present voted to approve the consent agenda as follows:

A. **Approval of Minutes** – September 18, 2012 Regular City Council Meeting Minutes

B. **Adopt Resolution Setting Minority Business Goals for City in Accordance with State Law**

RESOLUTION OF CITY OF MARION
MINORITY BUSINESS GOAL

The City of Marion, at a regular meeting of its governing body, the City Council, on the 2nd day of October, 2012, adopted and recorded the following Resolution:

RESOLVED, that in accordance with North Carolina General Statutes § 143-128, City of Marion confirms its practice of earnestly striving to recruit minority businesses for participation in contracts for the erection, construction, alteration or repair of any buildings or improvements for the City of Marion. Particularly, the City of Marion RESOLVES that it shall have a verifiable ten percent (10%) goal for participation by minority businesses (as defined in N.C.G.S. § 143-128) in total value of work for each building project. This verifiable percentage goal shall apply in separate prime contract systems, alternative contracting systems authorized by State Building Commission under N.C.G.S. § 143-135.26(9), and shall apply in single-prime contract systems and shall be binding on any prime contractor connected with such single-prime contract systems.

The following are the guidelines adopted as those actions that will be taken to ensure a good faith effort in the recruitment and selection of minority businesses for participation in contracts awarded under N.C.G.S. § 143-128:

1. Advertisement of request for bids shall be placed in the major newspapers (i.e. newspaper with the largest circulation) of Asheville, North Carolina; Charlotte, North Carolina; and, Greenville, South Carolina.

2. Advertisement of request for bids shall be placed in at least one newspaper which has a circulation primarily composed of minority owned contractor businesses.

3. Submission of plans and specifications to at least one major "Plan Room" such as the F.W. Dodge Plan Room and/or Associated General Contractors, where plans are available for public viewing without discrimination, and where information regarding obtaining specifications and plans for submission of bids is supplied.

ADOPTED this the 2nd day of October, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-12-10-02-1

CERTIFICATION
OF
MINORITY BUSINESS PARTICIPATION

Project Name: Hydraulic Modeling Planning Project

This is to certify that the "project" for which we are applying for grant assistance will incorporate the minority business goals as adopted by the City of Marion Council in a Resolution dated October 2, 2012 in accordance with N.C.G.S. 143-128. City of Marion will report the attained goals to the State of North Carolina.

Authorized Representative's Name

AA.000000118 (24)

Authorized Signature

Date

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

APPROVE VOTING DELEGATE AND ALTERNATE FOR N.C. LEAGUE OF MUNICIPALITIES CONFERENCE: The City Manager advised that Council action is needed to approve the voting delegate and alternate for the N.C. League of Municipalities conference in Charlotte from October 21-23.

Council Members Clark, Doggett, Ramsey and the City Manager will be attending this conference.

Information from the League regarding the conference was presented to Council Members.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Ramsey, those members of Council present voted to appoint Council Member Clark as the voting delegate and Council Member Doggett as the alternate voting delegate for the N.C. League of Municipalities conference in Charlotte from October 21-23.

RECEIVE UPDATE ON STREET AND PARKING LOT PAVING PROJECTS: Public Works Director Brant Sikes presented the following update on current street and parking lot projects.

Bakersville Road – The City has obtained right-of-way from Diane Cook and is awaiting formal approval of a right-of-way donation from the Board of Hospice of McDowell County. Hospice has verbally consented to granting the needed right-of-way, but their Board does not meet until October. The total right-of-way being obtained is 30 feet, extending 15 feet in either direction from the center of the street.

The construction Phase will consist of clearing and grubbing, erosion control, comprehensive grading, installation of the storm drainage system, installation of the base course and paving.

Overlook Drive – The City is working to acquire necessary right-of-way from property owners on Overlook Drive, to allow the street paving to take place. The City is currently in the right-of-way acquisition phase. The existing right-of-way is only 18 feet wide and the City needs a minimum of 25 feet to adequately complete needed drainage and paving. The property has been surveyed for the proposed 25 foot right-of-way and staff is working with four property owners to acquire the needed right-of-way.

Park Avenue – City crews will replace the sidewalk and curbing on the small section of Park Avenue between Robert Street and the dead end. The City will then need a paving contractor to resurface the street.

Ridge Street, East Marion – The City will need a contractor to rehabilitate storm drains and resurface the street. It is currently in the preliminary assessment stage. The actual scope of the work may change as staff learns learn more about the condition of the street.

West Henderson and Logan Street Parking Lot – City crews recently rebuilt the steps leading from the City's leased parking lot at West Henderson and Logan Street down to the West Henderson Street sidewalk. A new railing was also installed. The City will need to have a contractor resurface this parking lot.

Cemetery – The City will need a contractor to resurface the street in Oak Grove Cemetery next to the Duke Energy Substation. The City will also seek to include some asphalt curbing for drainage purposes.

New and Garden Streets – Mr. Sikes said that he had assessed options to improve the drainage and resurface the intersection of New and Garden Streets. It appears that the best solution would be to install a new drainage system and this should be done in conjunction with repaving the street. The surface course and base are in bad shape. To repair it properly, the City would need to excavate the entire affected area and replace it with a good base and surface course. There is approximately seven inches of concrete below the asphalt and the concrete is located on top of red dirt. The cost per square foot will be significant for this project and the repair costs could be $14,000 or more just for the intersection.

In addition, the intersection would likely have to be closed for an extended period of time, depending on how wet the dirt is underneath the concrete.

This area could be patched, but the concrete is in such bad shape, it will cause reflection cracks in the asphalt quickly. There is such a heavy traffic flow in this area that staff has recommended including Garden Street on the paving list for the next fiscal year and replacing the storm drainage at that time. Therefore, patching is not recommended.

Mr. Sikes stated that bundling all of the street projects into one bid would result in a better unit price. This would also allow us to build up Powell Bill funds, which were largely depleted last year with the completion of some major projects, particularly on Park Avenue. Mr. Sikes said that it is likely that the bidding and construction would not take place until Spring or Summer of 2013.

Mr. Sikes also advised that bids were recently taken twice on the centerline striping of several City streets. The Streets scheduled for striping are Georgia Avenue, Morehead Road, Railroad Street, Morgan Street, Crawford Street, State Street, New Street, Fleming Avenue, North Madison Street, East Fort Street, West Fort Street, Oak Street, Robert Street and Viewpoint Drive. Mr. Sikes said that Fern Avenue would need to be added to this list.

Council Member Clark advised that North McDowell Avenue should also be added.

Mr. Sikes reported that the low bid came in from Hickory Striping and Sealing of Connelly Springs in the amount of $12,357.90, if all streets were striped. He noted that Hickory provided an excellent unit price that could be extended to other streets such as Fern Avenue and North McDowell Avenue.

Mr. Sikes advised that staff would ask for Council direction for the future need of maintaining centerline striping on Carson Street, Blue Ridge Street, Burgin Street and Carolina Avenue.

Council Member Clark suggested that traffic counts be obtained for these streets, as part of the review process. The City Manager stated that staff could work to obtain traffic counts for these streets in the upcoming months.

AA.000000119 (24)

The City Manager noted that the City currently had about $30,000 in the Powell Bill account and had received notice from DOT that the City's 2012-13 Powell Bill revenues would be over $225,000, or $10,000 more than the City planned for in the 2012-13 budget.

A discussion followed.

Mayor Pro Tem Cuthbertson stated that he had concerns regarding the variation of bids.

Mr. Sikes said that he had concerns as well, but that he had checked references and found that Hickory had done good work for several cities.

Council Member Clark stated that, in recent years, the City had undertaken some large paving, curb and sidewalk project, but would need to get back to the basics of undertaking street resurfacing before the condition of City streets deteriorated.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Clark, those members of Council present voted to award the contract for the street centerline striping to Hickory Striping and Sealing of Connelly Springs in the amount of $12,357.90, with the addition of Fern Avenue and North McDowell Avenue at the same unit price.

Mr. Sikes reported on problems with flashing school zone signals on Fleming Avenue and Robert Street around Marion Elementary School and stated that getting these lights back in working condition was a top priority.

REVIEW STREET REQUEST: The City Manager advised that, as shown in information presented to Council Members from Public Works Director Brant Sikes, Ms. Claire Pendergrass had complained about vehicles parked in front of the apartments at Burgin and West Court Street blocking the sight distance at the intersection. Ms. Pendergrass proposed the placement of a mirror at this location or prohibiting parking in front of the apartments.

The City Manager stated that the Street Committee might want to review this request and make a recommendation back to City Council.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Doggett, those members of Council present voted to refer this request to the Street Committee for review and a recommendation back to City Council.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that, on September 24, the City received a letter advising that the City was selected as a Certified Retirement Community by the State. The State will hold an official ceremony in the near future to officially award the certification to the City. The City will then begin work on the program with the State and through the local marketing program, which involves a partnership between the City, County, Chamber of Commerce, Tourism Development Authority and the Marion Business Association.

The City Manager stated that he had placed in front of the Mayor and each Council Member the new Downtown Walking Trail brochure that had recently been printed. He noted that Council Member Doggett had developed the idea for the walking trail over two years ago. The City Manager reported that Planning and Development Director had delivered brochures to downtown businesses and other locations, such as the Hospital, YMCA and Senior Center.

The City Manager advised that he had never received any further responses concerning the interest of property owners in sewer service and annexation along part of Valley Street and John Gilkey Road, located behind the Harvest Drive-In. The original request came from Mr. Richard Good, requesting sewer service at five units on John Gilkey Road. Mr. Good has not called to discuss the status of his request. Therefore, the City Manager stated that he would have to assume that there is little to no interest in this project, despite considerable outreach on the City's part and that he would not bring this matter back up, unless the City receives enough interest to justify Council consideration, based on a reasonable payback period.

The City Manager advised that the County had held the first meeting of the Universal Property Steering Committee on Friday, September 14. The next meeting is scheduled for Friday, October 19. Mayor Little and Council Member Doggett were selected as voting members of the committee and the City Manager stated that he had been invited to participate in an ex-officio capacity, in addition to the County Manager, Dr. Gerri Martin and Dr. Bryan Wilson.

The City Manager advised that construction was underway on the stormwater and greenway project behind properties on South Main Street, including the Police Department, Dr. Nevant's property and the School Central Office property.

The City Manager advised that the National Health and Nutrition Examination Survey (NHANES) mobile trailers are in place on Highway 70 West, at the former Mayland Mobile Homes site, through November. This survey is conducted annually by the U.S. Center for Disease Control (CDC) as a way to obtain health data about the United States. The City Manager reported that there will be an Open House at the site on Tuesday morning, October 9 and that the Mayor and Council Members had specifically been invited to attend.

The City Manager advised that the Mountain Glory Festival Committee is completing plans for this year's 29th Annual Mountain Glory Festival, to take place on Saturday, October 13. As of September 25, the Marion Business Association had filled the Festival area with vendors, with a total of about 130 vendors.

The City Manager reminded Council that there would be no Regular Council Meeting on October 16, based on previous direction from Council.

COUNCIL MEMBER COMMENTS:

Council Member Doggett reported a small sinkhole behind the curb in the grassy area of the Bank of America property at North Garden and Fort Streets.

Mayor Little thanked Council Members, City staff and other who came to the Depot last Tuesday morning to greet him as he was traveling on the passenger train that came through Marion. Mayor Little said that he appreciated the crowd, the banners and the balloons. He noted that members of the American Association of Private Rail Car Owners were particularly impressed by the banner welcoming them to Marion.

Mayor Little reminded Council that the next Planning Session is scheduled for Monday, October 8 at 6:00 p.m. at City Hall.

ADJOURNMENT: Upon a motion by Council Member Doggett, seconded by Mayor Pro Tem Lloyd Cuthbertson, those members of Council present voted to adjourn.

AA.00000120 (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 met in a Special Meeting on Tuesday, October 8, 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 due to emergency work being done at her home.

OTHERS PRESENT: Bob Boyette, City Manager; Harriett Thomas, CPA, Finance Director; Robert Ayers, Chairman, Marion ABC Board.

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

1. ABC Store Improvements – ABC Board Chairman Robert Ayers presented the recommendations of the ABC Board for renovations to the East Court Street ABC store, including needed lighting replacement, the installation of a drop ceiling, the installation of new carpet and the modification of the checkout counters. Mr. Ayers stated that the ABC Board wants to retain this location for the foreseeable future. He estimated a cost of $25,000 - $30,000 for the needed renovation. After discussion, Council agreed by consensus to support the ABC Board's recommendations, with a renovation expenditure no greater than $35,000.

2. Autumn Care Sewer Service – The City Manager reported on inquiries by Autumn Care to install a gravity sewer line to allow Autumn Care to cease use of a private pump station. Council discussed different options for service and directed the City Manager to seek more information from Autumn Care's consulting engineer about the possible construction of a larger pump station to serve the surrounding area. The larger pump station could possibly be taken over by the City.

3. Real Estate Attorney Services – A discussion was held about real estate legal services for the City, given that City Attorney Dameron & Burgin no longer provided real estate services. Council agreed by consensus to use Hill Evans for real estate legal services for the next year. Real estate legal services can be re-examined by Council in late 2013.

4. Speed Hump Signs – Mayor Little suggested that the City take down speed hump warning signs, after making sure that paint markings on speed humps were in good condition. Council expressed to objections to this idea. The City Manager stated that staff would examine paint markings and then take down speed hump signs in the near future.

5. Abandoned Vehicles – Council Member Clark proposed that the time period for vehicles remaining parked on City streets be reduced from the current time limit of seven days. Mayor Little noted that there were extenuating circumstances that could lead to a vehicle being parked on a street for several days at a time. After discussion, Council directed that the City Manager research how other cities deal with this matter and report back to Council at a future meeting.

6. Tree Board Recommendation – The City Manager presented a recommendation from the Tree Board for the City to budget for the purchase of metal grates around the base of gingko trees on Main Street. The total estimated cost of the grates would be $19,000-$20,000. After discussion, Council directed the City Manager to seek to include one-half of the funding for the purchase of the metal tree grates in both the 2013-14 and 2014-15 City budgets. Attempts will also be made to find sponsors for the grates.

7. Marion Business Association Recommendations – The City Manager presented recommendations from the Marion Business Association (MBA) regarding a recent downtown survey concerning a possible parking validation program, the prohibition of smoking on downtown sidewalks and downtown appearance regulations. The MBA recommended that the City work with downtown businesses where complaints have been received about smoking on sidewalks, instead of imposing a smoking ban, that no parking validation program be pursued and those appearance regulations not be approved at this time. The MBA suggested that the City seek ways to enhance the Historic Marion Façade Grant Program. After discussion, Council agreed by consensus for the City Manager to work with the MBA to develop an enhancement to the Historic Marion Façade Grant Program whereby the City will pay for paint and windows for businesses approved for Façade Grants and which need repainting and window installation or replacement, up to a limit of $20,000 in the next year. The City Council felt that this commitment would result in significant improvements to the appearance of the downtown area and result in additional business development.

   Council Member Ramsey advised that smoking on sidewalks remained a problem, but that he wanted to work with businesses to find a solution if at all possible.

   The City Manager presented a requested amendment to the sidewalk encroachment approval previously approved in July to allow Main Street Pub and Deli to place six additional tables and associated chairs on the West Henderson Street sidewalk next to the business. Council expressed no objections to the amendment, as long as the tables and chairs are not placed on the Main Street sidewalk in front of the business.

8. N.C. League of Municipalities Wellness Initiative – Finance Director Harriett Thomas provided information about the N.C. League of Municipalities Wellness Initiative, a voluntary program that provided free health screenings and assessments and improvements plans for City employees willing to participate. The City Police Department has participated for two years. After discussion, Council agreed by consensus to have staff proceed with this free program.

AA.00000121 (24)

9. CDBG Projects – The City Manager reported that staff had obtained 22 of the 24 needed easements for the Eastfield Area sidewalks Community Development Block Grant project. A 23rd easement should soon be signed, leaving one easement remaining. Council stated its commitment to complete the project. Staff will seek to obtain the necessary easement, but will pursue condemnation of needed property if there is no other option.

10. Chamber Digital Sign Idea – The City Manager presented information from the McDowell Chamber of Commerce regarding digital signs. Mayor Little and Council Members stated that they did not feel that the photos of the proposed sign were very attractive. Mayor Little noted a nice looking digital sign he had seen in Kennesaw, Georgia for the local Tourism Bureau. The City Manager noted that the Chamber had discussed the City helping to fund a digital sign. After discussion, Council directed the City Manager to ask the Chamber to look at the sign in Kennesaw, Georgia and that the City would refurbish its existing Welcome to Marion signs, as included in the City's 2012-13 budget.

11. Overmountain Victory Trail Funding – Council Member Clark suggested that the City contribute $1,000 in funding toward the Overmountain Victory Trail Association event at the McDowell House in the City's 2013-14 budget, if McDowell County will fund a like amount. Mayor Little and Council Members stated that they thought this was an excellent idea. The City Manager will work to include this appropriation in the 2013-14 budget and ask the County to fund the same amount.

12. Purchasing – The City Manager presented Council with concerns from a local business about the City purchasing items from on-line vendors. A discussion was held about the City's central purchasing program and State law requirements. The City Manager stated that staff tried to work with local businesses where possible, but ultimately worked to secure the best price possible. Finance Director Harriett Thomas provided data showing that the City did spend considerable money with local businesses. Council directed no changes to the City's purchasing program.

13. Water Plant – The City Manager advised that he would be adding, without objection, a part-time operator position at the Water Plant to allow for more coverage and less use of overtime. Council expressed no objections to the City Manager's suggestion. Council Member Clark suggested that the City closely monitor pesticide spraying along Buck Creek upstream of the City's water intake. The City Manager stated that the staff had talked to the State, which had agreed to do some nutrient testing in Buck Creek to determine the actual impacts of spraying. After discussion, the City Manager stated that staff could work with the North Carolina Cooperative Extension Service to make some proactive visits to upstream growers in advance of the 2013 growing season.

14. Internet Sweepstakes Regulation – Council held brief discussion on internet sweepstakes regulation. Mayor Little noted that any discussion really did not matter, since the District Attorney has ruled that internet sweepstakes businesses are illegal in this judicial district.

15. 175th Anniversary Celebration – Council Member Clark suggested that the City start talking with the County about planning for the 175th anniversary of the City and County, to be celebrated in 2018-19.

No action was taken on these items. Items requiring City Council action will be included in 2012-13 Budget Ordinance Amendment, included in future budgets or placed on future City Council meeting agendas for consideration.

Council agreed to schedule the next City Council Planning Session for late January or February. The Planning Session will be scheduled at a future meeting at the same time the date for the annual Town Meeting is set.

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.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, November 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; Harriett Thomas, CPA, Finance Director; Dawn Penland, Accounting Assistant; Brant Sikes, Public Works Director; Mark Brooks, Police Chief; Robert Ayers, Chairman, ABC Board; Becky Poteat, President, Marion Business Association; Freddie Killough, Executive Director, Marion Business Association; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Karen Conley, Hankins Road, Marion NC; Lynn Boggs, Karen Moore, Suzette Grindstaff, Teresa Wall, Harold Walker and Bobbie Young, McDowell Hospital Representatives; Aaron Smith, CPA, Martin Starnes & Associates.

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** – October 2, 2012 Regular City Council Meeting Minutes and October 8, 2012 City Council Planning Session Minutes.

B. Adopt Resolution Directing Clerk to Investigate a Petition for Annexation – Forsythe Street/Randolph Property

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-58.1 – RANDOLPH/FORSYTHE STREET – 2012

WHEREAS, a petition requesting annexation of an area described in said petition was received on October 5, 2012 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 6th day of November, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-12-11-06-1

C. Receive Certificate of Sufficiency – Forsythe Street/Randolph Property Annexation

Certificate of Sufficiency – Randolph/Forsythe Street - 2012

To the City Council of the City of Marion:

I, J. Robert Boyette, City Clerk, do herby 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 6th day of November, 2012.

(Seal)

J. Robert Boyette, City Clerk

D. Approve Resolution Fixing the Date of Public Hearing on the Question of Annexation – Forsythe Street/Randolph Property Annexation Request

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-58.1 – RANDOLPH/FORSTHE STREET - 2012

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:

AA.00000123 (24)

Section 1. A public hearing on the question of annexation of the non-contiguous area described herein will be held at City Hall at 6:00 P.M. on Tuesday, December 4, 2012.

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

BEING LOTS #1, #2, #3 and #4 in Block "G" Section Two, of Central Lakes Park, the property of Caroline Yancy Tighe, located near Marion, McDowell County, NC, on Forsythe Street and Virginia Avenue, as shown on map of the same recorded in the Office of the Register of Deeds for McDowell County, NC, in Map Book 1 at page 211-H, and being more particularly described as follows:

BEGINNING at a stake at the edge of Virginia Avenue where it intersects with the northwest margin of a 20-foot wide service road, as shown on said map above referred to, and runs thence North 47 deg. 24 min. West with the margin of said service road 87.10 feet to a stake; thence North 76 deg. 46 min. West 80.15 feet with the margin of said service road to a stake; thence leaving said road and running with the line of the Clinchfield Disposal Tract North 38 deg. 20 min. East 41.10 feet to a stake; thence with said line North 42 deg. 36 min. East 200.00 feet to a stake, a common corner between Lots #4 and #5 as shown on said map above referred to; thence with the dividing line between said Lots #4 and #5 South 47 deg. 24 min. East 160.00 feet to a stake in the northwest margin of Virginia Avenue; thence with the margin of said Virginia Avenue South 42 deg. 36 min. West 200.00 feet 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 6th day of November, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-12-11-06-2

E. Approve Longevity Pay

DEPARTMENTAL SUMMARY – LONGEVITY 2012

Council approved the purchase of a turkey for City employees and temporary workers and the payment of longevity pay, as provided for in the 2012-13 City budget and summarized as follows:

DEPARTMENT		**GROSS AMOUNT**
ADMIN	420	$6,405.20
PURCHASING	445	1,184.00
INSPECTIONS	500	2,448.76
POLICE	510	13,175.08
FIRE	530	3,551.60
PUBLIC WORKS/ADMIN	545	424.64
FLETT MAINTENANCE	555	920.00
STREET	560	5,780.96
SANITATION	580	3,876.00
WATER UTILITIES	810	4,030.88
WATER FILTER PLANT	812	2,140.80
WASTE TREATMENT PL	816	5,314.08
GRAND TOTAL		**$49,252.00**

F. Consider Appointment to Community Action Opportunities Board of Directors

Council appointed Finance Director Harriett Thomas to the Board of Directors of Community Action Opportunities (CAO), which is expanding into McDowell County with their programs. CAO is based in Asheville and serves several counties in the region, now including McDowell County.

Ms. Thomas has audited this program previously and is very familiar with the programs of CAO.

PUBLIC APPEARANCE – LYNN BOGGS, CEO, MCDOWELL HOSPITAL: Ms. Lynn Boggs, CEO of Hospital, appeared before Council with information regarding the current Strategic Planning Process being undertaken for the McDowell Hospital.

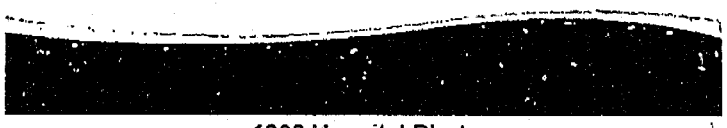
Ms. Boggs introduced several of her staff and Board Members who were in attendance for this presentation.

Ms. Boggs presented the following presentation:

AA.000000124 (24)

McDOWELL HOSPITAL

Community Forum



1908 Hospital Photo



Changing for the Healthcare Needs of Today....

Growing for the Healthcare Needs of Tomorrow

McDOWELL HOSPITAL

Why Does Local Healthcare in Our Community Matter?

- Healthcare in our community and across the nation is at a crossroads.
- We have opportunities and challenges that we must address as a community for improving health outcomes. (Diabetes. Obesity, Mental Health, Teenage Pregnancy)
- Health reform or no health reform. we have over 6,500 persons in McDowell County with no health insurance and over 9,400 people on Medicaid.

McDOWELL HOSPITAL

Why are We Here Today?

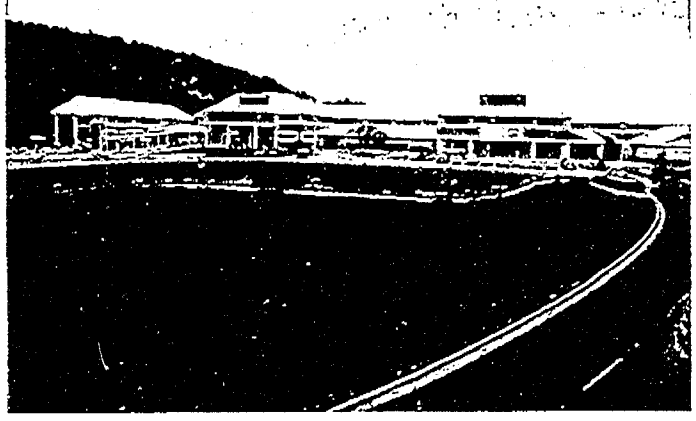
Over the next few months, we will be building a vision for our healthcare system of the future.

Community input is a significant portion of our data gathering process.

Your ideas and involvement are important and appreciated.

- We need to improve healthcare options, healthcare access and assure quality and satisfaction consistently.
- Healthcare services are an essential driver of local economic development – jobs, spending, local contractors, etc.
- Unemployment in McDowell County is at 10.5%.
- We have an opportunity to create a strong economic healthcare services hub in our county.
- This will not happen without deliberate work.

McDowell Hospital Today



- Current Hospital is 30 years old – finishes and infrastructure are dated.
- Built for inpatient care – 80% (then), not for outpatient care and accessibility (today and tomorrow) – 76% outpatient ambulatory care today.
- Physical access is challenging due to topography.
- We risk losing our local healthcare presence to systems in other counties/regions if we do not make the necessary investments.

We are dedicating some of our capital budget to short-term improvements to address today's community needs.

October 2012 – June 2013, changes will occur in:

Emergency Department
Main Lobby
Registration
Main Hallway
Cafeteria
Seating/Waiting Areas
Patient Rooms

AA.00000126 (24)

The Board of Directors, McDowell Administration and Mission Health are committed to creating the "right fit" of programs and services for the future needs of McDowell and surrounding communities.

We do not know today what this looks like or where it will be.

As we further define our plan, we will share that information with you.

We thank you, and invite you to join with us on our journey.

Questions

Thinking about your own experiences, how would you describe the ideal healthcare experience?

Are there services and programs not provided today that you would like to see in the future?

What would influence you favorably to receive health care locally? What would influence your decision to travel for health care needs?

How do you feel about the current location of the hospital? Could the location be improved?

Other thoughts, suggestions or questions?

Ms. Boggs advised that the current Hospital is 30 years old and will need major renovations or replacement. She stated that they understood that Mayor Little was involved in the planning for the new Hospital. Mayor Little stated that he was, but advised that Council Member Everette Clark was instrumental in raising funds and planning for the construction of the McDowell Hospital on its current site over 30 years ago.

Mayor Pro Tem Cuthbertson stated that it seems that over fifty percent of the emergency exam rooms are typically full and asked would it not be better to have a separate area for mental health patients.

Ms. Boggs stated that the McDowell Hospital does not have a separate location to serve mental patients. She said that Mission as a whole is looking for options at possible serving mental patients directly, instead of transferring them to other facilities, which often leads to long delays, given the lack of beds for mental patients.

Council Member Doggett asked about the planned renovations to the Emergency Department. Ms. Boggs stated that the renovations would create one more triage area and two more exam rooms in the Emergency Department, which would be a good start to alleviating problems in the Emergency Department.

Council Member Clark asked if a new hospital is built, how many beds will it have. Ms. Boggs stated that the current Hospital has 65 inpatient beds and that a new facility would probably have fewer inpatient beds. She advised that, when the current Hospital was built, most Hospital care involved inpatient care. Now, most Hospital care involves outpatient services, so the Hospital must change.

Council Member Clark asked what the average census was at the Hospital. Ms. Boggs stated that the Hospital had an average census of around 25 patients. She said that 23 patients was the break even point.

Council Member Clark stated that he served on the Hospital Board for nine years and that he and many others worked hard to raise money for the current Hospital. He described how he had to push for City Council to provide water and sewer service for the Hospital. Council Member Clark said that there is a lot to consider, before embarking on a new Hospital.

Ms. Boggs agreed and stated that the Hospital hoped to sort through all of the applicable questions during their upcoming strategic planning process.

Ms. Boggs gave an update of new physicians that are joining the Mission network in Marion and Old Fort, along with an update regarding various medical offices associated with Mission.

Doctors that have joined them along with various Doctor Offices.

Council Member Clark stated that he had many questions and would like to meet with Ms. Boggs at a later date to discuss other concerns he has about the Hospital. Ms. Boggs advised that she would be happy to discuss this matter with Council Member Clark at a convenient time.

PRESENTATION OF 2011-12 CITY AUDIT: Mr. Aaron Smith Martin Starnes & Associates, the City Auditor, appeared before City Council and gave a presentation of the 2011-12 City Audit as follows:

MARTIN · STARNES
& ASSOCIATES, CPAs, P.A.

City of Marion
2012 AUDITED FINANCIAL STATEMENTS

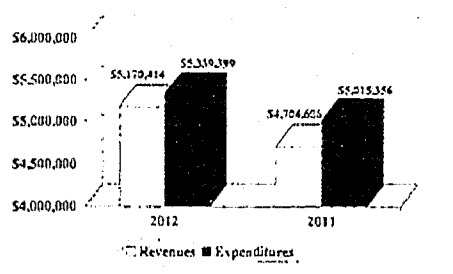
Audit Highlights

- Unqualified Opinion
- Cooperative Staff
- General Fund Cash $ 2,639,611
- General Fund Revenues $ 5,170,414
- General Fund Expenditures $ 5,339,399

Audit Process

- Planning and risk assessment
- Interim procedures
- Final procedures
- Year-round process

General Fund Summary



Fund Balance

- Serves as a measure of the City'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

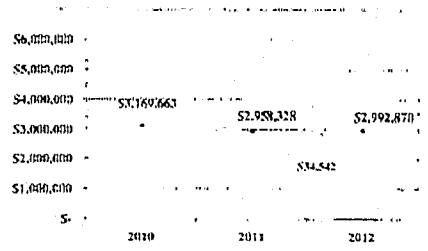
Fund Balance

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.

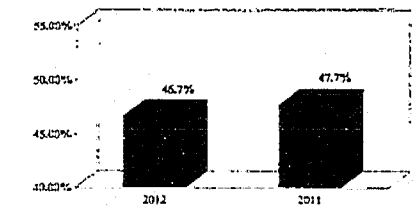
Total Fund Balance General Fund



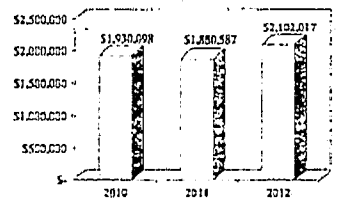
Fund Balance Position-General Fund

Total Fund Balance	$ 2,992,870
Non spendable	- 3,011
Stabilization by State Statute	- 497,283
Available Fund Balance	$ 2,492,576
Available Fund Balance 2011	$ 2,390,401
Increase in Available FB	$ 102,175

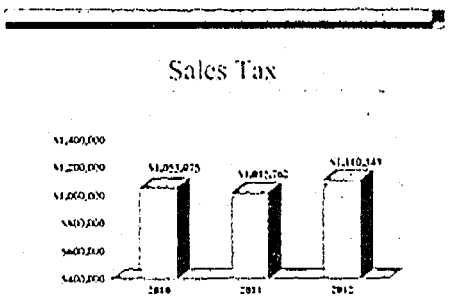
Available Fund Balance as a Percent of Expenditures and Transfers to Other Funds-General Fund

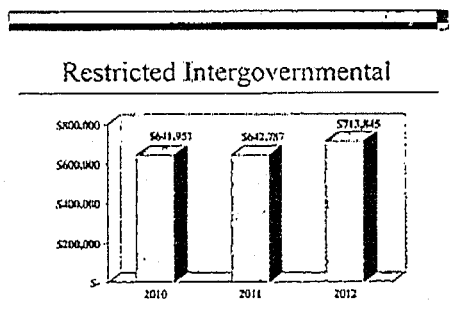


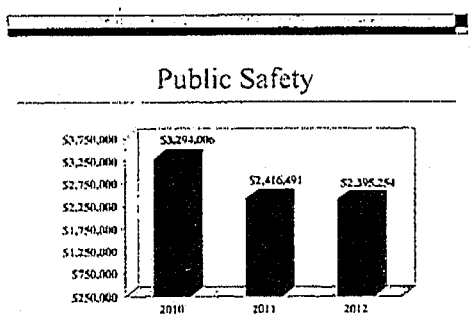
Ad Valorem Taxes

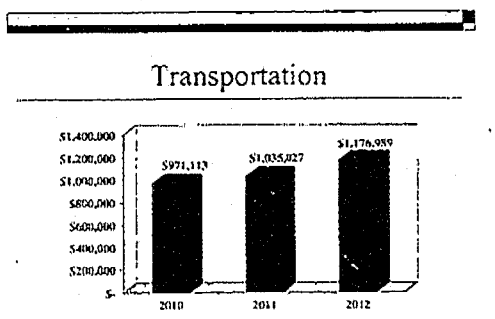


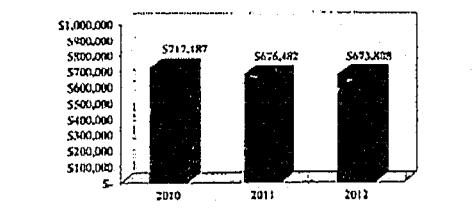
AA.000000128 (24)











Enterprise Funds

Cash Flow from Operations	$ 142,053
Total Net Assets	$ 22,312,671
Unrestricted Net Assets	$ 2,160,416
Operating income	$ (87,174)
Change in net assets	$ 1,068,862

Mr. Smith advised that Martin Starnes provided an unqualified, or clean, audit opinion and had no findings or management letter comments.

Council Member Clark asked if there was anything in this year's audit to which Council Members should be paying attention.

Mr. Smith stated that he had no suggestions to make, as Finance Director Harriett Thomas does a great job looking after the City's finances.

The City Manager said that he appreciated the work that Martin Starnes did with the audit and especially wished to thank Finance Director Harriett Thomas and Accounting Assistant Dawn Penland for their hard work, especially as they have taken on added responsibilities in the past year overseeing the ABC Board's finances.

The City Manager stated that it was particularly good to see the General Fund increase its fund balance by over $34,000 this past year, after experiencing two years of fund balance decreases in the General Fund.

Finance Director Harriett Thomas advised that she appreciated the great work that Martin Starnes does with the City audit. She added that this was the first year that Martin Starnes had completed the ABC Board Audit and that it also went really well. Ms. Thomas also thanked Dawn Penland for all she does to assist her with preparation for the audit and the day-to-day accounting work. Ms. Thomas stated that she would like to thank the City Tax Collector Brett Moore for the great job she is doing with property tax collection.

Mayor Little thanked Mr. Smith for his presentation and for the work of Martin Starnes.

PUBLIC APPEARANCE – MARION BUSINESS ASSOCIATION: Marion Business Association President Becky Poteat appeared before Council and presented the MBA's quarterly report as follows:

July – September 2012
Quarterly Report of Marion Business Association

Economic Development Report

4 - New Businesses Opened
- Jaydle Bugs
- Transfigurations
- Diamond Thieves
- McDowell Hospital – Main Street location

1 - Businesses Closed – Wright's Salon
7 - Business Opportunity Inquiries
2 - Business Loan Inquiries
0 - Business Grant Inquiries
250 - Business Visits
4- Property Referral Inquiries
3- Property Owner Contacts w/ available buildings
1 - Contacts with interested Commercial Developers
0- New Businesses Breaking Ground
7- Façade Grant Inquires
4- Façade Grant Awarded (MBA & MEDA Historic Marion Façade Grant Program and MBA Sign Grant)
0- Properties sold

AA.000000129 (24)

Other Economic Activity:

- Historic Marion Façade Grants – Awarded grants are being paid. There are still grant funds available.
- Historic Marion Tailgate Market opened May 15, 2012. 2012 has been a very successful season for the market. The Market will continue through December 18, Tuesdays and Saturdays with locally made crafts added to in season produce.
- MBA continues to meet with the WNC Rail Committee to promote passenger rail service to WNC. There is no funding allocated for Western North Carolina
- MBA maintains an Available Commercial Properties listing of properties in the City of Marion. The listing is also available on the MBA website, www.hometownmarion.com
- The City of Marion received notification of Certified Retirement Community in September. The CRC project is a joint effort of the City of Marion, Marion Business Association, McDowell Chamber Commerce, McDowell County and McDowell Tourism. The committee will meet with a N.C. Department of Commerce representative in November. A marketing plan is the next phase of the process.

Committee Meeting Reports:
MBA Board of Directors met August 14 and September 11

MBA Economic Development Committee met August 20 and September 24. They made several recommendations to the MBA Board and want to update the 2008 Market study that was done for Marion. They will work with the CRC Committee on a comprehensive marketing plan.

Community Innovators met on September 7. The Committee is very interested in the CRC project and the "Get Not Out" work force development. The Committee also lost some members and gained some members. The committee meets again on November 2.

Mountain Glory Festival Committee met August 21 and September 21 to plan for the October 13 event. This committee is very active and hands on in planning the festival.

Events & Promotions Committee met July 26, August 22 and September 27. The Committee is planning fall and Christmas events and promotions. See the upcoming schedule below.

Historic Marion Tailgate Market Committee has worked at the Market all season. They will meet in January, 2013 to plan for the upcoming season.

Other Committees MBA Supports:
MEDA
McDowell House
McDowell Non-Profit Organizations (NPO)

Special Events Report
July 4th Celebration – Huge turnout, great comments about fireworks display

August 3, First Friday Concert – Low attendance. Moving to 2nd Friday of August in 2013.

August 4, Sidewalk Yard Sale – Good participation.

September 3, Labor Day Concert with Terry McKinney. Due to rain, held concert inside Depot.

Volunteer Hours Committed – 164.50

October 1 – December 31 Events

Mountain Glory Festival - Saturday, October 13, 9:30 AM – 5:00 PM

Market Fall Festival - Tuesday, October 30
Trick or Treating for the Kids with Downtown Merchants - 3:30 PM – 5:00 PM

Christmas Parade - Sunday, November 18 – @ 3:00 PM

Appalachian Potter's Market - Saturday, December 1– @ McDowell High
10:00 AM – 4:00 PM – Info 828-652-8610

Blue Ridge Artisans Craft Show, December – @ MACA Info 828-652-8610

Melodies on Main Street - Thursday, December 6 – 5:30 PM – 7:00 PM

New Year's Eve Celebration - Monday, December 31 – 9:00 PM - Midnight

Every Thursday Night, 7:00 PM – Bluegrass Music Jam @ Depot

Mission Statement.....The mission of the Marion Business Association is to broaden the economic base of the community while preserving the historic character of the downtown and promoting Marion as a desirable place to visit, work, shop, play and live.

Vision Statement: Marion will continue its role as the heart of the community. It will offer a unique experience with inviting outdoor cafes, galleries and boutiques framed by distinctive historic architecture. Marion will be a walkable downtown with adjoining greenways. It will be enhanced by the civic, cultural, and economic diversity of its citizens. Marion will be a thriving center for business and entertainment

Mayor Little noted that the New Year's Eve event needs to have more food vendors and hot drink vendors. The City Manager advised that the Marion Rotary Club, with assistance from the MBA, City and County, is planning to open up the street to outside food and beverage vendors, as proposed by Council.

ADD ON ITEM – ABC STORE RENOVATION DISCUSSION- ABC Board Chairman Robert Ayers appeared before Council and presented Council with drawings of two options depicting the proposed renovation plans for the ABC Store #1 on East Court Street. Mr. Ayers noted that Council had previously agreed to allow for renovations costs of up to $35,000, given that Store #1 had not been updated in 25 years and needed improvements such as updated lighting fixtures and reconfigured counters and shelving.

Mr. Ayers stated that the preferred design option would provide for 21 percent additional shelf space, for an additional cost of a few thousand dollars. Mr. Ayers advised that the total project could be completed for less than $40,000.

AA.000000130 (24)

Mr. Ayers stated that there had been discussion of adding a loading dock, but the cost was $39,000 and the loading dock would result in the loss of 9-12 parking spaces.

Mr. Ayers stated that the ABC Board did not want to make any decisions until the proposals were presented to Council for review.

A brief discussion followed.

Upon a motion by Council Member Clark, Seconded by Council Member Martin, Council voted unanimously to amend the original budget for the ABC Store #1 renovations to $40,000 to cover additional costs for the revised shelving configuration that will result in 21 percent more shelf space.

Mr. Ayers expressed his appreciation to the Public Works Department for the help provided recently with various projects at the store, including a drainage project, parking line striping and other work.

PRESENTATION OF NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AWARD FOR WATER PLANT: The City Manager advised that, for the 11th year in a row, the City's Water Plant received a Facility Optimization award for turbidity removal from the North Carolina Department of Environment and Natural Resources. He stated that the City of Marion is one of only two water plants in the State to have received this award for all 11 years it has been presented, according to Ray McCall with the State. The City Manager added 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 Water Plant Superintendent Don Price with the award that 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. Price 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.

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

CONSIDER APPROVAL OF FIREING RANGE IMPROVEMENTS: Police Chief Mark Brooks stated that, for some time, the Police Department has discussed the need for improvements to the City Firing Range, mainly involving the demolition and rebuilding of the shelter and bathrooms that are in poor condition at the range.

Chief Brooks presented the following presentation:



Range Proposal

AA.00000131 (24)

- The Marion Police Department continuously strives to provide the highest level training possible for its officers.



- The department continuously uses the range for
  - State mandated re-qualification
  - Monthly training for the Special Response Team
  - Hosting specialized training courses
- The range is also utilized by outside agencies for training
  - National Guard
  - Department of Veterans Affairs
  - NC SBI
  - MTCC Basic Law Enforcement Training

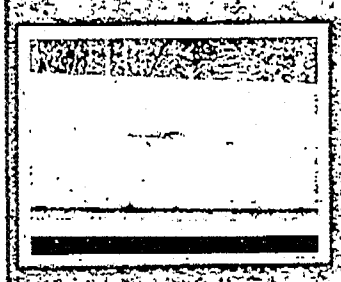
The Problem...

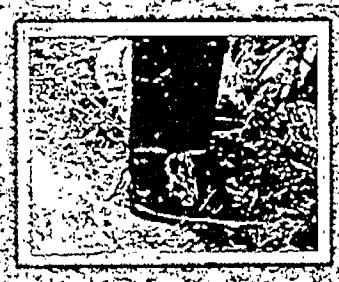
- The range shed is currently in need of renovations.



The Problem...

- The range shed roof is leaking and the support beams are deteriorating.





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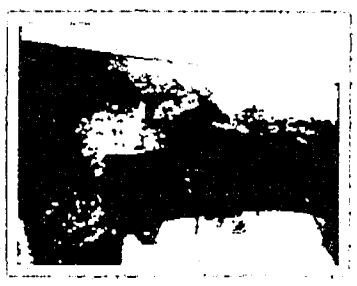
The Problem...

- Lack of guttering and water runoff has caused the bottom walls to rot.



The Problem...

- This has given access to rodents and snakes.



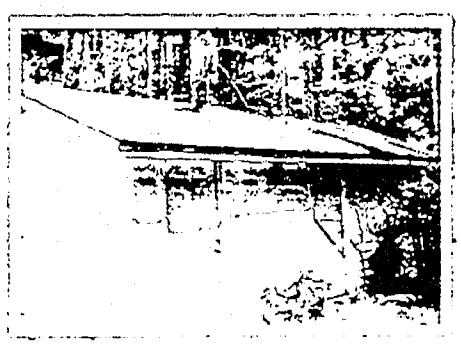
The Problem...

- Due to the water and lack of secure storage, the cardboard target backers become moist causing them to have to be replaced more frequently.



The Problem...

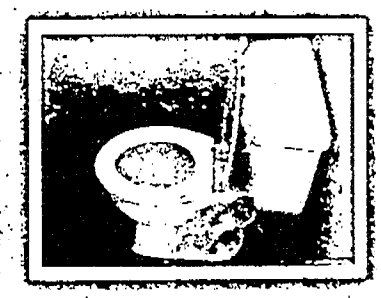
- The second structure houses a restroom and additional storage.

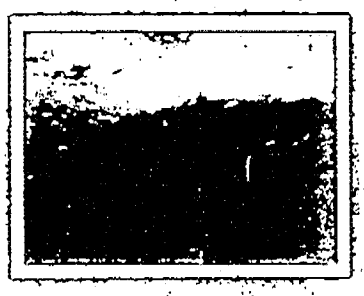


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The Problem...

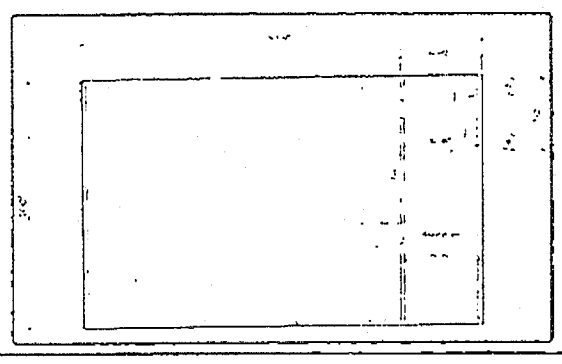
- This building's roof is also leaking, which has created mold in the storage area and restroom.





Our Proposal...

- To utilize asset forfeiture funds to construct a new range shed.



Our Proposal...

- This structure will include a new restroom and secure storage area.
  - England Builders Inc. was contacted for a project estimate.
  - The estimate given was under budget at $23,824.86.

AA.00000134 (24)

Our Proposal...

- This new range shed will allow officers..
  - To shelter in inclement weather
  - To have a useable restroom while training
  - To secure targets and other equipment and prevent their deterioration and exposure to the elements.

ENGLAND BUILDERS INC.
GENERAL CONTRACTOR

[illegible]

Project Cost Estimate
Job Name: Firing Range
Date: August 31, 2011

Item	Description	Quantity	Unit	Unit Cost	Material Cost
Shed					
Remove existing structure and dispose			Allow		-
2x4 SYP			Allow		-
2x4x16	Gable Frame	11	EA	$ 6.97	$ 77.61
2x4x16	Studs	7	EA	$ 3.55	$ 24.56
2x6 SYP #2		100	LF	$ 0.98	$ 98.00
1 1/4 Pipe		1	EA	$ 47.55	$ 47.55
2x12 Notched Stock		12	EA	$ 14.50	$ 174.00
4x4 Stock (10') Posts		150	LF	$ 0.95	$ 142.50
4x4 Blocks		12	EA	$ 2.00	$ 24.00
3500 psi Concrete		11	CY	$ 150.00	$ 1,650.00
Finish Labor		11	CY	$ 50.00	$ 550.00
1/2" CDX Exterior Plywood		21	EA	$ 11.00	$ 231.00
2x4x16 FT Blocking Plate		4	EA	$ 9.40	$ 37.60
2x4x12 HT Bottom Plate		2	EA	$ 7.81	$ 15.62
2x4x10 SPF Top Plate		2	EA	$ 7.81	$ 15.62
2x4x10 SPF Stock @ 2' OC		24	EA	$ 3.70	$ 88.81
2x4x10 SPF Blocking		8	EA	$ 3.70	$ 29.62
2x6x8 Wimpy Headers		4	EA	$ 5.50	$ 22.00
4x4x12 Lower Blocking		6	EA	$ 9.00	$ 54.00
Roof Trusses			Allow		-
2x4x10 SPF	Truss Bracing	15	EA	$ 3.70	$ 55.50
2x4x16 SPF	Valley Bird Posts	15	EA	$ 5.95	$ 89.25
1x4 Decking	Roof Battens	150	LF	$ 1.27	$ 174.88
Metal Roofing			Allow		$ 1,735.00
Aluminum Trim Set	Eave Boards	1	Set	$ 150.00	$ 150.00
Vented Vinyl Soffit			SF	$ 2.50	-
Adhesive		60	EA	$ 3.45	-
1/2 OSB for siding in interior and Exterior		30	EA	$ 9.25	$ 277.50
T 111 siding		0	sh	$ 37.50	-
Metal Siding			Allow	$ -	$ 225.00
Guttering and Downspouts		0	LF	$ 4.50	-
Gutter Strainers					
Insulation (ceiling)			Allow	$ -	$ 503.00
Insulation (Gable ends)	2x6 Fiberglass	30	EA	$ 15.50	$ 465.00
Door Casing		60	LF	$ 0.48	$ 24.00
Base Molding	Standard 3 1/4"	0	LF	$ 0.53	-
Air Flashing			Allow		-
Commode - Handicap Standard Type		1		$ 175.00	$ 175.00
Sink Mixer Unit		1		$ 47.00	$ 47.00
Vanity Faucet		1		$ 90.00	$ 90.00
Sink Pipe and Shut Off Connections			Allow		$ 250.00
Tankless Water Heater	electric	1		$ 192.00	$ 192.00
HVAC (Heating) Package			Allow		$ 1,000.00
AC Electrical Work and Fixtures			Allow		$ 1,650.00
Paint			Allow		-
Misc. Hardware - Nails, Screws, Glue, etc			Allow		$ 200.00
Trash Removal			Allow		-
Labor					$ 7,000.00

Subtotal	$ 20,712.00
Overhead & Profit - 15%	$ 3,107.89
Total Project Cost	$ 23,824.89

U.S. Department of Justice

Criminal Division

Washington, D.C. 20530
SEP 27 2012

Chief Mark Brooks
Marion Police Department
250 South Main Street
Marion, NC 28752

Dear Chief Brooks:

This letter is in response to your email dated September 10, 2012, and pursuant to our telephone conference held on May 3, 2012, to the Asset Forfeiture and Money Laundering Section (AFMLS) requesting to use equitably shared funds to construct a building for the Marion Police Department's (MPD) firing range.

The policies governing the use of equitably shared funds are outlined in the *Guide to Equitable Sharing for State and Local Law Enforcement Agencies* (April 2009) (*Guide*). The *Guide*, Section VIII.A.1.c states that an agency may use equitable sharing funds to support the costs associated with the construction and improvements of facilities used by law enforcement agencies and owned by the city, county, or state wherein the law enforcement agency operates. In addition to the limitations and conditions outlined within the *Guide*, all goods and services acquired with federal sharing funds must be in accordance with MPD's requirements governing procurement, with any title held accordingly. All federal sharing funds must be used prudently, which means in an ordinary, necessary and reasonable manner consistent with the principle that public costs should be controlled or reduced wherever possible.

Pursuant to our telephone conference held on May 3, 2012, MPD reduced construction costs since the original proposal amount exceeded the amount of available equitably shared funds. The firing range is owned by the police department. The new building will be used for firearms training, special response team training, and use of force training. The new estimated construction cost is $23,824.86. Accordingly, AFMLS has determined that the request to use equitable sharing funds to pay for the aforementioned capital expenditure is permissible, within a reasonable range of the estimated cost.

If you have any questions, please forward a brief email to AFMLS Training Technician Kimlin Gonzalez at AFMLS.AGX@usdoj.gov.

Sincerely,

Gene Pratter, Assistant Deputy Chief
Asset Forfeiture and Money
Laundering Section

Chief Brooks summarized that the City has obtained a bid of $23,824.86 from England Builders to construct a new shelter with a secure storage area and decent restroom facilities. Chief Brooks stated that he would propose to use Federal drug seizure funds for this project. The U.S. Department of Justice has given its approval for this expenditure.

Council Member Clark stated that, years ago, a lot of money and work went into improvements at the firing range and that the City needs to do a better job taking care of this property going forward. He said that he has no problem using drug seizure funds for the new shelter and restrooms, as long as the new facilities are properly maintained.

The City Manager advised that he agreed with Council Member Clark and that staff would address problems immediately, instead of deferring maintenance.

The City Manager advised that this project, upon Council approval, would be bid, but would cost no more than the price submitted by England Builders.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to authorize the expenditure of $23,824.86 to construct a new shelter and restroom facility at the City Firing Range, using Federal drug seizure funds, with the stipulation that the City will inspect and maintain the new facilities on a regular basis.

ADOPT RESOLUTION URGING GENERAL ASSEMBLY TO CONTINUE TRANSITIONAL HOLD HARMLESS PAYMENT TO LOCAL GOVERNMENTS: The City Manager advised that, as shown in material presented to Council, 122 cities and 17 counties in North Carolina are facing the loss of transitional hold harmless revenues beginning in 2013-14. The transitional hold harmless revenues were approved by the North Carolina General Assembly for 10 years in 2002 as part of a deal to eliminate the State reimbursements for the previously repealed local business inventory and intangibles taxes and to replace the reimbursements with a one-half cent local option sales tax. The additional half-cent sales tax has not provided enough revenue in the 122 cities and 17 counties to replace the State reimbursements, so these local governments have received transitional hold harmless payments for ten years, with payments totaling $17.4 million in 2012-13. The City Manager reported that Marion received $66,828 in transitional hold harmless payments for 2012-14, while Old Fort received $114,111. To make up for the lost revenue, Marion's property tax rate would need to increase by 1.6 cents and Old Fort's by 11.3 cents.

The City Manager advised that it is quite possible that Marion will no longer receive transitional hold harmless payments beginning in 2013-14, due to sales tax revenues increasing. However, this is not a certainty, so it is in the City's best interest to seek the continuation of the transitional hold harmless revenues.

The City Manager advised that, at the recent N.C. League of Municipalities Conference in Charlotte, many cities currently receiving transitional hold harmless funds met to discuss lobbying efforts regarding this matter. The League staff pledged its help to lobby for the continuation of transitional hold harmless funds.

The City Manager presented Council with a proposed resolution modeled after one adopted by the City of High Point, that urges the General Assembly to restore transitional hold harmless payments to local governments for a reasonable period of time and which asks the League to make this matter a legislative priority in the 2013 legislative session. The League will seek to get the best deal possible for affected cities, but it is uncertain whether an extension would be for two years, five years or longer.

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The City Manager stated that he would request Council approval of this resolution. Old Fort Mayor Garland Norton advised that he anticipates that the Old Fort Board of Aldermen will adopt a similar resolution at their November meeting.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following Resolution as follows:

RESOLUTION OF MARION CITY COUNCIL
CONCERNING LOSS OF
"TRANSITIONAL HOLD HARMLESS" REIMBURSEMENT FUNDS

WHEREAS, in 2002, the North Carolina General Assembly authorized an additional local option sales tax, and repealed existing reimbursements to local governments resulting from earlier repeal of the inventory tax base of local governments; and

WHEREAS, as part of the 2002 repeal of reimbursements, 122 municipalities and 17 counties which had negative budget impacts from the combined repeal of reimbursements and new sales tax have received transitional hold harmless payments for 10 years; and

WHEREAS, the growth in sales tax over the 10 year period of reimbursements has been less than projected, resulting in continuing losses to local governments receiving "transitional hold harmless" payments unless the 10 year period is extended; and

WHEREAS, the 2011-12 State budget does not include extension of the "transitional hold harmless" period to protect those local governments from losses caused by the 2002 repeal of reimbursements; and

WHEREAS, the City of Marion will lose $66,828 in its 2013-2014 budget year due to the failure of the General Assembly to extend "transitional hold harmless' payments for a reasonable period of time to allow sales tax revenue to grow to replace the "transitional hold harmless" payments; and

WHEREAS, this City budget shortfall will shift the burden of the General Assembly's inaction on extension of "transitional hold harmless" payments to City of Marion citizens and taxpayers.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARION THAT:

The North Carolina General Assembly is urged to restore "transitional hold harmless" payments to local governments for a reasonable period of time to allow growth in sales tax revenue to replace "transitional hold harmless" payments, as envisioned in 2002 when reimbursement to local governments were repealed.

Marion's local delegation to the General Assembly is urged to support restoration of "transitional hold harmless" payments to local governments for a reasonable period of time.

The North Carolina League of Municipalities is urged to make restoration of "transitional hold harmless" payments one of its highest legislative goals in the 2013 Session of the General Assembly.

Adopted by the City Council of the City of Marion this the 6th day of November, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-12-11-06-3

APPROVE STREET CLOSURE FOR NEW YEAR'S EVE CELEBRATION: The City Manager advised that the City, County, Marion Business Association and Marion Rotary Club have begun planning this year's New Year's Eve Celebration. They hope to build on the events held the past three 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 (if necessary) to drop the gold nugget, without objection.

The City Manager stated that he would request Council approval of a street closure for this event on Main Street between Fort 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 Mayor Pro Tem Cuthbertson, seconded by Council Member Martin, Council voted unanimously to approve a street closure for the New Year's Eve Celebration on Main Street between Fort and Henderson Streets on Monday, December 31 between 7:00 p.m. and 1:00 a.m.

DISCUSS STREET REQUESTS: The City Manager advised that he wanted to forward several street requests to Council Members, as follows:

A. The City Manager advised that he had received a request from Julia Rouse, who lives at the corner of Fleming Avenue and Crescent. Ms. Rouse has requested that a crosswalk be added on Fleming Avenue at Crescent Drive, to make it safer for pedestrians, especially children, to cross Fleming Avenue. The City Manager stated that he advised Ms. Rouse that he had great concerns about visibility at the intersection, given that the intersection is located in a curve, and was afraid that a crosswalk could create a false sense of security. A crosswalk would not do any good if motorists could not see it. Pedestrian crossing signs could be added in both directions, but the signs do not guarantee that motorists will stop or even pay attention.

B. Mr. Kit Alverson has proposed that the speed limit on Crescent Drive be reduced to 20 mph.

C. Mr. Kit Alverson has suggested that the no left turn signs on Fleming Avenue at the Marion Elementary School entrance be removed, since the flexible delineators at the entrance prevent someone, almost completely, from making a left turn at this location.

D. The City has received a request for more street lighting at the intersection of Yancey Road, a DOT road, and Smokerise Drive, a private road. While this intersection is dark, there appears to be adequate street light spacing on Yancey Road.

AA.000000137 (24)

The City Manager suggested that Council may wish to discuss these requests or refer them to the Street Committee.

It was the consensus of Mayor Little and Council Members to refer these requests to the Street Committee for review and a recommendation back to Council at a future meeting.

DISCUSS PROPOSED DOT CONDITIONS ON LEFT TURN SIGNAL AT MAIN AND NEW STREETS: Public Works Director Brant Sikes advised that, as shown in information presented to Council, DOT has approved a left turn signal, as requested by the City, for southbound traffic on North Main Street at New Street. However, the structural evaluation of the City's mast arm poles caused DOT to require that the City's street name sign for New Street be removed from the mast arm pole in order for the left turn signal to be installed. The street sign apparently causes the weight of the mast arm to be slightly over its design capacity.

Mr. Sikes stated that the City has three possible options:

A. To do nothing and decline the left turn signal.

B. To accept the left turn signal, remove the street name sign from the mast arm and place it on the corner of the street.

C. To replace the mast arm with a new pole that can support the added weight, at a cost of about $20,000.

The City Manager stated that Option C appears to be out of the question, so he wanted to obtain Council's opinion as to whether they wish to accept the left turn signal and work out the best option to display the street name sign or whether Council wants to turn down the left turn signal.

The City Manager advised that Planning and Development Director Heather Cotton has proposed some ways the City could hang the street name sign on the larger pole, instead of the upper mast arm, if allowed by DOT, or the City could just put the street name sign on a pole on the corner.

The City Manager noted that the City still has to hang the decorative blue street name signs downtown, as part of the Downtown Streetscape Project, so City staff will be undertaking work anyway with the street signs.

Mayor Little and Council Members agreed by consensus for City staff to remove the New Street sign from the upper mast arm pole at Main and New Streets, in order to allow for DOT to install the left turn signal for southbound traffic on Main Street at New Street. Efforts will first be made to install the New Street sign on the larger vertical pole, with the hanging of the street sign on a new pole on the street corner being a last resort.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager stated that he had looked at the City's abandoned vehicle ordinance and determined that it almost exactly matches State law definitions for abandoned vehicles. Since State law defines an abandoned vehicle as one left on a street or highway for more than seven days, it is unlikely that Council could adopt a stricter definition.

The City Manager stated that he had sought information on how other cities deal with this matter through the City and County Manager's listserve and received no responses, which is unusual for the listserve. Other cities will generally respond if they have information to share.

Council Member Clark stated that the vehicles he had issues with were not abandoned vehicles, but that he would suggest that the matter be dropped.

The City Manager stated that the 29th Annual Mountain Glory Festival took place on Saturday, October 13. The City ended up with about 140 vendors, the most ever. The street was full of vendors and activities and the Festival had great weather and excellent crowds. The City Manager stated that by his observation and from what many people said, the crowd was the largest ever. Mayor Little sent thank you notes to all of the Festival volunteers and the City Manager stated that he had thanked Freddie Killough, the Public Works, Police and Fire Departments for their excellent work in coordinating another great Festival.

The City Manager advised that the Street Committee had reviewed the request of Ms. Claire Pendergrass to install a mirror on West Court Street at Burgin Street or to prohibit parking in front of the apartments on West Court Street and Burgin Street and determined that no action was necessary. The Street Committee noted that the current traffic and parking situation has been in place for several decades, without significant problems resulting.

The City Manager reported that the City will soon launch the North Carolina Wellness Initiative for City employees.

The City Manager stated that City crews have worked recently to repair sunken areas in the Main Street brick sidewalks and to pressure wash downtown sidewalks. Council Member Clark commended City crews on the great work done with pressure washing the downtown sidewalks.

The City Manager advised that the Certified Retirement Community (CRC) committee, comprised of representatives from the City, County, MBA, Chamber, TDA and other organizations, will meet with a representative of the N.C. Division of Tourism on November 16 to receive guidance on the implementation of the City's marketing plan for the CRC designation. The State will hold an official ceremony in the near future to officially award the certification to the City.

The City Manager advised that Public Works Director Brant Sikes had been working with Norfolk Southern Railway to get an erosion problem corrected that is threatening part of South Garden Street just north of the railroad crossing. The railroad has acknowledged that they caused the problem and has agreed to correct the situation by placing backfill. It looks like backfill was previously improperly placed by the railroad, causing the erosion situation. This work should be completed in the next few weeks.

Police Chief Mark Brooks reported that the Police Department accreditation assessment began on Sunday, November and concluded earlier that day. The two out-of-State assessors advised Chief Brooks after the assessment that they would be recommending the City for accreditation. A final decision will be made by the Commission on Accreditation for Law Enforcement Agencies (CALEA) in March, but it is very likely that the City will be chosen for accreditation.

COUNCIL MEMBER COMMENTS:

No Comments.

ADJOURNMENT: Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

AA.000000138 (24)

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 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; Mark Brooks, Police Chief; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Joy Strassel, Executive Director, Western North Carolina Housing Partnership; Becky Stevens and Jim Vortmer; Representatives of Western North Carolina Housing Partnership Property Management; Mary Cate, 46 Tremont Street, Marion, NC; Mark and Diane Cate 283 Oakhill Drive, Nebo, N.C.; Dean Gouge, 249 Laurel Ridge, Old Fort, NC; Teri Benjamin, 131 Knollwood, Boiling Springs, S.C.; Tammy Devine, 218 Pauleys Ct., Inman, S.C.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

CITIZEN OF THE MONTH – SELECTED BY COUNCIL MEMBER DON RAMSEY: Council Member Don Ramsey stated that it was his honor and privilege to present Mary Cate as his Citizen of the Month for November.

Ms. Cate has three children, who were all present for this presentation: Teri Benjamin, Tammy Devine and Mark Cate.

Council Member Ramsey advised that Ms. Cate is an active member of First Baptist Church of Marion where she has served in many positions such as Deacon, Sunday School Teacher, Secretary of the Saints Alive Choir and much more, including being active in two Mission Circles.

Ms. Cate was one of the original volunteers of the Christian Clothing Center. She and her late husband Lee did much of the building renovations of the first Christian Clothing Center store. She continues to volunteer each week.

Ms. Cate volunteers for Hospice and is a member of the Christian Women's Club.

Council Member Ramsey stated that a member of the church has given Ms. Cate the fitting name of "First Responder", due to her efforts in caring for the sick and shut-ins and other needs in the community.

Mayor Little, Council Members, family and friends of Ms. Cate congratulated her on her selection as Citizen of the Month.

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 – November 6, 2012 Regular City Council Meeting Minutes.

B. Approve Fire Department Relief Shift Honoraria

Council approved the payment of honoraria to volunteer firefighters who have donated their time to work relief shifts for the City's paid staff when the paid staff have taken holidays, sick leave and vacation, as follows:

Christopher Burnette 62 Lukin St. Marion, NC 28752	$2,054.00
Marty Coward 66 West Cross St Marion, NC 28752	$1,404.00
Terry Depoyster 288 Cannon Woods Dr. Marion, NC 28752	$3,445.00
Scotty Radford 272 Quail Hollow Dr. Marion, NC 28752	$3,484.00

PUBLIC APPEARANCE – WESTERN NORTH CAROLINA HOUSING PARTNERSHIP: The City Manager advised that Ms. Joy Strassel of Western North Carolina Housing Partnership (WNCHP) is present to request again Council's support of WNCHP's application for North Carolina Housing Finance Agency tax credits to allow a 48 unit senior housing development to be constructed on Bakersville Road next to Hospice of McDowell County. The City Manager reported that Council gave their support to this project in January, along with authorization for the City to apply for Community Development Block Grant funding, if necessary, for infrastructure improvements to the site. The City Manager noted that WNCHP was not able to reach a deal with Hospice in time to submit an application for tax credits. He added that the project also received zoning approval from the Board of Adjustment in January and could be approved at any time.

AA.000000139 (24)

Ms. Strassel gave an overview of the proposed development, including background on WNCHP, the proposed project design and the plan for property management. She advised that WNCHP had been in existence for about 15 years, providing high quality developments for the aging population in Western North Carolina. Ms. Strassel stated that WNCHP is committed to developing high quality affordable residences with award winning designs. She noted that demographic information showed a need for senior housing in Marion and McDowell County and that WNCHP believed that the Bakersville Road site would be an excellent location for a senior housing development.

Ms. Strassel added that the proposed facility would have an estimated tax value of $4 million, creating additional tax base and jobs for the community. The development will have a mixture of unit sizes.

Mayor Little stated that the City of Marion was recently designated by the North Carolina Department of Commerce as a Retirement Community, making Marion one of only four communities designated thus far.

Council Member Doggett asked about the estimated rental cost. Ms. Strassel stated that the rent would likely be around $475 per month, with an allowance for utilities. Ms. Strassel stressed that this development would not be low income housing. Credit checks and reference checks, as well as background checks, will be made on all applicants. The tax credits, if approved, will allow WNCHP to reduce the rent for seniors unable to pay the full amount.

Council Member Clark stated that he felt this development would be positive for the community.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to officially endorse Western North Carolina Housing Partnership's plans for a 48 unit senior housing development to be constructed on Bakersville Road next to Hospice of McDowell County, to endorse WNCHP's application for North Carolina Housing Finance Agency tax credits for the project and to authorize City staff to seek Community Development Block Grant funding, if necessary, for infrastructure improvements to the site.

Ms. Strassel thanked Council for their continuing support of this project.

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

CONSIDER REQUEST OF NEWCOMERS AND FRIENDS CLUB FOR USE OF COMMUNITY BUILDING: The City Manager advised that members of the Newcomers and Friends Club are requesting use of the Community Building at the discounted civic club/not-for-profit rate of $30 per rental. The Club is requesting to use the Community Building for their monthly meetings on the second Tuesday of each month, from 10:00 a.m. to 3:00 p.m. The City Manager reported that the Community Building Rules and Regulations and the City Fee Schedule provide for a discounted rate of $30 per rental, compared to the regular rental rate of $200 per rental, for civic clubs and not-for-profits using the Community Building on a regular basis and approved by City Council.

The City Manager stated that Council has always interpreted renting the building on a regular basis to mean at least a monthly rental. The City Manager stated that he had advised Ms. Sukey O'Donnell from the Newcomers and Friends Club that, if approved, the Club would have to pay for at least 12 rentals per year. The City Manager reported that Ms. O'Donnell said that the Club would have no problem with paying for 12 rentals per year.

The current clubs and not-for-profits approved by Council for the discounted $30 rate are as follows:

Marion Rotary Club - Every Thursday, 7:00 a.m. to 2:00 p.m.

Christian Women's Club - 3rd Monday, 7:00 a.m. to 3:00 p.m.

McDowell Ballroom Dancers - Last Saturday each month 1:00 p.m. to 11:00 p.m.

McDowell Board of Realtors - 1st Tuesday, 8:00 a.m. to 1:00 p.m.

The City Manager advised that the Lions Club and Kiwanis Club were previously approved for the discounted rental rate, but no longer meet at the Community Building. The Civitan Club also used to meet at the Community Building, but disbanded several years ago.

For purposes of the Community Building schedule, if the discounted rate for the Newcomer's Club is approved, the City Manager stated that he would recommend listing them on the schedule from 7:00 a.m. to 3:00 p.m., since The City has never had anyone rent the Community Building for an hour or two prior to 10:00 a.m. The City Manager advised that the only potential conflict with the requested schedule of the Newcomer's Club would be when New Year's Day falls on Tuesday, as is does in 2013, which leads to the McDowell Board of Realtors meeting on the second Tuesday. The same problem could occur when July 4th falls on Tuesday. The Newcomer's Club would have to adjust their schedule to the 3rd Tuesday, or another open date, in such cases, since the Board of Realtor's schedule has been set for several years on the Community Building calendar. After 2013, New Year's Eve will not be on Tuesday until 2019. July 4th will not fall on Tuesday until 2017.

Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to approve the request of the Newcomers and Friends Club to use the Community Building on the second Tuesday of each month from 7:00 a.m. until 3:00 p.m. at the discounted civic club/not-for-profit rate of $30 per rental, with a minimum of 12 rentals per year, said approval taking effect February 1, 2013, or on January 1, 2013 if the Newcomers and Friends Club is willing to deviate from the second Tuesday schedule for that month.

CONSIDER APPROVAL OF MUNICIPAL AGREEMENT WITH NCDOT – CONSTRUCTION OF CONCRETE MEDIAN BARRIER ON US 221 BYPASS: The City Manager advised that, as shown in information presented to Council, NCDOT is planning to install a concrete median barrier on the US 221 Bypass between the US 70 intersection on the north and the NC 226 intersection on the south. The project will cost $3,205,000. The purpose of the project is to prevent vehicles from crossing the small center concrete divider and crashing into on-coming traffic. The City Manager stated that the City will not be asked to contribute any funding and will not have to relocate any utilities, since the City has no utilities in the median of the US 221 Bypass. NCDOT is asking for the City's concurrence, since parts of the project, on both ends and in the middle, are in the City Limits.

The City Manager stated that Council may recall the City being asked for concurrence on the Garden Creek Road bridge replacement about two years ago. The Garden Creek Road project also involved no cost to the City, so Council approved a municipal agreement for the project.

Since this project would enhance safety on the US 221 Bypass and will not cost the City anything, the City Manager recommended that Council approve this municipal agreement.

Mayor Little stated that he would rather see this funding spent on relocating City utilities for the US 221 widening project, but he realized that was not possible. Council Member Clark advised that he had thought the same thing.

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Council Member Doggett noted that, to her knowledge, there had been no head-on collisions on the US 221 Bypass.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Doggett, Council voted unanimously to approve a Municipal Agreement with the North Carolina Department of Transportation to allow NCDOT to install a concrete median barrier on the US 221 Bypass between the US 70 intersection on the north and the NC 226 intersection on the south, with no cost being incurred to the City.

RECEIVE STREET COMMITTEE RECOMMENDATIONS: The City Manager advised the Street Committee met and reviewed the following requests that were referred by Council at the November 6 Council meeting:

A. A request from Julia Rouse, who lives at the corner of Fleming Avenue and Crescent, that a crosswalk be added on Fleming Avenue at Crescent Drive, to make it safer for pedestrians, especially children, to cross Fleming Avenue. The Street Committee felt that visibility was not adequate at this intersection, given that it is located in a curve, to allow a crosswalk to be seen by motorists. Therefore, the Street Committee did not recommend placing a crosswalk at this location.

B. A request by Kit Alverson to lower the speed limit on Crescent Drive to 20 mph. The Street Committee recommended approval of this request. The City Manager present Council with a proposed Traffic Schedule Amendment to establish a 20 mph speed limit the entire length of Crescent Drive. 20 mph speed limit signs would need to be installed. Council action is needed to approve this ordinance.

C. A request by Kit Alverson that the no left turn signs on Fleming Avenue at the Marion Elementary School entrance be removed, since the flexible delineators at the entrance prevent motorists, almost completely, from making a left turn at this location. The Street Committee recommended removing the no left turn signs, but not the regulation, since the flexible delineators are supposed to physically prevent a left turn at this location. The City Manager reported that Council Member Clark had advised that vehicles still occasionally make a left turn at this location, so the City is looking at adding one or two additional delineators to make this turning movement impossible.

D. A request for more street lighting at the intersection of Yancey Road and Smokerise Drive. The Street Committee recommended the placement of an additional street light at this location. The City Manager stated that, while there does appear to be adequate street light spacing, in terms of City policy, the fact that this location is in a curve makes some of the existing street lighting ineffective, leading to the recommendation to add a street light.

Upon a motion by Council Member Martin, seconded by Council Member Doggett, Council voted unanimously to approve the recommendations of the Street Committee not to install a crosswalk at the intersection of Fleming Avenue and Crescent Drive, to remove two no-left turn signs on Fleming Avenue at the Marion Elementary School entrance, to add a street light at the intersection of Yancey Road and Smokerise Drive and to adopt the following Ordinance establishing a 20 mile per hour speed limit on Crescent Drive:

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
CRESCENT DRIVE	SPEED 20 MPH	LENGTH OF STREET

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

Adopted this the 20th day of November, 2012.

Stephen R. Little
Mayor

ATTEST:

J. Robert Boyette
City Manager/Clerk

Ordinance Number: O-12-11-20-1

CONSIDER APPROVAL OF CITY PARTICIPATION IN NORTH CAROLINA RURAL CENTER PLANNING GRANT: The City Manager advised that, as previously discussed, the City Utility Committee met with a committee from the Town of Old Fort on November 8 to discuss opportunities to cooperate on water and sewer matters. The City Utility Committee recommends that the City participate in funding the local match for a North Carolina Rural Center Planning Grant to be applied for by the Town to study opportunities for water and sewer cooperation and/or consolidation. The estimated cost of the McGill study is $50,000. The Rural Center grant could provide 50 percent of the funding. The remaining amount would need to be provided through a local match. The City Utility Committee recommends that the City provide 75 percent funding, or $18,750, of the local match, with Old Fort paying for 25 percent, or $6,250, of the local match. The dollar amounts listed assume a local match amount of $25,000.

The City Manager stated that Council Member Clark had contacted Rural Center President Billy Ray Hall about this project, to determine if the request could be placed on the November Rural Center Board agenda. While it is possible that the request can be reviewed at the November Rural Center Board meeting, it is more likely that the grant application will be considered at the January Rural Center Board meeting. The Old Fort Board of Aldermen approve their 25 percent share of the local match and adopted a resolution authorizing the grant application at their November 19 Board meeting, according to Old Fort Mayor Garland Norton.

The City Manager advised that the City has sufficient flexibility in the Water and Sewer Fund under Utility Maintenance Contracted Services to pay for the City's share of the local match.

AA.00000141 (24)

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to approve the City providing 75 percent funding of the local match for the North Carolina Rural Center Planning Grant for the Old Fort-Marion Water and Sewer Study, with the Town of Old Fort being the applicant for this grant.

DISCUSS JANUARY METTING SCHEDULE: The City Manager advised that the date of the first City Council meeting in January falls on Tuesday, January 1.

The City Manager asked if Council wished to move the January 1 meeting to another night, perhaps Thursday, January 3, reschedule the January 1 and 15 meetings to January 8 and 22 or cancel the January 1 meeting. The City Manager stated that the last time that the first Council meeting fell on January 1 was in 2008 and Council cancelled the January 1 meeting. In 2002, Council still met the first Tuesday after the first Monday and two weeks thereafter, placing the first January Council meeting on January 8 and the second one on January 22.

Council Member Clark stated that he would also like to see better attendance at the Town Meeting. Council discussed options for changing the date of the Town Meeting from January to early Spring.

Upon a motion by Council Member Clark, seconded by Mayor Pro tem Cuthbertson, Council voted to cancel the January 1, 2013 Council meeting and to hold the Annual Town Meeting for 2013 in the Spring, with the Town Meeting date being set at a later meeting.

DISCUSS CITY ATTORNEY APPOINTMENT: Mayor Little advised that, as Council Members know, the law firm of Dameron & Burgin is dissolving as of December 31, which will necessitate the City finding a new City Attorney. He stated that a resignation letter from Dameron & Burgin, effective December 4, 2012, had been given to Council. Mayor Little advised that the City had already shifted its real estate legal work to Hill Evans, since Dameron & Burgin had stopped handling real estate matters several months ago.

Mayor Little stated that Hill Evans is willing to serve as City Attorney and he would recommend that Council appoint Mr. Evans to be the new City Attorney, effective December 4, 2012.

Mayor Pro Tem Cuthbertson stated that Council also needed to accept the resignation of Dameron & Burgin as City Attorney, for the record.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to accept the resignation of Dameron & Burgin as City Attorney, effective December 4, 2012, and to appoint Hill Evans as City Attorney, effective December 4, 2012.

A brief discussion was held regarding officially recognizing Dameron & Burgin for their service to the City for the past 90 years. Council agreed to schedule this recognition for the January 15 Council meeting.

UPDATE ON EASTFIELD SIDEWALKS CDBG PROJECT: The City Manager stated that the City Attorney and staff were working on the final two easements for the Eastfield Area Sidewalks Community Development Block Grant project. The City Manager advised that the City needed to move forward with final project design and bidding, if the grant deadline of August 2013 was to be met.

The City Manager stated that the City hoped to receive signatures on the last two easements, but that he would request Council approval to acquire any remaining easements through eminent domain, if necessary, to allow the project to take place.

Mayor Little stated that eminent domain was allowed for public projects to make sure that one or two property owners could not have veto power over a public project. He said he agreed with authorizing eminent domain for remaining easements, if necessary.

A brief discussion followed.

Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to authorize the City Manager to acquire needed right-of-way and/or easements by eminent domain, if necessary, for the Eastfield Area Sidewalks Community Development Block Grant project.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager reminded Council Members that the December 4 City Council Meeting would begin at 6:00 P.M. instead of 7:00 P.M.

Public Works Director Brant Sikes gave an update on the left turn signal for southbound traffic on Main Street at the New Street intersection. He stated that he advised DOT that the New Street sign will be removed off of the upper mast arm pole, which will allow DOT to install the left turn signal within the next few months.

The City Manager advised that the Marion Rotary Club, City, Marion Business Association and County have begun planning for the New Year's Eve Event. Several food and beverage vendors have already been lined up for this event.

The City Manager reported that the Certified Retirement Community (CRC) committee, comprised of representatives from the City, County, MBA, Chamber, TDA and other organizations, met with a representative of the N.C. Division of Tourism on November 16 to receive guidance on the implementation of the City's marketing plan for the CRC designation. The Committee will launch the marketing effort in the near future, as soon as additional guidance is received from the State.

The City Manager advised that the DOT contractor was underway with construction of a sidewalk on US 70 between the High School Road and Sam Phillips Drive. The sidewalk will be maintained by the City upon construction.

The City Manager advised that he anticipated hearing back from DOT by January regarding their preliminary plans for the US 221 widening project. The preliminary plans should give the City a good idea of the impact of the project on water and sewer line relocations and on existing commercial buildings.

The City Manager reported that the first meeting of the Marion Comprehensive Transportation Plan committee would take place on Wednesday, January 16 at 2:00 p.m.

COUNCIL MEMBER COMMENTS:

Council Member Clark stated that he wanted Council to keep in mind that there could be water pressure concerns regarding the new proposed development on Bakersville Road. He stressed the need for the City to proceed with the Water System Hydraulic Model. Public Works Director Brant Sikes reported that work was underway on the Hydraulic Model and that he had worked with McGill Associates to make sure that the model will be beneficial for the City. The City Manager advised that the Hydraulic Model will hopefully provide good information for the City that can guide future decisions on development and water extensions.

AA.00000142 (24)

Mayor Pro Tem Cuthbertson reported shrubbery growing out over Willow Street. He also noted grass that needed to be cut on private property on Willow Street.

Mayor Little stated that he notice ground cover overgrowing the South Main Street sidewalk in front of St. John's Episcopal Church.

Mayor Pro Tem Cuthbertson stated that some of the crepe myrtles on Main Street need to be trimmed, in order to allow people to walk on the sidewalk underneath the trees. He also reported a large stick in a storm drain at Morgan and South Main Streets.

Council Member Doggett asked if the hole next to the fire hydrant on Morgan Street had been filled. Mr. Sikes stated that this work had been completed the previous day.

Mayor Little stated that he had noticed two orange cones on South Garden Street at the Post Office entrance. He suggested that the problem be addressed, to allow the cones to be removed. Mayor Little also reported debris in the intersection at South Garden and East Court Streets.

Council Member Ramsey stated that he would like Council to look at the City's Noise ordinance. He reported that he and other neighbors along Hillcrest Drive have experienced continuing noise issues coming from the Swamp Fox Tavern on North Main Street. Council Member Ramsey advised that the Police Department has been responsive, which resulted in temporary reduction of the noise, but problems kept reoccurring. He noted that the City of Asheville recently made changes to its Noise Ordinance. Council Member Ramsey asked that the City's ordinance be looked at for needed improvements.

The City Manager stated that City staff would obtain information from other cities and bring recommendations back to Council at the January 15 Council meeting, without objection. He advised that City staff would also determine if multiple warnings had been issued to the Swamp Fox and if citations now needed to be issued for future violations.

Council Member Clark stated that he was pleased that Mayor Little and Council Member Doggett would be attending the National League of Cities meeting in Boston in late November.

Mayor Little reminded Council Members that this year's Council Christmas dinner will be at the Fire Department at 7:00 p.m. following the December 4 Council meeting. Mayor Little stated that Council Members are invited to Mayor Little's home for refreshments after the dinner.

ADJOURNMENT: Upon a motion by Council Member Clark, 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, December 4, 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; Mike Conley, News Reporter, McDowell News

GUESTS PRESENT: Hill & Kathy Evans, 110 Gowan Point, Marion, N.C.; Mike Lovoy 24 Big Bear Trail, Asheville, 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 Martin, Council voted unanimously to approve the consent agenda as follows:

A. **Approval of Minutes** – November 20, 2012 Regular City Council Meeting Minutes.

B. **Approve Fire Department Roster/Annual Certification of Firefighters**

CERTIFICATION BY GOVERNING BODY

AA.00000143 (24)

Pursuant to G.S. 58-86-25, the governing body of a fire department operated by (i) a county is the county board of commissioners, (ii) a city is the city council, (iii) a sanitary district is the sanitary district board, (iv) a corporation, whether profit or nonprofit, is the corporation's board of directors and (v) any other entity is that group designated by the board. Therefore, in our capacity as the governing body of the above-named fire department, we certify ant find that the attached roster is a valid and accurate list of all eligible firemen in accordance with G.S. 58-86-25.

Name of Governing Body City of Marion **Name of Governing Body Official** J. Robert Boyette

Authorized Signature _____

Title City Manager

Date December 4, 2012 **Daytime Telephone** (828)652-3551

Jonathan H. Briggs	Volunteer
Fred T. Brown	Retired
Robert R. Burleson	Volunteer
Christopher N. Burnette	Volunteer
James M. Coward	Volunteer
Matthew P. Crawford	Paid
Ralph M. Dark III	Retired
R.M. Dark, Jr.	Retired
Andrew B. Depoyster	Volunteer
Terry L. Depoyster	Volunteer
M. Wayne Durkee	Volunteer
Bruce A. Edwards	Retired
Phillip D. Finley	Volunteer
Jacob S. Fox	Volunteer
John G. Fox	Volunteer
Curtis C. Grant	Volunteer
Marvin E. Hall	Retired
Tommy W. Harris	Retired
Gregory K. Hollifield	Volunteer
James R. Hollifield	Retired
Millard Hollifield	Retired
Amy E. Hudgins	Paid
Adrienne S. Jones	Volunteer
John M. Laughridge, Jr.	Retired
John C. Laughridge, Jr.	Retired
Dennis Laws	Volunteer
James R. Mace	Paid
Darrell A. Mason	Volunteer
Roger W. McCarthy	Volunteer
Raymond N. McDaniel	Paid
Joshua S. McMahan	Volunteer
Jimmy W. Morris	Retired
John M. Morrow, III	Volunteer
Jonathan E. Morrow	Volunteer
Frederick C. Nanney	Volunteer
James E. Neal, III	Paid
Joseph L. Neal	Retired
Kevin W. Owenby	Paid
James D. Parker	Retired
Billy R. Poteat	Retired
Jerry W. Poteat	Retired
Kenny W. Poteat	Retired
Charles L. Presnell, Jr.	Retired
Dennis M. Price	Retired
Scotty W. Radford	Volunteer
John Reese	Retired
Kevin L. Sisk	Volunteer
William R. Smith, III	Retired
Jerry C. Stevens	Retired
Charles G. Suttle, Jr.	Retired
Corey Whiteside	Volunteer
James D. Willis	Retired
William J. Young, Jr.	Retired
Cody A. Durkee	Volunteer
Austin W. Radford	Volunteer
Brandon L. Weeks	Volunteer

ADMINISTRATION OF OATH OF OFFICE TO CITY ATTORNEY HILL EVANS: Mayor Little administered the oath of office to City Attorney Hill Evans.

Mr. Hill's Wife Kathy was present and held the Bible during the administration of the Oath as follows:

I, W. Hill Evans, 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.

_____

W. Hill Evans

I hereby certify that I, Stephen R. Little, administered the above Oath of Office to W. Hill Evans, this 4th Day of December 2012.

AA.00000144 (24)

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

PUBLIC HEARING – ADOPTION OF ANNEXATION ORDINANCE – RANDOLPH/FORSYTHE STREET PROPERTY: The City Manager advised that City Council had completed the annexation process for the 0.80 acre Randolph/Forsythe Street Property. This property is adjacent to the City's Clinchfield Pump Station property and contains one house. A public hearing is required on this request, after which time Council may adopt an ordinance to annex the property.

Mayor Little opened the Public Hearing.

There were no citizens present for this discussion.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to adopt the following ordinance annexing the Forsythe Street/Randolph Property immediately:

AN ORDINANCE TO EXTEND
THE CORPORATE LIMITS OF THE
CITY OF MARION, NORTH CAROLINA –
RANDOLPH/FORSYTHE STREET - 2012

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 6:00 P.M. on Tuesday, December 4, 2012, after due notice by publication on Tuesday, November 20, 2012; 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 December 4, 2012:

BEING LOTS #1, #2, #3 and #4 in Block "G" Section Two, of Central Lakes Park, the property of Caroline Yancy Tighe, located near Marion, McDowell County, NC, on Forsythe Street and Virginia Avenue, as shown on map of the same recorded in the Office of the Register of Deeds for McDowell County, NC, in Map Book 1 at page 211-H, and being more particularly described as follows:

BEGINNING at a stake at the edge of Virginia Avenue where it intersects with the northwest margin of a 20-foot wide service road, as shown on said map above referred to, and runs thence North 47 deg. 24 min. West with the margin of said service road 87.10 feet to a stake; thence North 76 deg. 46 min. West 80.15 feet with the margin of said service road to a stake; thence leaving said road and running with the line of the Clinchfield Disposal Tract North 38 deg. 20 min. East 41.10 feet to a stake; thence with said line North 42 deg. 36 min. East 200.00 feet to a stake, a common corner between Lots #4 and #5 as shown on said map above referred to; thence with the dividing line between said Lots #4 and #5 South 47 deg. 24 min. East 160.00 feet to a stake in the northwest margin of Virginia Avenue; thence with the margin of said Virginia Avenue South 42 deg. 36 min. West 200.00 feet to the BEGINNING.

Section 2. Upon and after December 4, 2012, 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 4th day of December, 2012.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Approved As To Form:

City Attorney

Ordinance Number: O-12-12-04-1

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

RECEIVE UPDATE FROM MUDDY CREEK RESTORATION PARTNERSHIP: The City Manager advised that the Muddy Creek Restoration Partnership (MCRP) is planning on holding a workshop in February to discuss water quality improvement projects with local contractors. MCRP ultimately wants to train local contractors to be able to do these types of projects. MCRP has asked that Council endorse the workshop. The City Manager reported that the City would not be asked to provide any additional funds for the workshop.

AA.000000145 (24)

Mayor Pro Tem Cuthbertson advised that the main purpose of this workshop is for local contractors to know what they are getting into when they bid on projects locally. MCRP would like to see all contractors have this training.

Council Member Clark stated that the workshop provided a dual benefit in potentially steering additional work to local contractors, as well as promoting projects that benefit the local environment.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to endorse a workshop to be held by the Muddy Creek Restoration Partnership (MCRP) in February to discuss water quality improvement projects with local contractors.

SCHEDULE CITY COUNCIL PLANNING SESSION: The City Manager advised that, at the November 20 Council meeting, Council agreed to schedule the next Town Meeting for early Spring. The date for the town meeting can be set at a later date.

The City Manager stated that he wanted to propose that Council schedule the next Planning Session, perhaps for early February, to allow him to start giving budget direction to City department heads.

It was the consensus of council members to hold their next planning session at 6:00 P.M. on Tuesday, February 12 at City Hall.

GUEST RECOGNITION : Mayor Little recognized a guest in the audience, Mr. Mike Lovoy of Asheville.

Mr. Lovoy stated that he works for an engineering firm in Asheville and wanted to attend the Council meeting to stay abreast of what is going on in Marion.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager stated that the Police Department continues to follow up with noise issues, as was discussed at the November 20 Council meeting. The City Manager advised that the Police Chief and he were looking at potential updates to the City's Noise Ordinance and would present recommendations to Council in January.

The City Manager updated Council on five new businesses recently permitted in the City, including Big Lots, Hibbett Sports, Papa John's Pizza, Great Clips Hair Salon and Weave It or Knot. He added that he appreciated the recent news story in the McDowell News about these new businesses, all of which should be open by March 1.

Mayor Little stated that the new Weave it or Knot store on North Main Street in the downtown area is really nice. He advised that the store carries yarn, knitting and sewing supplies and even has looms in the store to teach people how to weave.

The City Manager thanked Public Works Director Brant Sykes for all he and the Public Works Department were doing with day to day work, as well as special projects.

COUNCIL MEMBER COMMENTS:

Council Member Clark stated that Mr. Van Phillips of Great Meadows recently advised him how much he and his family appreciate all of the City's efforts to recruit Big Lots to the old Wal Mart building on Highway 70 West.

Mayor Little and Council Member Doggett gave a brief report of the recent National League of Cities conference they attended in Boston.

Mayor Pro Tem Cuthbertson stated that there are a few street lights that are not burning on Main Street. The City Manager stated that these lights have been identified by Public Works Director Brant Sikes and are scheduled for repair in the next few days by Duke Energy.

Mayor Little stated that, in the latest issue of WNC magazine, there is an article about Andrews Geyser, with information that he provided.

Mayor Pro Tem Cuthbertson stated that this year's New Year's Eve Celebration would be bigger and better. The City Manager gave a brief overview of the activities that will take place at the event.

Mayor Pro Tem Cuthbertson also stated that the balls on the downtown Christmas wreaths do not look good and need to be replaced. The City Manager advised that Marion Business Association Executive Director Freddie Killough had already communicated this need to Mr. Sikes and that the City would make sure the balls were painted or replaced before the downtown decorations go up next year.

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 15, 2013 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; Heather Cotton, AICP, Planning and Development Director; Brant Sikes, Public Works Director; Mark Brooks, Police Chief; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Larry Scott, Marion, NC; Mike Lovoy, 34 Big Bear Trail, Asheville, NC.

Guests present representing Boy Scout Troop 806 of Glenwood were: Joe Neal, James Marlett, Matthew Marlett, Cade Jones, Noah Jones, Colby Jones, Cameron and David Marler, Hayden Barrier, Wendy Gibson, Grant Wilson, Steve Leight, Clay and Beth Gilliland, Chris, Ben and Dylan Ragan.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

Mayor Little welcomed members of the Boy Scout Troop 806 of Glenwood and thanked them for coming to the meeting.

CITIZEN OF THE MONTH – SELECTED BY COUNCIL MEMBER DOGGETT: Council Member Doggett's Citizen of the Month could not attend this meeting.

Council Member Doggett will present the Citizen of the Month for February.

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 – December 4, 2012 Regular City Council Meeting Minutes.

B. Approval of Budget Ordinance Amendment

CITY OF MARION, NORTH CAROLINA
2012-2013 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 2012-13 as adopted by the Marion City Council on the 19th day of June, 2012 is hereby amended as follows:

GENERAL FUND

a. General Fund Expenditures, Police, Account Number 10-510-3330, National Night Out Supplies is increased from $1,700 to $2,700.

b. General Fund Expenditures, Fire, Account Number 10-530-1500, Maintenance and Repairs-Building is decreased from $17,000 to $5,000.

c. General Fund Expenditures, Fire, Account Number 10-530-7400, Capital Outlay is increased from $18,200 to $30,200.

d. General Fund Expenditures, Non-Departmental, Account Number 10-660-9600, Insurance, Bond, Workers Compensation is increased from $112,000 to $132,000.

e. General Fund Revenues, Account Number 10-313-1000, Hold Harmless Revenue is decreased from $70,000 to $66,829.

f. General Fund Revenues, Account Number 10-319-1000, Prior Year Tax Revenue is increased from $40,000 to $45,000.

g. General Fund Revenues, Account Number 10-321-0000, Privilege License Revenue is increased from $53,000 to $55,000.

h. General Fund Revenues, Account Number 10-334-1500, Bullet Proof Vest Grant is increased from $1,000 to $1,890.

i. General Fund Revenues, Account Number 10-334-1600, Federal Drug Asset Revenue is increased from $-0- to $1,751.

j. General Fund Revenues, Account Number 10-335-0300, Mountain Glory Revenue is increased from $21,000 to $23,891.

k. General Fund Revenues, Account Number 10-341-0500, Refunds/Reimbursements is increased from $6,000 to $12,500.

l. General Fund Revenues, Account Number 10-342-1300, National Night Out Revenue is increased from $1,700 to $3,315.

m. General Fund Revenues, Account Number 10-354-1000, Miscellaneous Revenue is increased from $1,000 to $3,400.

n. General Fund Revenues, Account Number 10-370-0000, Powell Bill Allocation is increased from $215,000 to $225,288.

o. General Fund Revenues, Account Number 10-390-0000, Cemetery Revenue is increased from $6,000 to $11,700.

p. General Fund Revenues, Account Number 10-392-2000, Property Insurance Reimbursement is increased from $-0- to $3,588.

q. General Fund Revenues, Account Number 10-392-2500, Storm Damage Reimbursement - FEMA is increased from $-0- to $2,504.

r. General Fund Revenues, Account Number 10-399-0000, Fund Balance Appropriated is decreased from $354,704 to $333,748.

AA.00000147 (24)

GENERAL FUND CAPITAL PROJECTS

a. General Fund Capital Project Fund Expenditures, Account Number 11-520-0100, Streetscape – Curbs, Landscaping, is increased from $113,544 to $138,544.

b. General Fund Capital Reserve Fund Revenues, Account Number 11-391-0000, Transfer from GF - Streetscape, is increased from $-0- to $25,000.

WATER AND SEWER FUND

a. Water and Sewer Fund Revenues, Account Number 30-335-0100, Property Insurance Reimbursement is increased from $-0- to $1,026.

b. Water and Sewer Fund Revenues, Account Number 30-360-1000, Write-off Bad Debts is increased from $-0- to $5,000.

c. Water and Sewer Fund Revenues, Account Number 30-392-1100, Sale of Surplus Equipment is increased from $1,000 to $2,878.

d. Water and Sewer Fund Expenses, Account Number 30-660-9600, Insurance, Bond, Workers Compensation is increased from $77,000 to $93,000.

e. Water and Sewer Fund Expenses, Account Number 30-810-0400, Professional Fees is increased from $1,000 to $15,800.

f. Water and Sewer Fund Revenues, Account Number 30-299-0000, Fund Balance Appropriated is increased from $397,824 to $430,720.

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 January 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–13-01-15-5

PUBLIC HEARING – ZONING MAP AMENDMENT – ASSIGN ZONING TO FORSYTHE STREET/RANDOLPH PROPERTY ANNEXATION AREA: Mayor Little opened the Public Hearing.

Planning and Development Director Heather Cotton advised that the proposed ordinance presented to Council would amend the Official Zoning District Map to assign the R-2 General Residential Zoning District to the single-family residential property located on Forsythe Street that had requested voluntary annexation.

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 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.

Ms. Cotton said that the subject property is located in a residential area just north of the Clinchfield Neighborhood adjacent to City owned property (M-1 Zoning District) that includes a utility pump station. Ms. Cotton advised that the Planning Board met and unanimously approved Staff's R-2 recommendation at their January 3, 2013 meeting.

There were no citizens present to further discuss the zoning assignment of this property.

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 that would amend the Official Zoning District Map to assign the R-2 General Residential Zoning District to the single-family residential property located on Forsythe Street:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
ASSIGN ZONING TO RANDOLPH/ FORSYTHE 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 Randolph/Forsythe Street Annexation Territory, as adopted by City Council Ordinance Number O-12-12-04-1.

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 January 3, 2013.

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.

AA.00000148 (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 approval.

Adopted this the 15th day of January 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-13-01-15-1

PRESENTATION BY DON CURRY – AUTUMN CARE SEWER PROPOSAL: Mr. Curry was unable to attend this meeting.

PRESENTATION OF CERTIFIED RETIREMENT COMMUNITY CERTIFICATE: The City Manager advised that the City of Marion is one of four cities in North Carolina that have been designated as a Certified Retirement Community (CRC) by the N.C. Department of Commerce. The City Manager reported that the State had forwarded the official CRC certificate to the City.

There was no one present from the State to present the certificate.

Mayor Little accepted the CRC certificate from the N.C. Department of Commerce on behalf of the City of Marion.

The certificate read:

North Carolina Department of Commerce
DIVISION OF COMMUNITY DEVELOPMENT
DIVISION OF TOURISM, FILM AND SPORTS DEVELOPMENT

City of Marion

Has been designated as a North Carolina
Certified Retirement Community

For encouraging retirees and those planning to retire to make their homes in North Carolina – offering an attractive retirement lifestyle, encouraging tourism to the area, providing a means for a potential workforce and enriching North Carolina communities.

Beverly Perdue, Governor
State of North Carolina

J. Keith Crisco, Secretary,
NC Department of Commerce

September 25, 2012
Date

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

CONSIDER APPROVAL OF REVISED WATER SYSTEM CROSS CONNECTION CONTROL ORDINANCE: Public Works Director Brant Sikes presented the following power point presentation concerning the proposed Cross Connection Control Ordinance to Council:

BACKFLOW/CROSS CONNECTION
CONTROL PROGRAM

AA.000000149 (24)

DEFINITIONS

1. Cross Connection – Connection or potential connection between an approved potable water system & any other environment that, under any circumstances, would allow substances from the other environment to enter the approved potable water system.
   - Bypass piping arrangements
   - Jumper connections
   - Any other permanent or temporary connection through which backflow may occur
2. Backflow – The undesirable reversal of flow in a distribution system.
   - Backsiphonage
   - Backpressure

   ⇒ Both are essentially the reversal of the hydraulic gradient & can be produced by a variety of circumstances.

ILLUSTRATION OF BACKSIPHONAGE DUE TO WATER LEAK

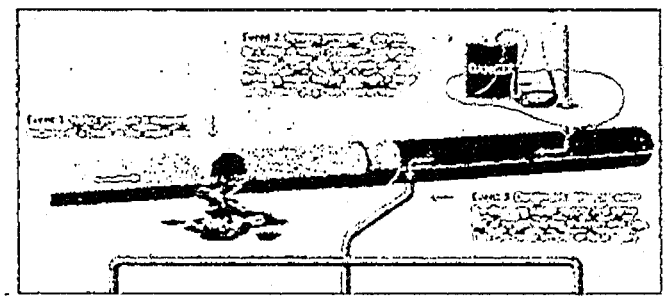
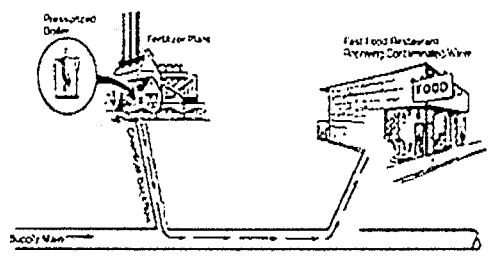


ILLUSTRATION OF BACKPRESSURE BACKFLOW

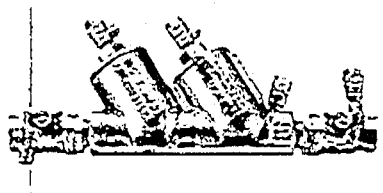


DEFINITIONS

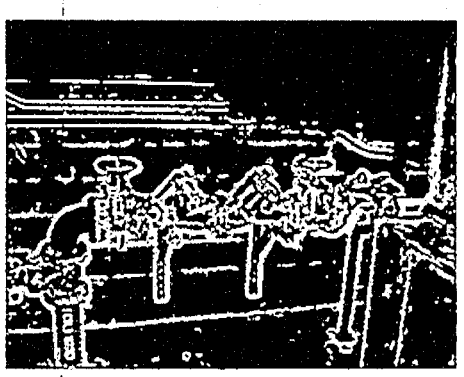
3. Backflow Prevention Assembly (BPA) – Assembly used to prevent backflow into a public water system.
   - Differs from Backflow Prevention Device in that:
     - Assembly is more reliable than a device
     - Assembly is required to have test cocks & shutoff valves
     - Assembly must be able to be tested & repaired in-line
   - Types:
     - Double Check Valve Assembly
     - Double Check Detector Assembly
     - Pressure Vacuum Breaker
     - Reduced Pressure Principle Assembly
     - Reduced Pressure Principle Detector Assembly

AA.00000150 (24)

DOUBLE CHECK VALVE ASSEMBLY
(DCVA)



DCVA – LARGE INSTALLATION



DEFINITIONS

4. Cross Connection Control Program – Formal program that a water purveyor uses to protect its public water supply against actual or potential contamination by isolating, within the consumer's water system, contaminants which could backflow into the public water system trough uncontrolled cross connections.
   - Any consumer that poses a "moderate" or "severe" degree of hazard is required to install an approved BPA
   - Inventory & inspection program
   - Annual testing & certification of BPA's is required
   - Enforcement actions for failure to comply (discontinue water service)

WHY CCC PROGRAM IS NEEDED

1. Safe Drinking Water Act (PL 93-523)
2. NC DENR, PWSS (15A NCAC 18C)
3. All distribution systems have cross connections
4. Elimination of all permanent & temporary cross connections is impossible
5. Good CCC Program can help us avoid the costs of responding to a contamination incident

AA.000000151 (24)

PROPOSED BACKFLOW/CROSS CONNECTION CONTROL ORDINANCE

HIGHLIGHTS

SECTION 20-58. Elimination of Cross Connections; Degree of Hazard

(a). Unlawful to connect any well or auxiliary water supply to public water system.

- When cross connection is found to exist, written notification willbe given to disconnect it within the time limit established.
- Degree of protection required & max time allowed for compliance will be based upon the potential degree of hazard to the public water system
  - Max time limits are as follows:
    1. CC with well or auxiliary supply: Disconnect immediately.
    2. Facilities posing "Severe" DoH: Install RPA within 30 days of being notified to do so
    3. Facilities posing "Moderate" DoH: Install DCVA within 90 days
    4. If in the opinion of PW Director, an imminent health hazard already exists due to a cross connection, water service shall be terminated immediately unless adequate safeguards immediately provided by the consumer

HOW WE PLAN TO IMPLEMENT SECTION 20-58

- Existing facilities & services:
  - Inspect for adequacy of cross connection control.
  - Prioritize inspections based on expected DoH.
  - Explain CCC Program to owner or management, prior to conducting inspection (pamphlets).
  - If CCC on service line is inadequate: Ask them, in writing, to install required BPA within specified time.
- New facilities & services:
  - Application for water service

SECTION 20-60. Facilities Requiring Protection

(a). Approved BPA shall be installed on service line to any premises that the City has identified as having "moderate" or "severe" DoH.

(b). Lists types of facilities & services requiring an approved BPA & the type of BPA required.

*Used minimum requirement in Appendix "B" of Title 15A NCAC Sub Chapter 18c.

AA.00000152 (24)

SECTION 20-59. Responsibilities

(a). Health Agency: NCDENR
- Promulgate & enforce laws, rules, & regs to be followed by purveyors of potable water.

(b). Water Purveyor: City of Marion
- Responsible for prevention of contamination & pollution in public water system.
- Exercise reasonable vigilance to insure that the Consumer has taken the proper steps to protect the public water system from potential contamination by the Consumer's private plumbing.
- Implement & administer CCC Program.

(c). Consumer:
- Responsible for preventing pollutants & contaminants from entering Consumer's plumbing and/or the public water system.
- Install, operate, maintain, & test approved BPA as directed in accordance with the CCC Ordinance.

SECTION 20-60. Facilities Requiring Protection

(a). Approved BPA shall be installed on service line to any premises that the City has identified as having "moderate" or "severe" DoH.

(b). Lists types of facilities & services requiring an approved BPA & the type of BPA required.

*Used minimum requirement in Appendix "B" of Title 15A NCAC Sub Chapter 18c.

SECTION 20-60.1. Approved BPA's

(a). Only BPA's approved by City of Marion shall be used.

(b). Public Works Dept. will maintain list of BPA's that are approved.

(c). City reserves right to remove any assembly from or to add any assembly to the list.

(d). All BPA's approved for use must have prior approval by University of Southern California Foundation for Cross Connection control & Hydraulic Research (USC FCCC & HR).

(e). Requirements specific to 2" & smaller BPA's.

(f). Requirements specific to 2 ½" & larger BPA's.

SECTION 20-60.2. Ownership of BPA's

- Ownership, installation, testing, & maintenance of the BPA shall be the responsibility of the Consumer.

AA.0000000153 (24)

SECTION 20-60.3. Installation of BPA's

(a) – (l). Specifications for installation of BPA's

- BPA's shall be on Consumer's side of the meter & prior to any line branches.

SECTION 20-60.4. Inspection of BPA Installations Required

- All BPA installations shall be inspected by Public Works Dept. prior to initiation of water service. Water service will not be initiated until installation of the BPA has been approved.

  – Part of the application process for those requiring a BPA.

SECTION 20-60.5. Testing of BPA's Required

(a). Testing is required at the Consumer's expense:

1. Upon installation, then annually thereafter
2. Following any repair

(b). All testing shall be conducted by Certified BPA Tester. List of approved Testers will be maintained by Public Wks.

(c). Test results shall be submitted to Public Works Dept. within 30 days of the date the BPA was tested.

(d). It shall be unlawful for any Consumer to fail to submit test results.

(e). Public Works will conduct random tests to insure proper operation as indicated by the Certified Testers.

SECTION 20-60.6. Repair of BPA's

(a). When repairs are needed, the Consumer must complete the repairs within a specified time in accordance with the degree of hazard.

1. Severe – 60 days
2. Moderate – 90 days

(b). Failure or refusal to complete necessary repairs within the specified time will result in disconnection of water & sewer.

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SECTION 20-60.7. Existing BPD's or BPA's Found to be in Non-Compliance

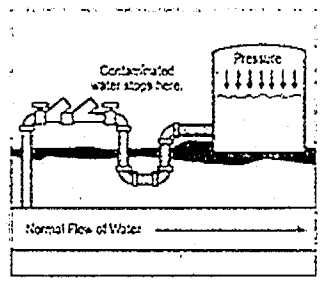
- If a facility already has a BPD or BPA that is not compliant with the requirements of sections 20-60, 20-60.1, or 20-60.3 of this Ordinance, the facility will be excluded from the requirements as long as all of the following criteria are met:
  - BPD or BPA was installed prior to adoption of this Ordinance.
  - BPD or BPA was accepted at time of original installation.
  - BPD or BPA has been properly maintained.
  - City is assured the BPD or BPA will still protect the public water supply.

SECTION 20-60.8. Right of Entry

- Authorized representatives of City of Marion have right to enter during normal business hours to perform any duty imposed upon them by this article.

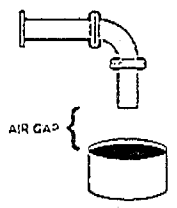
SECTION 20-60.9. BPA Required for Filling Covered Reservoirs & Storage Tanks

- Approved RPA or DCVA must be used to fill covered ground reservoir or elevated storage tank.
- Must contain pressure gauges & drains for testing.
- Gate valves shall be installed in line at both ends.



SECTION 20-60.10. Air Gap Required for Filling Uncovered Reservoirs & Storage Tanks

- When filling uncovered reservoir or storage tank, a complete air gap shall be provided
- Physical break between inlet pipe & rim of tank shall be at least 2x diameter of inlet pipe.



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SECTION 20-60.11. Failure to Comply

- Failure to comply with regulations imposed by the CCC Ordinance may result in water & sewer service being discontinued.

FAQ'S

Q. Where can hazardous cross connections occur?

A. Virtually anywhere in the distribution system. Some examples of common cross connections are:
   - Lawn chemicals backflowing through a garden hose
   - Carbonated water from a restaurant's soda dispenser entering distribution system due to backpressure
   - Backsiphonage of chemicals from industrial buildings
   - Backflow of boiler corrosion control chemicals

FAQ'S

Q. Don't regulations imposed by the NC Plumbing Code protect the public water system?

A. No, we can't rely on the plumbing code to adequately protect the water supply because:
   - Focuses mainly on fixtures w/in consumer's plumbing system
   - Allows BPD's (not as reliable & most not in-line testable)
   - No guarantee that all establishments are up to code
   - Frequently, plumbing is installed by persons who are unaware of the dangers of cross connections

FAQ'S

Q. Who is required to have a BPA?

A. Any facility or service that poses a Moderate or Severe degree of hazard to the public water supply, as determined by NC DENR (PWSS) and the City of Marion.

Q. Single family residential units are not among the facilities required to have a BPA. Why?

A. The City has adopted the minimum requirement from Section III. of Appendix B of 15A NCAC 18C. To date, SFR's are not considered to possess a moderate or severe DoH. Even so, the City requires a check valve on the setter to SFR. The cost of this BPD is included in the connection fee.

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FAQ'S

Q. Why does the Consumer have to pay for the BPA?

A. The BPA is installed on private property and the City cannot take responsibility for it. The City is required to protect the public water supply and does so by requiring the use of BPA's where necessary. Protection of the public water supply using BPA's is in accordance with the SDWA Amendments of 1996 and requirements of NCDENR.

FAQ'S

Q. Why does my BPA have to be tested annually?

A. A BPA is a mechanical assembly and is subject to failure. It is impossible to tell if it is working by appearance only. An operational test using a differential pressure gauge is required to determine if the BPA is working properly.

FOR MORE INFORMATION

- U.S. EPA Cross Connection Control Manual
  - WWW.epa.gov/safewater/pdfs/crossconnection/crossconnection.pdf
- Rules Governing Public Water Systems
  - NCAC Title 15A, Subchapter 18C
- AWWA Manual M-14 "Recommended Practice for Backflow Prevention & Cross Connection Control"

Council Member Clark stated that, at one time, the City had many textile plants using their own water supplies, so the Cross Connection Control Program had always been a major concern to him.

Council Member Clark asked about the procedures for contractors or outside agencies purchasing water from the City through a fire hydrant. Mr. Sikes advised that the City provided a meter to people purchasing water from fire hydrants, along with a backflow prevention device, so the City is protected. However, the City is not protected when people steal water from fire hydrants, which happens from time to time.

Council Member Clark asked how the City would educate people regarding the Cross Connection Control Ordinance.

Mr. Sikes stated that he will develop educational pamphlets and City staff will visit severe and moderate hazards personally to explain the requirements.

The City Manager asked Mr. Sikes if the proposed requirements represented the minimum criteria established by the State. Mr. Sikes said that this was correct.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to adopt the following Ordinance amending Chapter 20, Water and Sewerage of the City Code, to establish a Cross Connection Control Program consistent with State requirements:

ORDINANCE
AMENDING CHAPTER 20
WATER AND SEWERAGE
MARION CITY CODE

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

Section 1. That Chapter 20, Water and Sewerage, of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Section 2. Chapter 20 is amended by adding Article II.2, Backflow Prevention/Cross Connection Control, as follows:

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ARTICLE II.2

BACKFLOW PREVENTION/CROSS CONNECTION CONTROL

Sec. 20-55. Introduction.

(a) This article shall apply to all users connected to the City of Marion's potable water distribution system, regardless of whether the user is located within the city limits or outside of the city limits.

(b) This article shall comply with the Federal Safe Drinking Water Act (PL 93-523), the North Carolina Administrative Code (15A NCAC 18C), and the North Carolina State Building Code (Volume II) as they pertain to cross connections within the public water supply.

Sec. 20-56. Purpose.

(a) The purpose of this article is to establish a Backflow/Cross Connection Control Program that will:

(1) Protect the public potable water supply of the City of Marion against actual or potential contamination by isolating, within the consumer's water system, contaminants or pollutants which could backflow or back-siphon into the public water system through uncontrolled cross connections.

(2) Eliminate actual and/or potential cross connections and any other sources of water, used for any purpose whatsoever, which may jeopardize the City of Marion's water supply.

(3) Provide a continuing inspection program, which will systematically and effectively control all actual or potential cross connections that currently exist or that may be installed in the future.

Sec. 20-57. Definitions.

The following words, terms, and phrases, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Air Gap (AG) – The unobstructed vertical distance through free atmosphere between the lowest effective opening from any pipe or faucet conveying water or waste to a tank, plumbing fixture, receptor, or other assembly and the flood level rim of the receptacle. These vertical, physical separations must be at least twice the effective opening (diameter) of the water supply outlet, but in no case less than one (1) inch above the receiving vessel flood rim.

Approved – Accepted by the authority having jurisdiction as meeting an applicable standard, specification, requirement, or as suitable for the proposed use.

Backflow – The undesirable reversal of flow of a liquid, gas, or other substance in a potable water distribution piping system as a result of a cross connection.

Backflow Prevention Assembly (BPA) – An assembly used to prevent backflow into a public potable water system. The assembly is required to have certain parts, such as test cocks and shutoff valves, which are used for field testing. Assemblies must be able to be tested and repaired in-line. The type of assembly used should be based on the degree of actual or potential hazard. The types are:

(1) Double Check Valve Assembly (DCVA)
(2) Double Check Detector Assembly (DCDA)
(3) Pressure Vacuum Breaker (PVB)
(4) Reduced Pressure Principle Assembly (RP), which is also known as Reduced Pressure Zone (RPZ).
(5) Reduced Pressure Principle Detector Assembly (RPDA)

Backflow Prevention Device (BPD) – A device generally used to protect internal plumbing. Backflow Prevention Devices are generally not manufactured to the standards of Backflow Prevention Assemblies and, in many cases, are not designed for field testing. Backflow Prevention Devices shall not be substituted for applications that require Backflow Prevention Assemblies. The types of Backflow Prevention Devices are:

(1) Atmospheric Vacuum Breaker (AVB)
(2) Dual Check (DC)
(3) Dual Check with Atmospheric Vent (DCV)

Backpressure – A pressure, higher than the supply pressure, caused by a pump, elevated tank, boiler, air/steam pressure, or any other means, which may cause a reversal of flow in the public water system.

Backsiphonage – A type of backflow where the upstream pressure to a piping system is reduced to a sub-atmospheric pressure.

Certified Backflow Prevention Assembly Tester - A person who has proven his/her competency to test, repair, rebuild, and make reports on backflow prevention assemblies, as evidenced by certification of successful completion of the North Carolina Rural Water Association's backflow prevention assembly tester training program or an equivalent training program. Certified backflow prevention assembly testers must be re-certified every two (2) years through an approved training program.

Consumer – Any person, firm, or corporation using or receiving water from the public water system owned by the City of Marion.

Consumer's Water System – Any water system commencing at the point of delivery and continuing throughout the consumer's plumbing system, located on the consumer's premises, whether supplied by a public potable water supply or an auxiliary water supply. The system or systems may be either a potable water system or an industrial piping system.

Containment – Preventing the impairment of the public potable water supply by installing an approved backflow prevention assembly at the service connection.

Contamination – An impairment of the quality of the water which creates a potential or actual hazard to the public health through the introduction of hazardous or toxic substances or through the spread of disease.

Cross Connection – A connection or potential connection between any part of a potable water system and any other environment containing other substances in a manner that, under any circumstances, would allow such substances to enter the potable water system. Other substances may be

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gases, liquids, solids, chemicals, water products, steam, water from other sources (potable or nonpotable), or any matter that may change the color or add odor to the water. Bypass arrangements, jumper connections, removable sections, swivel or changeover assemblies, or any other temporary or permanent connecting arrangement through which backflow may occur are considered to be cross-connections.

Hazard, Degree of – The term "degree of hazard" is derived from the evaluation of conditions within a system which can be classified as either a "severe" or "moderate" hazard.

Hazard, Moderate – A degree of hazard that presents foreseeable and significant potential for pollution, nuisance, aesthetically objectionable, or other undesirable alterations of the drinking water supply, without causing the consequence of serious illness or death to the users.

Hazard, Severe – A degree of hazard that has an actual or potential threat of contamination that presents an imminent danger to the public health with consequence of serious illness or death.

Industrial Piping System, Consumer's – Any system used by the consumer for transmission of or to confine or store any fluid, solid, or gaseous substance other than an approved water supply. Such a system would include all pipes, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey, or store substances which are or may be polluted or contaminated.

Industrial User – A consumer that is classified as a Manufacturing Industry by the North American Industrial Classification Standard (NAICS), published by the U.S. Government Census Bureau. More than 50% of the consumer's utility usage must be for its manufacturing purposes.

Isolation – The act of confining a localized hazard within a consumer's water system by installing approved backflow prevention assemblies. Disclaimer: The City of Marion Public Works Department may make recommendations, upon facility inspection, as to the usages of isolation devices/assemblies, but does not assume or have responsibility whatsoever for such installations.

Point of Delivery – Generally, at the property line of the consumer, adjacent to the public street where the City of Marion's mains are located, or at a point on the consumer's property where the meter is located. Specifically, the point where the consumer's water service is connected to the City owned water meter. The consumer shall be responsible for all water piping and control devices located on the consumer's side of the point of delivery.

Potable Water – Water from any source which has been investigated by the North Carolina Department of Environment and Natural Resources (NC DENR) and which has been approved for human consumption.

Public Potable Water System – Means any publicly or privately owned water system, operated as a public utility, under a current permit issued by the NC DENR, for the purpose of supplying water for public consumption and use. This system includes all sources, facilities, and appurtenances between the source and the point of delivery such as valves, pumps, pipes, conduits, tanks, receptacles, fixtures, and equipment used to produce, convey, treat, or store potable water for public consumption or use.

Split Tap – A water line that is split prior to the point of delivery.

Water Purveyor – The owner or operator of a public potable water system, providing an approved water supply to the public.

Water Supply, Approved – The term "approved water supply" means any public potable water supply which has been approved by the NC DENR.

Water Supply, Auxiliary – The term "auxiliary water supply" means any water supply on or available to the premises other than the purveyor's approved public potable water supply. Auxiliary waters may include water from another purveyor's public potable water supply or any natural sources such as a well, spring, river, stream, or lake; or reclaimed water, recycled waters, used waters, or industrial fluids. These waters may be objectionable, contaminated, or polluted and constitute an unacceptable water source, over which the water purveyor does not have sanitary control.

Water Supply, Unapproved – The term "unapproved water supply" means any water supply which has not been approved for human consumption by the NC DENR.

Water, Used – The term "used water" means any water that was originally supplied by a water purveyor from a public water system to a consumer's water system, but that has passed through the point of delivery and is no longer under the control of the water purveyor.

Sec. 20-58. Elimination of Cross Connections; Degree of Hazard.

(a) It shall be unlawful for any person, firm, or corporation to connect any well or auxiliary water supply to the City of Marion public water system. When a cross connection is found to exist, the owner, his agent, occupant, or tenant will be notified in writing to disconnect the cross connection within the time limit established by the City of Marion. The degree of protection required and maximum time allowed for compliance will be based upon the potential degree of hazard to the public water system. The maximum time limits are as follows:

(1) Cross connection with private wells or other auxiliary water supplies – Immediate disconnection. If it is discovered that any well or auxiliary water supply is connected to the City of Marion water system, the owner and/or occupant of the premises shall be advised to immediately disconnect the well or auxiliary water supply. If the owner or occupant refuses or fails to have the well or auxiliary water supply disconnected, the Public Works Director shall have the water meter removed and disconnect any city owned sewer service to the premises. Prior to services being restored, the owner and/or occupant shall pay the entire cost for removal and replacement of the water meter and disconnection and reconnection of the sewer service.

(2) All facilities considered to pose a "Severe" Degree of Hazard must install a Reduced Pressure Principle Backflow Prevention Assembly within sixty (60) days of being notified in writing by the City of Marion.

(3) All facilities considered to pose a "Moderate" Degree of Hazard must install a Double Check Valve Assembly within ninety (90) days of being notified in writing by the City of Marion.

(4) If, in the opinion of the Public Works Director, an imminent health hazard already exists due to a cross connection at a facility, the water service at that facility shall be terminated immediately unless an air gap is immediately provided by the consumer.

Sec. 20-59. Responsibilities.

(a) Health Agency. The Health Agency is the North Carolina Department of Environment and Natural Resources (NC DENR). The NC DENR has the responsibility for promulgating and enforcing laws, rules, regulations, and policies to be followed by potable water purveyors in carrying out effective cross connection control programs. The NC DENR also has the primary responsibility of insuring that the water purveyor operates the public potable water system free of actual or potential sanitary hazards, including unprotected cross connections. The NC DENR has the further responsibility of insuring that the water purveyor provides an approved water supply at the service connection to the consumer's water

system and further, that the purveyor requires the installation, testing, and maintenance of an approved backflow prevention assembly on the service connection when required.

(b) Water Purveyor. The Water Purveyor is the City of Marion. The City of Marion is primarily responsible for the prevention of contamination and pollution in the public water system. Such responsibility begins at the point of origin of the public water supply and includes all of the public water supply and all of the public water distribution system and ends at the service connection to the consumer's water system. In addition, the City of Marion shall exercise reasonable vigilance to insure that the consumer has taken the proper steps to protect the public potable water system. To insure that the proper precautions are taken, the City of Marion Public Works Department is required to implement an on-going inspection program that will cover all of the following items for each consumer that has been classified, by the City of Marion, as posing a "moderate" or "severe" degree of hazard to the public water system: Determine the actual degree of hazard or potential hazard to the public potable water system; determine, based on current regulations and standards, the degree of protection required. When it is determined that a backflow prevention assembly is required for the protection of the public potable water system, the Public Works Department shall require the consumer, at the consumer's expense, to install an approved backflow prevention assembly on the consumer's service line and to properly maintain and test the assembly as required by this article.

(c) Consumer. The Consumer has the primary responsibility of preventing pollutants and contaminants from entering the Consumer's water system and/or the public potable water system. The Consumer's responsibility starts at the point of delivery from the public potable water system and includes all of the Consumer's water system. When required by this article, the Consumer shall, at the Consumer's expense, install, operate, test, and maintain approved backflow prevention assemblies as directed by the Public Works Department in accordance with this article. The Consumer shall maintain accurate records of tests and repairs made to the assemblies, for a period of three (3) years.

Sec. 20-60. Facilities Requiring Protection.

(a) An approved backflow prevention assembly shall be installed on the service line to any premises that the City of Marion has identified as having a moderate or severe degree of hazard rating.

(b) The following types of facilities or services have been identified, by the NC DENR and the City of Marion Public Works Department, as facilities that require the installation of a backflow preventer assembly. Therefore, an approved backflow prevention assembly will be required on all such services according to the degree of hazard present. Other types of facilities or services not listed below may also be required to install approved backflow prevention assemblies if determined necessary by the City of Marion.

FACILITY OR SERVICE	DEGREE OF HAZARD	TYPE OF BPA REQUIRED
Fire sprinkler systems without a booster pump or chemical additives	Moderate	DCDA
Connection to tanks, lines, and vessels that handle non-toxic substances.	Moderate	DCDA
Automotive Service Stations and vehicle dealerships	Moderate	DCVA
Restaurants and Bakeries	Moderate	DCVA
Hotels, Motels, B&B's, Lodges	Moderate	DCVA
Barber Shops, Hair Salons, and Spas	Moderate	DCVA
Grocery Stores and Convenience Stores	Moderate	DCVA
Hardware Stores and Farm & Garden Stores	Moderate	DCVA
Superstores	Moderate	DCVA
Beverage bottling plants with no back pressure	Moderate	DCVA
Lawn sprinkler systems	Severe	RPZ
Wastewater Treatment Plants	Severe	RPZ
Connection to tanks, pumps, lines, etc. that handle sewage, lethal substances, toxicants, or radioactive substances	Severe	RPZ
Fire sprinkler systems with a booster pump or chemical additives	Severe	RPDA
Buildings with 5 or more stories above ground level	Severe	RPZ
Hospitals, Doctor's Offices, Dentists Offices, Clinics, and other medical facilities	Severe	RPZ
Funeral homes, morgues, mortuaries, and autopsy facilities	Severe	RPZ
Beverage bottling plants subject to back pressure	Severe	RPZ
Metal Plating Facilities	Severe	RPZ
Canneries	Severe	RPZ
Battery Manufacturers	Severe	RPZ
Exterminators and Lawn Care Companies	Severe	RPZ
Chemical Processing Plants	Severe	RPZ
Dairies	Severe	RPZ
Film Laboratories	Severe	RPZ
Car Wash Facilities	Severe	RPZ
Dye Works	Severe	RPZ
Laundries	Severe	RPZ
Swimming Pools	Severe	RPZ
Industrial Users (see definition)	Severe	RPZ
Veterinary Offices and Clinics	Severe	RPZ

Sec. 20-60.1. Approved Backflow Prevention Assemblies.

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(a) Only backflow prevention assemblies that have been approved by the City of Marion for use in its water system shall be used.

(b) The Public Works Department shall maintain a list of backflow prevention assemblies that are approved for use in the City of Marion Water System.

(c) The City of Marion reserves the right to remove any assembly from or to add any assembly to the list of approved assemblies.

(d) All backflow prevention assemblies approved for use in the City of Marion Water System must have prior approval by the University of Southern California Foundation for Cross Connection Control and Hydraulic Research (USCFCCC & HR).

(e) Backflow Prevention Assemblies two (2") inches and smaller shall have a one quarter (1/4) turn, full port, resilient seated, bronze, ball valve shut-off.

(f) Backflow Prevention Assemblies two and one half (2 ½") inches and larger shall have resilient wedge shut-off valves; the backflow preventer and resilient wedge shut-off valves must be fuse bonded and epoxy coated.

Sec. 20-60.2. Ownership of Backflow Prevention Assemblies.

Ownership, installation, testing, and maintenance of the backflow prevention assembly shall be the responsibility of the Consumer.

Sec. 20-60.3. Installation of Backflow Prevention Assemblies.

(a) All backflow prevention assemblies shall be installed in accordance with the specifications provided by the City of Marion and shall meet the requirements set forth by the University of Southern California Foundation for Cross Connection Control and Hydraulic Research (USCFCCC & HR).

(b) Installations shall be on the consumer's side of the water meter and prior to any line branches. Installations in a ceiling, or other space that is difficult to access will not be approved.

(c) Backflow prevention assemblies must be readily accessible for in-line maintenance and testing.

(d) Backflow Prevention Assemblies must be installed in a horizontal position, unless they have been specifically approved, by the manufacturer and City of Marion, for vertical installation.

(e) Backflow Prevention Assemblies installed above grade shall have adequate protection from freezing and vandalism. Above grade enclosures shall conform to ASSE Standard #1060 (Performance Requirements for Outdoor Enclosures for Backflow Prevention Assemblies). The manufacturer's identification plate, test cocks, air-inlet valve bonnet, or relief valve opening shall not be obstructed with insulation or any other material.

(f) Only copper, bronze, PVC, or cement-lined ductile iron pipe is acceptable for backflow prevention assemblies piping installation. Black iron/steel pipe will not be accepted.

(g) Connections to any of the four (4) test cocks will not be permitted. Connections include, but are not limited to: hose-bibs, pipe, wire, gauges, or any other fitting. However, approved freeze protection devices with external test cocks may be installed on test cock #4.

(h) All resilient wedge gate valves and quarter-turn ball valves must be physically attached to the backflow prevention assembly for operation at the assembly, not on an outside wall or appurtenance.

(i) By-Pass Piping. By-pass piping is not permitted unless it is equipped with an approved backflow prevention assembly of the same type as the main line assembly. In some instances it may be desirable or necessary to install two (2) approved backflow preventers in order not to interrupt water service.

(j) Installation of Double Check Valve Assemblies two (2") inches and smaller.

(1) Installation may be above or below ground. The backflow preventer shall be installed on the consumer's private property prior to the first line branch. Installation of backflow preventers within the utility right-of-way will not be approved.

(2) Double Check Valve Assemblies installed below ground may be installed in plastic boxes, provided they are not located in driveways, and/or sidewalks. A traffic grade box with a traffic grade cover is required in any area subject to potential vehicular traffic. The floor of the enclosure shall be gravel with a minimum depth of six (6") inches. The distance between the lowest point of the backflow preventer to the surface of the gravel shall be no less than six (6") inches. Installations in wet areas will be subject to prior approval and inspection by the City of Marion Public Works Director.

(3) Above ground installations shall conform to installation specifications for Reduced Pressure Principle Assemblies.

(k) Installation of Double Check Valve Assemblies two and one half (2 ½") inches and larger: installation shall be above ground only. Installation shall conform to the installation specifications for Reduced Pressure Principle Assemblies.

(l) Installation of Reduced Pressure Principle Assemblies

(1) Reduced Principle Assemblies shall be installed above ground only.
(2) The backflow preventer shall be installed on the consumer's private property prior to any line branch. Installation of backflow preventers within the utility right-of-way will not be approved.

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(3) Reduced Pressure Principle Assemblies shall be installed in a location in which no portion of the assembly can become submerged under any circumstances.

(4) Reduced Pressure Principle Assemblies installed above ground inside a building shall be installed a minimum distance of twelve (12") inches above the floor, and no higher than four (4') feet above the floor, with adequate clearance around the backflow preventer for testing, and/or repair of the assembly.

(5) Whenever a Reduced Pressure Principle Assembly is installed inside a building, an air-gap drain funnel shall be installed to drain off the discharge of water from the pressure differential relief valve to the atmosphere or to a floor drain.

(6) Reduced Pressure Principle Assemblies installed above ground outside shall be installed in an enclosure that conforms to ASSE Standard #1060 (Performance Requirements for Outdoor Enclosures for Backflow Prevention Assemblies).

(7) Assemblies installed in an above ground enclosure shall provide a minimum of twelve (12") inches of clearance between the relief valve and the finished grade under the relief valve. The enclosure shall provide adequate drainage.

(8) In order to prevent obstruction during the testing and/or repair of the assembly, additional piping and/or valves shall not be located within the above ground enclosure.

(9) Assemblies installed above ground must be supported to allow for the weight of the backflow prevention assembly. Support construction can be cinder block, brick, or steel. Supports must have a proper footing of concrete for supports to rest upon. Assembly supports must not interfere with the valves, test cocks, testing, and/or repair of the assembly.

Sec. 20-60.4. Inspection of Backflow Prevention Assembly Installations Required.

All backflow prevention assembly installations shall be inspected by the City of Marion Public Works Department prior to initiation of water service. Water service will not be initiated by the City of Marion until the installation of the backflow prevention assembly has been approved.

Sec. 20-60.5. Testing of Backflow Prevention Assemblies Required.

(a) Frequency: The consumer owning a backflow assembly shall arrange for the testing of the backflow assembly and shall have the backflow assembly tested at the following intervals. Testing shall be conducted at the consumer's expense.

(1) Immediately following installation, then annually thereafter. Consumers with a backflow assembly that was installed prior to the adoption of this article shall have their backflow assembly tested within thirty (30) days of receiving written notification from the City of Marion Public Works Department, then annually thereafter.

(2) Following any repair, overhaul, repiping, or relocation of an assembly, the consumer shall have the assembly tested to insure that it is in good operating condition and will prevent backflow.

(b) All testing shall be conducted by a Certified Backflow Prevention Assembly Tester that has been approved by the City of Marion. A list of Testers approved by the City of Marion will be maintained by the Public Works Department.

(c) All test results shall be submitted to the City of Marion Public Works Department, on forms approved by the Public Works Department, within thirty (30) days following the date the assembly was tested.

(d) It shall be unlawful for any consumer to fail to submit, to the City of Marion Public Works Department, any record which is required by this article. If the City of Marion Public Works Department determines that a consumer has failed to submit required test results within the timeframe required by this article, the Public Works Department will send the consumer a written notice requesting the submittal of the test results within thirty (30) days of the written notification. If, after two (2) written notifications have been sent by the Public Works Department and a minimum of sixty (60) days have passed since the date of the initial written notification, the consumer has still not submitted the required test results, the Public Works Director shall discontinue water service to the consumer by removing the water meter and shall disconnect any city owned sewer service to the premises. The services shall not be resumed to the consumer until the required test results have been received and all reconnection charges have been paid to the City of Marion.

(e) Personnel of the City of Marion's Public Works Department will conduct random follow-up testing of backflow prevention assemblies to insure proper operation as indicated by the certified testers.

Sec. 20-60.6. Repair of Backflow Prevention Assemblies.

(a) Any time that repairs to backflow prevention assemblies are deemed necessary, whether through annual or required testing or routine inspection by the owner or Public Works Department, these repairs must be completed, by the Consumer, within a specified time in accordance with the degree of hazard. In no case shall this time period exceed:

(1) Severe Hazard..... 60 days
(2) Moderate Hazard..... 90 days

(b) If a Consumer fails or refuses to complete the required repairs within the specified time, the Public Works Director shall discontinue water service to the Consumer by removing the water meter and shall disconnect any city owned sewer service to the premises. The services shall not be resumed to the consumer until the required repairs have been made and all reconnection charges have been paid to the City of Marion.

Sec. 20-60.7. Existing Backflow Prevention Devices or Assemblies Found to be in Non-Compliance

All backflow prevention devices or assemblies that were installed prior to the adoption of this article and that do not meet the current type of backflow prevention assembly required by Section 20-60 or Section 20-60.1 of this article and/or the installation requirements of Section 20-60.3 of this article, but were approved or accepted at the time of original installation and have been properly maintained, shall be excluded from the requirements of Section 20-60, Section 20-60.1, and Section 20-60.3 of this article so long as the City of Marion is assured that the existing backflow preventer will adequately protect its public water system. Whenever an existing device or assembly malfunctions, or fails to pass the annual test, and it becomes necessary to replace the device or assembly, it must be replaced and installed in a manner consistent with all requirements of this article.

Sec. 20-60.8. Right of Entry.

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Authorized representatives of the City of Marion Public Works Department shall have the right to enter, upon presentation of proper credentials and identification, any building, structure, or premises during normal business hours to perform any duty imposed upon them by this article.

Sec. 20-60.9. Backflow Preventer Assembly Required for Filling Covered Ground Reservoir or Covered Elevated Storage Tank.

If a covered ground reservoir or covered elevated storage tank is used, an approved reduced pressure backflow preventer or an approved double check valve assembly must be used. The backflow prevention assembly shall be installed in such a manner as to afford adequate protection, shall be easily accessible, and shall include all necessary pressure gauges and drains for testing. Gate valves shall be installed in the line at both ends of the backflow prevention assembly. All materials and equipment must be approved by the City of Marion in advance of installation.

Sec. 20-60.10. Air Gap Required for Filling Uncovered Ground Reservoir or Uncovered Elevated Storage Tank.

If an uncovered ground reservoir or uncovered elevated storage tank is used, a complete air gap shall be provided between the City of Marion water supply and the reservoir or elevated tank. The physical break between the inlet pipe and the top or overflow rim of the reservoir shall be at least twice the diameter of the inlet pipe.

Sec. 20-60.11. Failure to Comply

Failure of a Consumer to comply with the regulations imposed by this article may result in the water meter being removed and water service and sewer service being discontinued.

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

Adopted this the 15th day of January, 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-13-01-15-2

REVIEW NOISE ORDINANCE: The City Manager advised that, as had been discussed at the November 20 Council meeting, he and Police Chief Mark Brooks had reviewed the City's current Noise Ordinance, as well as ordinances from other cities. They ended up focusing on Asheville's ordinance, since Asheville recently studied this issue in-depth. The City Manager reported that he and Chief Brooks recommend edthe proposed ordinance presented for Council's review, which includes much of Asheville's new ordinance plus many existing provisions in the City's current ordinance.

The City Manager went over some of the major changes to the ordinance, which included the addition of definitions, a purpose section and additional items that would constitute a violation of the Noise Ordinance. He noted that most of the recommended ordinance remained the same.

A brief discussion followed.

Council Member Ramsey stated that he supported the proposed ordinance, as he and his neighbors had been dealing with noise from a nearby business recently.

Upon a motion by Council Member Ramsey, seconded by Council Member Martin, Council voted unanimously to adopt the following revised Noise Ordinance for the City as recommended:

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 Article V, Noise, in its entirety and replacing it with the following:

Sec. 9-101. Scope.

This article shall apply to all sound, sound vibration, and noise originating within the corporate limits of the City of Marion. Nothing in this article shall be construed to limit or prevent the City or any person from pursuing any other legal remedies for damages or the abatement of noises in the City.

Sec. 9-102. Definitions.

The words and phrases defined in this section shall have the meaning indicated when used in this article unless otherwise specifically provided, or unless otherwise clearly required by the context:

Amplified sound means any sound or noise, including the human voice, that is increased in volume or intensity by means of electrical power.

Construction means erection, repair, assembly, alteration, landscaping, or demolition of any building or building site.

Daytime hours means 7:00 a.m. to 11:00 p.m., local time.

Motorized vehicles means:
Generally—Any vehicle as defined in G.S. 20-4.01(49) including, but not limited to:
(1) Excursion passenger vehicles as defined in G.S. 20-4.01(27)a.

(2) Common carriers of passengers as defined in G.S. 20-4.01(27)c.

(3) Motorcycles and mopeds as defined in G.S. 20-4.01(27)d. and d.1.

(4) Truck tractors as defined in G.S. 20-4.01(48).

(5) Farm tractors as defined in G.S. 20-4.01(11).

Nightime hours means 11:00 p.m. to 7:00 a.m., local time.

Noise means any sound or combination of sounds which, because of its volume or quality, tends to disturb reasonable persons of normal sensitivity or to interfere with normal human activity.

Noise disturbance means any unreasonably loud and raucous sound or noise which:
(1) Endangers or injures the health or safety of humans or animals;

(2) Endangers or injures personal or real property; or

(3) Disturbs a reasonable person of normal sensitivity.

To determine whether a noise or sound constitutes a noise disturbance, the following factors incident to such noise are to be considered: whether the noise occurred during daytime or nighttime hours, proximity to residential areas, whether the noise is recurrent, intermittent or constant, the volume and intensity, whether the noise has been enhanced in volume or range by any type of mechanical means and the nature and zoning of the area.

Person means any individual, association, firm, partnership, corporation, or business entity.

Residential Areas means any area in the City that is zoned the following: R-1 Single Family Residential or R-2 General Residential.
Sound means any disturbance of the air or other medium that is detectable by the unaided human ear or which produces vibrations detectable by reasonable persons of normal sensitivity.

Sec. 9-103. General regulation.

Except as allowed in this article, no person shall willingly engage in any activity on any premises or public area in the City, which activity produces or constitutes a noise disturbance on occupied neighboring premises or public areas.

Sec. 9-104. Noise producing activities; frequent sources of complaint; noise sensitive areas.

In addition to the general prohibition set forth above, the following activities are recognized as tending to produce unreasonably loud and raucous noises and as tending to constitute noise disturbances when conducted or permitted in an unreasonable manner. No person shall engage in any of the enumerated activities so as to cause a noise disturbance on neighboring premises.

(1) Operation of radios, televisions, or other personal sound reproduction devices in such a manner as to be plainly audible by persons other than those for whose use the device is being operated, including the operation of automobile sound systems in such a manner as to be plainly audible by pedestrians or the occupants of other vehicles;

(2) Playing of any amplified or nonamplified musical instrument;

(3) Keeping of any animal or bird that frequently or for long periods of time makes noises that tend to annoy or disturb others;

(4) Operation of domestic power tools or mechanical devices;

(5) Repair or testing of any motor vehicle, however fueled or powered;

(6) Operation of any motor vehicle with an improper muffler system in violation of G.S. 20-128(a) and (b);

(7) Operation of any motor vehicle so as to cause the tires to squeal or screech unnecessarily;

(8) Operation of model cars, boats, or airplanes, go carts, mini bikes, scooters or all-terrain vehicles or other unlicensed toy or recreational vehicles or devices powered by an internal combustion engine;

(9) Street vending or peddling;

(10) Sounding of any automobile horn except as a warning or danger signal, or as required by law;

(11) 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;

(12) The use of any gong or siren upon any vehicle other than police, fire, ambulance or other official emergency vehicle;

(13) The blowing of any steam whistle attached to any stationary boiler, except as a warning of danger;

(14) The operation of machinery in connection with loading or unloading any vehicles or the opening and destruction of bales, boxes, crates, and containers;

(15) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show, or sale or display of merchandise;

(16) The firing or discharge of firearms, squibs, crackers, gun powder, pyrotechnics or other combustible substances in the streets or elsewhere, except by permit from the police department or as part of an event specifically approved by the City Council;

AA.000000164 (24)

(17) Yelling, shouting;

(18) Parties;

(19) The sounding of a security alarm for more than twenty (20) minutes after the owner or responsible party has been notified by law enforcement personnel;

(20) The use of any automobile, motorcycle or other vehicle so out of repair, overloaded or loaded in such manner as to create loud or unnecessary grating, grinding, rattling, or other noises;

(21) The use of any mechanical device operated by compressed air, unless the noise created thereby is effectively muffled;

(22) The use of any mechanical loud speakers or amplifiers on trucks or other moving vehicles, for advertising or other purposes, except where specific license is given by the Police Department;

(23) For any engineer, fireman or other person to blow the whistle of any locomotive engine within the city, the drivers of passenger trains excepted when blowing necessary signals;

(24) Using any language calculated to annoy the public or to bring on a breach of the peace;

(25) Willfully or wantonly disturbing any public meeting or gathering;

(26) The conducting, operating or maintaining of any garage or filling station in the residential district so as to cause loud or offensive noises to emit therefrom between the hours of 11:00 p.m. and 7:00 a.m.;

(27) Cursing or swearing on any street or other public place loud enough to be heard by a passerby;

(28) It shall be unlawful for any person to operate within the corporate limits of the city at any time any electric welding torch or device, or any other similar device or implement, the operation of which produces a brilliant and blinding light, unless such torch, device or implement at the time of such operation is enclosed in a building from which such light cannot escape; and

(29) It shall be unlawful for any person to conduct, operate, carry on or engage in any business within the corporate limits of the city between the hours of 9:00 p.m. and 7:00 a.m., the conduct or operation of which produces any loud and disturbing noise or any brilliant and blinding light or lights;

It is further recognized that certain uses, including churches, synagogues and other places of worship, medical and convalescent facilities, funeral homes and mortuaries, schools and courthouses are particularly sensitive to sound and noise. Noise-producing activities, including those specified above, may become noise disturbances when conducted in the immediate vicinity of those uses during their hours of operation.

Sec. 9-105. Exceptions.

The following are excepted from the application of this article:

(1) Construction activity performed by an agency of government provided that all equipment is operated in accordance with manufacturer's specifications and is equipped with all noise-reducing equipment in proper condition;

(2) Sound or noise of safety signals, warning devices, emergency pressure relief valves and church bells or chimes between the hours of 7:00 a.m. and midnight;

(3) Sound or noise emanating from street fairs, festivals, or celebrations conducted by or with the approval of the City;

(4) Sound or noise emanating from film and video production activities for which permits have been issued by the City; provided all equipment such as generators are properly muffled;

(5) Sound or noise from lawful fireworks;

(6) Lawnmowers and agricultural equipment operated between the hours of 7:00 a.m. and 9:00 p.m. when operated in accordance with manufacturer's specifications and with all standard noise reducing equipment in place and in proper condition;

(7) Musical accompaniment to parades or military ceremonies;

(8) Sound emanating from regularly scheduled athletic events at City or County parks, athletic facilities and public or private schools;

(9) Governmental emergency vehicles in the course of performing their official duties;

(10) Railroad operations, to the extent said operations are in furtherance of interstate commerce;

(11) Sound or noise emanating from construction or repair work and regulated activities of utilities regulated by the North Carolina Utilities Commission;

(12) Commercial refuse collection vehicles operating between the hours of 6:00 a.m. and 9:00 p.m.; and

(13) Unamplified noncommercial speeches made from a fixed location in non-residentially zoned areas.

Sec. 9-106. Non-exclusivity.

Nothing in this article shall be construed to prevent or limit any person from seeking any remedy available in law or equity for activities that are or may be subject to regulation by this chapter, or from pursuing said remedy simultaneously with proceedings under this chapter, nor shall any of the procedures specified herein be a condition precedent to the initiation of any legal action.

Sec. 9-107. Violations; owner and occupant responsibility.

AA.000000165 (24)

Violations of this article shall subject the offender to penalties as set forth in Sections 1-10 through 1-10.17, subject to the limitations set forth below:

(1) Penalties for violations of this article may be assessed against persons responsible for the premises or device producing or causing the noise disturbance.

(2) An owner of any premises subject to this article who is not also an occupant of the premises shall be responsible for any actions by tenants, guests, or other licensees that constitute second or subsequent violations of this article; provided, that no absentee owner shall be liable unless notified of first or previous violations of the article, and further provided that such first or previous violations shall have occurred within the previous 12-month period. Notice of any first or previous violations pursuant to this paragraph shall be effected by registered or certified mail. No absentee owner may be subjected to criminal liability under this section, but shall be subject to civil penalties and equitable relief as provided in herein. This section shall in no way relieve any other person from responsibility for violations of this article.

(3) The person responsible for any premises shall be responsible and liable for any violations of this article by tenants, guests, or licensees on the premises if the person responsible is actively or constructively present at the time of the violation.

Sec. 9-108. Enforcement; penalties for violation; remedies; additional civil penalty for subsequent offenses.

(a) Violations of the provisions of this article shall be subject to the civil penalties set forth in City Code Section 1-10.9.

(b) In addition to the civil penalties provided for above, the City may enforce the provisions of this article by appropriate equitable remedies as set forth in Section 1-10.14.

(c) This article may be enforced by employees of the City Police Department as designated by the Police Chief and by other employees of the City as designated by the City Manager. Animal control officers employed by the City, or employees of an animal control agency working under contract with the City for the enforcement of animal control ordinances, and who have been designated by the Police Chief may enforce the provisions of this article relating to animals and animal noises.

Secs. 9-109-9-120. Reserved.

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

Adopted this the 15th day of January, 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-13-01-15-3

Mayor Pro Tem Lloyd Cuthbertson commended the City Manager for his efforts in addressing the City's noise complaints and showing the proposed ordinances changes in detail.

CONSIDER REQUEST FOR NO PARKING AREA ON OLD WEST HENDERSON STREET: The City Manager advised that, as previously reported, McDowell County Farm Bureau has requested again that a no parking area be designated on Old West Henderson Street in front of their office. Farm Bureau believes that large vehicles parking on the Old West Henderson Street right of way detracts from the appearance of their office and also kills the grass on the side of the street, which the City maintains.

The City Manager presented Council with a proposed ordinance that would designate a no parking area on the west side of Old West Henderson Street between Buncombe Street and Catawba Street.

The City Manager stated that McDonald's owner Bob Kelley advised on January 8 that he has no objection to this request. When Farm Bureau made the initial complaint last year, Mr. Kelley immediately instructed contractors working at McDonald's not to park on the grassy area. The problem still being reported by Farm Bureau mainly involves large vehicles, such as tractor trailers, parking beside the street.

The City Manager stated that he and the Public Works Director Brant Sikes attempted to work out an agreement last year between Mr. Kelley and Mr. Allen Gurley to provide for Mr. Kelley paying to pave a parking lane on the Old West Henderson Street right of way in front of Mr. Gurley's vacant lot. However, Mr. Gurley opposed this idea, since he has plans to sell the property for future development.
Mr. Kelley told the City Manager on January 8 that he has no plans to pursue the parking lane idea, given Mr. Gurley's opposition, and, again, that he has no objection to prohibiting parking in front of the Farm Bureau office. The no parking area would also be partially beside a house owned by William and Fay Wright on Catawba Street, but this house has a large area for off-street parking. The City Manager stated that he spoke to Ms. Wright on January 9, who also said that there would be no objections to prohibiting parking on Old West Henderson Street between Buncombe and Catawba Streets. Ms. Wright said that this house has the equivalent of a "parking lot" in its side yard and that residents are always able to park off of the street.

The City Manager stated that Council could refer this matter to the Street Committee for further review and a recommendation back to Council, or could adopt the attached ordinance to approve the designation of a no parking area on the west side of Old West Henderson Street between Buncombe Street and Catawba Street.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to adopt the following ordinance to establish a no parking area on the west side of Old West Henderson Street between Buncombe Street and Catawba 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:

AA.00000166 (24)

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
OLD WEST HENDERSON BUNCOMBE STREET	PARKING PROHIBITED	WEST SIDE, FROM INTERSECTION OF STREET AND OLD WEST HENDERSON STREET TO INTERSECTION OF CATAWBA STREET AND OLD WEST HENDERSON STREET

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

Adopted this the 15th day of January, 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-13-01-15-4

ADD ON – REQUEST FOR CITY TO SEEK KATE B. REYNOLDS GRANT TO HIRE PART-TIME FARMERS MARKET MANAGER: The City Manager advised that, as previously reported, Cooperative Extension Director Molly Sandfoss recently proposed that the City seek a Kate B. Reynolds Grant (KBR) to fund a part-time Farmer's Market Manager.

The City Manager stated that he had directed that Ms. Sandfoss work with Marion Business Association (MBA) Executive Director Freddie Killough to develop a recommendation regarding this matter. Ms. Killough convened a meeting of the Farmer's Market Committee on January 9. This Committee is made up of growers that participate in the market, with Freddie providing staff support. Ms. Sandfoss proposed that the City seek a KBR grant to fund a 15 hour per week Market Manager for five years. The grant would also purchase equipment to allow the Market to take EBT cards for those receiving public assistance. She also suggested that the City seek marketing and promotion funds for the Market, as part of the grant request. The City Manager said that the duties Ms. Sandfoss suggested for the Market Manager essentially involve what Ms. Killough and Lou Godfrey of the MBA staff are currently doing.

The City Manager advised that Ms. Killough asked Ms. Sandfoss if the Cooperative Extension wished to apply for the grant and then absorb the position after the initial five year period. Ms. Sandfoss feels that the City should be the applicant and handle the position. After discussion, the Committee thought that it would be a good idea for the City to seek the KBR grant. Grants are due for the current KBR grant cycle on February 12 and consultations must be held with KBR by February 1.

The City Manager stated that, after much discussion Ms. Killough had stated that Ms. Lou Godfrey, a part-time employee in the MBA office would be interested in having more hours and could serve as the Market Manager. The City Manager stated that he agreed with Ms. Killough that Ms. Godfrey would be excellent for this position.

The City Manager advised that he would recommend that the KBR grant be sought and include the MBA picking up extra hours for the Market Manager through Ms. Godfrey. The grant could also purchase the equipment needed to take EBT cards for people receiving public assistance and include marketing and promotion funds. The grant could be sought for 3-5 years, whatever timeline KBR finds reasonable.

Upon a motion by Council Member Clark, seconded by Council Member Doggett, Council voted unanimously to authorize the City and MBA staff to apply for a Kate B. Reynolds Foundation Grant to hire a part-time Farmer's Market Manager, through a contract with the MBA, to purchase the equipment needed to take EBT cards for people receiving public assistance and include marketing and promotion funds.

ADD ON – POTENTIAL SEWER GRANTS: The City Manager advised that Dennie Martin of Martin-McGill had recently made him aware of two upcoming deadlines for State grant programs for wastewater projects.

After discussing potential projects with Mr. Martin, the City Manager proposed the City seeking a North Carolina Clean Water Management Trust Fund Grant for a sewer extension to Marion Travel Plaza on Sugar Hill Road on the south side of I-40. This project is estimated to cost approximately $600,000. A local match of 20-25 percent will be required. The City Manager suggested that McDowell County could be asked to assist with the local match.

The City Manager further proposed that a North Carolina Clean Water State Revolving Fund Grant be sought to make needed sewer repairs on East Court Street. This project has been on the City's Capital Improvement Plan for many years, due to the existing sewer line being undersized and creating odor and backup issues along East Court Street. The project is estimated to cost $1,000,000. Funding could come in the form of grant and no interest loan.

Upon a motion by Council Member Martin, seconded by Council Member Clark, Council Members voted unanimously to authorize City staff to submit a North Carolina Clean Water State Revolving Fund Grant to make needed sewer repairs on East Court Street.

Council Member Martin suggested that City staff work with McGill to try to address all problems with the East Court Street sewer line.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Martin, Council voted unanimously to adopt the following Resolution authorizing City staff to submit a North Carolina Clean Water Management Trust Fund Grant for a sewer extension to Marion Travel Plaza on Sugar Hill Road on the south side of I-40, with a 20-25 percent local match provided.

THE CITY OF MARION

AA.000000167 (24)

NORTH CAROLINA

RESOLUTION APPROVING GRANT APPLICATION

WHEREAS, the North Carolina Clean Water Management Trust Fund has authorized the making of grants to aid eligible units of government or non-profit organizations in financing the cost of improvements and/or studies that will impact the quality of affected waterways and

WHEREAS, The City of Marion has need for and intends to significantly improve its wastewater system by constructing 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 grant assistance from the State of North Carolina in order to complete this 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 State grant.

That the City of Marion will perform the functions and obligations of the grant recipient as set out in a grant agreement should this project be chosen for funding.

That Bob 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 North Carolina Clean Water Management Trust Fund for a grant to aid in the construction of the project described above.

That Bob 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.

Adopted this the 15th day of January, 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Resolution Number: R-13-01-15-1

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that Council Member Clark, Council Member Doggett and he would be attending the N.C. League of Municipalities Advocacy Goals Conference in Raleigh on January 24 and will work to make sure that extension of transitional hold harmless revenues is one of the League's top 25 goals for the 2013-14 Legislative Biennium. Many other affected cities and towns will be there as well to lobby for this issue.

The City Manager stated that he had previously sent the 50 legislative goals and 7 regulatory goals approved by the League Board for presentation to the membership at the Advocacy Goals Conference to Council Members and asked that they please get him their top 20 legislative goals and top 5 regulatory goals so that they can prioritize Council's top goals in order to provide direction to Council Member Clark and Doggett at the Advocacy Goals Conference.

The City Manager advised that, in early January, DOT completed work on the installation of the left turn signal for southbound traffic on Main Street at New Street. DOT also added pedestrian crossing signals for the crosswalk across North Main Street on the south side of this intersection. As directed by DOT and approved by Council, the City removed the New Street sign from the mast arm pole at this intersection. The City will seek to place the New Street signs on the vertical pole first. As a last resort, the City will place the New Street signs on a new pole on the street corner.

The City Manager advised that the first meeting of the City Comprehensive Transportation Plan (CTP) Committee will not take place until Wednesday, February 20 at 2:00 p.m. The first meeting will take place in the Police Department Training Room. All future meetings will also hopefully take place on Wednesday afternoons.

The City Manager advised that the New Year's Eve Event was held on December 31 on Main Street. The event had great weather and a good crowd. There were no problems experienced during the event. There were four vendors selling hot food and beverages for the first time. The Police, Fire and Public Works Departments all did a great job helping out with this event.

Public Works Director Brant Sikes gave an update on work being done for the Water System Hydraulic Model. City staff and McGill Associates are working on this project.

The City Manager advised that the Images of Marion book will be available on February 11. He stated that the Mayor and Council members were in agreement with the City pre-ordering around 200 books, with the County ordering a similar number, at a 57 percent discount over the $21.99 retail price. The City will sell the books and turn over profits to the McDowell House project. To help sell the initial inventory, the City Manager stated that he had scheduled a book signing by the author, Kim Clark, at City Hall from 5:00 p.m. to 7:00 p.m. on Tuesday, March 5 before the City Council meeting. The book could be officially presented to Council at the beginning of the meeting.

COUNCIL MEMBER COMMENTS:

Mayor Little stated that he would not be making any changes in Council committee assignments. The Committees seem to be a pretty good match and he would suggest keeping the same committees unless someone asked to be removed.

Council Member Clark stated that the entrance signs into the City are looking bad. The City Manager advised that Planning and Development Director Heather Cotton was working on options for the replacement of the signs and that funds were included for this project in the 2012-13 budget. The City Manager stated that he would present recommendations for the proposed replacement signs to Council in the near future.

AA.000000168 (24)

Council Member Clark stated that, with the fatality on North Main Street earlier today involving a tree falling on a vehicle, the City needs to assess tree hazards along public rights-of-way with DOT and Duke Energy officials.

Council Member Clark stated that he read an interesting article in the Charlotte Observer earlier in the week regarding changes being made at DOT to steer more money to urban projects. He said that rural areas would lose out on projects due to this change.

Council Member Martin asked when the City would start work on the Eastfield Area sidewalks project. The City Manager advised that bids had just been opened for this project and that the bid award would be considered by Council at the February 5 meeting, after which time construction could begin.

Mayor Little stated that he noticed this evening a street light out on South Garden Street. The City Manager asked Police Chief Mark Brooks to report this street light to Duke Energy.

Mayor Pro Tem Cuthbertson stated that he recently noticed a left turn only sign in the left lane of northbound North Main Street at Logan Street. The City Manager stated that he had never noticed this sign and would check into this matter immediately, as such a sign was not necessary.

Council Member Ramsey invited everyone to the Dr. Martin Luther King, Jr. Service at Addie's Chapel United Methodist Church on Monday, January 21 at 11:00 a.m.

Council Member Ramsey wished Mayor Little on his upcoming mission trip to Belize from January 19-26.

ADJOURNMENT: Upon a motion by Council Member Doggett, seconded by Council Member Ramsey, 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 5, 2013 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; Harriett Thomas, CPA, Finance Director; Mark Brooks, Police Chief; Brant Sikes, Public Works Director; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: James Horton, 1410 Rutherford Road, Marion, NC; Edna Grindstaff, 114 Sinclair Avenue, Marion, NC; Jim & Connie Burgin, 1087 Veterans Drive Extension, Marion, NC; Thom and Melinda Hall, 779 Lake Club Drive, Nebo, NC; Brad Ledbetter, 54 College Drive, Marion, NC; Richard Merritt, 3935 Harmony Grove Road, Nebo, NC; Matt Roberts, 101 Carriage Station, Marion, NC; Tracy Pyatt, 2200 US 70 E, Marion, NC; Julie Smith, 2148 Toms Creek Road, Marion, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

CITIZEN OF THE MONTH – SELECTED BY COUNCIL MEMBER DOGGETT: Council Member Doggett selected the Citizen of the Month for February 2013.

Council Member Doggett stated that her Citizen of the Month is Mr. Jim Burgin, who she likes to happily refer to as Mr. Jack Frost. Jim has brought much happiness to Marion and McDowell County through ice cream and in many other ways.

In 1954, J.G. Burgin and his wife Lena started a small ice cream store near their home located beside US 70 between Marion and Old Fort. They called it Burgin's Dairy Crème. As family members passed on, the business continued. In 1980, Jim joined his parents in running Jack Frost. In 1989, he married Connie and she began helping at the business. In 1993, Jim and Connie took over Jack Frost as the third generation owners of the family business. Jim and Connie keep the business open from early spring until fall.

Beginning each fall, Jim volunteers four mornings a week at the Eastfield Global Magnet School. He is currently tutoring eleven students. Jim also photographs the students throughout the year and at various functions and displays the pictures in the school. During PTO meetings, he often presents parents with these photos. Jim also volunteers at McDowell Mission Ministries. He is a weekly volunteer year-round at the homeless shelter for men.

Jim is a member of the First Baptist Church and teaches Sunday School. He has also taught classes pertaining to better ways to help the poor through church mission work and community service.

In the past, Jack Frost has raised money for improvements to the women's homeless shelter and has produced and distributed packets of information encouraging people to volunteer in McDowell County Schools.

Mayor Little, Council Members, friends and family members all shared kind words and congratulated Jim Burgin on being selected as Marion's Citizen of the Month for February.

AA.000000169 (24)

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

A. Approval of Minutes – February 5, 2013 Regular City Council Meeting Minutes.

B. Receive Report of Unpaid 2012 Real Property Taxes: Council received the report of unpaid 2012 real property taxes. The Tax Collector must report to Council the total of unpaid real property taxes for the current year. As of January 31, the total of unpaid 2012 real property taxes is $195,173.12, an amount slightly less than the $200,667.65 in unpaid taxes as of the same time last year. The current year property tax collection percentage as of January 31, 2013 is 90.66 percent, which is better than average for this time of year.

C. Approve Advertisement of Delinquent 2012 Real Property Taxes: Council approved the advertisement of unpaid 2012 real property taxes to run in the McDowell News on Wednesday, May 8, 2013.

REQUEST FOR HOUSE BURNING – SHADY LANE: Mr. Brad Ledbetter, Director of Continuing Education for McDowell Tech, appeared before Council requesting permission for the McDowell Fire and Rescue College to burn a house on owned by Story Memorial Presbyterian Church at 179 Shady Lane during the upcoming Fire and Rescue College from March 15-17. Mr. Ledbetter stated that there is a fire hydrant located nearby, so a water shuttle operation would not be necessary.

Photographs of the house were presented to Council for review.

Mayor Pro Tem Cuthbertson asked if the trees surrounding the home would be saved.

Mr. Ledbetter stated that an attempt would be made to protect as many of the trees as possible.

The City Manager stated that Mr. Ledbetter would be responsible for notifying the surrounding neighbors. Mr. Ledbetter advised that notifications would be made in the surrounding area.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to approve the request by the McDowell Fire and Rescue College to burn a house on owned by Story Memorial Presbyterian Church at 179 Shady Lane during the upcoming Fire and Rescue College from March 15-17.

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

CONSIDER AWARD OF BID – YANCEY STREET/PERRY STREET SIDEWALK/DRAINAGE IMPROVEMENTS PROJECT: The City Manager advised that, as shown in information presented to Council Members, on January 15, seven bids were opened for the Yancey Street/Perry Street Sidewalk/Drainage Community Development Block Grant Project. The project budget allowed for $423,000 in construction expenses. The low bid came in from Young & McQueen Grading Company, Inc. of Burnsville in the amount of $257,750. McGill Associates recommends that the contract be awarded for this project to Young & McQueen Grading. McGill advises that this company has the experience and capability to complete this project and has the necessary contractor's licenses. In addition, McGill has worked successfully with Young & McQueen Grading in the past.

The City Manager stated that he would recommend that Council award the contract for the Yancey Street/Perry Street Sidewalk/Drainage Community Development Block Grant Project construction to Young & McQueen Grading Company, Inc. of Burnsville in the amount of $257,750, as recommended by McGill Associates. Upon approval, McGill will have the contractor start the project almost immediately, so that the project can be completed by the grant deadline in August.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Ramsey, Council voted unanimously to award the contract for the Yancey Street/Perry Street Sidewalk/Drainage Community Development Block Grant Project construction to Young & McQueen Grading Company, Inc. of Burnsville in the amount of $257,750.

Council Member Clark stated that inspections will be very important with this project, especially since the winning bid was quite low. The City Manager said that he would remind McGill Associates of the need to inspect the project properly.

APPROVE REQUEST TO SUPPORT APPLICATION OF HOSPICE OF MCDOWELL COUNTY FOR A CERTIFICTE OF NEED PETITION FOR A SIX BED HOSPICE INPATIENT UNIT: The City Manager advised that Kit Cosgrove, Executive Director of Hospice of McDowell County, has asked that Council provide its support for the application of Hospice of McDowell County to the State of North Carolina for a Certificate of Need for a six bed hospice inpatient unit. This unit would most likely be built as an addition to the Hospital, for greater efficiency.

The City Manager presented a sample letter of support for the application of Hospice of McDowell County for a six bed hospice inpatient unit.
Mr. Thom Hall asked if the inpatient unit would be located at the Hospice facility on Airport Road or at the McDowell Hospital.

Finance Director Harriett Thomas, who also serves as a Board Member of Hospice of McDowell County, stated that the facility would most likely be at the McDowell Hospital, in order to take advantage of greater efficiencies.

Council Member Clark made a motion that the City Council enthusiastically support the application of Hospice of McDowell County to the State of North Carolina for a Certificate of Need for a six bed hospice inpatient unit. The motion was seconded by Council Member Martin. The vote carried unanimously.

Mayor Little advised that he will be pleased to sign the support letter for Hospice of McDowell County.

AUTHORIZE CITY TO SUBMIT KATE B. REYNOLDS FOUNDATION GRANT APPLICATION TO FUND LOCAL MATCH FOR JOSEPH MCDOWELL HISTORIC CATAWBA GREENWAY PHASE 2: The City Manager advised that representatives of the McDowell Trails Association (MTA) and Planning Director Heather Cotton had recently met with Abena Assante of the Kate B. Reynolds (KBR) Foundation concerning the submission of a KBR grant to fund the local match and marketing and promotion activities for Phase 2 of the Joseph McDowell Historical Catawba Greenway. The grant application would include $36,000 for the local match for Phase 2, plus $5,000 in marketing funds to promote the use of the Greenway to low income individuals in the community. It was agreed that the City needs to be the applicant, rather than MTA. The grant application is due to KBR by February 12.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to authorize City staff to submit a grant application to the Kate B. Reynolds Foundation to fund the local match and marketing and promotion activities for Phase 2 of the Joseph McDowell Historical Catawba Greenway, as requested.

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CONSIDER AWARD OF CONTRACT FOR BUDGETED VEHICLE PURCHASES: Finance Director Harriett Thomas stated that the City had recently accepted bids for the purchase of three vehicles, as included in the 2012-13 Budget.

The City accepted bids for the purchase of a replacement ½ ton 4 x 4 pickup truck for the Public Works Department Fleet Maintenance Division. Eight bids were received. The low bid was received from Ken Wilson Ford of Canton in the amount of $19,690, an amount that is $6,310 under the $26,000 budgeted for this truck.

Upon a motion by Council Member Martin, seconded by Council Member Ramsey, Council voted unanimously to award the contract for the purchase of a replacement ½ ton 4 x 4 pickup truck for the Public Works Department Fleet Maintenance Division to Ken Wilson Ford of Canton in the amount of $19,690.

Ms. Thomas stated that the City also accepted bids for the purchase of a replacement extended cab pickup truck for the Public Works Department Utility Maintenance Division. Six bids were received. The low bid was received from Bobby Jones Ford of Augusta, Georgia in the amount of $18,708.68, an amount that is $7,291.32 less than the $26,000 budgeted for this truck.

Mayor Pro Tem Cuthbertson suggested that Council award the contract for the purchase of this truck to the second low bidder, Ken Wilson Ford of Canton, in the amount of $18,725.00, since the second low bid is only $16.32 higher, in the event the truck ever has to be taken to the dealer for service.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to award the contract for the purchase of a replacement extended cab pickup truck for the Public Works Department Utility Maintenance Division to Ken Wilson Ford of Canton in the amount of $18,725.00.

Ms. Thomas reported that the City accepted bids for the purchase of a replacement extended cab 4 x 4 utility truck for the Public Works Department Utility Maintenance Division. Three bids were received. The low bid was received from Everett Chevrolet of Hickory in the amount of $39,398.95, which is $2,601.05 less than the $42,000 budgeted for this truck.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to award the contract for the purchase of a replacement extended cab 4 x 4 utility truck for the Public Works Department Utility Maintenance Division to Everett Chevrolet of Hickory in the amount of $39,398.95.

The City Manager noted that, in total, the three trucks came in approximately $16,200 below the amount budgeted. He commended City staff on their efforts to find the lowest price possible for these vehicles.

DISCUSS DOT WIDENING PROJECT: The City Manager advised that, in response to an e-mail he sent on January 18, DOT advised on January 22 that the preliminary plans for the US 221 widening project will not be ready until June. The preliminary plans should give the City a good idea of the impact of the project on water and sewer line relocations and on existing commercial buildings. The City Manager stated that, in the minutes provided by DOT of the July meeting concerning this project, DOT acknowledged that the project could be delayed if the community objects to the design and/or feels that the impacts of the project are too great.
Hopefully, the preliminary design will truly minimize the impacts and be acceptable to the City and other agencies.

The City Manager stated that DOT suggested a meeting in June to discuss the preliminary plans and the impacts, including water and sewer relocations and existing buildings. Without objection, the City Manager stated that he would work to schedule such a meeting when the preliminary plans are ready.

The City Manager advised that the recently approved DOT Statewide Transportation Improvement Program (STIP) shows the US 221 project being split into two distinct phases, for the portion affecting the City. The section between the US 221 Bypass and I-40 shows right-of-way acquisition in 2013-14 and construction between 2015 and 2018. The section between I-40 and Goose Creek Road is currently unfunded, meaning that right-of-way acquisition and construction will not take place until 2023 or later.

The City Manager stated that the McDowell News had run a story on the US 221 widening project on November 14. The only new piece of information he had seen was that DOT reported a preliminary estimate of $1.2 million for the water and sewer relocation. DOT indicated on January 22 that this was a preliminary estimate from 2009.

No action was taken by Council on this matter.

SCHEDULING OF TOWN MEETING: The City Manager advised that Council had previously decided to hold the annual Town Meeting in early Spring. A late March or April date could be chosen. Council has typically held the Town Meeting on a Thursday evening at the Community Building.

It was the consensus of Council to hold the Annual Town Meeting on Thursday, April 18, 2013 AT 7:00 p.m. at the Marion Community Building.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that the N.C. League of Municipalities Town Hall Day will be held in Raleigh on Wednesday, March 27, from 11:00 a.m. until 7:00 p.m. The City Manager asked that anyone interested in attending let him know and he would make sure they were registered. Registrations must be submitted by March 15.

The City Manager asked Police Chief Mark Brooks to give an update on problems experienced with wild animals in the City.

Chief Brooks stated that officers had responded to several calls in recent weeks of strange acting wild animals and had killed three foxes and two raccoons. County officials have reported that they had dealt with thirteen such animals in the County. No animals have tested positive so far for rabies. Chief Brooks advised that veterinarians suspect that the animals may have distemper, which is fatal to animals and produces symptoms similar to rabies.

Chief Brooks added that the media has been contacted and asked to spread the word that people should immediately report strange acting wild animals and not approach them.

The City Manager advised that, as authorized by Council, Marion Business Association Executive Director Freddie Killough is applying for a Kate B. Reynolds Grant on behalf of the City to fund a part-time Farmer's Market Manager, to purchase EBT equipment for the Market and to fund marketing and promotions for the Market. The City Manager stated that he would let Council know as he hears more about the grant application.

The City Manager advised that the first meeting of the City Comprehensive Transportation Plan (CTP) Committee will be Wednesday, February 20 at 2:00 p.m. in the Police Department Training Room. The City Manager stated that in advance of this meeting, he had initiated a conversation with

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School Superintendent Dr. Gerri Martin and School Maintenance Director Garvin Trinks about the traffic situation around the High School and West Junior High, once the School System expands the High School and goes with the Middle School concept.

Public Works Director Brant Sikes gave a report of requests for proposals to be sent out by early Spring for various paving projects, as previously authorized by Council.

The City Manger advised that construction should be completed in the near future on the grant funded stormwater/greenway project behind the Police Department, Nevant and School Central Office properties on South Main Street. Landscaping installation will not be done until spring, to give plants a greater chance of survival.

The City Manager advised that the Images of Marion historical book will be available on February 11. As authorized by Council, the City is purchasing 200 books, with the County ordering a similar number, at a 57 percent discount over the $21.99 retail price. The Chamber is also purchasing 100 books and the McDowell House Committee 150 books, for a total initial order of 650 books. The City will sell the book and turn over all proceeds to the McDowell House project. To help sell the City's initial inventory, the City Manager stated that he had scheduled a book signing by the author, Kim Clark, at City Hall from 4:00 p.m. to 7:00 p.m. on Tuesday, February 19 before our City Council meeting. The book could be officially presented to Council at the beginning of the meeting. Other book signings have been scheduled as well.

COUNCIL MEMBER COMMENTS: There were no Council Member comments.

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 Meeting on Tuesday, February 12, 2013 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 Don Ramsey.

OTHERS PRESENT: Bob Boyette, City Manager; Robert Ayers, Chairman, Marion ABC Board.

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

1. ABC Store Improvements
2. Display of Firearms Ordinance
3. Police Issues
4. Personnel Policy
5. Garbage Service
6. Cardboard Recycling
7. Public Information Ideas
8. Lake James Reclassification Request
9. Street Centerline Striping
10. Street Maintenance
11. 2013-14 Budget
12. Images of Marion Books
13. N.C. League of Municipalities Wellness Initiative
14. Excursion Train Idea
15. Date and Time of Next Planning Session

No action was taken on these items. Items requiring City Council action will be included in 2012-13 Budget Ordinance Amendments, included in future budgets or placed on future City Council meeting agendas for consideration.

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Council agreed to schedule the next City Council Planning Session as either a Budget Workshop in late May or as a Pre-Budget Workshop in early May, if necessary.

ADJOURNMENT: Upon a motion by Council Member Ramsey, 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, February 19, 2013 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; Harriett Thomas, CPA, Finance Director; Mark Brooks, Police Chief; Brant Sikes, Public Works Director; Freddie Killough, Executive Director, Marion Business Association; Becky Poteat, President, Marion Business Association; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Charles and Stephanie Gibby, 955 Ebenezer Church Road, Old Fort, NC.

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 Martin, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – February 5, 2013 Regular City Council Meeting and Minutes and February 12, 2013 City Planning Session.

B. Approval of 2012-13 Audit Contract – Council approved a contract with Martin Starnes & Associates for the completion of the 2012-13 City audit. Martin Starnes proposed a base fee of $14,600 (the same as last year) plus $1,500 for Single Audit services, which is required for local governments receiving $500,000 or more in Federal funding or $300,000 or more in State funding in a single year. The total audit fee is $16,100.

PRESENTATION OF IMAGES OF AMERICA: MARION, NORTH CAROLINA HISTORY BOOK: Ms. Kim Clark advised that the City Manager and Anne Swann approached her a year ago to write the Images of America: Marion, North Carolina history book as a fundraiser for the McDowell House. Ms. Clark stated that she had signed copies of the book from 4:00 p.m. until the beginning of this City Council meeting.

Ms. Clark provided a brief overview of her experiences writing the book. She stated that it had been an honor working on this project. Ms. Clark stated that it was her privilege to formally present a signed copy of the book to the City of Marion.

Mayor Little accepted the book on behalf of the City and stated that it would be left at City Hall for everyone to enjoy.

The City Manager stated that the City had purchased 200 copies of the book to be sold, with all profits beyond the City's costs going to the McDowell House project. He commended Ms. Clark on her great work with the book.

Books are available for purchase at City Hall, the Chamber and other locations. Additional book signings will be held over the next few months.

RECOGNITION OF MAIN STREET CHAMPION: Marion Business Association (MBA) Director Freddie Killough appeared before Council to recognize the 2012 Main Street Champion. Ms. Killough advised that the MBA had selected the City of Marion Street Division as the 2012 Main Street Champion. The Street Division was selected for their excellent work over the years with festivals and events and providing general assistance that benefits downtown.

Ms. Killough stated that on Thursday, January 31, the Street Division was honored as 2012 Main Street Champions at the N.C. Main Street Annual Awards Ceremony in Salisbury, "in appreciation of their exceptional contributions to the downtown revitalization process." Along with Champions from 30 other communities, Marion's Street Division received a certificate commemorating this designation, presented by N.C. Deputy Secretary of Commerce Dale Carroll and Office of Urban Development Director Liz Parham.

Public Works Superintendent Roger Estes accepted the award on behalf of the Street Department. Mr. Estes stated that he appreciated the recognition and the opportunity to work with great people like Ms. Killough.

PUBLIC APPEARANCE – CHARLES GIBBY: Mr. Charles Gibby of Ebenezer Church Road in Old Fort appeared before Council to express his concern over City ordinances, in Chapter 11 of the City Code, that regulate the display and open carry of firearms. Mr. Gibby stated that these ordinances are not in keeping with the Second Amendment to the United States Constitution and with Federal and State court rulings, in his opinion.

Mr. Gibby had provided the Mayor and Council Members with information prior to the meeting regarding this matter. Mr. Gibby stated that he feels that firearms are the only chance people have to protect themselves and their families.

Mayor Little advised that Council Members had talked about this issue at a recent Planning Session and that they take this matter very seriously.

Mr. Gibby stated that he would like to see the language changed so that individuals could carry guns on City streets and in City parks.

Mayor Little advised that Council would take this information under consideration and thanked Mr. Gibby for his presentation.

PUBLIC APPEARANCE – MARION BUSINESS ASSOCIATON: Ms. Becky Poteat, President of the Marion Business Association (MBA) appeared before Council and gave the following quarterly report for the MBA:

October - December 2012
Quarterly Report of Marion Business Association

Economic Development Report

6 New Businesses Opened:

Weave It or Knot
Shucks Pearls (Temp Biz)
Underground Coffee
Papa John's Pizza
Sharon Parker Attorney at Law
Aaron Walker Attorney at Law

2 Businesses Closed:

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Dameron & Burgin Attorneys at Law
Gabler Molis CPA

3 Business Relocations:

Grace Designs
Francine's Consignments
Care South Homecare

6 Business Opportunity Inquiries

1 Business Loan Inquiries

2 Business Grant Inquiries

290 Business Visits

1 Property Referral Inquiries

1 Property Owner Contacts with available buildings

1 Contacts with interested Commercial Developers

0 New Businesses Breaking Ground

2 Façade Grant Inquires

0 Façade Grants Awarded (MBA and MEDA Historic Marion Façade Grant Program and MBA Sign Grant)

0 Properties sold

Other Economic Activity:

- Historic Marion Façade Grants – Awarded grants are being paid. There are still grant funds available.
- Historic Marion Tailgate Market opened May 15, 2012. 2012 was a very successful season for the market. The Market operated through December 18 on Tuesdays and Saturdays with locally made crafts added to in season produce.
- The MBA continues to meet with the WNC Rail Committee to promote passenger rail service to WNC. There is no funding allocated for Western North Carolina
- MBA maintains an Available Commercial Properties listing of properties in the City of Marion. The listing is also available on the MBA website, www.hometownmarion.com
- The Certified Retirement Community Committee met with a N.C. Department of Commerce representative in November. The CRC project is a joint effort of the City of Marion, Marion Business Association, McDowell Chamber Commerce, McDowell County and McDowell Tourism Development Authority. A marketing plan is being developed.

Committee Meeting Reports –

The **MBA Board of Directors** met on October 9, November 6 and held a Christmas breakfast on December 11
The **MBA Economic Development Committee** met on November 27. Meetings were held with Lee Anderson, Planning Director of Morganton, on December 14 and Ted Alexander, former Mayor of Shelby, on December 18. The Committee desires to create a long-range marketing plan with other county agencies. Will be setting a meeting in early 2013.
The **Community Innovators Committee** met on November 2. The Committee is very interested in the CRC project, the "Get Not Out" workforce development campaign and the Kate B. Reynolds Foundation Healthy Communities Initiative. The committee meets again on January 11.
The **Mountain Glory Festival Committee** had the biggest event ever on October 13. The committee met on November 12 to begin planning for 2013. Expanding vendor capacity was discussed.
The **Events & Promotions Committee** met on October 25 and November 29. The Committee is planning for 2013. See the 2013 Calendar of Events below.
The **Historic Marion Tailgate Market Committee** has worked at the Market all season. They will meet in January, 2013 to plan for the upcoming season.

Other Committees the MBA Supports:
MEDA; McDowell House; McDowell Non-profit Organizations (NPO)

Special Events Report

October 13 – Mountain Glory Festival – The largest festival ever both in attendance and vendors. Most vendors reported strong sales. Downtown businesses had a very good day.
October 30 – Historic Marion Tailgate Market Fall Festival - Trick or Treating for the kids. A cold day, but very good attendance.
November 18 – Marion Christmas Parade. Very well attended and good entry participation. Updated guidelines are being development to make the event safer.
December 6 – Melodies on Main – Santa Claus was on hand for the children. An ornament-making Christmas craft was provided for kids (provided by New York Life Insurance). There were extended shopping hours held by many downtown businesses. Melodies on Main is a very good annual children's event. This was the largest Melodies on Main ever.
December 31 – The Rotary Club of Marion's New Year's Eve Celebration – This was the 4th annual event. The event went very well and Rotary intended to hold the celebration again in 2013.

Volunteer Hours Committed – 361

2013 Calendar of Events
Friday, February 15 - Valentine's Day Dance and Dessert,
Saturday, March 23 – Easter Bonnet Parade @ YMCA
Saturday, May 4 – Sidewalk Yard Sale
Friday, June 7 – Liver Mush Festival
Thursday, July 4 – Independence Day Celebration
Saturday, August 3 – Sidewalk Yard Sale
Tuesday, August 6 – National Night Out
Friday, August 9 – Beach Music & Shagging in the Street & Cruise In
Monday, September 2 – "Terry McKinney" Concert, Depot Lawn
Saturday, October 12 – Mountain Glory Festival
Tuesday, October 29 – Fall Festival & Downtown Trick or Treating
November 5 – December 17 Fall Craft Market @ Market Shelter
Sunday, November 24 – Christmas Parade
December – Blue Ridge Artisans Craft Show @ MACA
Thursday, December 5 – Melodies on Main – Visit with Santa Claus
Saturday, December 7– Appalachian Potter's Market – McDowell High
Tuesday, December 31 – New Year's Eve Celebration
Every Thursday Night, 7:00 PM – Bluegrass Music at the Depot

Mayor Little thanked Ms. Poteat for her report and the excellent work that the MBA continues to provide for the City and the community.

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

APPROVE RESOLUTION AUTHORIZING CLEAN WATER STATE REVOLVING FUND GRANT APPLICATION: The City Manager advised that, at the January 15 Council meeting, Council authorized the submission of a Clean Water State Revolving Fund Grant application for replacement of the undersized East Court Street sewer line. Council adoption of a resolution is needed to officially authorize the grant application.

Public Works Director Brant Sikes discussed the scope of the project, which will involve replacing the sewer line from Oak Street all the way to Spring Street.

The City Manager advised that City staff and McGill Association are confident that the grant can be approved.

Council Member Clark stated that he remembered the City having problems with the sewer line all the way to Rutherford Road. The City Manager stated that McGill Associates Engineer Randy Hintz and Mr. Sikes have looked at the area in question and were trying to take the sewer line replacement to a line of sufficient size. He said that City staff would look closer at the section of line between Spring Street and Rutherford Road to make sure that the project addressed all problems.

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Upon a motion by Council Member Clark, seconded by Council Member Martin, Council Members voted to adopt the following Resolution to authorize the submission of a Clean Water State Revolving Fund Grant application for replacement of the undersized East Court Street sewer line:

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 rehabilitation of the East Court Street Sewer. Portions of the existing collection system will be replaced with a new 12-inch diameter system in order to increase the gravity line downstream from the Clinchfield Pump Station,

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.

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 19th day of February, 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-13-02-19-1

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 Marion City Council duly held on the 19th day of February, 2013; 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 20th day of February, 2013.

Signature of Recording Officer

City Manager/Clerk
Title of Recording Officer

ADD ON - AUTUMN CARE FIRE LANE REQUEST – The City Manager advised that he had received a request from Autumn Care, asking for Council to designate the right side of their driveway/entrance road off of Airport Road as an official fire lane, which would allow the Police Department to enforce the no parking area. The City Manager stated that Autumn Care staff had noted several instances when vehicles were parked and blocked access to the facility by emergency vehicles.

Council Member Doggett reported that she was at Autumn Care almost daily and could attest that this is a real problem. She said that she supported the request.

After discussion, Mayor Little and Council Members asked the City Manager to request that Autumn Care place flyers on vehicles for a few weeks after completing the striping and signage marking the fire lane, prior to calling the Police Department to assist with enforcement. The City Manager stated that he would make this communication to Autumn Care.

Upon a motion by Council Member Ramsey, seconded by Council Member Doggett, Council voted unanimously to adopt the following ordinance to designate a fire lane at the Autumn Care facility on Airport Road:

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
AUTUMN CARE PARKING LOT/ ENTRANCE ROAD	FIRE LANE	DESIGNATED AREAS ON RIGHT (SOUTHEAST) SIDE OF ENTRANCE ROAD

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

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-13-02-19-1

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

AA.0000000175 (24)

The City Manager advised that the City was recertified as a Tree City USA. This is the City's 23rd year as a Tree City USA. The City Manager commended Administrative Assistant Debi Sherlin, Planning and Development Director Heather Cotten, Public Works Director Brant Sikes and his staff and the Tree Board for all of their efforts in making the City's continued Tree City USA recertification possible.

The City Manager advised that, as authorized by Council, the City had submitted a Kate B. Reynolds Foundation Grant to fund a part-time Farmer's Market Manager, through additional hours for Lou Godfrey in the Marion Business Association office, to purchase EBT equipment for the Market and to fund marketing and promotions for the Market.

The City Manager reported that, as authorized by Council, the City had also submitted a Kate B. Reynolds Foundation Grant to fund the remaining local match for Phase 2 of the Joseph McDowell Historical Catawba Greenway, as well as to fund marketing and promotions for the Greenway.

The City Manager stated that McGill Associates submitted a Clean Water Management Trust Fund grant application for the City in late January, as authorized by Council, to fund a sewer extension to Marion Travel Plaza on Sugar Hill Road.

The City Manager commended Public Works Director Brant Sikes and the City's Utility Maintenance crew for the great job they did on the major water line break on Three Point Road at US 221 South in early February.

The City Manager advised that sales of the Images of America: Marion, North Carolina book were going well. As authorized by Council, the City purchased 200 books, with the County ordering a similar number, at a 57 percent discount over the $21.99 retail price. The Chamber is also purchasing 100 books and the McDowell House Committee 150 books, for a total initial order of 650 books. The City will sell the books and turn over all proceeds to the McDowell House project.

COUNCIL MEMBER COMMENTS:

Council Member Clark asked about the status of the Autumn Care request for gravity sewer service to the facility. The City Manager stated that he never heard anything further from Autumn Care or their engineer about this request, which had initially been made several months ago.

Mayor Pro Tem Cuthbertson noted that the first meeting of the City Comprehensive Transportation Plan process would be held at 2:00 p.m. at the Police Department the next day.

Mayor Pro Tem Cuthbertson advised that one of the City's gingko trees on South Main Street in front of Reality One had been cut to install an awning. The City Manager reported that the City's contracted arborist, Lawrence Moore, thought that the tree could be saved. The City Manager added that no one would admit to cutting the tree.

Council Member Doggett stated that the Public Works Department did a great job on the sidewalk replacement project on North Garden Street, despite weather issues and having to be pulled off the job to deal with emergency situations. She noted that someone walked through the wet concrete and City crews had to come back and fix the damage.

Mayor Little stated that he had received a call regarding a sidewalk that is a trip hazard on Morgan Street in front of Heritage Hills Apartments. The City Manager noted that this sidewalk may well be on private property, but that City staff would check to be sure.

Mayor Little advised that Duke Energy had finally repaired the street light he had previously reported as being out on South Garden Street.

Mayor Pro Tem Cuthbertson stated that there is a pothole on Willow Street near the intersection of Railroad Street. The City Manager stated that City staff would address the situation promptly.

Council Member Clark asked if the Tree Board had discussed the hazardous trees on North Main Street during their meeting that morning.

The City Manager stated that the Tree Board did discuss the trees and had determined, after discussion, that the City was taking a reasonable step by sending advisory letters to property owners, making them aware of potentially hazardous trees on the North Main Street bank and in other locations. The City Manager added that the Tree Board members would like to see the Department of Transportation take action on this issue, but realized that the trees in question are located on private property.

Council Member Clark advised that he would like to see the City facilitate meetings with the property owners, with a goal of having the hazardous trees removed. Council Member Clark said that he realized that the trees were located on private property.

The City Manager reported that the North Carolina Forest Service had identified a logger that may be interested in removing the trees for the value of the wood. He said that he could facilitate a meeting with the property owners and the logger, without objection.

Mayor Little stated that such action would be reasonable and welcomed.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to authorize the City Manager to facilitate meetings between property owners and loggers, with a goal of asking property owners to remove hazardous trees on the North Main Street bank, in the interest of public safety.

ADJOURNMENT: Upon a motion by Council Member Clark, seconded by Council Member Doggett, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.00000176 (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 5, 2013 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; Scott Spratt, Police Investigative Lieutenant; Brant Sikes, Public Works Director; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Sharon and Charlotte Moore, 75 Oakwood Drive, Marion, NC; Linnie Parker, Marion, NC.

OPEN MEETING: Mayor Little opened the meeting with a moment of silence.

CITIZEN OF THE MONTH – SELECTED BY MAYOR PRO TEM CUTHBERTSON: Mayor Pro Tem Cuthbertson selected the Citizen of the Month for March 2013.

SHARON PARKER

Ms. Sharon Parker is the daughter of Linnie Parker and the late Bayard Parker. She has one daughter, Charlotte Moore.

Ms. Parker is a 1981 graduate of the University of North Carolina at Chapel Hill with a B.A. in Psychology and Speech Communications and is a 1987 honors graduate of the University of North Carolina at Chapel Hill School of Law. She is licensed to practice law in both North Carolina and Georgia.

Prior to joining the Dameron and Burgin Law Firm in 1991, Ms. Parker practiced law with Petree Stockton in Winston-Salem. She has been rated AV Preeminent 5.0 out of 5 by Martindale-Hubbell since 1998, a peer review rating that attests to a lawyer's legal ability and professional ethics. Ms. Parker served with Dameron and Burgin Law Firm, becoming managing partner, until the firm dissolved at the end of 2012. During her tenure with Dameron and Burgin, Ms. Parker served for several years as City Attorney.

In late 2012, Ms. Parker established a new firm, Sharon L. Parker, P.A. Ms. Parker concentrates her practice in the areas of Business Law, Estate Planning, Estate Administration, Health Care Law and Non-Profit Corporations.

Ms. Parker represents the Rutherford-Polk-McDowell District Board of Health, Hospice of McDowell County, and McDowell County Board of Education, several hospitals, and medical professional liability insurance carriers.

Ms. Parker has received numerous awards through the years and is active in her community volunteering on various boards.

Ms. Parker is a member of the McDowell County Health Coalition, the Rotary Club of Marion, the Carson House Society, YMCA, the 2-1-1 Steering Committee, the McDowell Chamber of Commerce, the Marion Business Association, Mercy Fund Animal Rescue and the McDowell Trails Association.

Mayor Little and Council Members all shared kind words and congratulated Ms. Sharon Parker on being selected as Marion's Citizen of the Month for March.

CONSENT AGENDA: Upon a motion by Council Member Clark, seconded by Council Member Doggett, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – February 19, 2013 Regular City Council Meeting Minutes.

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

CONSIDER AWARD OF CONTRACT – MARION TRAVEL PLAZA WATER EXTENSION: The City Manager asked that this item be held until a future meeting, as City staff and consulting engineers were still reviewing the project bids and scope.

Mayor Little and Council Members agreed by consensus to hold this item until a future meeting.

ADOPT RESOLUTION OF SUPPORT FOR NORTH CAROLINA CLEAN WATER MANAGEMENT TRUST FUND: The City Manager presented Council with a draft resolution of support for continued and, if possible, increased State funding for the North Carolina Clean Water Management Trust Fund (CWMTF). The CWMTF provided $3 million of funding for the City's major Wastewater Improvements Project a few years ago and nearly that much money a few years prior for the Eastfield Sewer project. Currently, the City is seeking a CWMTF grant for a sewer extension to Marion Travel Plaza.

The City Manager stated that he would recommend that Council adopt the resolution of support for the North Carolina Clean Water Management Trust Fund as presented.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to adopt the following Resolution of Support for the North Carolina Clean Water Management Trust Fund:

Resolution to Support the 2013-2015 Funding for
the Clean Water Management Trust Fund

Whereas, the 1996 General Assembly established the Clean Water Management Trust Fund to provide an innovative and non-regulatory approach to the protection and restoration of the surface waters all across the state; and

Whereas, the Clean Water Management Trust Fund is a non-regulatory program established to help meet infrastructure needs of municipalities and counties, restore degraded surface water, protect watersheds, increase recreational opportunities, and enhance quality of life in this state, all critical components for communities to obtain a competitive edge in their economic development; and

Whereas, the Clean Water Management Trust Fund has funded 452 infrastructure projects to assist North Carolina Communities balance infrastructure needs with environmental protection and to help struggling communities become self reliant with future infrastructure needs; and

AA.000000177 (24)

Whereas, infrastructure needs across the state addressing drinking water, wastewater, and stormwater are estimated at $16.6 billion between 2005 and 2030; and

Whereas, the Clean Water Management Trust Fund has leveraged more than $1billion of private, local and federal funds to support projects; and

Whereas, the General Assembly has reduced funding for the Clean Water Management Trust Fund by 78% since 2010; and

Whereas, limited funding for the Clean Water Management Trust Fund left 88% of 2012 critical local needs unmet; and

Whereas, our economic vitality, health and ability to sustain ourselves and the natural environment all rely on clean water; and

Whereas, surface water must be protected to ensure sufficient drinking water supply for the state's growing industrial base and population; and

Whereas, the Clean Water Management Trust Fund has provided grants to the City of Marion and/or McDowell County to provide for the modernization and upgrade of the City's Wastewater Treatment Plant, thereby protecting water quality and allowing for the City to continue to pursue economic development projects, and also for the extension of wastewater service to a large, low-income neighborhood in the community to provide for a better quality of life and improved public health.

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

Section 1. The City Council expresses its full support for the Clean Water Management Trust Fund.

Section 2. The City Council urges Governor McCrory and the North Carolina General Assembly to provide the Clean Water Management Trust Fund with an increase in recurring funding for the 2013-2015 biennial budget.

ADOPTED this the 5th day of March, 2013

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-13-03-05-1

Council Member Clark stated that State funding for the Clean Water Management Trust Fund had declined from $100 million annually to $10 million per year. He added that more support is needed for the Trust Fund, which performs a vital service for the State.

CONSIDER APPROVAL OF COMMERCIAL GARBAGE ORDINANCE REVISIONS: The City Manager advised that Council had received a draft revised Commercial Garbage Ordinance to establish deposit requirements for new garbage customers. The proposed deposit is equal to one month's service fee, which varies depending on the type (can, dumpster or recycling) and frequency of collection. The ordinance also establishes when a dumpster will be removed due to non-payment. If a dumpster of an existing customer is removed for non-payment, the business will be treated as a new customer and required to pay a deposit prior to re-establishing service.

The City Manager stated that he would recommend that Council adopt the proposed ordinance, to take effect immediately.

Upon a motion by Council Member Martin, seconded by Council Member Clark, Council voted unanimously to adopt the following Ordinance, to become effective immediately:

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

Pick-ups per Week	Monthly Charge
1	$ 125
2	302
3	482
4	660
5	840

Pick-ups per Month	Monthly Charge
1	$ 35
2	60
3	88

Plan "B"
Apartment Complexes

Pick-ups per Week	Monthly Charge
1	$ 9 (minimum charge)
2	70
3	131
4	191
5	255

Plan "C"

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Commercial Can Services (3 – 35 gallon cans)

Pick-ups per Week	Monthly Charge
1	$ 16 (minimum charge)

Plan "D"
Commercial Recycling Services (2 - 14 gallon bins)

Pick-ups per Week	Monthly Charge
1	$ 16 (minimum charge)

Plan "E"
Commercial Recycling Services – Restaurants & Bars (5 - 15 to 28 gallon cans; additional charge of $5 per month for each excess container)

Pick-ups per Week	Monthly Charge
1	$ 25
2	40
3	55
4	70
5	85

Other Miscellaneous Charges

First Late Penalty	$ 5.00
Second Late Penalty:	
1-3 Occurrences	15.00
4 or More Occurrences	25.00

Termination of Service
Service to Commercial Garbage/Recycling Collection Only customers will be terminated for nonpayment on or around the 5th day of the month following the due date. Customers will be notified by letter of termination of service. Should the account remain unpaid for ten
(10) days after the date of the letter, the receptacle will be removed.

Deposits for new Commercial Garbage/Recycling Collection Only customers (does not apply when premises also has water and/or water and sewer service):

Refundable Deposit equal to one month's service fee.

Although this deposit is for new customers, should an existing customer become delinquent to the point of having service terminated and the receptacle removed, the customer will be treated as a new customer and the deposit will be required.

Section 2. The Ordinance adopted on June 19th 2012 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 March 5, 2013.

Adopted this 5th day of March 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-13-03-05-1

CONSIDER AWARD OF CONTRACT FOR BUDGETED VEHICLE PURCHASES: The City Manager advised that the City had recently accepted bids for the purchase of three vehicles, as included in the 2012-13 Budget.

The City Manager reported that, as shown in information presented to Council, the City had accepted bids for the purchase of a replacement marked vehicle and a replacement unmarked vehicle in the Police Department. Four bids were received for each vehicle. Staff had requested consideration of purchasing the all wheel drive vehicles. While the low bid came in from Ilderton Dodge for a 2013 Dodge Charger in the amount of $33,945 for the marked vehicle and from Ilderton Dodge for a 2013 Dodge Charger in the amount of $25,465, Dodge does not yet offer an all wheel drive option for police package vehicles. Of the all wheel drive vehicles, the low bid came in from Bobby Jones Ford for a 2013 Ford Police Interceptor in the amount of $34,983.68 for the marked vehicle and from Light-N-Up for a 2013 Ford Police Interceptor in the amount of $26,578.68. This results in a total expenditure of $61,562.36. The City budgeted $58,250 for these two vehicles, plus $4,300 for an in-car camera, for a total amount of $62,550. The low bids include an in-car camera and are $61,562.36, or $987.64 below budget.

The City Manager advised that the City had performance and delivery issues in the past from Light-N-Up that caused concern and led staff to request that both vehicles be purchased from Bobby Jones Ford. Bobby Jones Ford submitted the second low bid for the unmarked car with all wheel drive, in the amount of $26,995 for a 2013 Ford Police Interceptor. The total cost of purchasing both vehicles from Bobby Jones Ford would be $61,978.68, which is $571.32 below budget.

Police Investigative Lieutenant Scottt Spratt outlined some of the past problems with vehicles from Light-N-Up, which has not been the case with Bobby Jones Ford.

The City Manager stated that he felt comfortable recommending the purchase of all wheel drive vehicles and, if Council so chose, the purchase of both vehicles from Bobby Jones Ford.

Mayor Little stated that he felt that the issues in the past with Light-N-Up certainly justified the City going with the next highest bidder, Bobby Jones Ford, for a vehicle that was only $400 more expensive.

AA.000000179 (24)

Upon a motion by Council Member Ramsey, seconded by Council Member Martin, Council voted unanimously to award the contract for the purchase of a marked Police car to Bobby Jones Ford for a 2013 Ford Police Interceptor in the amount of $34,983.68 and for the purchase of an unmarked Police car to Bobby Jones Ford for a 2013 Ford Police Interceptor in the amount of $26,995.

The City Manager advised that the City had also accepted bids for the purchase of a 4x4 utility vehicle for the Public Works Recreation Division to be used for maintenance of the Catawba River Greenway. Four bids were received. The low bid was received from Corriher Tractor in the amount of $11,900, which is $100 less than the $12,000 budgeted for this vehicle.

Public Works Director Brant Sikes noted that this vehicle would greatly assist with greenway and trail maintenance and mentioned briefly some of the specifications for the vehicle.

The City Manager stated that he would recommend that Council award the contract for the purchase of a 4x4 utility vehicle for the Public Works Recreation Division to Corriher Tractor in the amount of $11,900.

Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to award the contract for the purchase of a 4x4 utility vehicle for the Public Works Recreation Division to Corriher Tractor in the amount of $11,900.

Council Member Clark stated that he would like to see the City take inventory of the marked and unmarked Police cars. He suggested that the City may need more marked Police cars, as he had heard from residents not seeing enough patrols on their streets. The City Manager stated that staff would compile this information and he would forward it to the Mayor and Council Member. The City Manager added that he would be discussing enhancing residential patrols with the new Police Chief.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that, as directed by Council at the last meeting, he had worked to facilitate a meeting between owners of property on the North Main Street bank (Linda Stott and James Tarpley) between the Marion Pack and Post and Montevista Avenue, a tree cutter, DOT and City staff concerning potentially hazardous trees on the bank. A meeting was held on February 28 and Ms. Stott agreed to have Mr. Mike Williams remove potentially hazardous trees on her property along North Main Street. RThe City Manager stated that he subsequently talked to James Tarpley, who was also interested in having hazardous trees removed.

The City Manager reported that Mr. Williams advised that the tree removal should begin by late March and will take as many as 3-4 days. DOT will close down North Main Street at times, while this work takes place. The City will assist with brush removal. The City Manager stated that he hopes to know the schedule for tree removal by the time of the March 19 Council meeting. He added that he would alert the media and surrounding businesses as soon as the work is scheduled. The City Manager stated that the tree removal should greatly enhance public safety in this area.

The City Manager stated that the Images of Marion books were selling very well. As of early March, the City had sold 125 of the 200 books the City had ordered. All proceeds from the sales are going toward the McDowell House project.

The City Manager advised that construction will begin by mid-March on the Yancey Street/Perry Street Sidewalk and Drainage Project.
The City Manager advised that Public Works Director Brant Sikes had determined that the problem spot with the sidewalk in front of Heritage Hills Apartments on Morgan Street, as reported by Mayor Little, is not on City right-of-way. At Mayor Little's suggestion, the City Manager sent a letter to Heritage Hills Apartments, making them aware of the safety issue on their property.

Mr. Sikes gave a brief report on sidewalk repairs undertaken by City crews including completed projects on North Garden, Morgan and North Main Streets and ongoing work on West Henderson Street. Mr. Sikes advised that he had been pleased with the progress made by City crews, as well as the quality of the work.

Council Member Doggett stated that she was also very pleased with the quality of the sidewalk repairs.

The City Manager reported that Mayor Little had informed him of a request for a street light on Carolina Avenue Extension. The City Manager suggested that this request be forwarded to the Street Committee for review and a recommendation back to Council. Mayor Little and Council Members agreed by consensus to refer this request to the Street Committee for review and a recommendation back to Council.

COUNCIL MEMBER COMMENTS: Mayor Little stated that he had just opened a letter from Mr. Jim Edwards, Executive Director of Isothermal Planning and Development Commission (IPDC), advising that City Manager Bob Boyette's term on the IPDC Board of Directors was expiring in April 2013 and requesting that Mr. Boyette be reappointed to another three year term.

The City Manager stated that, if approved by Council, he would be willing to serve another three year term.

Upon a motion by council Member Doggett, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to reappoint City Manager Bob Boyette to a new three year term, to being in April 2013, on the Isothermal Planning and Development Commission Board of Directors.

Mayor Little stated that he and Council Member Doggett would be going to the National League of Cities Congressional City Conference in Washington, D.C. at the end of the week.

Mayor Pro Tem Cuthbertson stated that he had looked further at the gingko tree that had been damaged in front of the Realty One office on South Main Street. He noted that the City's contracted landscaper Lawrence Moore had proposed retraining the tree growth, which will take some time.

Mayor Pro Tem Cuthbertson stated that this vandalized tree looks really bad and he would like to see the City re-evaluate it and plant a new tree to replace it.

The City Manager advised that City staff would work with Mr. Moore and develop a recommendation regarding whether planting a new tree would return the tree to normal quicker than retraining the existing tree.

Council Member Doggett reported that grass needed to be resown on property affected by the recent sidewalk work on North Garden Street. The City Manager stated that City staff would take care of this work as soon as possible.

Council Member Clark showed the Mayor and Council Members two recent publications from the North Carolina Rural Center on manufacturing in North Carolina. He reported that the Rural Center had developed some great ideas about the future of manufacturing.

Mayor Little stated that manufacturing is not a thing of the past, as some people may believe, and remains a vital part of the North Carolina economy.

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Mayor Pro Tem Cuthbertson advised that IPDC Executive Director Jim Edwards has asked that any Council Members who know new State Representative Josh Dobson to put in a good word for Regional Council and IPDC.

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, March 19, 2013 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 Juanita Doggett, Billy Martin and Don Ramsey.

Mayor Pro Tem Cuthbertson was not present for this meeting due to the being out of town for the birth of a grandchild.

Council Member Clark was not present for this meeting due to a scheduled meeting out of town.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Harriett Thomas, CPA, Finance Director; Scott Spratt, Police Investigative Lieutenant; Brant Sikes, Public Works Director; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Stephanie Davis 3412 US 70 East, Marion, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

CONSENT AGENDA: Upon a motion by Council Member Ramsey, seconded by Council Member Doggett, those members of Council present voted to approve the consent agenda as follows:

A. Approval of Minutes – March 5, 2013 Regular City Council Meeting Minutes

B. Endorse North Carolina 2013 Spring Litter Sweep – Council endorsed the North Carolina Spring Litter Sweep 2013 to take place between April 13 and 27.

C. Approve Waiver of Charges for Collection of Bulky Trash Items During Spring Littler Sweep – Council approved the waiver of charges for the collection of bulky trash items and authorized the collection of tires from April 15-19 during Spring Litter Sweep 2013.

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

CONSIDER AUTHORIZATION OF CITY TO SEEK PLAYFUL CITY USA DESIGNATION: The City Manager advised that, as indicated in a memo from Planning and Development Director Heather Cotton presented for Council's review, staff is proposing that the City seek a Playful City USA designation.

The City Manager reported that this designation is offered by KaBoom, a national non-profit dedicated to building playgrounds nationwide. KaBoom is currently working with the Kate B. Reynolds Charitable Trust and McDowell County to build two playgrounds in unserved parts of the County. As part of this process, KaBoom has become aware of the City's excellent parks program and urged the City to seek this designation.

The City Manager stated that the Playful City USA designation would open the City to potential grant funding for replacement of park equipment, as well as information and technical resources. It is also a nice honorary designation, similar to the Tree City USA designation the City has had for 23 years.

The City Manager advised that, in order to seek the designation, approval of the enclosed proclamation is needed. He stated that he would therefore request that Council approve the proclamation and authorize staff to seek the Playful City USA designation.

Upon a motion by Council Member Martin, seconded by Council Member Doggett, those members of Council present voted to approve the following proclamation proclaiming March 19, 2013 as "Play Day" in the City of Marion.

An Order to Proclaim
March 19, 2013 as
"Play Day" in the City of Marion, North Carolina

WHEREAS, play is a crucial factor in the overall well-being of children; and

WHEREAS, playspaces and playgrounds within walking distance of children's homes are missing from many communities and neighborhoods; and

WHEREAS, unstructured, unplanned, spontaneous, and self-motivated play is on the decline; and

AA.000000181 (24)

WHEREAS, fewer children spend time outside at parks and playgrounds; and

WHEREAS, recess is being shortened or removed from school curriculums; and

WHEREAS, children who play are healthier and suffer less obesity and obesity-related health problems such as diabetes and heart disease; and

WHEREAS, children who play do better in school and develop cognitive skills that are linked to learning and academic performance; and

WHEREAS, children who play learn the social skills that help them become happy and well-adjusted adults; and

WHEREAS, parents, schools, child care centers, nonprofit organizations, businesses, the faith community and all interested parties wish to raise this community's children to become healthy, happy, and successful adults.

NOW, THEREFORE, I, Stephen R. Little, Mayor of the City of Marion, North Carolina, do hereby proclaim March 19, 2013 as "Play Day" in the City of Marion of Marion, North Carolina, and I urge all citizens to celebrate Play Day and support efforts to build and maintain playspaces and playgrounds in their communities and neighborhoods. Further, I urge all citizens to continue to support and maintain playspaces and playgrounds for the well-being of this and future generations.

Proclaimed this 19th day of March, 2013

Mayor Stephen R. Little

Council Member Martin asked if the City is still appropriating $50,000 per year for City parks.

The City Manager stated that the amount budgeted varies from year to year and that the current year budget contains $35,000 in appropriated funds for parks. The City Manager advised that this appropriation has never been less than $25,000 and is driven by needs.

Council Member Martin said that he raised this issue, recognizing that park equipment will eventually need to be replaced.

Mayor Little noted that the City may also be called upon in the future to assist with replacement of equipment at the McDowell County Skate Park, which the City funded initially several years ago.

CONSIDER AWARD OF MOWING AND LANDSCAPING CONTRACTS: The City Manager advised the City had recently sought bids for cemetery mowing, street right-of-way mowing and landscaping services, as follows:

A. Cemetery Mowing –A total of four bids were submitted for cemetery mowing, with the low bid received from Davis Lawn Care (Freddy Davis, Owner) in the amount of $750 per week. This is typically about a 24 week contract. The City paid Miller's Lawn Care and Landscaping (Eric Miller, Owner) $760 per week for this work in 2012-13, but Mr. Miller chose not to submit a bid this year.

The City has not worked with Davis Lawn Care in the past. Public Works Director Brant Sikes reported that staff had talked to Mr. Davis, checked all of his references and feels that Mr. Davis is dependable, that he does high quality work, understands the requirements of the contract and has the proper equipment needed for the job.

The City Manager stated that staff would recommend that Council award the Cemetery mowing contract to Davis Lawn Care in the amount of $750 per week.

Upon a motion by Council Member Martin, seconded by Council Member Ramsey, those members of Council present voted to award the Cemetery mowing contract to Davis Lawn Care in the amount of $750 per week.

B. Street Right of Way Mowing – The City Manager stated that a total of six bids were submitted for street right-of-way mowing, with the low bid received from Ledford's Landscape & Design (Gary Ledford) in the amount of $1,125 per week. This is typically about a 24 week contract. The City paid Appalachian Grounds Maintenance (Richie Atkins, Owner) $1,175 per week last year for this work. The City has not worked with Ledford's Landscape & Design in the past.

Public Works Director Brant Sikes advised that staff had talked to Mr. Ledford and checked references on him. Mr. Ledford has performed work successfully for customers such as Hospice of McDowell County, Bojangle's of Marion, Jerry Van Dyke and Fatz Café. City staff have determined that Mr. Davis is dependable, that he does high quality work, understands the requirements of the contract and has the proper equipment needed for the job.

The City Manager stated that staff would recommend that Council award the street right-of-way mowing contract to Ledford's Landscape & Design in the amount of $1,125 per week.

Upon a motion by Council Member Doggett, seconded by Council Member Ramsey, those members of Council present voted to award the street right-of-way mowing contract to Ledford's Landscape & Design in the amount of $1,125 per week.

Council Member Doggett stated some contractors in the past have mowed with their blades too low and have killed the grass along some rights-of-way.

Mr. Sikes advised that he had tightened up the specifications for mowing and that this should not be an issue in the future.

C. Landscaping – The City Manager advised that only one bid was submitted for the City's landscaping contract, from L.L. Moore Landscapes and Lawn Service in the amount of $577 per week. The City paid Mr. Moore $520 per week last year for this contract, so Mr. Moore is proposing an increase of $57 per week, or 11 percent. This is a 12 month contract.
The City Manager reported that Mr. Sikes has tightened the specifications on this contract and the City has added maintenance of landscaping on Sugar Hill Road. Mr. Moore had indicated that most of the increase is due to the additional landscaping responsibilities.

The City Manager stated that this contract had not yielded any competing bids since 2006. Under State law, there are no minimum number of bids that must be received for a service contract such as this one.

The City Manager stated Mr. Moore had performed very well most of the time over the years and has typically addressed problems promptly. The City Manager advised that he would recommend that Council award the City landscaping contract to L.L. Moore Landscapes and Lawn Service in the amount of $577 per week.

AA.0000000182 (24)

Upon a motion by Council Member Martin, seconded by Council Member Doggett, those members of Council present voted to award the City landscaping contract to L.L. Moore Landscapes and Lawn Service in the amount of $577 per week.

RECEIVE STREET COMMITTEE RECOMMENDATION: The City Manager advised that the Street Committee met on March 6 to review the request for a street light on Carolina Avenue Extension. As shown on a map presented to Council , this one block, dead-end street has five poles. Street lights are currently located on the first and fourth poles. The request for a street light came from a church located in the middle of the street, directly across from the church. The Police Department has verified that the middle section of the street is very dark.

The City Manager reported that the Street Committee recommendation is to move a light from the fourth pole to the third pole and to add a light on the fifth pole. Therefore, lights would be in place on the first, third and fifth poles on the street. This maintains the typical every other pole spacing of street lights.

Council Member Martin stated that he would move to accept the recommendation of the Street Committee to move a street light on Carolina Avenue Extension from the fourth pole to the third pole and to add an additional light to the fifth pole as recommended.

Mayor Little advised that, with the recommendation coming from the Street Committee, a second was not necessary for this motion.

All Council Members present voted in favor and the motion was passed.

CONSIDER APPROVAL OF PERSONNEL POLICY AMENDMENT: The City Manager advised that, as discussed at the February 12 Council Planning Session, he and Finance Director Harriett Thomas had prepared a Personnel Policy Amendment to require employees requesting $100 or more in travel and training funds to sign an agreement with the City, agreeing to stay employed for a 12 month period or else be required to repay the City for the travel and training expenses. As discussed at the Planning Session, a section had also been added that grants him the authority not to require repayment where an employee has met sufficient requirement to be exempt from repayments, such as attending necessary courses to maintain a license or certification benefitting the City or if the employee remains employed by the City for the majority of the 12 months after completing the course.

The City Manager reported that, in addition, the proposed amendment adds a provision that the City will pay no more than two times for fees related to certification exams. Once the employee passes the exam, they will be reimbursed for one additional exam fee.

The City Manager stated that he would recommend approval of this Personnel Policy Amendment as presented.

Upon a motion by Council Member Ramsey, seconded by Council Member Martin, those members of Council present voted to approve the following Personnel Policy Amendment:

City of Marion
Personnel Policy Amendment

The Personnel Policy of the City of Marion, as adopted on August 21, 2012, 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:

Educational Leave with Pay

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 will pay or reimburse the verified costs, including course fees, materials, meals and travel costs, as provided for in Article VI, Work Conditions and Expectations, Section 13, Travel and Expense Reimbursement, for the course(s) provided the employee submits the required documentation. However, for course(s) with total costs more than $100, the employee must agree to and sign a Continued Employment Agreement for Job Related Training when submitting the Travel Expense Requisition for approval.

In addition, the City will pay fees for certification exams, in accordance with the following provisions:

1. The City will pay for only one school or training class for a particular certification.

2. The City will pay fees no more than two times for certification exams, until the employee passes the exam. Once the employee passes the exam, he/she will be reimbursed for one additional exam fee.

Section 2. This amendment shall become effective on March 19, 2013.

Adopted this the 19th day of March 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Policy Number: P-13-03-19-1

Continued Employment Agreement for Job Related Training

Because of the monetary and personnel resources necessary to properly train and retain employees to carry out their duties and responsibilities of their position, and in consideration of the mutual commitments set forth herein, the City of Marion (City) and the undersigned City Employee (Employee) do hereby enter into the following agreement:

1. The Employee agrees to timely attend and to successfully complete the requirements of the following course(s) or series of courses:

Course Title	Cost

2. The City will pay or reimburse the verified costs, including course fees, meals and travel, of the job related training. However, the City will pay fees for certification exams no more than two times until the employee passes the exam. Once the employee passes the exam, he/she will be reimbursed for one additional exam fee.

3. The City Manager will have the discretion of determining if the employee has met sufficient requirements to be exempt from repayment (for example: the employee attends necessary courses to maintain a license or certification benefitting the City and/or the employee remains employed by the City for the majority of the twelve (12) months after completing the course).

4. The Employee shall not be responsible for repayment of job related training expenses paid by the City as described above if (a) the Employee is terminated by the City, other than for intentional or criminal misconduct in the performance of the Employees duties or responsibilities as a City employee; (b) the Employee ceases employment or is terminated due to a disabling illness or injury; (c)the Employee is unable to satisfactorily complete the approved course(s) or course of study because of a disabling illness or injury or for some other reason or occurrence beyond the control of the Employee which prevents the Employee for successful completion of the approved course(s) or course of study or (d) amounts of $100 or less. These exceptions from responsibility for repayment by the Employee of educational expenses paid by the City shall not apply if the Employee has misrepresented his/her qualifications or other material facts in his/her application for employment to the City, or if the Employee has intentionally acted to cause his or her dismissal from employment by the City or his/her failure to successfully complete the approved course(s) or course of study in an attempt to avoid such obligation for repayment.

I,_____, understand that I am required to remain employed with the City of Marion for twelve (12) months after completing this course. I further understand that if I do not fulfill this obligation, the City will collect repayment in the amount of_____ for repayment of the costs of the job related training listed above either by receipt of payment from the Employee prior to issuance of final paycheck or by deducting from my final paycheck.

_____ _____
(Print full name of employee) (Print witness name & title)

_____ _____
(Employee signature & date) (Witness signature & date)

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that Arbor Day was held at Eastfield Elementary School on Friday, March 15 at 9:00 a.m. and will be held at Marion Elementary School on Friday, March 22 at 9:00 a.m. Both schools will plant trees at Clinchfield Park.

The City Manager advised that, as previously reported Ms. Linda Clyburn Stott has contracted with Mike Williams to remove potentially hazardous tress on her property along North Main Street between the Pack and Post and Montevista Avenue. The City Manager stated that he spoke to Mr. Williams the day before and learned that the work may take place toward the latter part of the following week. The City Manager said that he had also been in contact with Ms. Stott's neighboring property owner, Mr. James Tarpley, who will also hopefully have Mr. Williams remove potentially hazardous trees on his property.

The City Manager stated that the tree removal should take around 3-4 days. DOT will close down North Main Street at times, while this work takes place. The City will assist with brush removal. The City Manager stated that he would alert the media and surrounding businesses as soon as the work is scheduled.

The City Manager advised that the gingko tree in front of Realty One on South Main Street was in the process of being replaced, as authorized by Council, due to damage done to the tree. Public Works Director Brant Sikes stated that the new tree had been installed.

The City Manager advised that the greenway and drainage project behind the Police Department, Nevant and School Central Office properties on South Main Street was almost complete. A ribbon cutting will be held for this project by the middle of April.

The City Manager advised that construction had started on the Yancey Street/Perry Street Sidewalk and Drainage Project.

The City Manager advised that Administrative Assistant Debi Sherlin had scheduled the 11th Annual City Open House for all of the third graders in McDowell County for Friday, April 26. School visits will occur, as usual, from 9:00 a.m. to 2:00 p.m.

The City Manager advised that Marion Business Association Executive Director Freddie Killough has scheduled the annual Downtown Clean Sweep for Saturday, April 20, from 9:00 a.m. to 12:00 Noon.

COUNCIL MEMBER COMMENTS:

Council Member Doggett reported potholes on Fleming Avenue at the Rose Hill driveway and on South Garden Street at the Post Office entrance. The City Manager advised that both of these potholes had been filled with cold patch during the winter. As soon as asphalt is available, which should be soon, the City will patch these potholes.

Council Member Doggett stated that the downtown flowers are looking beautiful, now that they are starting to grow.

The City Manager stated that he would like to congratulate Police Lieutenant Scott Spratt on his son, Stephen Spratt, being accepted into the United States Military Academy.

Mayor Little and Council Member Doggett suggested that Stephen be invited to the next City Council meeting so that Council could recognize and congratulate him personally. Lt. Spratt stated that he appreciated the kind words and would be honored to have his son recognized.

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

_____
Stephen R. Little, Mayor

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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 2, 2013 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; Scott Spratt, Interim Police Chief; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Kimberly, Stephen and Savannah Spratt, 426 Nix Creek Road, Marion, NC; Chris and Elaine Clayton, Old Fort, NC; C. Jack Spratt, 191 Sunny Street, Marion, NC; Amy Bridges, Isothermal Planning & Development Commission.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

CONSENT AGENDA: Upon a motion by Council Member Ramsey, seconded by Council Member Doggett, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – March 19, 2013 Regular City Council Meeting Minutes.

B. Approve Use of Main Street Sidewalks for Marion Business Association Sidewalk Sales on Saturday, May 4th and Saturday, August 3rd

Council approved use of Main Street Sidewalks for the Marion Business Association Sidewalk Sales on Saturday, May 4 and Saturday, August 3.

C. Approve Budget Ordinance Amendments

CITY OF MARION, NORTH CAROLINA
2012-2013 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 2012-13 as adopted by the Marion City Council on the 19th day of June, 2012 is hereby amended as follows:

GENERAL FUND

a. General Fund Expenditures, Administration, Account Number 10-420-1400, Travel and Training is increased from $10,000 to $15,000.

b. General Fund Expenditures, Administration, Account Number 10-420-1500, Maintenance and Repairs, Buildings & Grounds is increased from $1,000 to $2,000.

c. General Fund Expenditures, Administration, Account Number 10-420-5300, Dues and Subscriptions is increased from $12,500 to $14,500.

d. General Fund Expenditures, Planning and Development, Account Number 10-500-1300, Utilities is decreased from $800 to $-0-.

e. General Fund Expenditures, Fire, Account Number 10-530-5700, Miscellaneous Expense is increased from $9,000 to $11,500.

f. General Fund Expenditures, Public Works Administration, Account Number 10-545-1300, Utilities is increased from $10,000 to $10,800.

g. General Fund Expenditures, Street Department, Account Number 10-560-7400, Capital Outlay Equipment is increased from $222,583 to $255,922.

h. General Fund Expenditures, Sanitation Department, Account Number 10-580-1600, Maintenance and Repairs - Equipment is increased from $3,000 to $13,000.

i. General Fund Expenditures, Recreation Department, Account Number 10-620-7400, Capital Outlay Equipment is increased from $37,000 to $40,000.

j. General Fund Expenditures, Cemetery Department, Account Number 10-640-3300, Department Supplies is increased from $2,500 to $5,000.

k. General Fund Revenues, Account Number 10-319-1000, Prior Year Tax Revenue is increased from $45,000 to $60,000.

l. General Fund Revenues, Account Number 10-321-0000, Privilege License Revenue is increased from $55,000 to $57,000.

m. General Fund Revenues, Account Number 10-330-0000, Planning & Zoning Fees is increased from $6,000 to $7,300.

n. General Fund Revenues, Account Number 10-341-0500, Refunds/Reimbursements is increased from $12,500 to $17,000.

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p. General Fund Revenues, Account Number 10-341-3000, Zoning Income/Inspection Fees is increased from $19,000 to $28,200.

q. General Fund Revenues, Account Number 10-342-1350, Explorer Post Revenue is increased from $-0- to $320.

r. General Fund Revenues, Account Number 10-344-7000, Smart Grid Grant Revenue is increased from $-0- to $2,327.

s. General Fund Revenues, Account Number 10-354-1000, Miscellaneous Revenue is increased from $3,400 to $5,000.

t. General Fund Revenues, Account Number 10-390-0000, Cemetery Revenue is increased from $11,700 to $22,300.

u. General Fund Revenues, Account Number 10-392-2000, Property Insurance Reimbursement is increased from $3,588 to $4,600.

v. General Fund Revenues, Account Number 10-399-0000, Fund Balance Appropriated is increased from $333,748 to $343,728.

INTERNAL SERVICE FUND

a. Internal Service Fund Expenditures, Account Number 35-660-3300, Inventory Purchases is increased from $200,000 to $250,000.

b. Internal Service Fund Revenues, Account Number 35-399-0000, Fund Balance Appropriated, is increased from $12,252 to $72,252.

WATER AND SEWER FUND

a. Water and Sewer Fund Revenues, Account Number 30-335-2700, Time Payment Interest is increased from $-0- to $3,000.

b. Water and Sewer Fund Revenues, Account Number 30-335-2800, Fire Protection Taps is increased from $-0- to $4,400.

c. Water and Sewer Fund Expenses, Account Number 30-812-0400, Professional Fees is increased from $15,800 to $18,000.

d. Water and Sewer Fund Revenues, Account Number 30-299-0000, Fund Balance Appropriated is decreased from $430,720 to $425,520.

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 2nd day of April 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-13-04-02-1

RECOGNITION OF STEPHEN SPRATT FOR ACCEPTANCE INTO UNITED STATES MILITARY ACADEMY: Mayor Little recognized Stephen Spratt, son of Interim Police Chief Scott Spratt, for his recent acceptance into the United States Military Academy at West Point, New York. Mayor Little advised that it is very difficult to get into West Point and very unusual for a young man, such as Stephen, to know what they want to do with their life at age 17.

Mayor Little stated that, as Mayor of the City of Marion, he has the authority to issue proclamations.

Mayor Little read and presented Stephen Spratt, with his mother Kimberly and father Scott by his side, a signed, sealed and framed copy of the following proclamation:

Proclamation
Recognizing and Honoring
Stephen Spratt

Whereas Stephen Spratt is presently a senior at McDowell High School in Marion, North Carolina, scheduled to graduate in 2013 with superior academic grades placing him 11th in the class of 339 students;

And Whereas Stephen Spratt has been an active and involved student, being a member of the McDowell High Titans Football Team and Track Team. He is President of the McDowell High chapter of the National Honor Society and the Breakfast of Champions;

And Whereas Stephen Spratt has volunteered in many extra-curricular activities including the McDowell High School GEAR-UP program and the local NFL youth camp. He has been recognized by the Marion Rotary Club as a Student of the Week;

And Whereas Stephen Spratt has chosen to respect his family's long-standing heritage of military service and has been selected to the high and prestigious honor of attending the United States Military Academy at West Point, New York;

And Whereas Stephen Spratt at age 17 has demonstrated by his choices and achievements an honorable attitude and lifestyle that serve as an inspiring example to children, youth and adults;

And Whereas the Mayor and City Council of Marion, North Carolina deem it appropriate to recognize the significant achievements of Stephen Spratt;

Now, Therefore, I, Stephen R. Little, Mayor of the City of Marion, North Carolina, do hereby issue this Proclamation to recognize and honor Stephen Spratt. Accordingly, as Mayor, I do hereby proclaim Wednesday, April 3, 2013 to be Stephen Spratt Day in the City of Marion, North Carolina. I urge all citizens of Marion to take note of this fine young man's accomplishments and to support him as he enters a new level of challenge and service.

So Proclaimed on April 2, 2013.

Stephen R. Little
Marion, North Carolina

Mayor Little and Council Members congratulated Stephen on his accomplishments and wished him the best of success in the future.

PUBLIC HEARING – APPROVAL OF BUDGET AMENDMENTS FOR PERRY STREET/YANCEY STREET SIDEWALK AND DRAINAGE COMMUNITY DEVELOPMENT BLOCK GRANT PROJECT: Mayor Little opened the Public Hearing.

Ms. Amy Bridges, Grant Services Project Manager for Isothermal Planning and Development Commission, appeared before Council and advised that this public hearing had been scheduled to amend the budget for the Perry Street/Yancey Street Sidewalk and Drainage Improvements Community Development Block Grant project to shift $7,525 from the Flood and Drainage Improvements line item to a new line item, Acquisition, due to the need of the City to acquire property for this project through condemnation.

Ms. Bridges advised that the grant will pay for the market value of the condemned property, based on an appraisal, the cost of the appraisal and legal costs associated with the property acquisition.

The Original Budget was presented as follows:

Flood and Drainage Improvements	$556,970.00
Administration	$ 50,000.00
Total	$606,970.00

Ms. Bridges stated that the Amended Budget, if approved, would add property acquisition as a line item, with the same budget total as original budget as follows:

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Acquisition	$ 7,525.00
Flood and Drainage Improvements	$549,445.00
Administration	$ 50,000.00
Total	$606,970.00

There was no one present to discuss this item.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Martin, seconded by Council Member Clark, Council voted unanimously to approve the following Amended Budget for the Perry Street/Yancey Street Sidewalk and Drainage Improvements Community Development Block Grant project:

Acquisition	$ 7,525.00
Flood and Drainage Improvements	$549,445.00
Administration	$ 50,000.00
Total	$606,970.00

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

CONSIDER AWARD OF CONTRACT – MARION TRAVEL PLAZA WATER EXTENSION: The City Manager advised that, as shown in information presented to Council Members from McGill Associates, bids were opened on the water extension to Marion Travel Plaza on Sugar Hill Road on February 14. Four bids were received for this project. The low bid was received from Steppe Construction, Inc. of Mill Spring in the amount of $194,890.00. McGill had originally estimated a construction cost of $229,450, but had recently adjusted this estimate downward to $207,820. The City Manager stated that the current total project budget of $290,320 includes the $207,820 construction estimate, a $20,800 contingency and $5,000 for legal/administrative work, along with engineering and construction administration costs. This budget can be funded by the $291,000 the City has in remaining Sugar Hill Road Water and Sewer Project loan funds.

The City Manager stated that, since the low bid was for $194,890 and the City should not need any easements for this project, the City would be approximately $18,000 under budget. In addition, the City would hopefully not need to use all of the contingency funds, which will bring the project even more under budget.

The City Manager noted that he had also asked McGill officials to include in the specifications the installation of a force main sewer line under I-40, to assist in the future extension of sewer service to the south side of I-40. Steppe's bid of $194,890 includes $29,250 for installation of this force main line.

The City Manager stated that since the City is well under budget for this project, there are adequate loan funds for the project and the City would actually be getting some sewer line installed as well, he would recommend that Council award the contract for the extension of water service to Marion Travel Plaza on Sugar Hill Road to Steppe Construction, Inc. of Mill Spring in the amount of $194,890.00.

The City Manager stated that the contract award had already been approved by the County Board of Commissioners in March.

Council Member Clark asked about the size of the force main sewer line. The City Manager stated that the line size had been designed by McGill Associates, but that he would check with them to make sure the correct line is being proposed.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to award the contract for the extension of water service to Marion Travel Plaza on Sugar Hill Road to Steppe Construction, Inc. of Mill Spring in the amount of $194,890.00.

SCHEDULE CITY COUNCIL PLANNING SESSION/BUDGET WORKSHOP: The City Manager advised that he anticipated distributing the recommended 2013-14 City Budget to Council Members at the May 21 City Council meeting. Council typically schedules at least one Planning Session/Budget Workshop for late May. The City Manager proposed Tuesday, May 28 at 6:00 p.m. at City Hall for the Planning Session/Budget Workshop. The City Manager also suggested that Council schedule a Pre-Budget Workshop/Planning Session on Tuesday, May 14 at 6:00 p.m. at City Hall. This would likely make the May 28 Budget Workshop a shorter meeting.

It was the consensus of Council Members to hold both meetings as recommended by the City Manager with the Pre-Budget Workshop/Planning Session scheduled for Tuesday, May 14 at 6:00 p.m. at City Hall and the Planning Session/Budget Workshop scheduled for Tuesday, 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 advised that, on March 23, the Police Department was approved for national accreditation by the Commission on Accreditation for Law Enforcement Agencies (CALEA). The accreditation certificate will be sent by CALEA in the near future and formally presented at a future Council meeting. The City Manager stated that he commended Police Chief Mark Brooks and Police Officer Lisa Morgan, who led the accreditation effort, and the entire Police Department for receiving this recognition. Only five percent of law enforcement agencies nationwide and 30 municipal police departments in North Carolina are currently accredited, so this is a great honor that demonstrates the City's commitment to meet national standards.

The City Manager presented Council Members with information he had received by email from Whitney Mace of the McDowell County Department of Social Services regarding a new grant fund program called Reclaiming Futures that provides mentoring and assistance for young people in the juvenile justice system. The City Manager stated that Ms. Mace had asked for a City representative to serve on the leadership team for this program. The City Manager asked any Council Member interested in serving on the leadership team to let him know.

The City Manager advised that the candidate selected as Police Chief had decided to decline the position. The City Manager stated that he would continue the search process and keep Council Members informed as matters progressed.

The City Manager advised that the City recently held two successful Arbor Day celebrations. The first was at Eastfield Elementary School on March 15 and the second one at Marion Elementary School on March 22. Both schools planted trees at Clirchfield Park. The City Manager stated that he appreciated the work of the Tree Board and the Public Works Department on these events.

Public Works Director Brant Sikes give an update regarding the tree removal of potentially hazardous trees on North Main Street. The work began earlier that day and was expected to take about three days, depending on weather.

Mayor Little stated that he had received a request from a local day care, asking if they could have some of the wood to place on their playground. Mr. Sikes stated that he would refer the day care to Mr. Williams, who is in control of the trees once they are cut.

The City Manager advised that construction continues to near completion on the grant funded stormwater/greenway project behind the Police Department, Nevant and School Central Office properties on South Main Street. Due to delays in the landscaping installation, the City Manager stated that the ribbon cutting/dedication for this project may not be held until May, to ensure that the project looks as good as possible.

The City Manager advised that the second meeting of the City Comprehensive Transportation Plan (CTP) Committee took place on March 20. The next meeting will be held on Wednesday, April 17 at 2:00 p.m. at the Fire Department. The CTP meetings will be held through December, with plan adoption hopefully taking place in early 2014.

COUNCIL MEMBER COMMENTS:

Council Member Clark advised that he attended the North Carolina League of Municipalities Town Hall Day last week in Raleigh and had the opportunity to address attendees about the need to lobby for continued North Carolina Rural Center funding. Council Member Clark stated that there are a number of troubling bills being considered by the General Assembly, many affecting the financial stability of local governments.

After a brief discussion, it was the consensus of Council to ask the City Manager to draft a letter, signed by the Mayor and all Council Members, to Representative Josh Dobson and Senator Hise concerning these key legislative issues affecting the City of Marion And many other local governments across the State.

It was the consensus of Mayor Little and Council Members to have the City Manager prepare a letter for them to sign regarding the cities stand in various issues to send to Representative Josh Dobson.

Council Member Clark also stated that the recent cut made on Morgan Street needs to be patched. The City Manager stated that this would be taken care of immediately.

Council Member Clark stated that he would like for Council Members to adjourn this meeting in memory of former Council Member Oliver Roane Cross, who passed away the previous week.

Mayor Little advised that Congressman Mark Meadows would be holding a constituent meet and greet event at the Depot the next day at 3:30 p.m. He invited Council Members to attend this event.

ADJOURNMENT: Upon a motion by Council Member Doggett, seconded by Council Member Clark, Council voted unanimously to adjourn this April 2, 2013 City Council Meeting in memory of former City Council Member Oliver Roane Cross, age 98, who passed away March 26, 2013 at the CarePartners Solace Center in Asheville.

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 16, 2013 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; Scott Spratt, Interim Police Chief; Brant Sikes, Public Works Director; Rusty Jenkins, Patrol Lieutenant; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Don and Carole Markum, 961 Plantation Drive, Marion NC; Frances Whitson, 961 Plantation Drive, Marion, NC; Ben, Nancy & John Talbert, 101 Smokerise Drive, Marion, NC; Frank Nederostek, 91 East Court Street, Marion, NC; Charles & Susan Webber, 199 Harmony Drive, Nebo, NC; Elizabeth McCormick, 251 Lucky Strike Drive, Marion, NC; Ann Harkey, 90 Broad Street, Marion, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

CITIZEN OF THE MONTH – SELECTED BY MAYOR LITTLE: Mayor Little selected the Citizen of the Month for April 2013.

BEN TALBERT

Mayor Little advised that Mr. Ben Talbert grew up in Aiken, South Carolina. After graduation, Mr. Talbert headed west to Texas where he attended Baylor University. His plans were to become a Doctor. However, literature challenged him and inspired him to ultimately change his direction for life as he earned a Texas teaching certificate for grades 1-8.

Mr. Talbert then met Nancy Walker, who grew up in Marion, and married her in 1979. Mr. and Mrs. Talbert have two children, Rachel and John, and one granddaughter, Annabelle. They have treasured every phase of their children's and granddaughter's lives.

After teaching one year in Texas, Mr. and Mrs. Talbert moved to Wake Forest, North Carolina, where Mr.Talbert enrolled as a divinity student at Southeastern Baptist Theological Seminary and received a degree. Three year later, with another degree in hand, he again returned to teaching at a Swannanoa Middle School. Unexpectedly, Mr. Talbert discovered that teaching was his joy. He also coached track for ten years and earned his bus driver's license.

After thirteen years in the classroom at Swannanoa Middle School and Charles D. Owen Middle School, Mr. Talbert then accepted an Assistant Principal's position at Valley Springs Middle School. Through the University of South Carolina, he completed his Masters in School Administration degree. In 1999, he transferred to Charles D. Owen High School and grew a love for high school education.

In 2003, Mr. Talbert became Principal at McDowell High School, serving for approximately 10 years until his recent retirement. Mayor Little stated that Mr. Talbert's life as an educator has made a positive difference in the lives of many students as well as their parents and the schools in general which he has served.

Council Members, friends and family members all shared kind words and congratulated Mr. Ben Talbert on being selected as Marion's Citizen of the Month for April.

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 – April 2, 2013 Regular City Council Meeting Minutes.

PUBLIC APPEARANCE – DON MARKUM – NORTH CAROLINA GOLD FESTIVAL: Mr. Don Markum appeared before Council and stated that he was speaking on behalf of the North Carolina Gold Foundation, Inc.

The NC Gold Foundation's Mission is to provide education to the public on the importance that Gold and Gold Mining has played in the settlement of our area and to attract Tourism to our cities and towns to economically impact this area with tourism dollars.

The North Carolina Gold Foundation will use platforms and events such as:

- The Gold Festival, now in its 10th year;
- Public displays, with displays requested in the McDowell County Courthouse;
- The internet presence with our website, www.ncgold.org;

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- The community involvement such as the New Year's Eve celebration where we drop a sparkling, twinkling, lighted Gold Nugget with 600 lights, now in its 4th year;
- Educational programs starting with the film "How to Pan for Gold" on our website and includes Historical based interviews proclaiming that North Carolina is "First in Gold" and specifically that McDowell County GOLD has played a significant role in the "First private profitable Gold Mint", the Bechtler Mint, which was located just north of Rutherfordton. These films are on the website, www.ncgold.org and are now being put on the McDowell County TV channel to educate and inspire the public to learn about our Gold History and participate in the Gold related events of McDowell County and surrounding counties.

This year's Gold Festival will be the 10th year of successful festivals involving a fully volunteer staff of great local people that work tirelessly each year to bring a myriad of events including dropping the lighted gold nugget for the New Year's Eve Celebration for the City of Marion and the annual Gold Festival for the public to enjoy.

Mr. Markum stated that he would invite City Council members and the public to go to the Gold Foundation website, www.ncgold.org and to read about the history and especially watch the videos of prominent historians about the Gold mining history.

Mr. Markum advised that he would like the City to share in the dream of the NC Gold Foundation by making the History of Gold Mining a premiere subject to develop, publicize, and plan, and to use gold as a reason to draw tourism to this area. For example, Dahlonega, Georgia has a history of gold and, in a span of a couple of weeks, the city brings in millions of tourism dollars by publicizing the history of gold. They have no more gold history than we have here in McDowell County.

Dahlonega is the location of the first major United States Gold Rush. In 1828 a belt of gold was discovered on Cherokee Indian land in Georgia causing a large influx of miners. Gold Rush Days are held the third weekend in October (the 19th and 20th for 2013), when thousands come to see fall colors peaking and celebrate Dahlonega's 1828 discovery of gold. Over 300 art and craft exhibitors gather around the Public Square and Historic District in support of this annual event, and it is estimated that a crowd of over 200,000 visit over the weekend to join in the fun and excitement. It has been voted one of the Top 20 Events in the southeast by the Southeast Tourism Society.

The NC Gold Foundation, an all-volunteer staff of 5 or 6 local enthusiasts, is preparing for the NC Gold Festival by:

- Accepting 40 to 50 vendors
- Lining up great music
- Advertising on the radio
- Buying advertising on a 30' x 40' billboard on I-40
- Contacting local TV stations for coverage
- Advertising with GPAA and LDMA
- Designing posters for the businesses windows
- Readying the Gold Panning Contest
- Organizing the Metal Detecting program
- Lining up the Gold mining equipment
- Scheduling the Gold demonstration of Smelting Gold in a Microwave oven
- Staffing the Gold Dredging demonstration in the creek
- Setting up the Speed Panning demonstration
- Contacting professional speakers for the History of the Gold speeches

Mr. Markum stated that the NC Gold Foundation has an incredible opportunity to roll out a massive ad campaign that will reach all across the State of North Carolina and will direct Tourism right back to here.

Mr. Markum presented a copy of the North Carolina state official Specialty License Plate, The NC MINING License Plate. This plate declares to all the state that North Carolina was "FIRST IN GOLD". This plate will be sold to hopefully thousands of North Carolinians to promote the North Carolina Mining community and specifically that North Carolina was FIRST IN GOLD. The sale of this license plate will also give the NC Gold Foundation an economical base to be able to accomplish the goals and mission of the Foundation.

Mr. Markum stated that he is asking Council Members to come with them on the NC GOLD Foundation's mission and dream to "PAN for the Gold of today". Today's GOLD is Tourism. They want Council Members to get on board with them as they plan to make the word:
"GOLD First in North Carolina";
"GOLD First in McDowell County";
"GOLD First in Marion";
"GOLD First" the minds of the tourists" as we invite all the Tourists to come to this area as we build a program of edutainment, entertainment and education, so exciting and fun that tourist will come back year after year to see the developments in our wonderful city.

Mr. Markum thanked Council Members for allowing him to present the NC Gold Foundation's dream and future plans and requests that the City continue their support of the NC Gold Foundation's efforts to bring tourism to this area by helping them implement some of the following ideas:

1. Allow a space in the Marion City Hall to install a display promoting our Gold Heritage, the NC Mining License Plate program, and the Gold Festival.
2. Request the City TV channel to create a promotional ad that would promote the NC GOLD Festival and encourage the citizens of Marion to purchase the NC Mining Specialty License Plate for their automobiles.
3. Continue to allow the NC Gold Foundation to participate in the Marion City New Year's Eve celebration by providing the Gold Nugget as a countdown mechanism and also to have a member of Council on the planning committee for this event.
4. To allow the use of the four (4) event signs, located at the entry to the downtown, for the use of advertising for the special events and the Gold Festival.
5. To plan for a special business event of "Golden Days" that would involve a city wide and even county wide promotion of special discounts given by merchants, activities, and events, planned for a weekend to be held close to the first weekend in June, the time scheduled for the Gold Festival.
6. Support by encouraging your own ideas that you come up with that encourage local businesses to team up with the NC Gold Foundation in keep our history of GOLD and increased tourism in the minds of all residents of Marion. One unique idea being developed is, Mr. Sean Cutchens, Financial Center Manager of Fifth Third Bank is willing to send a request to his National office of the Bank to allow the dome of the bank to be painted Gold in support of our history and tourism development programs.
7. Come to the NC Gold Festival on May 31st and June 1st at the Mountain Gateway Museum Grounds in Old Fort, North Carolina.
8. Personally purchase a Specialty NC Mining license plate.

Mr. Markum advised that the NC Gold Foundation has a great promotional campaign for the first 300 license plate purchases and approximately 100 have been already purchased. We are required to obtain the first 300 buyers of the NC Mining License Plate then the state will start manufacturing the tag. If you purchase a Specialty NC Mining Plate, you will be entered into a drawing where 10 people will be selected to participate FREE in a full day at the only North Carolina Gold Processing Plant. The winners will experience a great exciting day of mining real

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Gold and will possible take some Gold home. So get in on the excitement and get your Specialty License Plate and have a chance to get in on the Gold Plant.

Mr. Markum again thanked Council Members for this time and looks forward to the future in a close partnership in an effort to bring Tourism to our city.

Mayor Little thanked Mr. Markum for his presentation and suggested that he work with the City Manager to implement some of his requests. The City Manager stated that he would follow-up with Council to make sure there were no issues with any of the specific requests and would then contact Mr. Markum to discuss each item.

PUBLIC COMMENT PERIOD: Mayor Little opened the floor for anyone not on the Agenda.

Mr. Frank Nederostek stated that he owns property located at 91 East Court Street. He has had flooding nine times in recent years due to stormwater issues coming from North Garden Street. Mr. Nederostek advised that he had to replace carpet a year ago and does not know what other avenues to take at this point to keep this from reoccurring. He is here tonight looking for and asking for a solution.

Mr. Nederostek stated that he has not contacted his insurance company at this point, due to knowing he will lose his coverage if he files another claim. He has tried through the years to figure out what he needs to do to protect his property. Mr. Nederostek advised that there seems to be a difference in curb heights on Garden Street. When heavy rains flow down the streets, stormwater flows over the curbs, overwhelms the catch basins and penetrates his building.

Mr. Nederostek stated that Lamb's Hidden Treasures, located at the corner of North Garden and Fort Streets also flooded the previous week and two other occasions in recent months.

Mayor Little stated that Council certainly hears what Mr. Nederostek is saying and wants to address any problems that exist on the City right of way. He noted that there are limits to what the City could do, but that Mr. Nederostek can expect an attitude of cooperation.

The City Manager stated that Mr. Nederostek had been very patient regarding this matter. The City Manager advised that he and Public Works Director Brant Sikes could work together to discuss the next steps that could address this problem.

Council Member Clark stated that the DOT storm drain on East Court Street is undersized and contributes significantly to the problem, in his opinion.

Council Member Doggett stated that she lives on North Garden Street and has seen firsthand the way stormwater flows down the street.

Mr. Nederostek stated that he agrees with Council Member Clark; however, stormwater is coming from North Garden Street and damaging his property before it ever gets to East Court Street.

Mayor Little stated that the City would get to work on this issue. He suggested that the City's engineers may need to be consulted to study the issue and make recommendations. The City Manager advised that he and Mr. Sikes could get the City's consulting engineers to study this issue, without objection. Council agreed by consensus to authorize City staff to work with the City's consulting engineers to study and develop recommendations regarding stormwater issues on North Garden Street, as reported by Mr. Nederostek.

CONSIDER AWARD OF PAVING CONTRACT FOR STREET AND PARKING LOT RESURFACING: Public Works Director Brant Sikes stated that the City recently accepted bids for street and parking lot resurfacing. Six bids were received. The projects that were bid included the resurfacing of Park Avenue between Robert Street and the dead end, the resurfacing of the leased parking lot at West Henderson Street and Logan Streets and the resurfacing of the street in the Cemetery next to the mausoleum and the stream. City crews will also construct an asphalt curb on the street in the Cemetery, to provide for better drainage.

Mr. Sikes reported that the low bid for each project was received from Johnson Paving of Marion, with a total amount of $41,172.00. This total was less than the budgeted/estimated amount of $48,000. The Park Avenue resurfacing work will be charged to the Powell Bill Department, the Cemetery resurfacing will be charged to Cemetery Capital Outlay and the parking lot resurfacing will be charged to Streets Capital Outlay.

The bids were received as follows:

Contractor	Park Ave.	Cemetery	Logan Parking Lot	Total all 3	Comments
Johnson Paving	$9,914.00	$14,668.00	$16,590.00	$41,172.00	
Tri City Paving	$10,626.00	$14,999.00	$17,105.00	$42,730.00	
J.L.S. Company	$14,220.16	$16,125.00	$20,337.00	$50,682.16	
Burnett's Paving	$13,300.00	$16,850.00	$21,150.00	$51,300.00	
Maymead, Inc.	$17,668.00	$25,580.50	$29,722.00	$72,990.50	Proposed milling which added to price.
A-1 Asphalt Paving	No bid	$21,500.00	$17,200.00		Bid not compliant w/specs & did not sign bid sheet.
City budgeted Amount	$12,000.00	$16,000.00	$20,000.00	$48,000.00	

Mr. Sikes stated that he would recommend that Council award a contract for the street and parking lot resurfacing to Johnson Paving of Marion in the amount of $41,172.00. Upon approval, the work can begin the near future and be concluded prior to the end of the 2012-13 Fiscal Year.

Mr. Sikes advised that the recommendation to award the contract to Johnson Paving is made for the following reasons:

- Johnson Paving has successfully performed many paving jobs for the City, in the past. Most recently, Johnson Paving paved Park Avenue (the portion done in FY 2012-13), the Water Plant parking lot and Clinchfield Park.

- Johnson Paving has the experience and equipment necessary to do the job.

- Johnson Paving provided the lowest of the 6 bids, for each project.

The City Manager added that the City is holding off bidding the Bakersville Road street and drainage project for now, since there is a good chance that the City could obtain Community Development Block Grant funding for this project related to the Western North Carolina Housing Partnership

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senior housing development. The City has also have not yet bid the Overlook Drive paving, since the project has required some engineering. This project will be bid in the very near future.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to award the contract for street and parking lot resurfacing to Johnson Paving of Marion in the amount of $41,172.00 for the resurfacing of Park Avenue between Robert Street and the dead end, the resurfacing of the leased parking lot at West Henderson Street and Logan Streets and the resurfacing of the street in Oak Grove Cemetery next to the mausoleum and the stream.

CONSIDER AWARD OF PAVING CONTRACT FOR VEHICLE PURCHASES: Public Works Director Brant Sikes advised that the City accepted bids for the purchase of a replacement pickup truck for the Street Division. There bids were received, with the low bid submitted by Phillips Ford of Carthage for a Ford F-150 truck in the amount of $18,684. The City budgeted $22,000 for the purchase of this truck.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to award the contract for the purchase of a replacement pickup truck for the Street Division to Phillips Ford of Carthage for a Ford F-150 truck in the amount of $18,684.

The City Manager advised that the 2012-13 budget included $100,000 for the purchase of a replacement dump truck for the Public Works Department Street Division. However, due to there not being enough time to receive the truck before the end of the Fiscal Year, thereby shifting the expenditure for this truck to the 2013-14 Fiscal Year, staff looked at purchasing a truck on next year's vehicle rotation, a replacement utility truck for the Public Works Department Street Division. The estimated cost of this truck is $38,000.

The City Manager stated that the utility truck was bid, but only one bid was received for this vehicle, from Philips Ford of Carthage in the amount of $40,011 for the Ford F-350 truck with a utility bed. The City Manager advised that Mr. Sikes and Chief Fleet Mechanic Tommy Wilson feel that this price is $2,000 - $3,000 to high and that the truck should be re-bid. Unfortunately, there is not enough time to receive the vehicle before the end of the Fiscal Year.

The City Manager recommended that Council reject the bid from Phillips Ford for the Street Division utility truck and rebid this vehicle next year.

Upon a motion by Council Member Clark, seconded by Council Member Doggett, Council voted unanimously to reject the bid for a replacement utility truck for the Street Division from Philips Ford of Carthage in the amount of $40,011.

The City Manager added that Council and staff always want to be prudent with the use of all City funds. However, the net effect of the bidding process discussed above is that the City will not spend $100,000 budgeted in 2012-13 for the Street Division dump truck and will need to shift this expenditure to the 2013-14 Fiscal Year. To avoid savings from this year's budget creating issues for next year's budget, the City Manager suggested that Council consider advancing to 2012-13 some General Fund Expenditures planned for 2013-14, as follows:

1. The second installment of the Transfer to Capital Projects for the Catawba River Greenway Phase 2 Project - $25,000

2. A Transfer to Capital Projects to fund the purchase of one-half of the metal grates for downtown landscaping - $10,000. By funding this purchase through a Transfer to Capital Projects, it would not matter if the purchase was actually made before the end of the Fiscal Year.

3. The purchase of an SUV to replace the Fire Chief's car - $35,000, if this purchase can be made before the end of the Fiscal Year, and if bids come in within or close to the budgeted amount. The City Manager reported that Purchasing Agent Brenda Williams believes that there is time to bid and receive such a vehicle by June 30.

The City Manager advised that all three of these expenditures, totaling $70,000, would have been included in his recommended 2013-14 budget. Advancing these expenditures to 2012-13 will avoid negative effects on next year's budget.

A discussion followed. Mayor Pro Tem Cuthbertson asked if the Transfer to General Fund Capital Projects could be increased by another $10,000 to fund the purchase of all of the metal tree grates for Main Street. The City Manager advised that this could certainly be done, if Council so wished.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to authorize the City Manager to advance planned expenditures for 2013-14 to 2012-13, to substitute for the City not spending $100,000 budgeted in 2012-13 for the Street Division dump truck, as follows:

1. The second installment of the Transfer to Capital Projects for the Catawba River Greenway Phase 2 Project - $25,000

2. A Transfer to Capital Projects to fund the purchase of metal grates for downtown landscaping - $20,000.

3. The purchase of an SUV to replace the Fire Chief's car - $35,000, if this purchase can be made before the end of the Fiscal Year, and if bids come in within or close to the budgeted amount.

The City Manager stated that he really appreciates Public Works Director Brant Sikes and all he does for the City of Marion on a day to day basis, especially for his diligent efforts to prepare very detailed and comprehensive specifications for projects and vehicles.

CONSIDER APPROVAL OF REQUEST FOR CLOSURE OF FORT STREET BETWEEN MAIN STREET AND LOGAN STREET: The City Manager advised that, as shown on information presented to Council, the First Baptist Church has requested the closure of Fort Street between Main Street and Logan Street for a Block Party on Wednesday, May 22. The actual street closure would need to take place from 4:00 p.m. to 9:00 p.m. This event is 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 three years without any problems. Upon approval, First Baptist Church could be asked to notify other businesses in this block, particularly Kirksey Funeral Home. All businesses with frontage in this block could still be accessed off of Brown Drive. The City Manager stated that he would recommend approval of 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 22 between 4:00 p.m. and 9:00 p.m.

Upon a motion by Council Member Clark, seconded by Council Member Martin, 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 22 between 4:00 p.m. and 9:00 p.m.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that he and Interim Police Chief Scott Spratt and he would be meeting with the local Postmaster on Thursday. The Postmaster advised that she has received approval to receive two new mailboxes to be placed in the Bi-Lo Shopping Center parking lot and in the City-County Parking Lot on South Garden Street. These mailboxes will be placed in a way to make them accessible by drivers. In addition, a

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mailbox at the Library will be relocated to make it a drive-up mailbox. This will increase the number of drive-up mailbox locations in the City from one to four, which will hopefully divert some traffic from the Post Office parking lot. The work will hopefully take place soon. The City Manager stated that this project was the culmination of 18 months of effort by the City. He commended the Police Department staff, particularly Lt. Rusty Jenkins, for their efforts in pursuing this project.

The City Manager advised that Planning and Development Director Heather Cotton had conducted research and consulted with the State further, with the assistance of Ron Harmon with the County, concerning the County's Lake James watershed reclassification request. The City Manager stated that he City was generally receiving good news from the State about this matter and that he would, without objection, discuss this matter in detail with Council at the May 14 Council Planning Session/Pre-Budget Workshop.

Public Works Director Brant Sikes gave a brief update regarding the tree removal on North Main Street. Mr. Sikes stated that the work was progressing slowly, but was making a significant difference in enhancing public safety along this street.

Council Member Clark thanked the City Manager and City staff for all they have done to make this project happen. Council Member Clark stated that he does not recall anything that has brought as much public attention and as many compliments as has this project.

Council Member Martin thanked Council Member Clark for encouraging Council to take action as needed to make sure that potentially dangerous trees were removed from the North Main Street bank.

Mayor Pro Tem Cuthbertson stated that the City often receives negative feedback even when it is trying to do something good. However, that has not been the case with the North Main Street tree removal, which seems to be universally welcomed by everyone.

Council Member Clark advised that he had received a call from a resident of the Foxfire neighborhood concerning a dead tree along South McDowell Avenue, just past the East McDowell Junior High School driveway. The City Manager stated that he had passed this complaint along to Public Works Director Brant Sikes, who was determining whether the tree was located on the City right of way or on School property. Either way, the tree will be removed.

Mr. Sikes gave an update on the Perry Street/Yancey Street Sidewalk and Drainage Community Development Block Grant Project. Work is progressing on the sidewalk and curbs installation. Testing is taking place of every load of concrete for this project. Core samples are also being taken and evaluated at various intervals, to determine the strength of the concrete. The preconstruction conference for this project was held on February 27. Construction began on this project on March 11.

The City Manager reminded Council that the Town Meeting will take place at the Community Building on Thursday, April 18 at 7:00 p.m. City staff will be present and the City hopes to have all or most of the invited guests.

The City Manager advised that the first round of Historic Marion Façade Grant applications were due by the end of March. Four grants were received and reviewed by the Façade Grant Review Committee on April 4. The Committee approved grants to allow MACA to install an awning on its building on South Main Street, for James Tarpley to paint and replace a door on his building at the corner of Main and Court Streets and for Jackie Jimeson to redo the façade of his building on South Main Street, including painting, opening up closed windows, installing and awning and replacing existing windows. The Committee has one pending request that will be reviewed.

The City Manager stated that final grant totals are still being compiled, but it looks like the MEDA/MBA share will be about $13,500 for the four requests, while the City share will be about $11,500 for paint and window materials. He added that at least two property owners of prominent buildings on Main Street are very interested in the grant for their buildings, but need more time to apply. The City Manager stated that he would recommend that we keep the program and City investment open as long as more applications are possible.

The City Manager advised that Planning and Director Heather Cotton had sent out Requests for Qualifications for design services for Phase 2 of the Joseph McDowell Historical Catawba Greenway. Proposals will be accepted through late April and then can be presented to Council for review and selection.

The City Manager reported that, in late February, McGill submitted a Clean Water State Revolving Fund grant application for the East Court Street Sewer Replacement Project. As previously mentioned, the project would replace sewer lines from Oak Street and East Court Street to Spring Street, at which point the sewer line is of sufficient size. The City Manager advised that, in early April, the City received word from the State that the City was approved for a low interest Clean Water State Revolving Loan of 2.00 percent. The maximum loan term the City can request is 20 years. The loan amount is equal to the estimated project cost of $1,250,550. The annual payments on a $1,250,550 loan over 20 years would be $75,915.84.
The City Manager stated that the City had hoped to receive grant money to fund part or all of the project. In order to proceed, the City will need to submit a Preliminary Engineering Report by July 1, which McGill estimates will cost $10,000-$15,000. Money spent on the Preliminary Engineering Report could be reimbursed by the loan proceeds. Plans and specifications would have to be submitted to the State by July 1, 2014 and the construction contract would have to be executed by January 2, 2015. The loan repayments are due no sooner than six months after the project completion date as set in the Notice to Proceed. If the construction contract and Notice to Proceed are not signed until December 2014, construction will take several months, placing the first loan payment in the 2015-16 Fiscal Year. To be able to afford the debt and continued operating costs of the Water and Sewer Fund, a reasonable rate increase will likely have to be put into effect before that time.

The City Manager advised that Council direction on this project would be welcomed. Council could choose to keep the City's options open by authorizing the submission of the Preliminary Engineering Report. The report will be needed if the City ever decides to complete the project.

Council Member Martin stated the he felt Council should go ahead and authorize the report, since the City will eventually we will need it.

Council Member Clark stated that Council needs to be careful and carefully study this matter, before authorizing the City to go into debt for $76,000 per year. However, he agrees that it makes sense to authorize McGill to move forward with the report.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to authorize staff to contract with the City's consulting engineers to complete a Preliminary Engineering Report for the East Court Street Sewer Replacement Project, for a cost not to exceed $15,000.

The City Manager stated that the City Open House has been scheduled for all of the third graders in McDowell County for Friday, April 26. School visits will occur, as usual, from 9:00 a.m. to 2:00 p.m. This will be the City's 11th Annual Open House. This year, for the first time, the City will have all eight public elementary schools, the two private schools (New Manna and Nebo Crossing) and the home school group participating. The City Manager invited any Council Members who were available to participate in part or all of the Open House.

COUNCIL MEMBER COMMENTS:

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Council Members Clark and Doggett both indicated that they would not be present for the May 7 Council meeting, due to separate conflicts on that date.

Council Member Martin mentioned that he would not be present for the May 21 City Council Meeting.

Council Member Doggett stated that, due to the recent bombing at the Boston Marathon, she would ask that everyone keep the people of Boston in their thoughts and prayers. Mayor Little stated that his daughter was at the Boston Marathon when the bombing and that he was thankful for her safety.

Council Member Clark stated that he would like the City to keep in mind the need for future road access to the City's Mt. Ida property. The City Manager suggested that this matter be discussed at the May 14 City Council Planning Session/Budget Workshop.

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 its Annual Town Meeting on April 18, 2013 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, Juanita Doggett, Billy Martin and Don Ramsey.

OTHERS PRESENT: J. Robert Boyette, City Manager; Debi Sherlin, Administrative Assistant; Harriett Thomas, CPA, Finance Director; Scott Spratt; Interim Police Chief; Jim Neal, Fire Chief; Brant Sikes, Public Works Director; Roger Estes, Public Works Superintendent; Steve Basney, Utility Maintenance Superintendent; Dean Ollis, Sanitation Superintendent; Larry Carver, Wastewater Treatment Superintendent; Don Price, Water Plant Superintendent; Jay Suttles, Building Inspector; Van McKinney, News Reporter WBRM; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Don Miller, 7220 Bat Cave Road, Old Fort, NC; John MacDonald, 129 Rumfelt Drive, Marion, NC; Pauline Benfield, 129 Rumfelt Drive, Marion, NC; David Setzer, 1810 Mackey Creek Road, Old Fort, NC; Kaye Cuthbertson, 201 Broad Street, Marion, NC; Ben Gibbs, 830 Lake Tahoma Road, Marion, NC; Edna Jackson, Arrowhead Trail, Marion, NC; Terri Dugas, 101 West Fort Street, Marion, NC; Jeff Pyatt, 56 Perry Street, Marion, NC; Dr. Carl Manuel, 653Veterans Drive, Marion, NC.

UTILITY REPRESENTATIVES:

PUBLIC SERVICE COMPANY OF NORTH CAROLINA:
Don Hallingse, External Relations Manager

UNITED STATES POSTAL SERVICE:
No one was in attendance

CHARTER COMMUNICATIONS:
Leno Smith, Technical Operations Manager
Eric Nelson

MARION BUSINESS ASSOCIATION:
Freddie Killough, Executive Director

McDOWELL COUNTY EMERGENCY MANAGEMENT:
Terry Young, Emergency Management

McDOWELL COUNTY EMERGENCY MEDICAL SERVICES:
William Kehler, Emergency Medical Services Director

DUKE ENERGY:
Jimmy Flythe, District Manager for the Winston-Salem area
Alton Greene, Supervisor for the Marion Operations Center

FRONTIER:
No one was in attendance.

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION:
Doug McNeal, District Engineer

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TOWN 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.

CITIZEN COMMENTS:

Mr. John McDonald of 129 Rumfelt Drive thanked the City for the Marion 101 Class that he and Pauline Benfield attended last year. Mr. McDonald stated that he and Ms. Benfield learned a lot and were very impressed with the City staff and operations.

A lady asked why the City maintains the Oak Grove Cemetery and not the predominately African-American Morehead Cemetery.

Council Member Martin stated that he serves on the McDowell Cemetery Association, which has taken possession of the Morehead Cemetery and has worked hard to improve the Cemetery over the past two years. Council Member Martin advised that this Cemetery has been neglected and that the Association does not want to consider asking the City to assume maintenance until the Cemetery is in much better condition.

Mr. David Setzer of 1810 Mackey Creek Road had questions directed to PSNC Energy regarding natural gas not being available to his residence on Mackey Creek Road. Mr. Don Hallingse of PSNC Energy explained the policies for extensions, based on return on investment.

A lady asked when Charter Communications would provide service to the Goose Creek Road area south of I-40. Mr. Leno Smith of Charter explained Charter's extension policies, also based on return on investment and potential customers to be served.

Mayor Little asked Charter Communications when high definition television (HDTV) service will be available to Marion. Mr. Leno Smith of Charter advised that Charter has had discussions about bringing HDTV to Marion, but that the cost has been prohibitive. Mr. Smith stated that he believes that HDTV will be extended to Marion, but cannot promise an exact time frame at this point.

Council Member Clark asked if HDTV service is included in the cable rates for Marion customers. Mr. Smith said that HDTV service is not billed to Marion customers, as it is an extra service.

Council Member Martin asked where HDTV service ends around Marion. Mr. Smith stated that HDTV service comes as close as Ridgecrest.

Council Member Martin added that he feels that Charter has done the citizens of Marion and McDowell County a disservice by not extending HDTV service. He said that this has become almost a basic service that the residents of Marion and McDowell County deserve to enjoy.

Mr. Ben Gibbs advised that he believes the City should do more for young people, instead of seeking to attract retirees. He also suggested that the City seek artists and craft people. Mayor Little said that the City is a Certified Retirement Community and wants to attract retirees; however, that does not mean that the City cannot also be attractive to younger people as well.

Mr. Don Miller asked if the City had a plan. The City Manager stated that the City has a Comprehensive Plan.
Dr. Carl Manuel advised that he would like the City and County to consider establishing a public transportation system, at least on a small scale. He also suggested that the City create programs for young people, perhaps using empty buildings. Mayor Little stated that the County Senior Center and Department of Social Services provide some transportation for qualifying people.

Mayor Pro Tem Cuthbertson thanked DOT for their help with the recent removal of potentially hazardous trees from the North Main Street bank.

Don Hallingse of PSNC Energy highlighted natural gas extension to Coats America and Baxter Health Care off of US 221 North and to McDowell Tech, DOT and the two prisons off of NC 226 South.

Doug McNeal of DOT noted that DOT was underway with the extension of the left turn lane on the US 221 Bypass northbound at US 70 West. He also stated that DOT is designing a concrete median barrier to be constructed along the US 221 Bypass. Mr. McNeal mentioned that some progress was being made on the US 221 widening project. The City Manager advised that the City was still awaiting information on the impact of this project on City utilities and existing commercial buildings.

Ben Gibbs advised that he would like to see young people have a youth center in which they could engage in positive activities. He also suggested that the community pursue opportunities for films. Marion Business Association Executive Director Freddie Killough stated that the McDowell Tourism Development Authority focuses on attracting films to McDowell County.

Council Member Clark stated that he appreciated the comments of the public, but noted that the City's upcoming budget would be very tight. The City Manager reported that he was still in the early stages of preparing the budget, but that it was almost certain that the City's budget for 2013-14 would be smaller than the current year budget.

ADJOURNMENT: The Town Meeting was adjourned at 8:00 P.M.

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, May 7, 2013 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; Harriett Thomas, CPA, Finance Director; Scott Spratt, Interim Police Chief; Brant Sikes, Public Works Director; Beck Poteat, President, Marion Business Association; Freddie Killough, Executive Director, Marion Business Association; Mark Brooks, Retired Police Chief; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Mike Williams, 1083 Tatertown Loop, Nebo, NC; Wade & Kaye Stott, 55 Crescent Drive, Marion, NC.

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 Ramsey, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – April 16, 2013 Regular City Council Meeting Minutes and April 18, 2013 Town Meeting Minutes.

B. Approve Resolution Direction the Clerk to Investigate the Sufficiency of a Petition for Annexation – Lonon Avenue – Hemphill Foundation/HOME Living Opportunities Annexation

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-31 – HEMPHILL FOUNDATION/HOME LIVING OPPORTUNITIES – LONON AVENUE - 2013

WHEREAS, a petition requesting annexation of an area described in said petition was received on April 22, 2013 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 7th day of May, 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

RESOLUTION NUMBER: R-13-05-07-1

C. Receive Certificate of Sufficiency - Lonon Avenue – Hemphill Foundation/HOME living Opportunities Annexation

CERTIFICIATE OF SUFFICIENCY – HEMPHILL FOUNDATION/HOME LIVING OPPORTUNITIES – LONON AVENUE – 2013

To the City Council of the City of Marion:

I, J. Robert Boyette, City Clerk, do herby 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 7th day of May, 2013.

(Seal)

J. Robert Boyette, City Clerk

D. Adopt Resolution Fixing the Date of Public Hearing on the Question of Annexation – Lonon Avenue – Hemphill Foundation/HOME living Opportunities Annexation

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31 – HEMPHILL FOUNDATION/HOME LIVING OPPORTUNITIES – LONON AVENUE - 2013

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:

AA.000000195 (24)

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, June 4, 2013.

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

Tract One

BEGINNING on an iron pipe set close to the Northwest margin of the pavement of Lonon Avenue (S.R. 1503), said BEGINNING pipe being located North 33 degrees 20 minutes 30 seconds West 15.75 feet from a found spike in the centerline of Lonon Avenue, and from said BEGINNING running with the line of Trussco, Inc. (McDowell County Deed Book 319 at page 372), North 33 degrees 20 minutes 30 seconds West 318.47 feet to an iron pipe found at the Northeastern edge of the pavement of Laurelwood Drive, a private drive, said iron pipe serving a common corner of the property of Trussco, Inc. and the property of McKinney Construction, Inc. (McDowell County Deed Book 321 at page 477); then running with the McKinney Construction, Inc. line, North 33 degrees 20 minutes 30 seconds West 110.53 feet to an iron pipe set, common corner with the property of Alvin L. Hall (McDowell County Deed Book 90 at page 456); then running with the line of Alvin L. Hall, North 56 degrees 39 minutes 30 seconds East 218.01 feet to an iron pipe set; then partly with the line of Alvin L. Hall and partly with the line of James W. Hall (McDowell County Deed Book 139 at page 541 and McDowell County Deed Book 331 at page 341), South 33 degrees 20 minutes 30 seconds East 429.00 feet to an iron pipe set just Northwest of the margin of pavement of Lonon Avenue; then South 56 degrees 39 minutes 30 seconds West 218.01 feet to the BEGINNING, containing approximately 2.147 acres according to a survey of Childres and Associates, Surveying Co., dated January 17, 1991.

LESS AND EXCEPTING 0.381 acre tract conveyed to Kenneth Ray Conley and wife, Cynthia Bates Conley in Book 452, page 904, McDowell County Registry.

Tract Two

BEING a parcel containing 0.381 acres, more or less, abutting State Road No. 1503, known as Lonon Avenue, and more fully shown on an unrecorded plat of survey prepared by Childres Surveying, Inc., dated February 10, 1993, and from which unrecorded plat the following metes and bounds description was taken.

BEGINNING at an iron pipe located within the Northern right-of-way for State Road 1503, known as Lonon Avenue, being a common corner with lands now or formerly owned by James W. Hall (see Book 139, Page 541 and Book 331, Page 341, McDowell County Public Registry); and running thence with said right-of-way, South 56 degrees 39 minutes 30 seconds West 102.00 feet to an iron pin located within the pavement of said street; thence leaving the street and running with the line of lands now or formerly owned by Homestead Enterprises, Inc., North 23 degrees 39 minutes 00 seconds West 203.00 feet to an iron pipe; thence North 66 degrees 21 minutes 00 seconds East 68.80 feet to an iron pipe in the line of lands now or formerly owned by Hall; thence with the Hall line, South 33 degrees 20 minutes 30 seconds East 188.52 feet to the point and place 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 7th day of May, 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-13-05-07-2

RECOGNITION OF MIKE WILLIAMS FOR NORTH MAIN STREET TREE REMOVAL: Mayor Little recognized Mike Williams for his recent work to remove hazardous trees from private property along North Main Street, after a fatality involving a tree falling in this area in January and killing a motorist.

Mayor Little presented Mr. Williams with a certificate of appreciation that read as follows:

CERTIFICATE OF APPRECIATION

IS PRESENTED TO

MIKE WILLIAMS

IN RECOGNITION OF
OUTSTANDING SERVICE GIVEN TO THE CITIZENS OF OUR ENTIRE COMMUNITY.

PRESENTED THIS THE 7TH DAY OF MAY, 2013.

BY MAYOR STEPHEN R. LITTLE

AND THE

MARION CITY COUNCIL

STEPHEN R. LITTLE
MAYOR

Mayor Little, Council Members and neighboring property and business owners shared kind words of appreciation for Mr. Williams.

PRESENTATION OF CALEA ACCREDITATION FOR POLICE DEPARTMENT: The City Manager stated that, on March 23, the Police Department was approved for national accreditation by the Commission on Accreditation for Law Enforcement Agencies (CALEA).

AA.00000196 (24)

The City Manager advised that only five percent of law enforcement agencies nationwide and about 30 municipal police departments in North Carolina are currently accredited, so this is a great honor that demonstrates the City's commitment to meet national standards.

Retired Police Chief Mark Brooks, along with Interim Police Chief Scott Spratt and Police Officer Lisa Morgan, who led the accreditation effort, were in attendance for this presentation.

Mayor Little formally presented Retired Chief Brooks, Interim Chief Spratt and Officer Morgan the framed CALEA certificate that read as follows:

CALEA
BE IT HEREBY KNOWN THAT THE
MARION (NORTH CAROLINA) POLICE DEPARTMENT
Having fully demonstrated its voluntary commitment to law enforcement excellence by living up to a body of standards deemed essential to the protection of the life, health and safety and rights of the citizens it serves, and having exemplified the best professional practices in the conduct of its responsibilities is hereby upon the recommendation of the Members of the Commission awarded this
CERTIFICATE OF ACCREDITATION
Effective on the twenty-third day of March, 2013
And is recognized as an accredited law enforcement agency for a period of three years.

The Mayor, Council Members and City Managers congratulated the Police Department on this great achievement.

PUBLIC APPEARANCE – MARION BUSINESS ASSOCIATION: Ms. Becky Poteat, President of the Marion Business Association (MBA), appeared before Council and gave the following quarterly report for the MBA:

January - March 2013
Quarterly Report of Marion Business Association

Economic Development Report
3 - New Businesses Opened
Hibbett Sports
Big Lots
McDowell Electrical Supply
1 - Businesses Closed – Strickland Electrical Supply
2 – Business Relocations – King Law Office, Western Southern Life
7 -Business Opportunity Inquiries
2 - Business Loan Inquiries
1- Business Grant Inquiries
171- Business Visits
3- Property Referral Inquiries
0- Property Owner Contacts w/ available buildings
1 - Contacts with interested Commercial Developers
0- New Businesses Breaking Ground
8- Façade Grant Inquires
0- Façade Grant Awarded (MBA & MEDA Historic Marion Façade Grant Program and MBA Sign Grant)
1- Property sold

Other Economic Activity:
- Historic Marion Façade Grants – Grant cycle January - March. Will announce grants soon.
- WNC Rail Committee desires to see rail service to WNC. There is no funding allocated for Western North Carolina.
- MBA maintains an Available Commercial Properties listing of properties in the City of Marion. The listing is also available on the MBA website, www.hometownmarion.com
- The Certified Retirement Community Committee is working on a marketing plan with the committed agencies.

Committee Meeting Reports –
MBA Board of Directors met January 8, February 12 and March 12.
MBA Economic Development Committee met January 14 to review December meetings with Lee Anderson, Director of Community Planning in Morganton and Ted Alexander, former Mayor of Shelby. The Committee met March 25 and set a marketing strategy meeting with other county agencies. That meeting is scheduled for April 29.
Community Innovators met January 11 with Abena Assante and Sharon Parker of the KBR Foundation. The Committee will meet again in the spring.
Mountain Glory Festival Committee had 2013 planning meeting for 2013 on March 15. Craft application and sponsorship packets were mailed in April.
Events & Promotions Committee held meetings on January 10, February 21 & March 21. The Committee held a successful fund-raiser with Valentine dance and desert.
Historic Marion Tailgate Market Committee met January. 8 to plan for 2013 season. A grower/producer meeting information meeting was held on February 5. The growers/producers supported the City's application for EBT at the market.

Other Committees MBA Supports -
MEDA; McDowell House; McDowell Non-profit Organizations (NPO); Get Not Out/JobLink

Special Events Report
February 15, Valentine Dancing and Dessert Fundraiser with Ric Luther and Friends - Event is very popular.
Volunteer Hours Committed – 87

2013 Calendar of Events
Friday, February 15 - Valentine's Day Dance and Dessert,
Saturday, March 23 – Easter Bonnet Parade @ YMCA
Saturday, May 4 – Sidewalk Yard Sale
Friday, June 7 – Liver Mush Festival
Thursday, July 4 – Independence Day Celebration
Saturday, August 3 – Sidewalk Yard Sale
Tuesday, August 6 – National Night Out
Friday, August 9 – Beach Music & Shagging in the Street & Cruise In
Monday, September 2 – "Terry McKinney" Concert, Depot Lawn

AA.000000197 (24)

Saturday, October 12 – Mountain Glory Festival
Tuesday, October 29 – Fall Festival & Downtown Trick or Treating
November 5 – December 17 Fall Craft Market @ Market Shelter
Sunday, November 24 – Christmas Parade
December – Blue Ridge Artisans Craft Show @ MACA
Thursday, December 5 – Melodies on Main – Visit with Santa Claus
Saturday, December 7– Appalachian Potter's Market – McDowell High
Tuesday, December 31 – New Year's Eve Celebration
Every Thursday Night, 7:00 PM –

Mayor Little thanked Ms. Poteat for her report and the excellent work that the MBA continues to provide for the City and the community.

PUBLIC COMMENT PERIOD: Ms. Freddie Killough stated that she wanted to mention that Killough's Music and Loan would be celebrating 25 years in business later in the month and that Council and staff were welcome to participate in planned events.

CONSIDER ADOPTION OF TRAFFIC SCHEDULE AMENDMENT: The City Manager advised that when he, Mayor Little and Planning and Development Director Heather Cotton attended the ribbon cutting for the new Jug Sub Shop on East Court Street, located just east of the old House Theater, on May 1, the owner asked them about changing the loading zone in front of the store to a 15 minute parking space, to allow for people to pick up orders. The owner of the Jug stated that this request was also supported by their neighboring business, Blue Ridge Survival.

The City Manager stated that when he checked the Traffic Schedule, he determined that the loading zone sign in front of the Jug and the two hour parking signs east of the East Court Street/South Garden Street intersection were not backed up by regulations listed in the Traffic Schedule.

The City Manager reported that, after further discussion with the Jug, it was agreed that 2 hour parking was needed, in order to discourage residents of East Court Street from parking all day, as well as discouraging business owners and employees from parking all day.

The City Manager stated that he prepared the Traffic Schedule amendments, as presented to Council Members, which would delete references to no parking areas on the south side of East Court Street east of the row of commercial buildings including the Jug and Blue Ridge Survival, due to the footages listed for the no parking designation not matching what is on the ground. The proposed Traffic Schedule Amendment would make the following additions:

A. Establishing a 2 hour parking area on the south side of East Court Street, from 63 to 176 feet east of the East Court/South Garden intersection. A no parking area is already designated for the first 63 feet east of this intersection. The first marked parking space picks up 63 feet east of the intersection.

B. Establishing a 15 minute parking area on the south side of East Court Street, from 176 to 195 feet east of the East Court/South Garden intersection. This area is currently designated as a loading zone. As noted above, the Jug and Blue Ridge Survival support changing the loading zone to a 15 minute parking space.

C. Establishing a 2 hour parking area on the south side of East Court Street, from 195 to 231 feet east of the East Court/South Garden intersection.

D. Establishing a no parking area on the south side of East Court Street from 231 feet east of the East Court/South Garden intersection to the City Limits. The current traffic schedule has an area that appears to allow parking from around the old bread store eastward, but there is no place to park along East Court Street in this area and no parking signs are in place, so the recommendations is to designate the entire area as no parking.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously 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
COURT STREET (EAST)	PARKING PROHIBITED	SOUTH SIDE, BEGIN AT 231 FT. EAST OF THE SE CORNER OF EAST COURT AND GARDEN CONTINUING 82 FT. EASTERLY
COURT STREET (EAST)	PARKING PROHIBITED	SOUTH SIDE, BEGIN AT 604 FT. EAST OF THE SE CORNER OF EAST COURT AND GARDEN CONTINUING EASTERLY TO THE CITY LIMITS

Section 3. Section 18-239 is amended by adding the following:

STREET NAME	REGULATION	REG. APPLICATION
COURT STREET (EAST)	PARKING 2 HOUR LIMIT	SOUTH SIDE, BEGIN AT 63 FT. EAST OF THE SE CORNER OF EAST

288
AA.000000198 (24)

		COURT AND GARDEN CONTINUING 113 FT. EASTERLY
COURT STREET (EAST)	PARKING 15 MINUTE LIMIT	SOUTH SIDE, BEGIN AT 176 FT. EAST OF THE SE CORNER OF EAST COURT AND GARDEN CONTINUING 19 FT. EASTERLY
COURT STREET (EAST)	PARKING 2 HOUR LIMIT	SOUTH SIDE, BEGIN AT 195 FT. EAST OF THE SE CORNER OF EAST COURT AND GARDEN CONTINUING 36 FT. EASTERLY
COURT STREET (EAST)	PARKING PROHIBITED	SOUTH SIDE, BEGIN AT 231 FT. EAST OF THE SE CORNER OF EAST COURT AND GARDEN CONTINUING EASTERLY TO THE CITY LIMITS

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 7th day of May, 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-13-05-07-1

CONSIDER AWARD OF CONTRACT FOR VEHICLE PURCHASE:
The City Manager advised that, as shown in the memo presented to Council Members, the City recently accepted bids for the purchase of an SUV for the Fire Chief.

Request for bids were emailed to nine dealerships. Three bids were received, as follows:

Phillips Ford, Carthage NC	$29,144.95, Delivery for June 30, 2013 will depend on Ford Manufacturing build date available at time order received from the City
Bobby Jones Ford, Augusta GA	$29,029.50, Bidding on an incoming unit that has running boards, cost for this item is $379.00 but already including in price.
Ken Wilson Ford, Canton, NC	$28,460.00, Delivery for June 30, 2013 will depend on Ford Manufacturing build date available at time order is received from the City, does not see a problem in the delivery of June 30, 2013.

The following six dealerships did not bid:

Cross Roads Ford, Morganton, NC	No Bid
Jim Cook Chevrolet, Marion, NC	No Bid, Ordering time expired cannot bid
Everett Chevrolet, Hickory, NC	No Bid, Ordering time expired cannot bid
First Place Ford, Lenoir, NC	No Bid
Stamey's Marion, NC	No Bid, No comparable vehicle
Ilderton Dodge, Highpoint, NC	No Bid, GVWR too large for dodge

The City Manager reported that Ken Wilson Ford of Canton submitted the low bid for a 2013 Ford Expedition in the amount of $28,460. The City should be able to receive the vehicle before the end of the Fiscal Year. The Fire Department would need to have lights and striping added to the vehicle. Given that the City estimated $35,000 for this vehicle, it is certain that the total price for the vehicle and equipment will come in under budget.

The City Manager stated that therefore, he would recommend that Council award a contract for the purchase of an SUV for the Fire Chief to Ken Wilson Ford of Canton for a 2013 Ford Expedition in the amount of $28,460.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to award the contract for the purchase of an SUV for the Fire Department to Ken Wilson Ford of Canton for a 2013 Ford Expedition in the amount of $28,460.

CONSIDER AMENDMENTS TO POLICY REGARDING LOANING OF EQUIPMENT TO OUTSIDE AGENCIES: The City Manager advised that the City had received a request from the YMCA, asking for the City to provide its stage and sound system for the week of Monday, September 9 through Friday, September 13 for Diabetes Awareness Events to be held on the Courthouse Lawn. Specifically, the YMCA will hold free group exercise classes on the Courthouse Lawn each day at 5:30 p.m. and requests use of the stage and sound system.

In looking at the City's Loaning of Equipment Policy, the YMCA is not specifically listed as an entity to which the City may loan equipment. Item 10 of the policy includes non-profit agencies with whom the City has or has had a funding relationship. The City has had a funding relationship with the YMCA, but the policy did not list them specifically.

AA.000000199 (24)

The City Manager stated that he would recommend that Council approve the revised Loaning of Equipment Policy to add the YMCA.

The City Manager stated that he did not see an issue with the City placing our stage on the Courthouse Lawn the week of September 9-13. However, providing the sound system may be more difficult, since the City typically does not loan out that equipment without someone to operate the sound system.

The YMCA is also asking that the City provide incentives for City employees to participate in the Diabetes Prevention Program. That may be a very good idea. However, the City Manager stated that he would request permission to talk to the County to see what incentives they may offer. The City Manager stated that he can then bring recommendations back to Council for consideration.

Council Member Clark stated that he had concerns with liability if the stage was to collapse and asked if the City would be covered in the event someone was to fall or got hurt. Mayor Little stated that the stage would be set up by City staff and maintained by the City, but it would not hurt to require the YMCA and any persons using the stage to sign a liability waiver.

After discussion, it was agreed that the City could not provide the sound system for this week long event.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to approve the following revised Loaning of Equipment Policy to add the YMCA and to allow the YMCA to use the City stage, as requested, for its September 9-13 event, on the condition that liability waivers are provided by the YMCA:

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 at no charge:

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 or has had a funding relationship. As of July 1, 2012, these agencies will be restricted to the Marion Business Association (MBA), the McDowell Chamber of Commerce, McDowell Mission Ministries, the Marion Firefighter's Association, the McDowell Economic Development Association (MEDA), Family Services of McDowell, Inc. and the Maxwell M. Corpening, Jr. Memorial YMCA.

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 7th day of May, 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Policy Number: P-13-05-07-1

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager commended the Public Works Director and City staff in the efforts recently made cleaning up after the rain and flooding damage throughout the City.

Public Works Director Brant Sikes stated that the Greenway is 60 to 70 percent clean. The main issues with the Greenway involve mud and silt on the walkway, although there is a possibility of damage to the first bridge. Mr. Sikes stated that the Greenway will reopen, as soon as the cleaning takes place and necessary repairs are made to the bridge.

Mr. Sikes advised that part of the bank along Crawford Street slid and undermined part of the sidewalk. He reported that City staff had concerns about the stability of the drainage structure and the street as well. The street is closed over Corpening Creek, until a repair solution can be determined. Mr. Sikes said that he would continue to meet with engineers and report back as soon as he has more information.

AA.00000200 (24)

Council Member Clark stated that he would suggest that a visual inspection be made of buildings in the area, under which Corpening Creek flows. The City Manager advised that he would have the Building Inspector checked these buildings.

The City Manager stated that Mayor Little and McDowell County Commission Chairman David Walker had issued states of emergency for the City and County. The City Manager reported that he had spoken with McDowell County Emergency Management Director Terry Young, who had indicated that he was hopeful that the City and County would qualify for a disaster declaration and financial assistance for the noted damages.

Council Member Clark advised that a section of Rutherford Road in front of the Cornerstone Credit Union has an issue with standing water that DOT needs to address.

The City Manager advised that the City held the 11th Annual City Open House for all of the third graders in McDowell County on Friday, April 26. He advised that thank you notes had been sent to Administrative Assistant Debi Sherlin, City departments, volunteers and Baxter Healthcare, thanking them for all of their help with this event. This year, for the first time, the City had all eight public elementary schools, the two private schools and the home school group participating.

Council Member Clark asked that the City send photos of Open House and description of the event to the N.C. League of Municipalities for publication in Southern City.

The City Manager stated that the City had received a street light request and suggested that it be referred to the Street Committee. The Mayor and Council Members agreed by consensus to refer this request to the Street Committee for review and a recommendation back to Council.

The City Manager stated that, in April, the City had received some preliminary plans for the US 221 widening project. It was difficult to determine the exact impact of the project on City water and sewer lines. The City did determine that the impacts on commercial buildings, especially south of I-40, are not as bad as first feared. The City Manager reported that Public Works Director Brant Sikes provided comments on the plans, which were sent to DOT.

The City Manager advised that DOT plans to schedule a meeting with the City, County and other local agencies around July or August to determine additional local input regarding the plans.

The City Manager advising that Mr. Sikes had received a request from the DOT contractor working on the project plans, asking for which option the City prefers to design and construct the utility relocations needed for the US 221 widening project. DOT provided three options, as follows:

A. The City having the engineering design of the relocation work prepared by NCDOT representatives and added to the highway contract after an agreement with NCDOT for reimbursement is in place.

B. The City engaging a private contractor on behalf of the City and preparing construction plans for use as the City relocates their own facilities prior to the beginning of the highway construction.

C. The City engaging a private engineering firm to do the engineering design and having these plans added to the highway contract for construction during the contract after an agreement with NCDOT for reimbursement is in place.

Mr. Sikes advised that he has used all three options at various times and that there are pros and cons associated with each option.

Council Member Clark stated that the City needs to consider costs; however, it will likely be better for the City to have DOT as involved as possible.

After discussion, it was the consensus of the Mayor and Council Members to ask NCDOT to complete the design and construction of the relocated utilities for the US 221 widening project, if possible.

The City Manager reported that Mr. Sikes had McGill Associates evaluate stormwater issues on North Garden Street and Oakwood Drive. Upon review, the evaluations will be discussed with Council at an upcoming meeting.

The City Manager stated that he met with Don Markum on April 18 and discussed his various Gold Festival requests. The City should be able to display applications for the N.C. Gold license plate at City Hall, as well as other Gold Festival related materials. Mr. Markum was told that the City could not display anything of value, such as a gold nugget, without a hold harmless agreement being executed. Mr. Markum was discouraged from having anything of value in the display, which he understood. The City will run the Gold Festival messages on the City channel and will allow Mr. Markum to reserve the five sign boards around town, since the sign board policy allows for advertising for McDowell County events put on by McDowell County non-profit organizations. Mr. Markum was also told that the Rotary Club would be happy to have him or another Gold Festival representative serve on the New Year's Eve Celebration Planning Committee. Regarding business promotions, the City Manager stated that he had referred Mr. Markum to the Marion Business Association Director Freddie Killough, Chamber of Commerce director Rod Birdsong and McDowell County Tourism Director Carol Price.

The City Manager advised that the City had been selected by KaBoom as a Playful City USA. A news release will be sent out in the near future concerning this designation. The City will be eligible for future grant funding for purchase or replacement of playground equipment. The City Manager thanked Planning and Development Director Heather Cotton for her efforts to obtain this designation for the City.

The City Manager advised that he was finalizing the recommended 2013-14 City budget. As agreed to by Council, there will be a Planning Session/Pre-Budget Workshop on Tuesday, May 14 at 6:00 p.m. The recommended 2013-14 budget will be presented at the May 21 Council meeting. Council will then hold a Budget Workshop/Planning Session on Tuesday, May 28 at 6:00 p.m. The required public hearing on the 2013-14 budget and the budget adoption will be scheduled for the June 18 Council meeting.

The City Manager advised that Ms. Cotton had received three proposals for design services for Phase 2 of the Joseph McDowell Historical Catawba Greenway. He asked for Council input regarding how they wish to review the proposals. The Mayor and Council Members agreed by consensus to have City staff review the proposals and make a recommendation to Council. The City Manager stated that this recommendation would be presented at an upcoming Council meeting.

COUNCIL MEMBER COMMENTS: Council Member Clark asked about the status of repairs to Bakersville Road.
The City Manager stated that he had been waiting to find out if the Western North Carolina Housing Partnership application for N.C. Housing Finance Agency tax credits is approved for their proposed senior housing development, in which case the City can seek Community Development Block Grant funding for needed street improvements.

Council Member Clark stated that he realized this street was a lower priority, but asked that Council not forget about the need to repair and reopen the street in the future.

AA.00000201 (24)

Council Member Clark stated that he would not be at the May 14 Council Planning Session, as he would be attending a N.C. League of Municipalities Risk Management meeting in Denver, Colorado.

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 held a Special Meeting on Monday evening, May 14, 2013 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, Billy Martin and Don Ramsey.

Council Member Everette Clark was not present due to a scheduled meeting out of State.

OTHERS PRESENT: Bob Boyette, City Manager; Harriett Thomas, CPA, Finance Director; Brant Sikes, Public Works Director; Heather Cotton, AICP, Planning and Development 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 2013-14 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 46th year in a row that the City has not increased the tax rate.

The City Manager reported that he expected the total 2013-14 budget to be significantly less than the total 2012-13 original budget and the 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.

Mayor Little and Council Members expressed their agreement with the general direction of the 2013-14 budget, as presented by the City Manager.

The City Manager stated that the proposed 2013-14 Budget would be presented to Council at the May 21 Council meeting and that Council had previously agreed to hold a Budget Workshop to review the Budget on Tuesday, May 28 at 6:00 p.m. at City Hall.

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

1. McDowell Mission Ministries – Council discussed an $8,000 funding request by McDowell Mission Ministries. The funding request will be addressed through a Budget Ordinance Amendment and, upon approval, be paid before the end of the 2012-13 Fiscal Year.

2. Volunteer Firefighters – The City Manager reported on changes to the way relief shifts will be handled at the Fire Department. In the 2013-14 budget, funding will be included for part-time firefighters to work relief shifts for paid staff.

3. Lakes James Watershed Reclassification Request – The City Manager, Planning and Development Director Heather Cotton and Public Works Director Brant Sikes presented information regarding the request of McDowell County to establish a protected Watershed IV classification for Lake James. The Watershed IV classification would impact about 40 percent of the City and impose additional development restrictions on property in the City. After discussion, the Mayor and Council expressed concerns about the request, which will be discussed with the County at the next Joint Utility Committee meeting.

4. Catawba River Greenway/Round Hill Loop – The City Manager advised that the McDowell Trails Association (MTA) had requested that the City assume maintenance of the Round Hill Loop off of the Joseph McDowell Historical Catawba Greenway. Mr. Sikes reported that the existing pavement needing sealing and that he was evaluating the condition of the bridge on this section of the trail. The City Manager suggested that Council allow the City to assume maintenance of this loop, if the bridge is deemed to be safe, the existing paving on the loop is sealed by the MTA, the MTA completes the installation of split rail fencing between the trail and the adjacent farm field and on the condition that remaining paving is supervised by the City. The City Manager advised that he would not recommend the City taking over maintenance of the Round Hill Cemetery or any trails going up Round Hill. The Mayor and Council agreed by consensus with the City assuming maintenance of the Round Hill Loop, with the conditions recommended by the City Manager, not to include maintenance of the Round Hill Cemetery or any trails going up Round Hill. Upon evaluation, formal approval of this request will be considered at a future Council meeting.

5. Chamber Digital Sign Request – Ms. Cotton presented options and recommendations regarding a Zoning Text Amendment to address a request by the Chamber of Commerce for a digital sign. The Zoning Text Amendment will be presented to the Planning Board and City Council for review and consideration in the near future.

6. Stormwater – Mr. Sikes presented the results of recent stormwater evaluations of drainage issues on North Garden Street and Oakwood Drive by the City's consulting engineers, McGill Associates. Mr. Sikes advised that McGill's report indicated that the City could use some street

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improvements on North Garden Street, but that drainage issues on private property were the result of deficiencies on said properties and did not come from North Garden Street. Council directed staff to share the report with the property owners in question. Improvements to North Garden Street will be considered in the future, after other priority projects are addressed.

Mr. Sikes reported that McGill recommended drainage improvements in the Richard Drive and Oakwood Drive area. After discussion, it was agreed that City crews would start on this project as soon as it is possible to do so.

7. City Property on College Drive – The City Manager stated that Duke Energy had requested the approval of a 30 foot right of way across City property on College Drive, to allow for the upgrade of electrical distribution line to the County's Universal property. Mr. Sikes advised that the right of way was next to the road and would not harm the City property in his opinion. He stated that he had asked Duke to stake out the right of way on the ground and could give a better opinion after looking at the staked right of way.

This item will be placed on the May 21 Council agenda for review and consideration.

8. Musical Performances on City Property – The City Manager asked Council for interpretations of City ordinances prohibiting performances on City property, streets, sidewalks etc. for donations or pay, except in conjunction with City sponsored or approved events. It was agreed by consensus that the Farmer's Market constituted an event for purposes of this ordinance. Discussions were held about businesses holding musical performances on the sidewalk. City staff will have further discussions to advise businesses making such requests that public safety would be compromised if musical events are held on the sidewalk.

9. Downtown Residential Parking – The City Manager proposed the City issuing a $60 per year downtown residential parking permit to allow residents of the downtown area to park at all times in any City off-street parking lot, except for the Historic Marion Tailgate Market/West Henderson Street Parking Lot and the North Main Street/Gazebo Parking Lot.

This idea came from contractors working on the development of downtown apartments. Since City off-street parking lots do not permit overnight parking, the thought was to issue a parking permit that would allow downtown residents to park in several City owned off-street parking lots. The Tailgate Market/West Henderson Street Parking Lot is not included, since parking is not permitted on market days in much of the lot. The North Main Street/Gazebo Parking lot is not included, because it carries a two hour time restriction and since Kirksey Funeral Home is next to this parking lot.

Council agreed to consider this idea as part of a future City Fee Schedule Amendment.

10. Mt. Ida Property Access – Mr. Sikes advised that he was finalizing cost estimates for the construction of a vehicle access to the City's property on Mt. Ida. The City Manager suggested that this item be discussed at the May 28 Council Planning Session. The Mayor and Council stated no objection to this suggestion.

11. Clinchfield Park – The City Manager stated that a request had been received for the City to install a child sized basketball goal at Clinchfield Park. The City Manager advised that he and Mr. Sikes believed that a lower basketball goal would be prone to vandalism, so approval of the request was not recommended. The Mayor and Council agreed that this request should not be pursued.

12. YMCA/County Greenway – The City Manager advised that McDowell County had suggested that the City assume maintenance of Spaulding Road, to allow for speed humps to be placed on either side of the YMCA/County Greenway crosswalk across this road and to allow for the future construction of a sidewalk without curb and gutter along part of this road, to serve as a section of Phase 3 of the YMCA/County Greenway. Mr. Sikes reported that he had evaluated Spaulding Road and found it to be of average quality. Council took no action regarding this request. The City will not take over the maintenance of Spaulding Road in the near future.

13. Date and Time of Next Planning Session - The City Manager reported that Council had previously scheduled a Budget Workshop/Planning Session to be held on Tuesday, May 28 at 6:00 p.m. at City Hall.

No action was taken on these items. Items requiring City Council action will be included in 2012-13 Budget Ordinance Amendments, included in future budgets or placed on future City Council meeting agendas for consideration.

ADJOURNMENT: Upon a motion by Council Member Doggett, seconded by Council Member Ramsey, 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 21, 2013 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 Don Ramsey.

Council Member Billy Martin 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; Allen Lawrence, Police Chief; Scott Spratt, Police Investigative Lieutenant; Brant Sikes, Public Works Director; Gaye Noblitt, Police Administrative Lieutenant; Rusty Jenkins, Police Patrol Lieutenant, Jamie Harklerode, Police Patrol Lieutenant, Rick Gutierrez, Police Detective Sergeant; Brenda Bailey, Police Administrative Assistant; Lisa Morgan, Police Detective; Matthew Crawford, Firefighter; Freddie Killough, Executive Director, Marion Business Association; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Crystal and Emily Lawrence, Lenoir, NC; Barry Bailey, Marion, NC; Richard, Yvonne and Lillian Cockerham, Lenoir, NC; Larry & Lois Lawrence, 127 McKinney Road, Marion, NC; Melissa Ledbetter and Ann Robinson, Smokey Mountain Center, 825 Wilkesboro Blvd., Lenoir, NC; Nancy Clark, 330 Fleming Avenue, Marion NC; Brenda Vaughn, 897 Bethel Church Road, Marion, NC; Sheriff Dudley Greene, McDowell County Sheriff's Department, Ricky Buchanan, McDowell County Sheriff's Department; Dr. Gerri Martin, McDowell County Schools; Natalie Martin, Marion, NC; Bill Smith, Marion, NC; Alice Little, 370 South Garden Street, Marion, NC; Rod Birdsong, Executive Director, McDowell Chamber of Commerce; Jerry Broome, President, McDowell Chamber of Commerce; Susan Mace, Marion, NC; Leisa Padgett, Marion, NC; Inez Fullbright, Marion, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

ADMINISTER OATH OF OFFICE TO NEW POLICE CHIEF ALLEN LAWRENCE: The City Manager introduced Mr. Allen Lawrence as the new Police Chief for the City of Marion. Mr. Lawrence is a native of Marion, having graduated from McDowell High School in 1995. He has worked in many facets of Law enforcement operations, including coordinating training, traffic enforcement, patrol, school safety, community outreach and other areas. Mr. Lawrence received this training while working for the City of Lenoir for the past fourteen years.

Mr. Lawrence is married to the former Crystal Mace, also a native of McDowell County, who works as a Registered Nurse at the McDowell Hospital. Allen and Crystal have one daughter, Emily, age 7.

Mr. Lawrence has a Bachelor's Degree in Criminal Justice from Lees-McRae University, holds an Advanced Law Enforcement Certificate from the State of North Carolina, has attended numerous training classes and is a certified instructor. He also serves as a Regional Coordinator for the governor's Highway Safety Program, overseeing eight counties. He has been involved in many community activities and boards in Lenoir, including the Community in Schools Board and the Lenoir Appearance Committee.

The City Manager reported that the references he checked in Lenoir regarding Allen were excellent, demonstrating his professionalism, integrity and character.

The City Manager stated that he is thrilled to have someone of Allen Lawrence's experience, education, professionalism and character coming to work for the City in such an important position as Police Chief. The City Manager advised that hiring someone with such strong local roots is an added bonus and that he expects Allen to serve for a long time as Police Chief in Marion.

Mayor Little administered the following Oath of Office to Allen Lawrence:

I, Larry Allen Barnes Lawrence II, do solemnly swear (or affirm) that I will support the Constitution of the United States; so help me God.

I, Larry Allen Barnes Lawrence II, 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, Larry Allen Barnes Lawrence II, 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

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I, Larry Allen Barnes Lawrence II, do solemnly swear (or affirm) that I will well and truly execute the duties of Police Officer for the City of Marion, North Carolina, including the enforcement of The City of Marion Code of Ordinances according to the best of my skill and ability, according to law; so help me God.

SWORN to and subscribed before me,
This the 21st day of May, 2013

Stephen R. Little, Mayor
City of Marion, North Carolina

Mayor Little, Council Members and City staff congratulated Chief Lawrence on his appointment and wished him a long and successful tenure with the City.

CONSENT AGENDA: Upon a motion by Council Member Doggett, seconded by Mayor Pro Tem Cuthbertson, those members of Council present voted to approve the consent agenda as follows:

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A. **Approval of Minutes** – May 7, 2013 Regular City Council Meeting Minutes and May 14, 2013 Council Planning Session/Pre-Budget Workshop Minutes

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

CONSIDER AWARD OF STREET PAVING CONTRACT: Public Works Director Brant Sikes stated that City staff recently solicited bids for the paving of Overlook Drive, a dirt street maintained by the City. Seven bids requests were mailed an advertisement was posted on the City's website. Two bids were received, with Harris Grading providing the low bid in the amount of $54,032.48. Harris Grading is owned and operated by Charles Harris, of Marion. Mr. Sikes stated that the second bid was received from Evans Construction Company in the amount of $70,047.90.

Mr. Sikes advised that this bid does not include the tree removal necessary for the project. The City can have the trees removed for approximately $4,000 and City staff can remove the brush.

Mr. Sikes stated that the City's revised estimate for this project was $60,172.00. The estimate had to be revised to construct a road with minimal right of way and to accommodate DOT's storm drainage requirements. The City's original estimate was $33,320.00. The following items had to be added to the project to make the roadbed fit into the acquired right of way, to ensure proper drainage, and to secure an encroachment agreement from DOT:

• Roadway was changed from a standard roadbed with ditches and shoulders, to a super-elevated roadbed that directs runoff to a curb. This added $14,537.48 to the cost of the project (added $20,099 to the original estimate).

• DOT required the City to replace the culvert at the end of Overlook Drive and install a new catch basin and additional piping. This added $6,175.00 to the cost of the project (added $6,753 to the original estimate).
Staff's recommendation would be to award the contract to Harris Grading, for the following reasons:

• Harris Grading has successfully completed several road rehabilitation and construction projects for the City in the past. Most recently, Harris Grading constructed the street improvements to Park Avenue.

• Harris Grading provided the lowest bid for this project. The unit prices for labor are substantially less than were provided by the other bidder.

Upon a motion by Council Member Clark, seconded by Council Member Doggett, those members of Council present voted to award the contract for the Overlook Drive paving project to Harris Grading of Marion in the amount of $54,032.48 with the City removing trees in the project area for an estimated cost of $4,000.00.

REVIEW/CONSIDER AWARD OF CONTRACT FOR DESIGN SERVICES FOR JOSEPH MCDOWELL HISTORICAL CATAWBA GREENWAY PHASE 2: The City Manager advised that staff had received three proposals from Alta Greenways, Equinox Environmental and McGill Associates for design and construction administration services for Phase 2 of the Joseph McDowell Historical Catawba Greenway.

The City Manager presented Council Members with a memo from Planning and Development Director Heather Cotton recommending that Council authorize staff to negotiate a contract with McGill Associates for design and construction administration services for Phase 2 of the Greenway, due to the fact that McGill handled design and construction administration for Phase 1 of the Greenway, McGill has worked successfully with the City on numerous projects over the year, McGill understands the project and community and McGill has qualified staff that will work on the project.

The City Manager advised that Council action is needed to authorize staff to negotiate a contract with McGill. In the event an acceptable contract cannot be worked out with the selected firm, staff would request authority to negotiate a contract with the second most qualified firm.

Council Member Clark asked how McGill would be paid. The City Manager stated that staff, upon Council approval, would make a good faith effort to negotiate a contract with McGill that fit within the project budget. If that is not the case, the City Manager stated that he would then ask Council for authorization to negotiate with the next most qualified firm. This procedure is required under the qualifications based contracting provided for engineering and architectural services under North Carolina law.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, those members of Council present voted to designated McGill Associates as the most qualified firm to complete design and construction administration services for Phase 2 of the Joseph McDowell Historical Catawba Greenway and to authorize staff to negotiate a contract with McGill Associates for this project, within the limits of the project budget.

CONSIDER REAPPOINTMENTS TO CITY ADVISORY BOARDS: The City Manager advised that 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 Virginia Williams and Marc Cook as Regular Members and Connie Martin and Jane Brown as Alternate Members will expire on June 30. In addition, there are three additional vacant Alternate Member positions on the Planning Board/Board of Adjustment/Historic Preservation Commission.

The City Manager stated that Planning and Development Director Heather Cotton was checking with the Planning Board members listed above to make sure that all are willing to serve another term.

Upon a motion by Council Member Cuthbertson, seconded by Council Member Ramsey, those members of Council present voted to reappoint Virginia Williams and Marc Cook as Regular Members and Connie Martin and Jane Brown as Alternate Members to new three year terms on the Planning Board/Board of Adjustment/Historic Preservation Commission, said terms to expire June 30, 2016.

The City Manager reported that the term of Robert Ayers as Chairman of the ABC Board will expire on June 30. Mr. Ayers is willing to serve another three year term.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Doggett, those members of Council present voted to reappoint Mr. Robert Ayers as Chairman of the ABC Board for another three term to expire June 30, 2016.

The City Manager reported that the terms of Phillip Tate and Pat Brown as voting members of the Tree Board will expire on June 30. Mr. Tate is willing to serve another three year term, but Ms. Brown does not wish to be reappointed.

Upon a motion by Council Member Clark, seconded by Council Member Doggett, those members of Council present voted to reappoint Phillip Tate to the Tree Board for a new three year term to expire June 30, 2016.

Council agreed to receive recommendations from the Tree Board for the vacant voting member slot and to consider this appointment at the June 18 Council meeting.

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CONSIDER RESCHEDULING OF AUGUST 6 CITY COUNCIL MEETING: The City Manager advised that, each year, the first City Council meeting of August conflicts with the National Night Out Event, which begins at 6:00 p.m.

The City Manager asked if Council Members wished to reschedule the August 6 Council meeting to another night or consider cancelling the meeting, so as to allow Council to attend the National Night Out Event. It may be easier to cancel the meeting, given that Council will meet on July 16 and August 20.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, those members of Council present voted to cancel the August 6 City Council Meeting, due to the National Night Event being scheduled on the same night.

REVIEW/CONSIDER APPROVAL OF REQUEST FROM DUKE ENERGY FOR RIGHT-OF-WAY ACROSS CITY PROEPRTY ON COLLEGE DRIVE: The City Manager advised that, as indicated in the information presented to Council Members, Duke Energy is requesting a right of way across City property on College Drive to allow for the upgrade of distribution line serving the County's Universal property. Specifically, Duke requests a 30' right of way, encompassing 0.81 acres, to allow Duke to upgrade distribution lines on City property beside College Drive to the County's Universal building. Duke has proposed that the distribution lines would be placed next to the road, just outside the 60' DOT right of way.

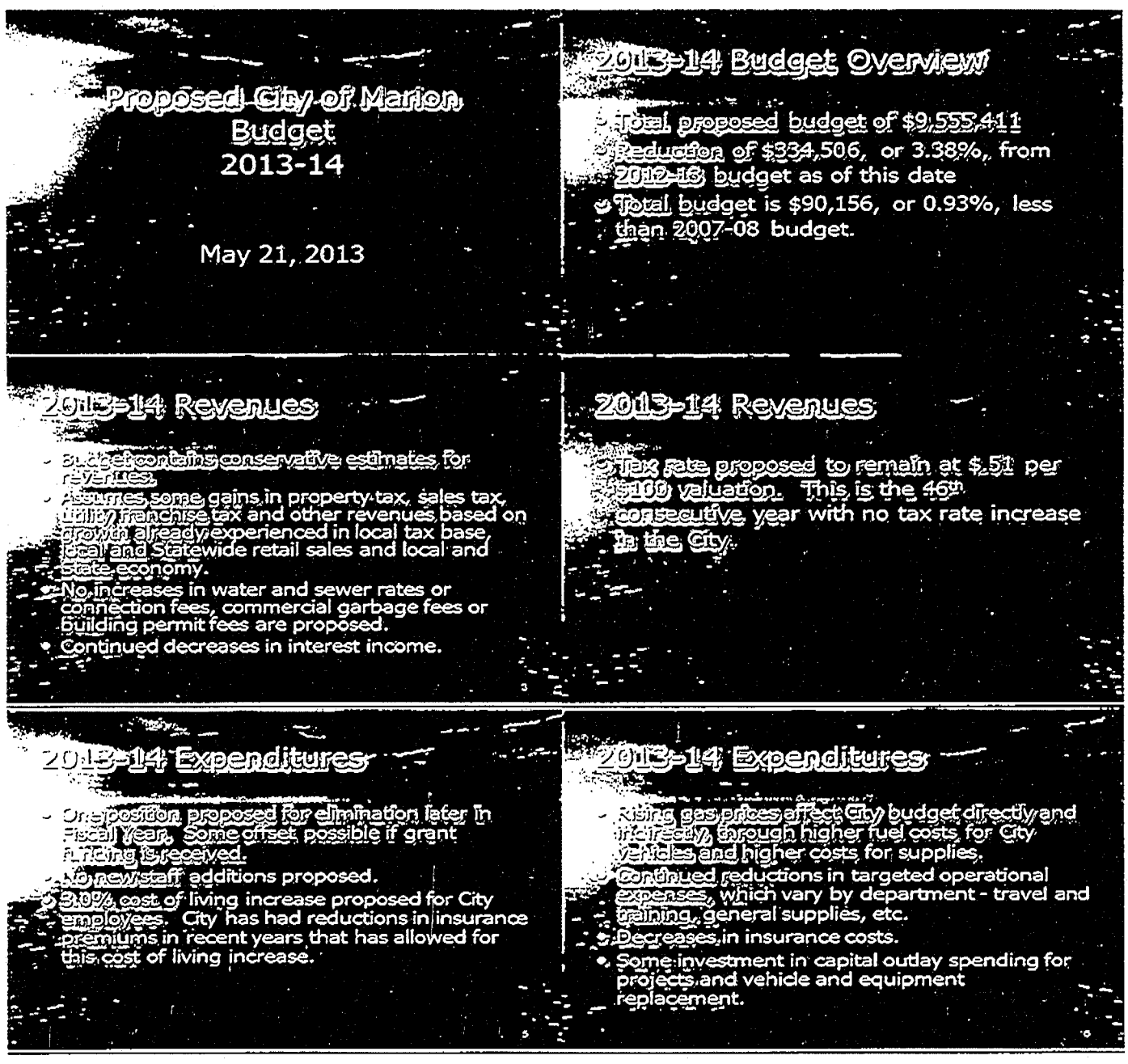
The City Manager advised that Public Works Director Brant Sikes has researched the potential impact on the City property. His opinion is that the right of way and power lines will not have a negative impact on the City's 70+ acre property.

Council Member Clark stated that he had no issue with the concept of granting the right of way, but did have concerns that the right of way agreement proposed by Duke Energy contained more provisions and allowances than was needed. He suggested that the agreement needed to be reviewed by legal counsel and modified.

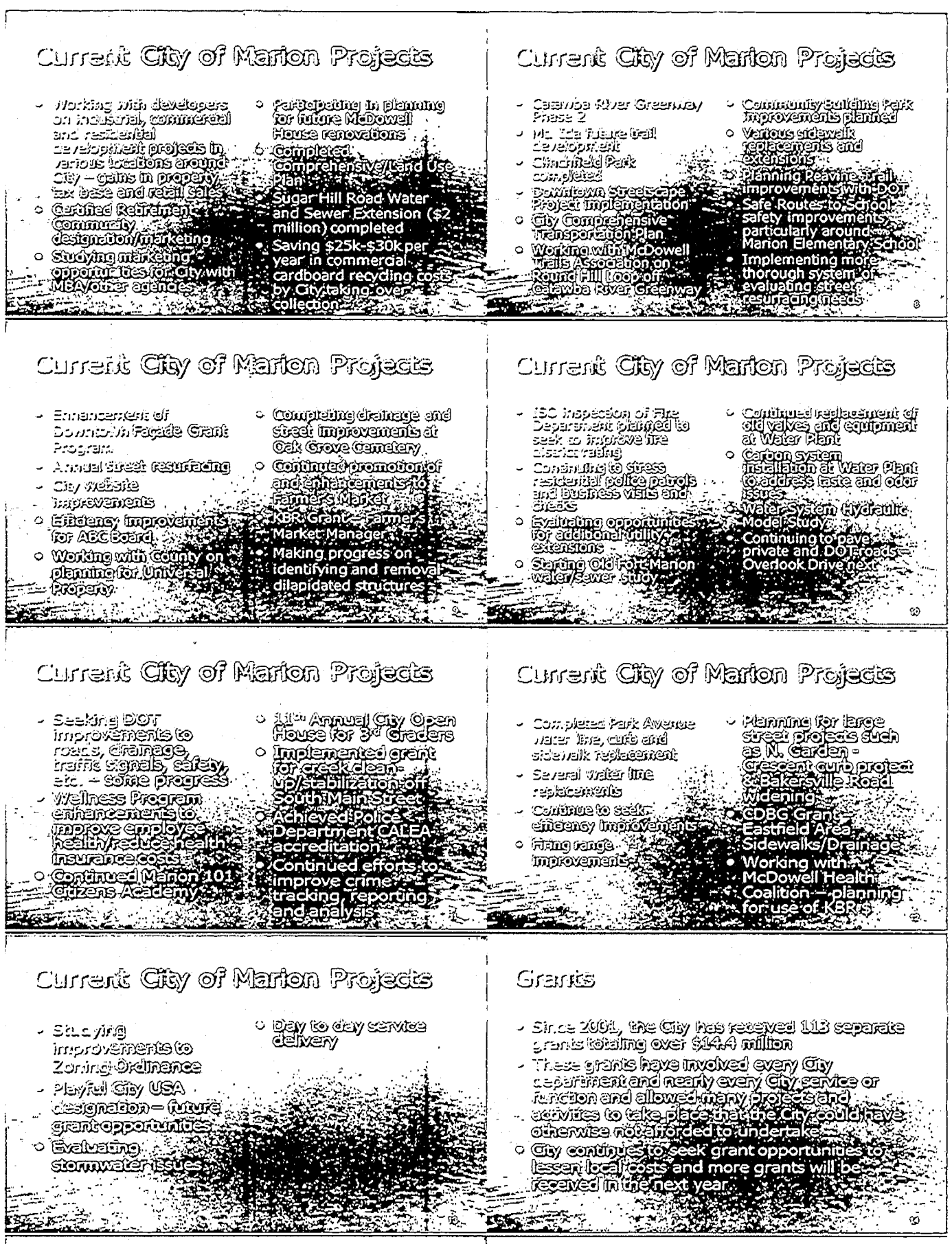
Council Member Clark made a motion to table this item so that Council Members as well as the Mayor and/or City Attorney could have the opportunity, as well as ample time, to look over the information presented.

This motion was seconded by Mayor Pro Tem Cuthbertson. All Council Members voted in favor and the motion was passed.

PRESENTATION OF RECOMMENDED 2013-14 CITY BUDGET: The City Manager presented the recommended 2013-14 City Budget to Council Members. He gave the following presentation providing an overview of the recommended budget:



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The City Manager reported that Council had previously scheduled a Budget Workshop/Planning Session for Tuesday, May 28 at 6:00 p.m. at City Hall, at which time the recommended budgeted can be reviewed.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager stated that he wanted to take the opportunity to thank Scott Spratt for a job well done as Interim Police Chief for the past two months. Scott actually did two jobs during this time and the City Manager stated that he really appreciated Scott's service and dedication to the City.

Mayor Little stated that he had attended the McDowell High School Academic Awards last Thursday and that Scott's son Stephen was presented with several awards and mention was made of his recent acceptance into the United States Military Academy at West Point in New York.

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The City Manager also stated that he wanted to take the opportunity to commend Public Works Director Brant Sikes and the staff at Public Works, whom have had an unusually difficult past couple of weeks due to flood damage and having to mow grass that seems to be growing constantly, due to the large amount of rainfall received recently.

The City Manager commended Public Works on their efforts to clean the Catawba River Greenway and repair damage to the first bridge as a result of the May 4-5 flooding event, which allowed the Greenway to reopen to the public on Friday, May 17.

The City Manager reported that Mr. Sikes is working with engineers to develop options and cost estimates for repairs to the bank next to Crawford Street, under which Corpening Creek flows, as a result of the flood damage. Crawford Street remains closed to through traffic while this evaluation is on-going.

The City Manager stated that he also appreciates the work that Finance Director Harriett Thomas has done while working on the City audit, on the proposed 2013-14 budget document, working with the ABC Board and many other projects.

The City Manager stated that he found out just prior to the meeting that the North Carolina Utilities Commission will hold a public hearing on the proposed Duke Energy rate increase the next evening at 7:00 p.m. at the McDowell County Courthouse. The City Manager advised that the City had not received notice of this public hearing to his knowledge. Mayor Little, Mayor Pro Tem Cuthbertson and the City Manager all agreed to attend the public hearing to express the City's opposition to the proposed rate increases.

The City Manager advised that Mr. Richard Spencer had offered to donate the City of Marion a caboose that he owns. The caboose is located off of Old Linville Road north of Marion and the only cost to the City will be to move the caboose and prepare a site for it. Staff is currently assessing options for moving the caboose and would propose displaying it at the Historic Marion Depot.

Mayor Little stated that he very much appreciates Mr. Spencer's generous donation of the caboose, which will be a very appropriate addition to the Depot.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, those members of Council present voted to accept the caboose being donated by Mr. Richard Spencer and to authorize the City Manager to make arrangements to have it relocated to the Depot.

COUNCIL MEMBER COMMENTS: Council Member Doggett stated that she had recently received compliments from a family visiting the area about how nice the Downtown area, and particularly the landscaping, looks.

Council Member Ramsey stated that the Street Committee had recently reviewed a street light request.

The City Manager advised that City staff were waiting to hear back from the resident that had requested the street light, since the Street Committee had recommended placement of a street light on a different pole than what the resident had requested. The Street Committee recommendation will be presented at the June 4 Council meeting.

ADJOURNMENT: Upon a motion by Council Member Clark, seconded by Council Member Doggett, those members of Council present voted to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.00000208 (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 28, 2013 at 6:00 P.M. in the Conference Room located at 194 North Main Street for the purpose of holding a Budget Workshop/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; Harriett Thomas, CPA, Finance Director; Heather Cotton, AICP, Planning and Development Director.

BUDGET WORKSHOP/PLANNING SESSION: The City Manager provided an overview of his proposed 2013-14 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 2012-13 City budget will be held on Tuesday, June 18, 2013 at 7:00 p.m. at City Hall.

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

1. Mt. Ida Property Access – The City Manager provided estimates for the construction of a gravel and paved access road to the City's property on Mt. Ida, to fulfill a grant requirement for access to and light recreational development of this property. After discussion, Council felt that a paved road to the property line would be the best solution. A parking area and picnic shelter could be constructed near the property line, with trails extending across the property. The City Manager stated that he would ask the Public Works Director to refine the cost estimate and would develop recommendations with the Finance Director regarding how to pay for the project. Council agreed that $83,199 recently refunded to the City by DOT for the Downtown Streetscape Project could be used for this project, but additional funding will be needed. This item will be brought back to Council for review at a future meeting.

2. Lake James Watershed Reclassification Request – Planning and Development Director Heather Cotton advised that she had participated in a telephone conference earlier that day with Assistant to the County Manager Ashley Wooten, County Planning Administrator Ron Harmon and two representatives of the North Carolina Department of Environment and Natural Resources. The purpose of the telephone conference was to discuss McDowell County's request to reclassify Lake James as a Watershed IV, to allow for the County to construct a future water intake and water treatment plant on the lake. Ms. Cotton reported that the NCDENR representatives indicated that they would most likely push for the lake to be classified as a Watershed III, forcing much more stringent development regulations on the County, City, Town of Old Fort, industries such as Baxter Health Care and Coats American, as well as Avery County and municipalities within that county.

   Ms. Cotton stated that the NCDENR representatives also advised that the County needed to take several steps in the application process, prior to asking other jurisdictions for a resolution of support, especially since the watershed classification to be approved was unknown at this time.

   Ms. Cotton agreed to continue to work with County staff to help provide technical assistance with this process. Council agreed to take this matter under advisement, considering that the NCDENR representatives had indicated that Council consideration of a support resolution for the watershed reclassification request would be premature at this time.

3. Carson House Funding – Council Member Doggett suggested that Council approve a contribution to the Carson House project to construct a pavilion/assembly structure on the historic property. She noted that this structure could enhance tourism and provide a nice location for weddings, meetings, reunions, etc. Council was favorable to this idea and agreed to consider a donation as part of a Budget Ordinance Amendment at the next regular Council meeting.

No action was taken on these items. Items requiring City Council action will be included in the 2013-14 budget or future budgets or placed on future City Council meeting agendas for consideration.

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Council Member Clark, Council voted unanimously to adjourn the meeting.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

AA.000000209 (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 4, 2013 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; Harriett Thomas, CPA, Finance Director; Heather Cotton, AICP, Planning and Development Director; Allen Lawrence, Police Chief; Brant Sikes, Public Works Director; Joshua Williams, Zoning Administrator/Code Enforcement Officer; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Don Curry, P.E., 205 S. Fuquay Avenue, Fuquay Varina, NC; Louis Parrow, 552 Ashworth Loop, Marion, NC; Beth Browning, 378 South Main Street, Marion, NC; Rhonda Robbins, 378 South Main Street, Marion, NC; Janet Curtis & Chris Jernigan, South Mountain Children & Family Services & McDowell Child Advocacy Center; Savannah, Malachi & Elias Williams, 211 Walker Drive, Old Fort, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

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

A. Approval of Minutes – May 21, 2013 Regular City Council Meeting Minutes and May 22, 2013 City Council Budget workshop/Planning Session.

B. Approval of Budget Ordinance Amendments

CITY OF MARION, NORTH CAROLINA
2012-2013 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 2012-13 as adopted by the Marion City Council on the 19th day of June, 2012 is hereby amended as follows:

GENERAL FUND

a. General Fund Expenditures, Police, Account Number 10-510-2600, Advertising is increased from $300 to $1,250.

b. General Fund Expenditures, Police, Account Number 10-510-5800, Dispatching is increased from $80,000 to $92,375.

c. General Fund Expenditures, Police, Account Number 10-510-7400, Capital Outlay is increased from $97,588 to $121,412.

d. General Fund Expenditures, Fire, Account Number 10-530-1700, M & R Vehicles is increased from $32,000 to $49,488.

e. General Fund Expenditures, Fire, Account Number 10-530-7400, Capital Outlay is increased from $30,200 to $67,200.

f. General Fund Expenditures, Fleet Maintenance, Account Number 10-555-1600, M & R Equipment is increased from $500 to $1,000.

g. General Fund Expenditures, Fleet Maintenance, Account Number 10-555-3300, Supplies & Materials is increased from $2,000 to $2,500.

h. General Fund Expenditures, Street Department, Account Number 10-560-7400, Capital Outlay Equipment is decreased from $255,922 to $155,922.

i. General Fund Expenditures, Recreation Department, Account Number 10-620-1600, Maintenance and Repairs - Equipment is increased from $1,300 to $3,300.

j. General Fund Expenditures, Recreation Department, Account Number 10-620-3300, Supplies & Materials is increased from $3,000 to $6,000.

k. General Fund Expenditures, Recreation Department, Account Number 10-620-7400, Capital Outlay Equipment is increased from $40,000 to $45,000.

l. General Fund Expenditures, Cemetery Department, Account Number 10-640-3300, Department Supplies is increased from $5,000 to $6,000.

m. General Fund Expenditures, Non-Departmental, Account Number 10-660-6000, McDowell Mission Contribution is increased from $10,000 to $18,000.

n. General Fund Expenditures, Non-Departmental, Account Number 10-660-6500, Carson House Contribution is increased from $-0- to $2,000.

o. General Fund Expenditures, Non-Departmental, Account Number 10-660-9000, Transfer to General Fund Capital Projects is increased from $40,000 to $85,000.

p. General Fund Expenditures, Non-Departmental, Account Number 10-660-9950, Special Projects is increased from $10,000 to $25,000.

q. General Fund Revenues, Account Number 10-319-0000, Tax Penalties & Interest is increased from $20,000 to $25,000.

r. General Fund Revenues, Account Number 10-319-1000, Prior Year Tax Revenue is increased from $60,000 to $85,000.

AA.00000210 (24)

s. General Fund Revenues, Account Number 10-321-0000, Privilege License Revenue is increased from $57,000 to $58,300.

t. General Fund Revenues, Account Number 10-330-0000, Planning & Zoning Fees is increased from $7,300 to $7,600.

u. General Fund Revenues, Account Number 10-334-0000, CERT Grant is increased from $-0- to $1,974.

v. General Fund Revenues, Account Number 10-334-1500, Bulletproof Vest Grant is increased from $1,890 to $2,890.

w. General Fund Revenues, Account Number 10-335-0150, MIT-EAP Grant is increased from $-0- to $1,750.

x. General Fund Revenues, Account Number 10-335-7000, ABC Net Revenue is increased from $60,000 to $70,000.

y. General Fund Revenues, Account Number 10-341-0500, Refunds/Reimbursements is increased from $17,000 to $18,750.

z. General Fund Revenues, Account Number 10-341-1100, Parking Tickets/Civil Citations Revenue is increased from $5,500 to $6,100.

aa. General Fund Revenues, Account Number 10-341-3000, Zoning Income/Inspection Fees is increased from $28,200 to $30,000.

bb. General Fund Revenues, Account Number 10-342-2100, County Fire Protection is increased from $300,000 to $338,000.

cc. General Fund Revenues, Account Number 10-344-3300, Cardboard Recycling Grant is decreased from $23,760 to $18,760.

dd. General Fund Revenues, Account Number 10-344-3400, Cardboard Recycling Revenue is increased from $2,500 to $3,500.

ee. General Fund Revenues, Account Number 10-344-7000, Smart Grid Grant Revenue is increased from $2,327 to $3,300.

ff. General Fund Revenues, Account Number 10-390-0000, Cemetery Revenue is increased from $22,300 to $26,000.

gg. General Fund Revenues, Account Number 10-392-2000, Property Insurance Reimbursement is increased from $4,600 to $21,208.

hh. General Fund Revenues, Account Number 10-399-0000, Fund Balance Appropriated is decreased from $343,728 to $311,610.

GENERAL FUND CAPITAL PROJECTS FUND

a. General Fund Capital Projects Fund Expenditures, Account Number 11-520-0900, Streetscape - Contingency is increased from $39,493 to $59,493.

b. General Fund Capital Projects Fund Revenues, Account Number 11-391-0000, Transfer from General Fund – Streetscape is increased from $25,000 to $45,000.

c. General Fund Capital Projects Fund Expenditures, Account Number 11-530-0000, Yancey & Perry Streets – Flood & Drainage is decreased from $556,970 to $549,445.

d. General Fund Capital Projects Fund Expenditures, Account Number 11-530-0200, Yancey & Perry Streets – Land Acquisition is increased from $-0- to $7,525.

WATER AND SEWER FUND

a. Water and Sewer Fund Revenues, Account Number 30-360-1000, Write-off Bad Debts is increased from $5,000 to $10,000.

b. Water and Sewer Fund Revenues, Account Number 30-373-0100, Water Taps is increased from $60,000 to $65,000.

c. Water and Sewer Fund Revenues, Account Number 30-392-1100, Sale of Surplus Equipment is increased from $2,878 to $4,316.

d. Water and Sewer Fund Expenses, Account Number 30-660-9600, Insurance, Bonds & Workers Comp is increased from $93,000 to $94,639.

e. Water and Sewer Fund Expenses, Water Filter Plant, Account Number 30-812-0400, Professional Fees is increased from $18,000 to $26,000.

f. Water and Sewer Fund Expenses, Water Filter Plant, Account Number 30-812-1500, M & R Building & Grounds is increased from $7,000 to $11,000.

g. Water and Sewer Fund Revenues, Account Number 30-299-0000, Fund Balance Appropriated is increased from $425,520 to $437,721.

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 June 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–13–06–04–2

PUBLIC APPEARANCE – McDOWELL COUNTY CHILD ADVOCACY CENTER: Ms. Beth Browning, along with several other Representatives of the South Mountain Children and Family Services of McDowell Child Advocacy Center appeared before Council.

Ms. Browning gave a brief PowerPoint Presentation explaining the various roles of the Child Advocacy Center (CAC), also known as the Gingerbread House in our Community. The Gingerbread House has a child-friendly atmosphere that primarily strives to reduce the trauma of an abused child situation. The Gingerbread House's main purpose is to coordinate the efforts of the various agencies who intercede in child abuse

AA.000000211 (24)

cases. The Gingerbread house team also works to ensure that the victims and their families get assistance with other treatments and services as needed.

The CAC works closely with the Department of Social Services, the Marion Police Department, the McDowell County Sherriff's Department and other agencies in the County to ensure the safety and wellbeing of the children.

Ms. Browning stated that a person can never be prepared for the day their child reveals that they have been abused. What makes the Gingerbread House such a blessing to the children and families facing the ordeal of child abuse is primarily the way it reduces the trauma of the situation. The Child Advocacy Center's main purpose is to coordinate the efforts of the various agencies who intercede in child abuse cases. Without such collaboration, a child victim would have to endure multiple interviews by different professionals. Within the child-friendly atmosphere of the Gingerbread House, one highly-trained professional interviews the child and records the interview. In addition, an on-site Nurse conducts a forensic medical examination eliminating the need for an emergency room visit. The multidisciplinary team comprised of representatives from all intervening agencies (Social Services, Law Enforcement, DA's office, Mental Health, etc.) review the cases weekly. In addition to gleaning information to prosecute the perpetrator in the case, the team also works to ensure that the victims and their families get assistance with other treatments and services as needed.

The Gingerbread House in Marion is located on South Main Street just south of the School Central Office.

Ms. Browning stated that the CAC wanted to meet Council Members and let them know what the CAC is doing in the community.

Mayor Little and Council Members thanked Ms. Browning and the other representatives of South Mountain for their great work in the City and County and thanked them for coming to the meeting.

RECOGNITION OF EMPLOYEE CERTIFICATION: Planning and Development Director Heather Cotton recognized Zoning Administrator/Code Enforcement Officer Joshua Williams for his recent Certified Zoning Officer (CZO) certification by the N.C. Association of Zoning Officials. She advised that this certification was the culmination of knowledge gained through work experience and classes at the UNC School of Government, along with passing a test.

Joshua's wife and two children were present for this presentation.

Ms. Cotton presented Mr. Williams with the Certificate that read as follows:

North Carolina Association of Zoning Officials
Zoning official certification
This is to certify that

Joshua Williams

Has satisfactorily completed a prescribed course of study, other prerequisites as required by the Association, and exhibited character and knowledge necessary for a successful zoning career in the State of North Carolina.

The Certification Committee issues this certification under the seal of the Association and Signatures of the Committee Chairman and the Association president the 24ht day of April 2013.

_____ _____

Chairman President

Mayor Little and Council Member congratulated Mr. Williams on his certification.

PRESENTATION BY DON CURRY – AUTUMN CARE SEWER PROPOSAL: Mr. Don Curry, of Curry Engineering appeared before City Council regarding possible sewer extension options for Autumn Care on Airport Road.

Mr. Curry Autumn Care is looking to see if City Council would approve any type of cost share arrangement for any of the possible sewer extension options.

One option would be for a public pump station to serve part of the area between Autumn Care and the current City Limits at Hospice. Mr. Curry estimated the cost of this option at $221,000 if the existing 4" sewer force main is used (Option C1), or at $477,000 if a new sewer force main is constructed (Option C2). The City Manager noted that City staff had determined that the drainage area is very small for such a pump station, at 42 acres, and that is almost certain that a new, larger force main will need to be installed if additional customers are connected.

Option A would involve elimination of Autumn Care's private pump station and the construction of a gravity sewer line mainly across private property to Moore Road and eventually to Garden Creek Road across from Garden Creek Baptist Church. This option has an estimated cost of $175,000. Option B also involves elimination of Autumn Care's private pump station and the construction of a gravity sewer line down Airport Road to Holly Street to Garden Creek Road. This option would cost an estimated $425,000.

Mr. Curry suggested that the City could benefit by extending sewer service to unserved areas, thereby adding customer and allowing for annexation opportunities.

The City Manager stated that the possible options all have only very limited benefit to the City, since the pump station options would not provide for a large drainage area and the City does not have water service in most of the area where gravity sewer service is proposed. He suggested that the cost benefit analysis of such an extension would not be favorable to the City.

Mayor Little stated that Council Members had looked at all of the options and that it was their consensus that it would not be to the City's benefit to invest in any of these options. He advised that the City had limited financial resources and would not be able to justify City participation.

Council Member Clark asked about Autumn Care's present lift station and what kind of problems they were having with it.

Mr. Curry stated that Autumn Care has a number of problems with the lift station failing, clogging in general and just requiring a lot of maintenance.

Council Member Clark suggested that it may be much less expensive for Autumn Care to evaluate the existing private pump station and make necessary repairs.

AA.00000212 (24)

Mayor Little stated that the City very much appreciates Autumn Care, which is a valued business serving the community. However, the City simply does not have sufficient cash reserves to allow for a significant investment in such a project.

The City Manager noted that the City maintains the force main line extending from the Autumn Care property back to the City's gravity sewer system. He advised that the City was not aware of their being any deficiencies in this line, but could certainly look at the line if deficiencies were discovered.

No action was taken on this item.

PUBLIC HEARING – ADOPTION OF ANNEXATION ORDINANCE – LONON AVENUE – HEMPHILL FOUNDATION/HOME LIVING OPPORTUNITIES ANNEXATION: Mayor Little opened the Public Hearing.

The City Manager advised that this public hearing is required on the requested annexation of the 2.08 acre Lonon Avenue – Hemphill Foundation/HOME Living Opportunities annexation area. The annexation area consists of two parcels, including the Laurelwood Group Home and one house. The City Manager stated that this annexation, upon approval by Council, is scheduled to take effect on June 30.

There were no citizens present to further discuss this annexation request.

Mayor Little closed the Public Hearing.

Upon a motion by Mayor Pro Tem Lloyd Cuthbertson seconded by Council Member Doggett, Council voted unanimously to adopt the following ordinance to annex the Lonon Avenue – Hemphill Foundation/HOME Living Opportunities annexation area effective June 30, 2013:

AN ORDINANCE TO EXTEND
THE CORPORATE LIMITS OF THE
CITY OF MARION, NORTH CAROLINA –
LONON AVENUE – HEMPHILL FOUNDATION/HOME LIVING OPPORTUNITIES ANNEXATION - 2013

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 4, 2013, after due notice by publication on May 22, 2013; 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, 2013:

Tract One

BEGINNING on an iron pipe set close to the Northwest margin of the pavement of Lonon Avenue (S.R. 1503), said BEGINNING pipe being located North 33 degrees 20 minutes 30 seconds West 15.75 feet from a found spike in the centerline of Lonon Avenue, and from said BEGINNING running with the line of Trussco, Inc. (McDowell County Deed Book 319 at page 372), North 33 degrees 20 minutes 30 seconds West 318.47 feet to an iron pipe found at the Northeastern edge of the pavement of Laurelwood Drive, a private drive, said iron pipe serving a common corner of the property of Trussco, Inc. and the property of McKinney Construction, Inc. (McDowell County Deed Book 321 at page 477); then running with the McKinney Construction, Inc. line, North 33 degrees 20 minutes 30 seconds West 110.53 feet to an iron pipe set, common corner with the property of Alvin L. Hall (McDowell County Deed Book 90 at page 456); then running with the line of Alvin L. Hall, North 56 degrees 39 minutes 30 seconds East 218.01 feet to an iron pipe set; then partly with the line of Alvin L. Hall and partly with the line of James W. Hall (McDowell County Deed Book 139 at page 541 and McDowell County Deed Book 331 at page 341), South 33 degrees 20 minutes 30 seconds East 429.00 feet to an iron pipe set just Northwest of the margin of pavement of Lonon Avenue; then South 56 degrees 39 minutes 30 seconds West 218.01 feet to the BEGINNING, containing approximately 2.147 acres according to a survey of Childres and Associates, Surveying Co., dated January 17, 1991.

LESS AND EXCEPTING 0.381 acre tract conveyed to Kenneth Ray Conley and wife, Cynthia Bates Conley in Book 452, page 904, McDowell County Registry.

Tract Two

BEING a parcel containing 0.381 acres, more or less, abutting State Road No. 1503, known as Lonon Avenue, and more fully shown on an unrecorded plat of survey prepared by Childres Surveying, Inc., dated February 10, 1993, and from which unrecorded plat the following metes and bounds description was taken.

BEGINNING at an iron pipe located within the Northern right-of-way for State Road 1503, known as Lonon Avenue, being a common corner with lands now or formerly owned by James W. Hall (see Book 139, Page 541 and Book 331, Page 341, McDowell County Public Registry); and running thence with said right-of-way, South 56 degrees 39 minutes 30 seconds West 102.00 feet to an iron pin located within the pavement of said street; thence leaving the street and running with the line of lands now or formerly owned by Homestead Enterprises, Inc., North 23 degrees 39 minutes 00 seconds West 203.00 feet to an iron pipe; thence North 66 degrees 21 minutes 00 seconds East 68.80 feet to an iron pipe in the line of lands now or formerly owned by Hall; thence with the Hall line, South 33 degrees 20 minutes 30 seconds East 188.52 feet to the point and place of BEGINNING.

Section 2. Upon and after June 30, 2013, 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 4th day of June, 2013.

AA.000000213 (24)

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Approved As To Form:

City Attorney

Ordinance Number: O-13-06-04-1

PUBLIC COMMENT PERIOD: Mr. Louie Parrow of 552 Ashworth Loop was present for this meeting and asked if there was an application to fill out or exactly what he would need to do to get on the next City Council Agenda.

Mr. Parrow stated that he is interested in using the Farmer's Market for various fund raisers.

Mayor Little advised Mr. Parrow that he could discuss consult with the City Manager to be placed on the June 18 Council agenda.

CIVIL CITATION APPEAL: The City Manager advised that Ms. Holly Whitsett submitted a written request, appealing a $10.00 parking ticket she received on May 22, 2013 for overtime parking on South Main Street.

The City Manager reported that Ms. Whitsett stated in her request that she was parked longer than was allowed on Main Street, however, she asked that the ticket be forgiven because she was volunteering for MACA.

The City Manager stated that Council had typically not waived the penalty in such situations. Given the fact that Ms. Whitsett admits to the violation and offers no reason why the ticket should not have been written, the City Manager stated that he would recommend that Council reject this appeal.

The City Manager advised that Ms. Whitsett had already paid the ticket.

Mayor Little stated that he was grateful that Mr. Whitsett volunteers with the MACA; however there is plenty of non time restricted parking in the downtown area.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to deny the appeal of Ms. Whitsett for a $10.00 parking citation received for overtime parking on South Main Street on May 22, 2013.

CONSIDER ADOPTION OF RESOLUTION AUTHORIXING THE SALE OF CITY PROPERTY ON MOREHEAD ROAD BY NEGOTIATED OFFER AND UPSET BID: The City Manager advised that Mr. Ronnie Harvey had submitted an offer to purchase 0.18 acres of excess right of way owned by the City on Morehead Road for $1,000. This is a wooded parcel that has never been developed. The City initiated foreclosure on this property, due to non-payment of property taxes. The property failed to sell during the foreclosure process. The City ended up paying $1,700 for the property to cover legal expenses and County taxes. If accepted, the City would need to publish notice of Council's acceptance of the offer and allow the public ten days to submit an upset bid.

Upon a motion by Council Member Martin, seconded by Council Member Ramsey, Council voted unanimously to adopt the following Resolution authorizing the sale of City property on Morehead Road to Mr. Ronnie Harvey for $1,000, subject to advertising 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. Ronnie Harvey has submitted a bid in the amount of $1,000 for the purchase of one parcel of property that is approximately 0.18 acres in size, is owned by the City of Marion and is located on Morehead Road (McDowell County Parcel Identification Number 1711.09-05-3504).

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 Morehead Road (McDowell County Parcel Identification Number 1711.09-05-3504) that is approximately 0.18 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. Ronnie Harvey 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. Harvey 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, plus advertising and legal costs.

Adopted this the 4th day of June, 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

AA.000000214 (24)

RESOLUTION NUMBER: R-13-06-04-1

RECEIVE STREET COMMITTEE RECOMMENDATION: The City Manager advised that the Street Committee had met on May 17 to review a request for a street light at the end of Murray Street, located off of Carson Street just past Blue Ridge Terrace. As shown on the map presented to Council, there is an existing street light at the intersection of Carson and Murray Streets. The request is to add a street light at the end of the street. The street is about 250 feet long. The Street Committee recommended that a street light be added at the end of Murray Street.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to approve the addition of a street light at the end of Murray Street.

REVIEW/CONSIDER APPROVAL OF REQUEST FROM DUKE ENERGY FOR RIGHT OF WAY ACROSS CITY PROPERTY ON COLLEGE DRIVE: The City Manager advised that, as indicated in the information presented to Council Members, Duke Energy is requesting a right of way across City property on College Drive to allow for the upgrade of distribution line serving the County's Universal property. Specifically, Duke requests a 30' right of way, encompassing 0.81 acres, to allow Duke to upgrade distribution lines on City property beside College Drive to the County's Universal building. Duke indicates that the distribution lines will be placed next to the road, just outside the 60' DOT right of way.

Mayor Little stated that he had reviewed the agreement and made changes, which he outlined.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted to approve the right of way agreement with Duke Energy, with Mayor Little's changes included, as follows

PREPARED BY: Karol P. Mack, Associate General Counsel, Duke Energy Corporation
Mail To: Duke Energy Carolinas, LLC
Records Management ST30C
P.O. Box 1007
Charlotte, N.C. 28201

Site 000571
Land Unit 1181896
Project No 000571-391145

STATE OF NORTH CAROLINA)
:
COUNTY OF MCDOWELL)

RIGHT OF WAY AGREEMENT

THIS INDENTURE, made and entered into this __ day of _____, 20___, by and between **CITY OF MARION**, having a mailing address of P.O. Drawer 700, Marion, North Carolina 28752-0700 (hereinafter, the "Grantor"), and **DUKE ENERGY CAROLINAS, LLC**, a North Carolina limited liability company, having a mailing address of P.O. Box 1007, Charlotte, North Carolina 28201-1007 (hereinafter, the "Grantee");

W I T N E S S E T H:

That Grantor, in consideration of Ten Dollars ($10.00) and other valuable considerations paid by Grantee, the receipt of which is hereby acknowledged, does grant and convey unto Grantee, its successors and assigns, a perpetual easement and right of way, for the purposes and subject to the terms and conditions herein below set out, over and across the land of Grantor (hereinafter "Premises") lying in the State and County aforesaid, acquired by Grantor by the following:

Deeds recorded in Deed Book 161 at Page 142 and Deed Book 93 at Page 2691, both in the Office of the Register of Deeds for McDowell County.

The easement and right of way herein granted by Grantor to Grantee, its successors and assigns, over the Premises above described consist of the following:

(a) Grantee's Use of Right of Way Strip. Grantor grants to Grantee, for itself and its successors and assigns, a perpetual easement within the Right of Way Strip (as defined herein) to enter and construct, reconstruct, replace, rebuild, enlarge, modify, remove, inspect, maintain and use multiple lines (either overhead or underground, or both) for the purpose of transporting electricity and for communications use. As used herein, the "Right of Way Strip" shall refer to that portion of land containing 0.81 ± total acres (Area 1 = 0.03 Acres and Area 2 = 0.78 Acres), all as shown on that certain plat of survey entitled "Right-of-Way to be Acquired from Town of Marion," (Sheets 4 of 5 and 5 of 5) dated March 13, 2013, marked Map: 000571-390833, said plat attached hereto as **Exhibit A** and incorporated herein by reference. A "line" may consist of overhead and/or underground wires, conductors, cables, conduits and other necessary apparatus, fixtures, hardware and appliances deemed necessary by Grantee for the transportation of electrical energy and/or for the personal communications purposes of Grantee or its successors or assigns, including, without limitation, conduits, static wires, guy wires, anchors, grounds, footings, foundations, crossarms, insulators, electronic equipment and other associated equipment. Overhead lines or cables may be supported by single or multiple rows of towers, poles or other structures (without limitation as to number) placed at necessary and proper intervals upon the Right of Way Strip. In connection with Grantee's rights within the Right of Way Strip, Grantee shall have the right (i) to clear and keep the Right of Way Strip free of trees and other vegetation (except as provided in (b) hereinbelow), structures, and other objects of any nature including, without limitation, satellite signal receiver systems and all other objects (whether above ground or below ground) which may, in Grantee's opinion, interfere in any way with or endanger Grantee's lines or the maintenance and operation of Grantee's lines, (ii) to install and maintain fences, gates and roads within the Right of Way Strip to afford Grantee access to the Right of Way Strip and (iii) to plant and maintain shrubs and ornamental trees within the Right of Way Strip at locations selected by Grantee and remove the same.

(b) Grantor's Reserved Use. Grantor shall be entitled to use the Right of Way Strip for all purposes not inconsistent with the rights and easements herein granted to Grantee, including (i) the right to cultivate crops, plants, shrubs and trees of a species that will not exceed fifteen (15) feet in height at maturity, provided that any such vegetation does not impede Grantee's use of and access to the Right of Way Strip, (ii) the right to pave, improve and use the Right of Way Strip for temporary vehicular parking, provided Grantor installs protective barriers satisfactory to Grantee for Grantee's structures, (iii) the right to use the Right of Way Strip for recreation, provided no structures or objects (above or below ground) are erected or placed without the prior written approval of Grantee, (iv) the right to retain existing roads and drives and sewer, water and other utility lines within the Right of Way Strip at their existing locations as of the date of this instrument, (v) the right to use, construct and maintain new paved or unpaved roads, streets and driveways and new water, sewer, drainage and other utility lines or pipes crossing the Right of Way Strip, provided such facilities conform to the following requirements: (A) such facilities cross the Right of Way Strip from one side of the Right of Way Strip to the other side at an angle of not less than thirty (30) degrees between the center line of said facilities and the center line of the Right of Way Strip, provided that no road, street or driveway intersects entirely or partially within the Right of Way Strip with any other road, street or driveway, (B) no portion of such facilities is located within twenty-five (25) feet of any of Grantee's supporting poles, towers, or structures, and (C) such facilities are constructed in strict

compliance with all clearance requirements of Grantee and all other regulations and ordinances then applicable to electrical conductors, (vi) the right to maintain existing fences and the right to build new fences on the Right of Way Strip with the prior written approval of Grantee, provided any such new fences conform to the following requirements: (A) such fences shall not be attached to poles, towers or structures, (B) such fences shall be installed at least twenty-five (25) feet from poles, towers or structures, (C) such fences shall not exceed 10 feet in height, (D) such fences shall cross the Right of Way Strip from one side of the Right of Way Strip to the other side at an angle of not less than 30 degrees between the centerline of said facilities and the center line of the Right of Way Strip, and (E) if a fence crosses the Right of Way Strip, a gate shall be installed by Grantor per Grantee's specifications to allow free access required by Grantee's vehicles and equipment and (vii) the right to excavate, grade and fill, provided Grantor receives Grantee's prior written approval.

(c) Grantee's Use of Premises Outside of the Right of Way. Grantor further grants to Grantee, for itself, its successors and assigns, the right to enter upon the Premises for the following purposes and uses:

(1) Grantee and Grantee's successors and assigns relative to the Right of Way Strip may cut, fell and remove any and all trees on the Premises that are or may become tall enough, in Grantee's opinion, to fall on a line or other facility or structure within the Right of Way Strip.

(2) Grantee and Grantee's successors and assigns relative to the Right of Way Strip may enter upon the Premises at any time and from time to time to gain access (for vehicles, equipment and pedestrians) to the Right of Way Strip or to cut, fell and remove trees from the Premises (pursuant to Paragraph (c)(1) herein); and an easement is hereby granted to Grantee for such purpose. Grantee's right to enter the Premises (for which an easement is hereby granted to Grantee) to access the Right of Way Strip or Premises shall be confined to streets, roads and driveways that exist when Grantee's entry is necessary, provided such existing streets, roads and driveways are adequate for Grantee's purposes and afford Grantee reasonably convenient and feasible access to the Right of Way Strip or the location on the Premises where trees are to be cut, fell or removed as provided for hereinabove. If streets, roads and driveways satisfying the requirements in the immediately preceding sentence do not exist at such time, Grantee shall be entitled to use (and an easement is hereby granted for such purpose) the most reasonably convenient and feasible access route or routes over the Premises to access the Right of Way Strip (and Grantee shall be entitled to construct and maintain a roadway or driveway for Grantee's purposes within such route or routes) or the location of the Premises where trees are to be cut, fell or removed as provided for hereinabove.

(e) Grantee's Repair Obligation. Grantee shall promptly and completely repair damage to the Premises, including roads, driveways and fences, resulting directly from Grantee's exercise of its rights granted herein. Provided, however, for purposes of the initial clearing of all trees which Grantee is entitled to cut and remove from the Premises pursuant to Paragraphs (a) and (c) herein, said trees shall, upon such cutting, become the property of Grantee.

Grantee shall have the duty to promptly and completely remove from the Right of Way and Premises all trees and parts of trees and other vegetation that Grantee cuts or causes to be cut to protect its lines. Such repair and complete removal shall take place within seven (7) days of the cutting of trees and other vegetation or within seven (7) days of Grantee damaging the Premises.

The failure of Grantee to exercise any of the rights herein granted shall not be construed as a waiver or abandonment of the right thereafter at any time or from time to time to exercise any and all of such rights.

TO HAVE AND TO HOLD the aforesaid rights, privileges and easements unto Grantee, its successors and assigns forever.

And Grantor, for the Grantor and for the Grantor's successors and assigns, covenants to and with Grantee, its successors and assigns, that Grantor is lawfully seized of the above described land in fee and has the right to convey the said rights and easements, that the same is free and clear from any and all encumbrances and will forever warrant and defend the title to the said rights and easements against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, this instrument is executed on the date first above written.

GRANTOR

City of Marion

By: _____
Name: _____

Title: _____

STATE OF _____ CAROLINA

COUNTY OF _____

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: _____

Date: _____

_____
Notary Public

My Commission Expires: _____

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that he, Mayor Little and Mayor Pro Tem Cuthbertson spoke at the N.C. Utilities Commission public hearing on the Duke Energy rate increase at the McDowell County Courthouse on May 22. There were quite a few people in attendance, but many, if not most, were from out of town and many were Duke Energy representatives. The City Manager stated that he hoped the Utilities Commission will reduce the requested rate increase. The City Manager advised that his rough calculation is that the requested rate increase could cost the City nearly $40,000 per year. The N.C. League of Municipalities has been approved to intervene on behalf of municipalities in the rate increase request of

AA.00000216 (24)

Duke Energy. The League advises that its efforts cut the increase of Progress Energy in half. Hopefully, the rate increase requested by Duke can be cut as well.

The City Manager advised that the Farmer's Market started its Tuesday afternoon market on May 14. The Tuesday market will likely run through Christmas. The Saturday afternoon market will begin by late June and likely run through September.

Public Works Director Brant Sikes advised that he had met with a geotechnical engineer, who is developing options and cost estimates for repairs to the bank next to Crawford Street, under which Corpening Creek flows. The street remains closed to through traffic as a result of flooding damage that took place in early May. Mr. Sikes stated that there is no easy fix to this problem. The City Manager stated that options and costs for repairs will be presented to Council as soon as they are available.

The City Manager advised that the City had launched the N.C. League of Municipalities Wellness Initiative for City employees in late May. The Police Department has been participating in this program for the past two years. The City had well over half of the rest of the workforce, plus all of our new Police Department staff, signed up to participate in the Program. The City Manager stated that he was very pleased with this level of participation.

The City Manager advised that McGill Associates had submitted a proposal for engineering and construction administration services for Phase 2 of the Joseph McDowell Historical Catawba Greenway. The proposal same in under the $64,000 budgeted for such services. The City Manager stated that Council had already approved awarding the contract for these services to McGill, contingent on McGill submitting a project that fit within the project budget. The City Manager advised that the contract could now be executed with McGill, without objection from Council. Mayor Little and Council Members agreed by consensus for the City Manager to execute the contract with McGill Associates for engineering and construction administration services for Phase 2 of the Joseph McDowell Historical Catawba Greenway.

The City Manager reported that new Police Chief Allen Lawrence is off to a great start. He said that Chief Lawrence is making an effort to become reacquainted with the community. Chief Lawrence said that he spent most of the morning with Marion Business Association Executive Director Freddie Killough meeting business owners in the Downtown area.

Mayor Little stated that he would encourage Chief Lawrence to try and meet each business owner in the entire City, although that will definitely take some time to do.

COUNCIL MEMBER COMMENTS:

Mayor Pro Tem Cuthbertson asked if there had been any traffic issues with the US 221 Bypass being closed for repairs. The City Manager advised that traffic seems to flowing pretty well through downtown and that hopefully DOT can reopen the Bypass by early the following week.

Council Member Doggett asked if the marked parking space was legal in front of a fire hydrant and City Barber Shop on South Main Street.

The City Manager advised that this parking space is legal.

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.00000217 (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 18, 2013 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; Heather Cotton, AICP, Planning and Development Director; Allen Lawrence, Police Chief; Brant Sikes, Public Works Director; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Louie Parrow, 552 Ashworth Loop, Marion, NC; Van Taylor, 44 Cooper Road, Marion, NC; Gloria Boyce, 107 Edgewood Drive, Marion, NC; Dottie & Mariah McKesson, 1060 West Henderson Street, Marion, NC; Paula Avery, 220 West Grayson Street, Marion, NC; Dalton Parry, 454 Love Drive, 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 Martin stated that it was with much honor and privilege that he had chosen his Citizen of the Month for June.

Dorothy (Dottie) O'Neil McKesson

Council Member Martin advised that Ms. McKesson has been a member of this community for 33 years. She is a teacher at West McDowell Junior High School. Through the years, she has been a part of the Student Council, Fellowship of Christian Athletes, Beautification Committee, and currently oversees the Barbara Pool Memorial Scholarship Fund.

Ms. McKesson joined the military in 1974 and became a sergeant in the Air Force. After her four years of service, she enrolled at Winston-Salem State University and received her Bachelor's degree in English with a minor concentration in social studies.

Ms. McKesson attends Mt. Zion AME Church in Marion where her duties revolve around the choir, "Voices of Zion", ushering, serving as Ministry of Kindness Officer and serving as a Deaconess. Ms. McKesson is the proud mother of two adult college students, Jared and Mariah McKesson.

Mayor Little, Council Members along with family and friends all shared kind words and congratulated Ms. Dottie McKesson on being selected as Marion's Citizen of the Month for June.

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 – June 4, 2013 Regular City Council Meeting Minutes.

B. Approve Revised City Pay and Classification Plan

CITY OF MARION
LIST OF CLASSES ARRANGED BY GRADE
EFFECTIVE JULY 1, 2013

GRADE	CLASSIFICATION	HIRING RATE	MAXIMUM
7	Equipment Operator I Maintenance Worker Receptionist	22,179	35,124
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	23,289	36,880
9	Administrative Support Specialist Treatment Plant Operator	24,453	38,725
10	Maintenance Technician/Plant Operator	25,675	40,662
11	Crew Leader/Equipment Operator Fire Inspector Fleet Mechanic Laboratory Technician Lead Telecommunicator Senior Treatment Plant Operator Tax Collector	26,961	42,694
12	Accounting Technician Administrative Assistant Fire Equipment Officer / Field Supervisor Police Officer I Purchasing Agent Zoning Administrator/Codes Enforcement Officer	28,307	44,830

AA.00000218 (24)

13	Fleet Maintenance Supervisor/Mechanic Payroll and Personnel Technician Streets Crew Leader I /Maintenance Technician Police Officer II Police Investigator	29,724	47,071
14	Crew Leader/ Equipment Operator II Laboratory Supervisor Master Police Officer Police Assistant Shift Supervisor Police Officer - Special Assignment Streets Crew Leader II /Maintenance Technician	31,209	49,425
15	Assistant Water Utility Maintenance Superintendent Police Shift Supervisor Sanitation Superintendent	32, 772	51,897
16	Assistant Fire Chief Administrative Officer	34,410	53,161
17	Investigations Supervisor Public Works Superintendent Water Utility Maintenance Superintendent	36,129	57,215
18	Building Codes Inspector Water Treatment Plant Superintendent Patrol Commander	37,936	60,079
19	Wastewater Collection/Treatment Superintendent Planning & Development Director	39,834	63,082
20	Public Utilities/Projects Director	41,825	66,235
22	Fire Chief	46,113	73,024
24	Police Chief Finance Director Public Works Director	50,839	80,510

C. Consider Approval of City Fee Schedule Amendments

Council approved the following addition to the City Fee Schedule

XII. Parking / Ordinance Violations / Fingerprinting Charges:

Residential Parking Permit for residents of Downtown Overlay District to allow parking at all times in any City off-street parking lot, except for Historic Marion Tailgate Market/West Henderson Street Parking Lot and North Main Street Gazebo Parking Lot.	$60.00 per year

PUBLIC HEARING – ADOPTION OF 2013-14 BUDGET ORDINANCE: The City Manager advised that this public hearing is required on the proposed 2013-14 City Budget. The proposed budget totals $9,555,411, which represents a decrease of 1.76 percent, or $171,167, over the original 2012-13 budget and a decrease of 3.38 percent, or $334,506, over the amended 2012-13 budget. No tax rate change is proposed. There are also no proposed changes in water and sewer rates, building and planning fees or commercial garbage rates. At the May 28 Budget Workshop, Council directed no changes to the proposed budget.

Mayor Little opened the Public Hearing.

There were no citizens present to discuss the adoption of the 2013-14 Budget.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to adopt the 2013-14 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, 2013 and ending June 30, 2014 in accordance with the chart of accounts heretofore established by the City:

Administration	$	431,976	Planning and Development
238,521			

AA.000000219 (24)

Police	1,880,544
Fire	484,001
Public Works Administration	102,423
Fleet Maintenance	71,228
Street	941,626
Powell Bill	247,240
Sanitation	587,427
Recreation	105,511
Cemetery	21,500
Non-Departmental	412,189
Total	$ 5,524,186

Section 2. It is estimated that the following revenues will be available in the General Fund for the fiscal year beginning July 1, 2013 and ending June 30, 2014:

Prior Year's Taxes	$ 45,000
Vehicle Tax-Collected by County	147,700
City Vehicle License	22,000
Current Taxes	1,985,588
Tax Penalties & Interest	20,000
Privilege License Sales	55,000
Peddler's Permit	100
Interest Earned	7,000
Powell Bill Interest Earned	1,000
Rents and Concessions	38,420
Misc. Revenues	1,000
P/D Copies/Fingerprints	600
Refunds/ Reimbursements	8,000
Utilities Franchise Tax	490,000
Beer/Wine Revenue	36,000
Powell Bill Allocation	222,000
Sales Tax Distribution	1,150,000
ABC Revenues	60,000
Court Costs, Fees & Charges	3,200
Parking Violations	5,000
County Fire Protection	310,000
COPS Grant	12,000
National Night Out Contributions	2,000
State Fire Protection Reimbursement	1,824
Recycling Bin Deposit	200
Cemetery	8,000
DOT Reimbursement Grass Mowing	2,500
Garbage Fees	158,000
Zoning Income - Inspection Fees	27,000
Sale of Garbage/Leaf/Recycling Bags	200
Cable TV Revenues	70,000
Sales of Surplus Equipment	5,000
McDowell County Schools	25,000
EAP Grant	1,750
Wellness Grant	1,750
Bulletproof Vest Grant	2,000
Mountain Glory Revenues	21,000
County Recycling Contribution	4,500
Cardboard Recycling Revenue	5,000
Solid Waste Disposal Tax	5,300
Dispatching Fees – Water and Sewer	2,000
GIS Mapping Fees – Water and Sewer	1,000
Powell Bill Fund Balance	50,000
Fund Balance	360,554
	5,374,186
Transfer from Water and Sewer Fund	150,000
Total	**$ 5,524,186**

Section 3. The following amounts are hereby appropriated in the Capital Reserve Fund – General for the fiscal year beginning July 1, 2013 and ending June 30, 2014:

Reserve for Future Appropriations	$ 153,088
Total	**$ 153,088**

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, 2013 and ending June 30, 2014:

Fund Balance Appropriated	$ 151,988
Interest on Investments	1,100
Total	**$ 153,088**

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, 2013 and ending on June 30, 2014 in accordance with the accounts heretofore approved for the City:

Utility Line Operation	$ 1,331,480
Water Filter Plant	663,828
Waste Treatment Plant	1,030,184
Non-Departmental	296,072
	3,321,564

AA.00000220 (24)

Transfer to General Fund	150,000
Total	**3,471,564**

Section 6. It is estimated that the following revenues will be available in the Water / Sewer Fund for the fiscal year beginning July 1, 2013 and ending June 30, 2014:

Fund Balance	$	272,222
Interest Earned		5,000
Miscellaneous Income		2,180
Bad Check Fees		1,000
Reconnect / Transfer Fee		10,500
Reimbursement – Septic		6,500
Reimbursement - Pump Stations		1,400
Reimbursement – Pretreatment		2,394
Owner Temporary Sales		400
Water Sales		965,000
Late Payment Penalties		80,000
Sewer Service		637,000
Water Taps		50,000
Sewer Taps		20,000
Fire Protection Taps		1,000
Water Service Charge		889,000
Sewer Service Charge		472,000
County Reimbursement – Sugar Hill Road		51,968
Gain(Loss) on Sale of Assets		4,000
Total	**$**	**3,471,564**

Section 7. The following amounts are hereby appropriated in the Capital Reserve Fund – Water/Sewer for the fiscal year beginning July 1, 2013 and ending June 30, 2014:

Reserve for Future Appropriations:	$	252,442
Total	**$**	**252,442**

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, 2013 and ending June 30, 2014:

Fund Balance Appropriated	$	250,742
Interest on Investments		1,700
Total	**$**	**252,442**

Section 9. The following amounts are hereby appropriated in the Internal Service Fund for the fiscal year beginning July 1, 2013 and ending June 30, 2014:

Inventory (Supplies)	$	200,000
Warehouse and Purchasing Operations		104,131
Total	**$**	**304,131**

Section 10. It is estimated that the following revenues will be available in the Internal Service Fund for the fiscal year beginning July 1, 2013 and ending June 30, 2014:

Purchase by Other Funds	$	280,000
Fund Balance Appropriated		24,131
Total	**$**	**304,131**

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, 2013 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 $406,982,960 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 18th day of June, 2013

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–13–06–18–1

Mayor Little and Council Members thanked the City Manager and staff for their hard work in putting together this budget.

AA.00000221 (24)

PUBLIC HEARING – ZONING MAP AMENDMENT – ASSIGN ZONING TO LONON AVENUE – HEMPHILL FOUNDATION/HOME LIVING OPPORTUNITIES ANNEXATION AREA: Mayor Little opened the Public Hearing.

Planning and Development Director Heather Cotton advised that the Lonon Avenue annexation was approved by Council at the June 4 Council meeting, to take effect on June 30, 2013.

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 higher density and institutional type residential uses.

Ms. Cotton reported that the Planning Board voted unanimously at their June 6, 2013 meeting to recommend that R-2 zoning be assigned to the Lonon Avenue annexation area.

There were no citizens present to discuss this zoning request.

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 amending the Official Zoning District Map to assign the R-2 General Residential Zoning District to the Hemphill Foundation/HOME Living Opportunities/Lonon Avenue Annexation Area:

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
ASSIGN ZONING TO
HEMPHILL FOUNDATION/HOME LIVING OPPORTUNITIES 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 Hemphill Foundation/Home Living Opportunities Annexation Territory, as adopted by City Council Ordinance Number O-13-06-04-1

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 June 6, 2013.

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 18th day of June 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-13-06-18-2

PUBLIC HEARING - ZONING TEXT AMENDMENT: Planning and Development Director Heather Cotton advised that the purpose of this City Code amendment is to add fundraising and marketing office uses as a Special Exception within the R-2 General Residential Zoning District.

Ms. Cotton reported that the City of Marion had received an application for a zoning text amendment from McDowell Hospital to amend the permitted land uses within the R-2 General Residential. The Applicant wishes to locate a fundraising and marketing office within Marion. They have found a desired location; however it is zoned R-2 General Residential. Due to its location among single-family homes and not being in proximity to any other commercially zoned areas, Ms. Cotton said that she advised the Applicant that a request could be made to amend the City Code to allow a fundraising and marketing office within the R-2 as a Special Exception. Ms. Cotton noted that similar non-residential land uses are permitted as a Special Exception within the district.

Ms. Cotton advised that Staff has reviewed the particular office use and found it to be comparable to accounting, attorney, and real-estate offices that are all currently permitted as a Special Exception within the R-2 District, as all of these uses function similarly in relationship to traffic volume, hours of operation, and impact of public infrastructure and services.

While comparable, Ms. Cotton said that she would caution that as the number of non-residential land uses permitted within the R-2 District continues to increase it also has the potential to have negative impacts on single-family residential neighborhoods. Uses permitted as Special Exceptions within these areas should have an adequate development standards to protect the integrity of the existing residential area. Staff has included some additional standards within the proposed ordinance for all the above noted office type uses within the R-2 District.

AA.00000222 (24)

Ms. Cotton advised that the Planning Board voted unanimously at their meeting on June 6, 2013 to recommend approval of the zoning text amendment, with modifications to include definitions for street classifications and lighting standards.

Ms. Cotton said that she would recommend that City departments work together to develop a street classification list that identifies each type of street classification (e.g. local residential, collector, arterial, etc). Staff would also recommend that lighting standards be addressed in a separate more comprehensive amendment to the code. Both of these items were recommended within the goals of the City Comprehensive Land Use Plan. However, if this is not desired the following definition could be included in the following ordinance to satisfy the recommendation by the Planning Board regarding fully-shielded lighting.

Section 21-21 Definitions

Lighting, fully shielded. Any outdoor light fixture shielded in such a manner that all light emitted by the fixture is projected below the horizontal as determined by a photometric test or certified by the manufacturer.

Mayor Little opened the Public Hearing.

Council Member Clark asked several questions regarding parking for this type of establishment in accordance with the City Code.

Council Member Cuthbertson asked if the garage located behind the house would remain.

Lynn Boggs, CEO of McDowell Hospital, stated that the Hospital had looked for a while for something that would be a visible location for their foundation and marketing office. The Hospital found the Historic Daniel Kanipe House on Rutherford Road and is now proposing that location for this office. Ms. Boggs advised that the garage would remain and possibly be utilized for handicap accessible restrooms in the future.

Ms. Boggs added that all proposed signage that would be used for advertising would be appropriate to the integrity of the house itself and well as in accordance to the zoning ordinances.

Mayor Little stated that this would be a very good location for the Hospital's foundation and marketing offices.

Council Member Clark stated that, in the future there is a good possibility that much or all property on Rutherford Road will transition to commercial uses, and he therefore has no problem with the proposed location of the Hospital's foundation and marketing office in the Daniel Kanipe House. However, he said that Council needs to be careful about wording this Ordinance, due to its effect on the entire City. Council Member Clark stated that it would be critical to properly define the streets on which these types of uses could be located.

The City Manager advised that he and Ms. Cotton had felt that Rutherford Road was clearly a street that could support this type of use, which is why staff suggested that the Hospital pursue the Zoning Text Amendment. Ms. Cotton stated that she could work with other City departments and forward recommendations for street classifications back to Council by the fall.

Council Member Clark stated that this proposal is fine with him, but just wants to make sure that progress is made to developing the street classification list in the near future.

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, with the understanding that staff will develop recommendations for a street classification list to be presented back to Council in the next few months:

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 VIII. Use Requirements By District,

Section 21.203 R-2 General Residential District, is amended by adding the following:

Sec. 21-203.3. Special Exception

Accounting, attorney, real-estate, fundraising, and marketing offices provided:

(A) The land use is located on a collector street, minor or major thoroughfare, and not located on a local residential street, except if located on a corner lot with a side yard contiguous to other said roadways.

(B) All parking areas are located on the side of the property and setback equal to the front building line of the primary structure, or in the rear of the property.

(C) With the exception of an approved driveway and/or pedestrian walkways, the front or side yard facing the residential street shall remain as open space and include a maintained lawn, landscaping, or combination of both in addition to all other landscaping requirements within this chapter.

(D) All outdoor lighting shall be fully-shielded, compatible to outdoor lighting found within a residential area, and shall not direct light onto adjacent property.

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

Adopted this the 18th day of June 2013.

Stephen R. Little, Mayor

AA.00000223 (24)

ATTEST:

J. Robert Boyette, City Manager/ Clerk

Ordinance Number: O-13-06-18-3

PUBLIC APPEARANCE – MR. LOUIE PARROW: Mr. Louie Parrow appeared before City Council and advised that he had met with City Manager Bob Boyette last week and comes before Council tonight requesting the use of the Farmer's Market Shelter and parking lot for a "Bike Night" the third Saturday evening of each month from 6:00 p.m. until 9:00 p.m. Mr. Parrow stated that he and others have formed a group called Difference Makers and want to raise money to benefit Exceptional Children's Programs in the School System. Mr. Parrow stated that there are about 1,000 special needs children in the McDowell County School System, with one of them being his son.

Mr. Parrow said that the City Manager had given him a copy of the Rules and Regulations for the Farmer's Market Shelter.

Mr. Parrow stated that the Difference Makers did not yet have a 501(c)(3) non-profit status; however, they want to work toward achieving such status. Mr. Parrow added that the proposed events would be open to the public.

Mayor Little encouraged Mr. Parrow to work toward obtaining the 501(c) (3) status to be eligible to use the Farmer's Market.

Council Member Doggett stated that, on Saturday evenings, there are three separate bars in the downtown area that stay pretty busy and that she worries that bar patrons would not have enough parking if the Bike Night took up the entire parking lot.

The City Manager asked if the entire Farmer's Market and West Henderson Street Parking Lot would be needed for the event.

Mr. Parrow stated that the group may only need part of the parking lot, plus the area under the Farmer's Market Shelter for a band. He advised that he was open to suggestion. He had even thought about using the old Rock Tenn parking lot at Logan and West Henderson Streets, but had not been able to obtain permission.

Mayor Little suggested that the City could allow the event to take place for a month or two and see how it goes.

Mr. Parrow stated that he would ideally like to hold this event on the 3rd Saturday of each month. If the event grows as hoped, the group could then consider requesting permission to close Main Street, as is the case for a similar event in Hendersonville.

The City Manager advised that this request seems to be consistent with other events held on streets or in City parking lots. The only thing that concerned the City Manager is the motorcycle games Mr. Parrow had mentioned to him.

Mayor Little stated that motorcycle games of any kind should not be held on City property due to liability issues for the city. Mr. Parrow said that he understood that the motorcycles would need to remain parked.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Ramsey, Council voted unanimously to approve the use of the Farmer's Market Shelter and as much of the West Henderson Parking Lot as needed for Difference Makers to hold Bike Nights on Saturday, July 20 and Saturday, August 17, between 6:00 p.m. and 9:00 p.m. each night, with the understanding that no games involving motorcycles or any other vehicles will be permitted, and with the understanding that future uses of the Shelter and parking lot will be evaluated after the first two events are held.

BOY SCOUT RECOGNITION: Mayor Little welcomed Boy Scout Dalton Perry, who was in attendance working toward his citizenship badge.

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

CONSIDER CITY ADVISORY BOARD APPOINTMENT: The City Manager stated that the Tree Board had recently met and recommended that Ms. Ann Harkey be appointed to fill the vacancy on the Tree Board. The City Manager advised that Ms. Harkey had not yet been contacted to determine if she would be willing to serve.

Upon a motion by Council Member Clark, seconded by Council Member Doggett, Council voted unanimously to appoint Ms. Ann Harkey to the Tree Board for a three year term to expire June 30, 2016, subject to her acceptance of the appointment.

REVIEW STREET AND SIDEWALK PRIORITY LIST: The City Manager advised that Council Members typically review and approve the Street and Sidewalk Project priority list and Parks Project priority list periodically.

The list presented to Council Members for this year is as follows:

Street/Sidewalk Priority List
July 2013

Priority	Project
1	Oakwood Drive – Storm drainage improvements. To be completed by City crews in 2013-2014.
2	Crawford Street – Repair failed slope. Evaluate timing of project in 2013-2014.
3	N. Garden Street and New Street – Repair intersection. To be completed by City crews in 2013-2014.
4	Crescent Drive – Curb and gutter replacement and resurface. Water line replacement is needed in conjunction with this project. To be completed by City crews in 2013-2014.
5	N. Garden Street – Storm drainage and roadway rehabilitation. Evaluate timing of project in 2013-2014.
6	Bakersville Street – Street rehabilitation. Evaluate timing of project in 2013-2014.
7	Ridge Street – Storm drainage and roadway rehabilitation. Evaluate timing of project in 2013-2014.
8	East Court Street Sidewalk – Add new section of sidewalk from Branch Street to Yancey Street. Continue to seek DOT funding.

AA.00000224 (24)

9 Ridge Road/Church Street – Construction of asphalt trail along road between E. Court Street and School Street. Contract out in 2013-2014.

10 Logan Street Sidewalk – Add new section of sidewalk behind Wachovia Bank. Continue to seek DOT funding or have City crews complete in 2013-2014.

11 S. Garden Street – Resurface. Evaluate timing of project in 2013-2014.

12 Francis Drive – Resurface. Evaluate timing of project in 2013-2014.

13 W. Fourth Street (East Marion) – Pave street. Contract out in 2014-2015.

14 Cross Street – Curb and gutter and sidewalk replacement. Water line replacement needed in conjunction with this project. Evaluate timing of project in 2013-2014.

15 Morgan Terrace – Repave and replace asphalt curb. Sewer work is needed near intersection with Clay Street. Evaluate timing of project in 2013-2014.

16 Morehead Road – Curb and possible gutter installation. Evaluate timing of project in 2013-2014.

17 Foxfire Community – Replace asphalt curb on S. McDowell and Woodland Street. Evaluate timing of project in 2013-2014.

18 Open up Washington Street to Miller Avenue – Evaluate timing of project in 2013-14.

19 Gladden Street – Widen to Powell Bill standards and repave. Evaluate timing of project in 2013-2014.

The City Manager went over several of the proposed projects and advised that recent drainage issues had affected the priority list.

The City Manager stated that Project 8 on the list involves a short sidewalk extension on East Court Street from Branch Street to Church Street, and that DOT officials have indicated that the City might have a chance to obtain DOT funding if the City offered to split the project costs on a 50-50 basis with DOT. The City Manager reported that DOT discretionary money has become much harder to obtain, so sharing in project costs can help a project be funded

The City Manager also advised that, after preparation of this list, he had been contacted by a resident of the Clinchfield neighborhood, asking that the Ridge Road sidewalk/asphalt trail project be advanced as much as possible. The City Manager suggested that the East Court Street and Ridge Road projects should perhaps be ranked higher and that the Bakersville Road project should likely be ranked much lower and not pursued, unless the City can obtain Community Development Block Grant funds to improve the street, based on the possible senior housing development to be located on the street.

The City Manager advised that he feels that the first two projects listed are the top needs, based on prior Council direction. Public Works Director Brant Sikes gave an overview of the engineering review taking place regarding the Crawford Street flood damage.

Council Member Clark stated that he is not in favor of giving NCDOT $25,000 for the East Court Street sidewalk and curb project.

The City Manager noted that a request had been received by a Foxfire resident to replace all asphalt curbing in the neighborhood. The City Manager stated that he and Mr. Sikes felt that much of this project would be cosmetic and would therefore plan to pursue, without objection, only spot repair and replacement of the asphalt curb, as needed, in the Foxfire neighborhood.

Council Member Martin that there is a need for curb and gutter on Morehead Road and that it had been on the list for years. He said that he felt that Morehead Road should be higher on the list than number 16.

After further discussion, it was agreed by the Mayor and Council that cost estimates for all listed projects would allow for better review of the priorities, that Oakwood Drive is the top priority and that Bakersville Road should likely be a much lower priority.

The City Manager stated that he and Mr. Sikes would work to obtain cost estimates for the recommended projects and would present them back to Council for review, perhaps as soon as the July 16 Council meeting.

CONSIDER APPROVAL OF STREET CLOSURE REQUEST: The City Manager advised that representatives of the First Baptist Church had requested the closure of Fort Street between Main Street and Logan Street for a Vacation Bible School Party on Friday, July 19, between 11:00 a.m. and 2:00 p.m. The actual party will take place between 12:00 p.m. and about 1:30 p.m. This event and the entire Vacation Bible School is 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 block parties on the street before on Wednesday afternoons and evening, but never on a Friday late morning/early afternoon.

The City Manager stated that, upon approval, he would ask First Baptist Church to obtain the approval of other business that access this block, although all of them could still be accessed off of Main Street, Logan Street and/or Brown Drive.

Upon a motion by Council Member Martin, seconded by Council Member Ramsey, Council voted unanimously to approve this request of First Baptist Church to close Fort Street between Main Street and Logan Street for a Vacation Bible School Party on Friday, July 19, between 11:00 a.m. and 2:00 p.m.

DISCUSS STREET REQUEST: The City Manager advised that Mayor Little had suggested that it may be a good idea for the City to install a mirror at the intersection of South Garden Street and Rutherford Road, due to the poor visibility of this intersection. Rutherford Road is a DOT street, but the City has installed mirrors in the past on DOT streets to provide visibility from City streets. Mayor Little stressed that a mirror is needed to provide for adequate sight distance at this intersection.

It was the consensus of Council Members to authorize staff to place the mirror as requested at the intersection of South Garden Street and Rutherford Road, with any affected property owners being consulted for their opinions.

ADD ON ITEM – TRAFFIC SCHEDULE AMENDMENT: The City Manager advised that the Perry Street/Yancey Street Sidewalk and Drainage Community Development Block Grant Project had been completed the previous Friday. The project changed the intersection of Perry and Yancey Streets into a three way stop intersection. The City Manager presented Council with a Traffic Schedule Ordinance to establish a three way stop intersection sign at the Perry Street/Yancey Street intersection and to remove from the Traffic Schedule a stop sign that no longer is in place at the Yancey Street/East Court Street intersection, since that location is now signalized.

AA.00000225 (24)

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem 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
PERRY STREET	STOP SIGN	AT YANCEY STREET
YANCEY STREET (EAST)	STOP SIGN	AT US 70 EAST

Section 3. Section 18-239 is amended by adding the following:

STREET NAME	REGULATION	REG. APPLICATION
PERRY STREET	STOP SIGN	EAST AND WEST SIDE OF YANCEY STREET
YANCEY STREET (EAST)	STOP SIGN	AT PERRY STREET

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 18th day of June, 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-13-06-18-4

ADD ON ITEM - REQUEST HOUSE BURNING – WEST HENDERSON AND HIGH STREETS: The City Manager advised that the Fire Department had received a request from the property owner to burn a brick house at the intersection of West Henderson and High Streets. The house burning will likely take place in July. Upon approval, the Fire Department will notify nearby residents of the proposed burning.

Mayor Pro Tem Cuthbertson asked if this would be a one day or two day event.

The City Manager advised that, as far as he knew, it would be a one day event.

The Mayor and Council Members agreed that scheduled house burnings needed to be completed in one day, to avoid undue disruption to the surrounding area.

Upon a Motion by Council Member Clark, seconded by Council Member Doggett, Council voted unanimously to approve the burning of a brick house at the intersection of West Henderson and High Street by the Fire Department, contingent upon the burning taking place on one day.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that members of the Tree Board had proposed to work with faculty and students at McDowell Technical Community College to identify trees and plants along the Catawba River Greenway with small signs. Mayor Little stated that he thought this was a wonderful idea and suggested that West McDowell Junior High School might assist with this project, if needed, as they did with the YMCA/County Greenway.

The City Manger advised that, as shown in a news release presented to Council, the City of Marion was one of 27 cities in North Carolina to achieve accreditation from the National Main Street Program. The City Manager stated that this is a great honor that demonstrates the City's commitment to the Main Street approach.

The City Manager stated that the permanent carbon feed system Had been installed at the Water Plant, to address future taste and odor issues related to algae in the City's source water.

The City Manager advised that England Builders had completed work on the renovations to the City Firing Range. Funding for this project came from drug seizure funds received by the City.

The City Manager advised that, by early June, the City had sold all 200 of the Images of Marion historical books, with all sale proceeds being sent to the Chamber for the McDowell House project. The Chamber has sent over additional books for the City to sell, but the City will not pay for these books.

AA.00000226 (24)

The City Manager advised that the new drive up mail boxes at the Library, the South Garden Street parking lot and the Bi-Lo Shopping Center are scheduled to be installed by the Post Office on June 26.

COUNCIL MEMBER COMMENTS: Council Member Clark stated that June was National League of Cities (NLC) Small Cities Month and that the first Small Cities Month was announced in Marion in June 2001, as part of the NLC Small Cities Council meeting.

Mayor Pro Tem Cuthbertson asked if the sale of City property on Morehead Road to Mr. Ronnie Harvey had been finalized. The City Manager stated that the ten day upset bid period was currently taking place and that the property sale could be finalized in July, if no qualifying upset bids are received.

Council Member Doggett stated that she had seen someone holding a sign on Good Morning America that read hello Marion, North Carolina.

ADJOURNMENT: Upon a motion by Council Member Doggett, seconded by Council Member Ramsey, 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 16, 2013 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; Harriett Thomas, CPA, Finance Director; Brant Sikes, Public Works Director; Allen Lawrence, Police Chief; Don Price, Water Plant Superintendent; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Ray & Janie McCall, 87 Still Meadow Drive, Pisgah Forest, NC; Louie Parrow, 552 Ashworth Loop, Marion, NC; Tom Fleming, 74 Main Street C, Marion, NC; Janice Patricia Martin McNeil, PO Box 1316, Marion, NC.

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 Ramsey, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – June 18, 2013 Regular City Council Meeting Minutes.

B. Approval 2012-13 Fiscal Year Tax Adjustments

Council approved the following 2012-13 Fiscal Year property tax adjustments, as recommended by Tax Collector Brett Moore:

CITY OF MARION ACCOUNTS RECEIVABLE RELEASE REPORT

BAILEY ROSE ELLA(DECEASED)	120.82
FORNEY MARY VIRGINIA	53.08
FORNEY MARY VIRGINIA	50.07
FORNEY MARY VIRGINIA	1.60
SMITH LORETTA M	84.41
SMITH LORETTA M	168.82
YAMASA JAPANESE SEAFOOD	24.86
US CELLULAR OPER CO LLC	510.05
FAIRCHILD JONATHAN	223.52
THOMAS PETROLEUM EXP MART	61.19
THOMAS PETROLEUM EXP MART	122.38
CLINE THOMAS R. AND WIFE	295.22
GURLEY PROPERTIES,LLC	2677.35
HANEY LINDA db a	49.94
BROWN GARY N.	209.25
GABRIEL BULMARO MAGANA	38.82
GABRIEL BULMARO MAGANA	34.29
PINA VIOLETA BETANCOURT	5.76
INDEPENDENCE RENTALS INC	1241.63
INDEPENDENCE RENTALS INC	3500.00
TOTAL RENAL CARE INC	19.69
BRANCH BANKING & TRUST	365.69

AA.00000227 (24)

BRANCH BANKING & TRUST	333.07
BROOKS DERRICK ELECTRIC INC	2.01
CARNES E C & RACHEL	193.77
CONLEY G G LIFE ESTATE	69.01
HENLINE HAROLD DEAN & LAURA	1301.98
HENLINE HAROLD DEAN & LAURA 0	650.99
WATERS ROY T. & DEBRA	51.65
WATERS ROY T. & DEBRA	39.08
HENSLEYS USED CARS	.98
GREER MARVIN QUINTIN	8.16
GREER MARVIN QUINTIN	412.04
GREER MARVIN QUINTIN	4.03
GREER MARVIN QUINTIN	407.92
REVIS RAY LEE JR.	3.75
CAUDELL CHARLES	9.78
CAUDELL CHARLES	23.08
PROCTOR CARROLL	1.42
PROCTOR CARROLL	1.49
PROCTOR CARROLL	1.47
FULLER TRACY & CYNTHIA	96.35
RHODES LARRY	4.45
JONG PAK WAI	5.30
PARALEGAL SERVICES	.16
TURNER CHRISTINE & DWAYNE	1.62
TURNER CHRISTINE & DWAYNE	.80
SIMPSON CHARLES H & MICHELLE	.02
SIMPSON CHARLES H. JR. MICHELL	.04
SIMPSON CHARLES H. JR. MICHELL	2.46
HALL DANNY	2.08
REED DANNY R & ROSEMARY H.	1.10
LAUGHRIDGE JOHN & TINA R.	11.60
TOOLCRAFT INC	40.28
TOOLCRAFT INC	29.38
MOSTELLER TERRY L. & NANCY A.	.83
MOSTELLER TERRY L. & NANCY A.	1.02
MOSTELLER TERRY L. & NANCY A.	1.76
PANOU ANTONIOUS K	5.84
N C RADIATION THEARPY MGMT	63.49
LOGAN AMY CELESTE	1.28
FREIDELL RITA DIANE	13.06
STURGILL CURTIS D. & MARSHA	26.45
RENT WNC LLC	5.36
RENT WNC LLC	8.56
DAVIS PEARL (HEIRS)	7.95
ALMANZA – SANCHEZ JUAN MANUEL	1.11
PROCTOR HOWARD	.94
PROCTOR HOWARD	2.24
PROCTOR HOWARD	6.69
GABRIEL BULMARO MAGANA	38.82
GABRIEL BULMARO MAGANA	36.80
GABRIEL BULMARO MAGANA	2.46
TIMEPAYMENT CORP	1.68
LBM INVESTMENTS A NEVADA CORP	60.14
TONEY IMOGENE ELLIOTT	3.29
MOUNTAIN AREA COMMUNITY	.94
HANK AND JOHN PROPERTIES, LLC	31.93
MAGANA BULMARIO & MALANIE	1.51
TLT INVESTMENTS LLC	29.08
TLT INVESTMENTS LLC	10.91
HERNANDES ANTONIO DURAN	.76
HERNANDES ANTONIO DURAN	.46
HERNANDES ANTONIO DURAN	.46
HERNANDES ANTONIO DURAN	.77
HERNANDES ANTONIO DURAN	.48
HERNANDES ANTONIO DURAN	.77
HERNANDES ANTONIO DURAN	.48
HERNANDES ANTONIO DURAN	.77
HOPEWELL ROAD LLC	1.61
TILLEY ETHAN & LISA	.47
DAVE KEHLER	.52
ISRAEL INVESTMENTS INC	8.54
BOYLEN RETTA	.62
HOLLAND MAX EUGENE	5.56
HOLLAND MAX EUGENE	2.04
MASON LEWIS REVOCABLE TRUST	5.13
ALLEN BARBARA DIANCE	100.00
HILL TABATHA PAIGE	86.40
WILSON XIAOWEI	172.80
PETTY JUDY	7.81
LONG BROTHERS ENTERPRISES INC	3.14
CHATTER FREE TOOLING	2.53
FLS OWNER 11 LLC	1.67
ARRINGTON CLYDE MRS.	1.24
ARRINGTON CLYDE MRS.	1.24
ARRINGTON CLYDE MRS.	1.24
ARRINGTON CLYDE MRS.	.41

AA.00000228 (24)

ARRINGTON CLYDE MRS.	.41
BIG DADDYS	3.53
BROWN SUSAN T.	.99
BUFF RAYMOND & BRENDA	2.58
PATTON PHYLLIS	189.62
PATTON PHYLLIS	86.40
PATTON PHYLLIS	172.80
CARSON EZEKIEL (DECEASED)	7.81
CARSON EZEKIEL (DECEASED)	6.20
CHRISAWN FINLEY	1.34
DIXON KUNIGUNDA (DECEASED)	.33
DIXON KUNIGUNDA (DECEASED)	.32
DIXON KUNIGUNDA (DECEASED)	.32
FLOWER PAUL & ELLA	4.06
GREENLEE JAMES & MAGGIE	2.33
HOLLOWAY RODNEY (DECEASED)	1.33
HOOPER LULA HEIRS	1.54
HOOPER LULA HEIRS	1.54
HOOPER LULA HEIRS	1.54
ISRAEL INVESTMENTS INC	.92
ISRAEL INVESTMENTS INC	2.94
ISRAEL INVESTMENTS INC	4.95
ISRAEL INVESTMENTS INC	6.71
ISRAEL INVESTMENTS INC	6.46
ISRAEL INVESTMENTS INC	6.76
ISRAEL INVESTMENTS INC	6.74
ISRAEL INVESTMENTS INC	4.90
ISRAEL INVESTMENTS INC	1.33
ISRAEL INVESTMENTS INC	3.06
ISRAEL INVESTMENTS INC	15.45
SCI FUNERAL SERVICE	10.59
LOCKE SHARON	3.56
MACE DEWITT & JEANETTE	5.07
MARTIN WILLIAM & PATRICIA	3.47
PARKER ALBERT ROBERT JR.	2.97
PART FIVE PARTNERSHIP	63.96
PART FIVE PARTNERSHIP	75.49
PART FIVE PARTNERSHIP	68.95
PART FIVE PARTNERSHIP	60.41
ROLAND ROBERT C & CAROL	4.59
WALL AVERY DEAN	22.90
WALL AVERY DEAN	45.80
MCKINNEY BILL & JOYCE	2.70
GURLEY BRYANT & CATHERINE	3.01
EDWARDS JUDY CAROLYN	1.85
EDWARDS JUDY CAROLYN	1.00
SMITH ROGER LEE	70.49

C. Consider Approval of Request by DOT to Enact Concurring Ordinance Regarding Speed Limits

Council approved the following ordinance requested by DOT to concur with speed limits on the State maintained South McDowell Avenue:

CITY OF MARION
ORDINANCE
TO ENACT SPEED LIMIT AND REQUEST FOR CONCURRENCE
WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION ON
SR 1818 (SOUTH MCDOWELL AVENUE)
FROM A POINT 0.16 MILES SOUTH OF EAST COURT STREET (US 70)
AND EAST COURT STREET (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 16th day of July, 2013, 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 thereof, I have hereunto set my hand and the municipal seal this the 16th day of July, 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance/Resolution Number: O-13-07-16-3

Certification of Municipal Declaration
To Enact Speed Limits and Request for Concurrence

Concurring State Ordinance Number: 1066623

Division: 13 County: MCDOWELL Municipality: MARION

AA.00000229 (24)

Type: Municipal Speed Zones

Road: SR 1818 Car: 20 Truck: 20

Description: (South McDowell Avenue) between a point 0.16 miles south of US 70 and US 70.

Municipal Certification

I, _____, Clerk of _____, 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 _____ day of _____, 20_____, the speed limits 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.

The said municipal declaration is recorded as follows:

Minute Book: _____ Page:_____ Ordinance/Resolution Number: _____

In witness whereof, I have hereunto set my hand and the municipal seal this _____ day of _____, 20_____.

_____ (municipal seal)
(signature)

Department of Transportation Approval

Division: _____ Title: _____ Date: _____

Division: _____ Title: _____ Date: _____

RECOGNITION OF RAY McCALL UPON HIS RETIREMENT FROM THE NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES: The City Manager advised that the City's long time Water Plant Consultant with the NCDENR Public Water Supply Section, Ray McCall, retired from service with the State on June 30. The City Manager stated that Ray truly exemplifies public service, as he was a tremendous help to the City over the years, always being available and trying to provide technical assistance and help.

Ray's civilian work career totals 37 years working in the Drinking Water Industry in North Carolina. He has worked as a Water Treatment Plant Operator, as a Water Treatment Plant Superintendent Regional Manger (WNC & Tennessee), a Water Treatment Superintendent and a Water Treatment Plant Consultant.

Ray McCall has received many awards and recognitions through the years.

- 1983-B-Surface Operator of the Year-NCWOA/AWWA
- 2009-Special Award of Merit-NCWOA
- 2012-Educator of Year-NCWOA
- 2012-Nominee as NC DENR- Employee of Year

Ray was also in the Military 26 Years with the (US Air Force/US Army/NC Army National Guard)

- U.S. Air Force- 4 years with Honorable discharge
- U.S. Army/NC National Guard- 22 Years
- Retired US Army 2001- Honorable and Distinguished Service-Retired Rank of Master Sergeant-E 8

Ray has been married 42 years to Janie C. McCall who was present with him for this recognition and has two daughters, Beth and Ashley. He also has two granddaughters, Meredith and Savannah.

Mayor Little presented Ray McCall with the following proclamation and thanked him for his service to the City and the entire Western region:

A Proclamation of the City of Marion
Honoring Ray McCall upon his Retirement

WHEREAS, Clyde Ray McCall has made a career of public service, including serving four years in the United States Air Force, 22 years in the United States Army/North Carolina National Guard and working for 37 years in the drinking water industry in North Carolina for local government and the State of North Carolina; and

WHEREAS, Ray earned numerous certifications and awards during his military career and his years of service in the drinking water industry, distinguishing himself in every endeavor; and

WHEREAS, Ray served as Water Plant Consultant for the North Carolina Department of Environment and Natural Resources Public Water Supply Section since 1987, working directly with the City of Marion and many other water systems in Western North Carolina; and

WHEREAS, Ray always made himself accessible and available to help with issues at the City Water Treatment Plant and with the City water system, providing assistance on countless occasions and never failing to treat the City with compassion and fairness; and

WHEREAS, Ray is as fine an example of public service as North Carolina has ever produced, serving as a model for employees at the Local and State levels; and

WHEREAS, Ray retired from service with the State, effective June 30, 2013; and

WHEREAS, most of all, Ray is a man of integrity and strong character and a true professional who will be greatly missed by the State of North Carolina, the City of Marion and all local governments with whom he worked; and

WHEREAS, the City of Marion wishes to recognize and honor Ray McCall on his combined 63 years of service to his Country and the State of North Carolina, to thank him for his service, assistance and friendship to the City of Marion over the years and to wish him the best of success in his retirement.

AA.00000230 (24)

NOW THEREFORE, I, Stephen R. Little, Mayor of the City of Marion, do hereby issue this proclamation honoring Clyde Ray McCall for 63 years of faithful and dedicated service to the United States of America, the State of North Carolina, the City of Marion and all local governments in Western North Carolina and offering the sincere appreciation of the City of Marion to Ray for a job well done.

Proclaimed this the 16th day of July, 2013

Stephen R. Little, Mayor
City of Marion

The Mayor, Council Members and City staff all thanked Mr. McCall for his service and wished him the best with his retirement.

ADD ON - PRESENTATION OF NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AWARD FOR WATER PLANT: The City Manager advised that, for the 12th year in a row, the City's Water Plant has received a Facility Optimization award for turbidity removal from the North Carolina Department of Environment and Natural Resources. He stated that the City of Marion is one of only two water plants in the State to have received this award for all 12 years it has been presented. The City Manager added 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 stated that, while Mr. Ray McCall was still present for this discussion and presentation, he would present Water Plant Superintendent Don Price with the award. The award read as follows:

NC's Area Wide Optimization Program
Certificate of Facility Optimization
Turbidity Removal
2012
City of Marion Water Treatment Facility
NCDWR
NC Public Water Supply Section

Thomas A. Reeder
Director
Division of Water Resources Section

Jessica C. Godreau, P.E., BCEE
Chief
Public Water Supply Section

Mayor Little and Council Members congratulated Mr. Price 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 through the years. Mr. McCall also commended Mr. Price, all City staff and the Mayor and City Council for their diligence over the years in producing high quality, safe drinking water for the citizens of Marion and McDowell County.

PUBLIC COMMENT PERIOD: Ms. Janice McNeil appeared before Council and stated that she had several concerns regarding property she owns in Marion.

Ms. McNeil stated that the City had recently mowed property she owns on West Wilhemenia Street and that she feels the amount charged was too high. Ms. McNeil also stated that a tree had fallen in the alleyway adjacent to her property and that she would like to see the City remove it. Ms. McNeil also asked for an extension of time for the demolition of a dilapidated house at 110 West High Street, on behalf of a family member that could not be present. Ms. McNeil also reported a drainage issue at her property on West Wilhemenia Street.

Mayor Little thanked Ms. McNeill for coming to the meeting and discussing these issues with Council. He stated that the City Manager would look into the matters and get back in contact with her.

Mr. Louie Parrow reminded Council that Difference Makers would be having its first Bike Night on Saturday evening, July 20 at the Farmer's Market, as previously approved, and invited the Mayor and Council Members to attend. Mayor Little and Council Members wished Mr. Parrow and others involved hopes for a successful event.

APPROVE 2012-13 FISCAL YEAR TAX SETTLEMENT: Finance Director Harriett Thomas advised that, under State Law, at the end of each Fiscal Year, Council must review and approve the year end Property Tax Settlement.

Council Members were given the 2012-13 Tax Settlement prepared by Tax Collector Brett Moore for review. Ms. Thomas advised that the settlement shows that charges and credits for property taxes balance, as required by law. Ms. Thomas stated that the City ended up collecting 97.65 percent of 2012-13 property taxes by June 30, the best tax collection percentage achieved in the past 14 years and possibly ever.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to approve the following 2012-13 Fiscal Year Property Tax Settlement as presented:

2012 TAX SETTLEMENT
JULY 1, 2012 - JUNE 30, 2013

CHARGES		CREDITS		
Real Property	$ 1,761,539.40	Tax Revenue		$ 2,028,445.73
Less: Exemptions	(58,639.00)	Less: 1% Discount		(7,398.41)
Personal Property	291,082.40	Refunds - Principle		
Late Listings	1,804.93	Late Listing		1,690.26
Utilities	69,014.04	Interest & Penalties		6,677.74
Discoveries	24,613.85		Total Revenue	2,029,415.32
Discovery Late Listing	144.33	ADJUSTMENTS		
Total Tax	2,089,559.95	1% Discount		7,398.41
Interest & Penalties	7,264.48	Tax Releases:	Principal	10,005.31
Total Charges	$ 2,096,824.43		Late Listing	4.54
			Interest	100.54
		Tax Adjustments:	Principal	221.25
			Late Listing	(25.19)
			Interest	548.44
		Uncollected Late Listing		279.65
		Uncollected Tax :	Real	45,944.62
			Personal	2,931.54
			Total Adjustments	67,409.11
		Total Revenue & Adjustments		$ 2,096,824.43

APPROVAL OF LIST OF UNPAID PROPERTY TAXES AS OF JUNE 30, 2013: A list was also presented to Council Members showing delinquent real and personal property taxes as of the end of the 2012-13 Fiscal Year. Ms. Thomas advised that this document must be approved before the current year tax bills can be mailed.

Upon a motion by Council Member Martin, seconded by Council Member Clark, Council voted unanimously to approve the list of unpaid property taxes as of June 30, 2013 as follows:

YEAR	REAL ESTATE	PERSONAL	LATE LIST	PENALTY & INTEREST	TOTAL
2002 & Prior	$ 17,245.63	$ 34,935.89	$ 1,902.37	$ 63,058.14	$117,142.03
2003	1,092.59	2,260.44	278.70	3,057.78	6,689.51
2004	923.58	1,514.46	169.69	1,825.06	4,432.79
2005	2,646.14	3,235.95	558.07	4,174.95	10,615.11
2006	3,142.57	2,817.91	142.67	3,498.47	9,601.62
2007	3,784.51	1,274.42	34.72	2,494.97	7,588.62
2008	6,705.49	2,040.72	107.34	3,494.76	12,348.31
2009	10,117.80	2,349.96	150.94	3,720.37	16,339.07
2010	14,510.03	2,140.89	122.71	3,890.22	20,663.85
2011	17,558.65	1,337.07	91.44	2,766.86	21,754.02
2012	45,944.62	2,931.54	279.65	3,143.73	52,299.54

AA.00000232 (24)

TOTAL	$ 123,671.61	$ 56,839.25	$ 3,838.30	$ 95,125.31	$ 279,474.47
2012 TAXES BILLED			$ 2,089,559.95		
% COLLECTED			97.65%		

APPROVE ORDER OF COLLECTION FOR 2013 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. The City Manager stated that staff anticipates 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 2013-14 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 2013 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 16th day of July, 2013.

(Seal)
Stephen R. Little, Mayor
City of Marion

ATTEST:

J. Robert Boyette, City Manager/Clerk
City of Marion

ADOPT RESOLUTION AUTHORIZING FINAL SALE OF CITY PROPERTY ON MOREHEAD ROAD TO MR. RONNIE HARVEY: The City Manager advised that, at the June 4 Council meeting, Council adopted a resolution accepting the offer of Mr. Ronnie Harvey to purchase 0.18 acres of City property on Morehead Road for $1,000, subject to upset bid. This property was acquired by the City through foreclosure, due to non-payment of property taxes.

The City Manager reported that, after receiving the required five percent bid deposit from Mr. Harvey, the City published notice in the McDowell News of the proposed sale on June 14. 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. Harvey.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following Resolution approving the final sale of 0.18 acres of City property on Morehead Road to Mr. Ronnie Harvey:

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. Ronnie Harvey has submitted a bid in the amount of $1,000 for the purchase of one parcel of property that is approximately 0.18 acres in size, is owned by the City of Marion and is located on Morehead Road (McDowell County Parcel Identification Number 1711.09-05-3504); and

WHEREAS, the City Council of the City of Marion adopted a resolution on June 4, 2013, in accordance with N.C.G.S. 160A-269, accepting the offer of Mr. Harvey 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. Harvey; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion, on June 14, 2013, 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. Harvey.

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 Morehead Road (McDowell County Parcel Identification Number 1711.09-05-3504) that is approximately 0.18 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. Ronnie Harvey 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.

AA.00000233 (24)

Adopted this the 16th day of July, 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-13-07-16-1

ADOPT ORDINANCES TO AUTHORIZE DEMOLITION OF DILAPIDATED HOUSES: The City Manager advised that staff had completed the demolition process for two dilapidated houses on West High Street in the West Marion neighborhood. The houses are located at 87 and 110 West High Street. The City Manager stated that the house at 110 West High Street is the one for which Ms. Patricia McNeil requested an extension of the time allowed for demolition earlier in the meeting.

Council Member Martin stated that he feels that the house at 87 West High Street needs to be demolished immediately, but that he is willing to grant a 90 day extension of time for the demolition of the house at 110 West High Street, to provide the property owner time to demolish the house.

Upon a motion by Council Member Martin, seconded by Council Member Doggett Council voted to approve the following ordinance authorizing the demolition of the dilapidated house at 87 West High Street at any time on or after the expiration of the Building Inspector's order on July 19, 2013 and granting John and Lucreta Porter a 90 day extension past July 19, 2013 for the demolition of the dilapidated house at 110 West High Street:

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;

WHEREAS, pursuant to and in compliance with the said Ordinance a certain dwelling(s)/structures(s) located on property described at 87 West High Street, having Parcel Identification Number 1701.18-21-9986 and as more fully described in Exhibit A was found to be unfit for human habitation or hazardous;

WHEREAS, the owners(s) of the above-described property is as follows: Minerva K. Beard c/o Beverly Carson;

WHEREAS, on the 19th day of June, 2013, 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 July 19, 2013 (a copy of the order is attached hereto as Exhibit B); and

WHEREAS, the owners have so far 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, in the event that the owners do not comply with the above-state order by the deadline of July 19, 2013, the public officer designated in the above-referenced Ordinance is hereby ordered on or after July 20, 2013 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 16th day of July, 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: 13-07-16-1

It was agreed that, after the end of the 90 day extension, if the house at 110 West High Street is not demolished by the property owner, Council will then consider and approve an ordinance to authorize City staff to have the house demolished.

SCHEDULE ADVISORY BOARD/VOLUNTEER DINNER: The City Manager advised that Council has typically held the Advisory Board/Volunteer Dinner on a Thursday evening in the summer months. However, last year, the dinner was held on Tuesday, October 9. The City Manager ask for Council direction on the desired date for the dinner.

It was the consensus of the Mayor and Council Members to schedule this year's Advisory Board/Volunteer Dinner for Tuesday, October 8 at around 6:00 p.m. at the Depot.

AA.00000234 (24)

Council Member Clark stated that he would like to see the City host an event for the Western North Carolina region around January, in honor of the retirement of Mr. Ellis Hankins as Executive Director of the North Carolina League of Municipalities. Council agreed to discuss this idea at the next Planning Session.

SCHEDULE PLANNING SESSION: The City Manager stated that Council may wish to schedule the next Planning Session for late August or September, to discuss current and future projects. The Mayor and Council Members agreed by consensus to schedule the Planning Session for Tuesday, September 10 at 6:00 p.m. at City Hall.

DISCUSS STREET REQUEST: The City Manager advised that Council Member Ramsey had forwarded him a complaint from Cheryl Mitchell of the North Carolina Cooperative Extension Service concerning sight visibility when pulling out of the Courthouse driveway onto South Main Street. The concern is that vehicles parked in the parking space in front of the fire hydrant in front of City Barber Shop block sight visibility. The City Manager stated that he and Public Works Director Brant Sikes had looked at the location and there is no doubt that a vehicle parked in this location would make it more difficult to pull onto South Main Street. The City Manager reported that Police Chief Allen Lawrence had also looked at the location and agreed with the parking space being removed.

The City Manager advised that, when the City completed the Downtown Streetscape Project, the City attempted to retain and/or add as many parking spaces as possible. The parking space in front of this fire hydrant is an example of this attempt. Fire Chief Jim Neal looked at the location when the City was completing the Downtown Streetscape Project and had no objection to the area in front of the fire hydrant being a parking space, since the Fire Department had access to the fire hydrant from the Courthouse driveway.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to adopt the following ordinance removing the parking space in front of City Barber Shop on South Main 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
MAIN STREET (SOUTH)	PARKING PROHIBITED	EAST SIDE, BEGIN 180 FEET SOUTH OF THE SE CORNER OF SOUTH MAIN STREET AND EAST COURT STREET AND CONTINUING 20 FEET SOUTHERLY

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

Adopted this the 16th day of July, 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-13-07-16-2

Mayor Pro Tem Cuthbertson suggested that the City explore a bicycle rack being placed in the former parking space. The Mayor and Council Members agreed by consensus to direct the City Manager to look into the possibility of having a bicycle rack placed in the parking space eliminated on South Main Street in front of City Barber Shop.

ADD ON ITEM – REQUEST TO HOLD PARADE AT THE JOSEPH MCDOWELL HISTORICAL CATAWBA GREENWAY: The City Manager advised that he had received a request from Ms. Susie Painter to hold a Riverbanks Parade at the Catawba River Greenway on Wednesday, July 31, with a rain date to be scheduled in August, if necessary, as part of a grant she received from the New York Endowment for the Arts to make giant puppets for parades. Ms. Painter included pictures of the puppets in her request and would have extra puppets at the Parade, so people who are at the Greenway could participate as well, if they so choose. There will be light violin and flute music playing during the event.

The City Manager stated that this request should not conflict with any other scheduled events at the Greenway.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Martin, Council voted unanimously to approve the request by Ms. Susie Painter to hold a Riverbanks Parade at the Catawba River Greenway on Wednesday, July 31, with a rain date to be scheduled in August, if necessary.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that that the North Carolina General Assembly had reached a budget deal that will not result in cities losing money, a great result for the City of Marion and all municipalities.

The City Manager advised that he had sent a letter to Duke Energy, transmitting the right-of-way agreement approved by Council in June for the City's College Drive property. The Duke right-of-way agent indicated that Duke would likely reject the City's wording. Mayor Little followed up by sending a letter, asking Duke to explain in writing its objections to the City's wording and proposed changes.

AA.000000235 (24)

The City Manager reported that Public Works Director Brant Sikes had a recommendation to address storm drainage complaints on North Garden Street near East Court Street. Mr. Sikes stated that, with heavy rainfall continuing and intensifying in recent weeks, Mr. Frank Nederostek of Fire and Ice Jewelry has reported that he has again received flooding in his building at North Garden and East Court Streets.

Mr. Sikes stated that, rather than committing to major street and drainage improvements on North Garden street that would be a major expense, the he would suggest starting with constructing a concrete curb and gutter, with a top layer of asphalt and a higher curb line, between the Frontier driveway and East Court Street. The driveway approach of Fire and Ice Jewelry will have to be redone as well.

Mayor Little stated that he appreciates efforts being made by the Public Works Director and the City Manager to solve this issue.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to approve the recommendation of City staff to undertake curb and gutter improvements on North Garden Street.

The City Manager stated that McGill had provided the previous Friday its report of options and cost estimates for repairs to the Crawford Street flood damage. Public Works Director Brant Sikes advised that McGill's recommended alternative was to establish a new slope for the bank next to the creek and to extend the culvert out further. McGill estimated a cost of $139,450 for this work. However, Mr. Sikes stated that he had already identified at least $41,000 in savings by having the City complete some of the work and hopes that bidding the construction work will result in further savings.

Council Member Doggett asked is if the City filed for disaster assistance and, if a disaster declaration is approved, could the City use the funding for this project. The City Manager stated that the City is working with McDowell County Emergency Management Director Terry Young to continue to push for a Federal Disaster Declaration for this flooding event, which would allow for the flood damage to be paid for with Federal and State funds. Mr. Young has indicated that the office of Congressman Mark Meadows is assisting with this effort.

The City Manager stated that review of this project has taken some time, in order to make sure that a cost effective solution that will work is selected.

Council Member Clark advised that people are asking questions about how long it has taken to see action on this project, so he wants to see the City move forward as soon as possible.

Mayor Pro Tem Cuthbertson stated that he would also like to see work get started on this project, since many people get the impression that nothing is being done.

Mr. Sikes said that he would anticipate possibly beginning the construction in 30-45 days.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Doggett, Council voted unanimously to authorize City staff to proceed with bidding and awarding the Crawford Street repair work, so that Crawford Street can be opened back up to through traffic as soon as possible.

The City Manager advised that the Rural Center awarded a $25,000 Planning Grant to Old Fort to study possible interconnection and/or consolidation of the water and sewer systems of the City and Old Fort. Old Fort has received and executed the grant contract and McGill is now beginning work on the project. The Marion and Old Fort Utility Committees will meet with McGill on July 18 to begin discussing the project. The City Manager stated that he would advise Council Members as progress is made.

The City Manager advised that the new and relocated drive-up mailboxes were installed by the Post Office on June 26. Two new mailboxes were added in the Bi-Lo Shopping Center parking lot and in the City-County Parking Lot on South Garden Street. In addition, a mailbox at the Library was relocated to make it a drive-up mailbox. This increased the number of drive-up mailbox locations in the City from one to four, which will hopefully divert some traffic from the Post Office parking lot.

The City Manager advised that the City's annual water system flushing took place the week of July 8-12.

The City Manager advised that, as suggested by Council Member Clark, he had sent a write-up with photos about the City's 11th Annual Open House for all third graders in McDowell County to the N.C. League of Municipalities. The League ran a story on the City's Open House in their June issue of Southern City. This provided some good exposure for the City and hopefully some help to other cities that may be considering a similar event.

COUNCIL MEMBER COMMENTS:

Council Member Doggett mentioned that she was proud of McDowell High School graduate Gregory Holland, who would be playing in the Major League Baseball All Star Game later that evening, representing the Kansas City Royals.

Mayor Pro Tem Cuthbertson stated that McDowell Trails Association President Bill Hendley had recently stated that the Trails Association would be happy to assist the City with future trail development on the City's property on Mt. Ida.

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.000000236 (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 20, 2013 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; Harriett Thomas, CPA, Finance Director; Rusty Jenkins, Patrol Lieutenant; Brant Sikes, Public Works Director; Nancy Spencer, President, Marion Business Association; Freddie Killough, Executive Director, Marion Business Association; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: James & Gerry Gorst, 46 Woodland Drive, Marion, NC; Buddy Helton, 24 Willoughby Way, Marion, NC; Lee Cantin, 24 Willoughby Way, Marion, NC; Andy & Janice Cooley, 182 Willow Street, Marion, NC; Sylvia Davis, 342 Forest Heights Drive, Marion, NC; Diane Cook, 509 Fleming Avenue, Marion, NC; Nancy Clark, 330 Fleming Avenue, Marion, NC; Kirby Pennix, 4231 Pickering Drive, Hickory, NC; Paul Bartlett, 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 Everette Clark selected the Citizen of the Month for August 2013.

Dr. James D. Gorst

Council Member Everette Clark selected Dr. James D. Gorst as the Citizen of the Month for August 2013.

Dr. James Gorst and his wife, Gerry, have been married for over 60 years. They have two daughters, Brenda and Karen, two grandchildren and one great grandchild.

Dr. Gorst was born in New Castle, Pennsylvania and grew up in Cleveland, Ohio. At the age of seventeen, he joined the U.S. Marines Corps and went to boot camp at Paris Island. Dr. Gorst had a twenty year military career, which included serving in the Korean War and the Vietnam War.

After his military career, Dr. Gorst worked as a Patrolman with the Greenville City Police Department and worked as the Director of Recreation for the City of Grifton, North Carolina. He earned a B.S. degree in Elementary Education at East Carolina University in 1971. He then earned an M.A. Ed. in Elementary Education and an M.A. Ed. in Education Administration at East Carolina University.

In 1978, Dr. Gorst earned an Ed. S. in Education Administration from Appalachian state University and, in 1988, earned his Ed. DR. in Education Administration from the University of North Carolina- Greensboro.

Dr. Gorst has such a long list of accomplishments that they could not all be mentioned. Dr. Gorst received the Principal of the Year award for McDowell County twice and retired after a distinguished 31 year career in education, serving as principal of Eastfield Elementary School for many years. He taught in McDowell County, Onslow County, Augusta, Georgia, Jacksonville, North Carolina and at the Camp Lejeune Dependent Schools in Camp Lejeune, North Carolina. Dr. Gorst began the year round school program at Eastfield Elementary School which is still in place today.

Dr. and Mrs. Gorst are active members of the First Baptist Church of Marion where he has served in many capacities including Deacon and Teacher.

Dr. Gorst is also a member of the Lafayette Lodge #83 Ancient Free and Accepted Masons and has served on numerous local boards and committees. He enjoys skiing, swimming and reading.

Mayor Little, Council Members, and a large number of friends and family members all shared kind words and congratulated Dr. James D. Gorst on being selected as Marion's Citizen of the Month for August.

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 16, 2013 Regular City Council Meeting Minutes.

B. Approval of Civil Citation Appeals

Council approved the waiver of the $10.00 penalty for citations issued to Leslie Kazee, Tammy English and Suzanna Rice for overtime parking on East Court Street (Kazee and English) and in the North Main Street Gazebo Parking Lot on August 8, 2013. All three ladies produced documentation, proving that were serving as jurors on that day.

Council also approved the waiver of the $50.00 penalty for citations issued to Antawan Boyce, Lindsey Riddle and Brian Twitty for parking in a no-parking zone on West High Street on July 24, 2013. These three parking tickets had been written on the incorrect form.

PUBLIC APPEARANCE – MARION BUSINESS ASSOCIATION: Marion Business Association (MBA) President Nancy Spencer appeared before Council and presented the following Year-End Report for the 2012-13 Fiscal Year for the Marion Business Association:

July 2012 - June 2013
Annual Report of Marion Business Association
Economic Development Report

19- New Businesses Opened
6 - Businesses Closed
23 - Business Opportunity Inquiries
4 - Business Loan Inquiries
3 - Business Grant Inquiries
1024 - Business Visits
11- Property Referral Inquiries

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4- Property Owner Contacts for available buildings
0 - Contacts with Interested Commercial Developers
1- New Businesses Breaking Ground
18- Façade Grant Inquires
6- Façade Grant Awarded (MBA & MEDA Historic Marion Façade Grant Program and MBA Sign Grant)
3- Properties sold

Other Economic Activity:

- Historic Marion Façade Grants – Awarded 5 grants to downtown businesses located in City. Funded from MBA and MEDA. No MBA Sign Grants this year.
- Partnered with MTCC Small Business Center for two REAL class series. Had 18 participants finish the entrepreneur class with a completed business plan.
- The MBA continues an intake office for Rural Center Micro Loans.
- Historic Marion Tailgate Market (HMTM) opened May 14, 2013. 2012 was a very successful season for the market. HMTM partnered with City of Marion for a grant from Kate B. Reynolds Foundation to fund a Market Manager and cost of implementing SNAP/EBT at the Market. Funding was approved for 2 years. Plans are to have card services in place July 1, 2013.
- MBA continues to meet with the WNC Rail Committee to promote passenger rail service to WNC. No funding is designated for WNC.
- MBA maintains an Available Commercial Properties listing of properties in the City of Marion.
- The City of Marion received notification of Certified Retirement Community in September. The CRC project is a joint effort of the City of Marion, Marion Business Association, McDowell Chamber Commerce, McDowell County and McDowell Tourism.
- The MBA Economic Development Committee has been very active in 2012-2013. They met with all agencies in McDowell County to share marketing and promotions for the county. The Economic Development Committee is pursuing a stronger marketing campaign for Marion.

Special Events Report

July 4 Celebration – Huge success. Marion fireworks display continues to get rave reviews.

August 3 - First Friday Concert – Low attendance. Moving to 2nd Friday of August in 2013.

August 4 - Sidewalk Yard Sale – Good participation.
September 3 - Labor Day Concert with Terry McKinney. Due to rain, held concert inside depot.

October 13 – Mountain Glory Festival - Largest festival ever both in attendance and vendors. Most vendors reported strong sales. Downtown businesses had a very good day.

October 30 – Historic Marion Tailgate Market Fall Festival - Trick or Treating for the kids. Cold day, but very good attendance.

November 18 – Marion Christmas Parade. Very well attended and good entry participation

December 6 – Melodies on Main – Live Santa for the children, ornament-making Christmas for kids (provided by New York Life Insurance), extended shopping hours. Largest Melodies on Main ever.

December 31 – Rotary of Marion's New Year's Eve Celebration – 4th annual event. Went very well and plans are being set for 2013.

February 15 - Valentine Dancing and Desert Fundraiser with Ric Luther and Friends - very popular.

March 23 – Easter Egg Hunt with YMCA.

May 4 – Sidewalk Yard Sale – Very cold day. Still had good participation.

June 7 – 7th Annual Liver Mush Festival – It was a great event!! "It's a Squeal!" t-shirts sold out!

Volunteer Hours Committed – 753.5

The Marion Business Association Mission Statement is.....The mission of the Marion Business Association is to broaden the economic base of the community while preserving the historic character of the downtown and promoting Marion as a desirable place to visit, work, shop, play and live.

The Marion Business Association Vision Statement is.....Marion will continue its role as the heart of the community. It will offer a unique experience with inviting outdoor cafes, galleries and boutiques framed by distinctive historic architecture. Marion will be a walkable downtown with adjoining greenways. It will be enhanced by the civic, cultural, and economic diversity of its citizens. Marion will be a thriving center for business and entertainment.

Active Committees

MBA Board of Directors
MBA Executive Committee Events & Promotion Committee Economic Development Committee
Community Innovators - (Went inactive May, 2013) Mountain Glory Festival Committee
Historic Marion Tailgate Market

Other Committees MBA Supports

MEDA
McDowell House
McDowell Non-profit Organizations
Get Not Out - Job training for under and unemployed in McDowell County

Mayor Little, Council Members and the City Manager thanked Ms. Spencer for the work that the MBA Board and staff does for the community. Council Member Clark asked if there was something on which the City should be focusing. Ms. Spencer stated that she and the Economic Development Committee believed that local agencies needed to work together to develop a marketing plan for the community. She said that Council could look forward to receiving some recommendations regarding marketing in the near future.

PUBLIC HEARING – APPLICATION FOR TAXICAB CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY: Mayor Little opened the Public Hearing.

AA.00000238 (24)

The City Manager advised that, as shown in information presented to Council Members, Mr. Kirby Pennix submitted an application for a Taxicab Certificate of Public Convenience and Necessity to Operate Marion City Cab Company with two taxicabs. Mr. Pennix plans to operate out of the old Builder's Supply building at 124 South Garden Street. The Police Department completed the required criminal background check on Mr. Pennix and, as noted by Lt. Gaye Noblitt, the background check showed no criminal record for Mr. Pennix. Mr. Pennix has a valid North Carolina driver's license and has produced proper proof of insurance.

The City Manager stated that Mr. Pennix will likely employ other drivers, who will have to complete a background check by the Police Department. The Police Department will also have to receive a medical clearance from each driver. The vehicles have been inspected and reports show that the vehicles are in very good condition. Photos of the one of the taxicabs were presented to Council Members for their review.

Mr. Pennix was present for this Public Hearing and introduced himself to Council Members. Mr. Pennix stated that his in-laws live in Marion and he feels that there is a need of cab service in the Marion community.

Mr. Pennix stated that he would be happy to answer any questions Council might have.

Mayor Pro Tem Cuthbertson stated that, in the 1960's, the City had three taxicab companies and they all seemed to stay busy.

Council Member Doggett stated that she feels that there are a lot of elderly people in the community who could use this type of service.

Council Member Clark stated he believes in free enterprise and in giving Mr. Pennix a chance, since he meets the qualifications listed under the City Code.

There were no other persons present to discuss this item.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Martin, seconded by Council Member Clark, Council voted unanimously to approve the request from Mr. Kirby Pennix for a Taxicab Certificate of Public Convenience and Necessity to operate Marion City Cab Company as requested.

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

ADOPT RESOLUTION OF INTENT – STREET CLOSING: The City Manager advised that the City had received a request from Mr. Paul Bartlett and Mr. Frank Routh to close an unopened portion of Old Ida Street and a 16 foot unopened alleyway, located off of West Henderson Street between West High Street and Grace Corpening Drive (the entrance to the YMCA).

The City Manager stated that Mr. Bartlett and Mr. Routh are interested in developing the property at West Henderson and High Streets and the closing of the street and alley would provide more property for development of this property. The first step in the street closing process is the adoption of a Resolution of Intent by Council. The Resolution of Intent schedules a public hearing on the request at the September 17 Council meeting.

Council Member Clark stated that, according to the map that was submitted, Ida Street kept going past the property owned by Mr. Bartlett and Mr. Routh. He asked if the closure of the street would affect other parcels. The City Manager reported that his understanding was that the only part of the street requested for closure was the section adjacent to the property of Mr. Bartlett and Mr. Routh; however, the map that was submitted did not show properties beyond that of Mr. Bartlett and Mr. Routh. The City Manager noted that the Resolution of Intent was the first step in the process and more information could be determined before the scheduled public hearing.

Council Member Clark advised that he just wants to make sure that the street closing will be legal and not deprive other property owners of access to their properties.

Mayor Little suggested that, since this is only the first step in the process, more information could be gathered on the effect of the street closing on other properties, and then discussed at the September 17 public hearing on the request.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Ramsey, Council voted unanimously to adopt the following Resolution of Intent to close a portion of Old Ida Street off of West Henderson Street and an unopened alleyway off of West High Street:

RESOLUTION OF MARION CITY COUNCIL
INTENT TO CLOSE A PORTION OF OLD IDA STREET AND AN UNOPEN ALLEY

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 Old Ida Street and an unopened alley as shown on a survey of properties belonging to Paul Bartlett and Frank Routh, and doing business as Exit 81 Properties L.L.C., and as shown in Map Book 1, Page 148 on the Mount Ida Park Addition dated December 2, 1926.

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 17, 2013, 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 Paul Bartlett and Frank Routh, P.O. Box 2705, Marion, NC 28752, and Maxwell M. Corpening Jr. Memorial Center, Inc., 129 North Main Street, Marion, NC 28752 who are the owners of property adjoining said portion of said street and alley 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 at a regular meeting held on August 20, 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Resolution Number: R-13-08-20-1

APPROVE REQUEST FOR SIDEWALK ENCROACHMENT – EAST COURT STREET: The City Manager advised that the Jug Sub Shop at 116 East Court Street submitted a request for approval of an encroachment to allow the business to place two tables and six chairs on the sidewalk. The Jug submitted a site plan, showing the proposed tables and chairs next to their building, along with completing the required waiver and submitting liability insurance information.

The City Manager advised that this location should easily be able to accommodate the requested tables and chairs.

Upon a motion by Council Member Martin, seconded by Council Member Clark, Council voted unanimously to approve the request of the Jug Sub Shop for a sidewalk encroachment to allow the placement of two tables and six chairs at 116 East Court Street.

APPROVE REQUEST FOR RESOLUTION AUTHORIZING THE SALE OF CITY PROPERTY ON BLUE RIDGE STREET BY NEGOTIATED OFFER AND UPSET BID: The City Manager advised that Mr. William Reese Smith and Mr. Kenneth D. Round submitted an offer to purchase 0.20 acres of City property on Blue Ridge Street for $2,500. This is a mostly cleared parcel located next to a house recently purchased by Mr. Smith and Mr. Round at 233 Blue Ridge Street.

The City Manager reported that the City acquired this property in 1969. The City Manager stated that it was his understanding that this property was acquired for the rerouting of West Henderson Street. DOT still owns two adjacent parcels.

The City Manager stated that Mr. Smith and Mr. Round wish to acquire the property to use a driveway, which is actually located on the City property, and also to construct a garage or carport. The City Manager advised that Council considered selling this property several years ago, probably around 2007 or 2008, but decided not to do so, due to concerns about manufactured housing potentially going on an R-2 parcel. In Mr. Smith and Mr. Round's letter, they say that they are willing to consent to restrictions that would prohibit manufactured housing on the property. The City Manager presented Council with a resolution to accept the offer of Mr. Smith and Mr. Round, subject to publication of the proposed sale and the acceptance of upset bids for 10 days, as required by State law. The City Manager advised that the resolution contained proposed language to restrict the placement of manufactured housing on the property. The City Manager suggested that keeping this property would not benefit the City in any way.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following Resolution, authorizing the sale of 0.20 acres of City property on Blue Ridge Street to Mr. William Reese Smith and Mr. Kenneth Round for $2,500, subject to the 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. William Reese Smith and Mr. Kenneth D. Round have submitted a bid in the amount of $2,500 for the purchase of one parcel of property that is approximately 0.20 acres in size, is owned by the City of Marion and is located on Blue Ridge Street (McDowell County Parcel Identification Number 1701.11-56-5216).

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 Blue Ridge Street (McDowell County Parcel Identification Number 1701.11-56-5216) 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. William Reese Smith and Mr. Kenneth D. Round 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 acceptance of the offer and the sale of the property is subject to restrictions that will be placed in the deed of sale, prohibiting manufactured housing of any type or construction from ever being placed on this property, and requiring that this property be combined with the adjoining parcel owned by Mr. Smith and Mr. Round, to create one parcel.

4. The City Clerk shall notify Mr. Smith and Mr. Round 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.

5. 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, plus advertising and legal costs.

Adopted this the 20th day of August, 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-13-08-20-2

REVIEW STREET AND SIDEWALK PRIORITY LIST: The City Manager advised that Council periodically reviewed and approved the Street and Sidewalk Project priority list and Parks Project priority list.

The City Manager presented Council with current staff recommendations for the Street and Sidewalk Project priority list and Parks Project priority list, with cost estimates included for all of the top 10 recommended street and sidewalk projects. Also presented to Council Members was a spreadsheet showing anticipated revenues for street and sidewalk projects for the 2013-14 and 2014-15 fiscal years, with proposed expenditures also listed.

AA.000000240 (24)

The City Manager stated that, for the current year, the expenditures exceed revenues by about $32,000. If Council agrees with the recommended ranking, this gap can be reduced hopefully through bids coming in lower than estimated for projects such as Crawford Street and Oakwood Drive. The Crescent Drive could be timed to overlap fiscal years, to push some of the costs to 2014-15. In 2014-15, further cost savings could also hopefully be achieved.

Public Works Director Brant Sikes and the City Manager presented the specific projects on the priority list, providing some details on each project.

Mr. Sikes stated that bids are out for the Crawford Street flood damage repairs and are due on August 28. Mr. Sikes said that he hopes work can start on this project by mid-September.

Mayor Pro Tem Cuthbertson stated that his biggest concern right now is concern for Powell Bill funds coming from the State. The City Manager advised that the City's Powell Bill funds are safe for 2013-14 and that the City should know if the State makes any changes to Powell Bill distributions for future years by the beginning of the 2014-15 Fiscal Year.

The City Manager stated that the City needed to get back to a regular routine of street resurfacing, as the City had gotten away from resurfacing somewhat to completed needed projects. He noted that he projected devoting $100,000 to street resurfacing early in the 2014-15 Fiscal Year. The City Manager advised that Public Works Director Brant Sikes was currently assessing street resurfacing needs and street resurfacing priorities could be presented to Council for review by the Spring of 2014.

Council Member Clark stated that the City has streets that need to be resurfaced now. He said that Montevista and Fern Avenues are examples of street that need resurfacing. Council Member Clark advised that there are also issues with potholes on various streets.

Council Member Martin stated that, with the available revenues and the projects that need to be completed, the priority list that was presented is about all that the City can do over the next two years.

Mayor Little asked Council Members to let the City know of any street issues they observed and to advise of any priorities for street resurfacing.

Upon a motion by Council Member Doggett, seconded by Council Member Martin, Council voted unanimously to approve the following Street and Sidewalk Priority List and Parks Priority List:

Street/Sidewalk Priority List
August 2013

Priority Project

1 Crawford Street – Repair failed slope. Contract out in August 2013, with some assistance by City crews. Estimated cost of $90,000. Possibility of future Federal and State disaster assistance to offset this cost.

2 North Garden Street – Drainage improvements, involving reconstruction of curb and gutter in front of Frontier Building and beside Fire and Ice Jewelry - To be completed by City crews beginning in August 2013. Estimated cost of $3,500.

3 Oakwood Drive – Storm drainage improvements. To be completed by contractor and City crews in 2013-2014. Estimated cost of $114,930.

4 North Garden Street and New Street – Patch intersection. To be completed by City crews in August 2013. Very little cost involved.

5 Crescent Drive – Curb and gutter replacement and resurface. Water line replacement is needed in conjunction with this project. To be completed by City crews in 2013-2014. Estimated cost of $80,000.

6 Ridge Road/Church Street – Construction of asphalt trail along road between East Court Street and School Street. Contract out in 2014-15. Estimated cost of $31,240.

7 Ridge Street – Storm drainage and roadway rehabilitation. Contract out in 2014-15, with some assistance possible from City crews. Estimated cost of $55,000.

8 Mt. Ida Roadway – Construction of gravel road halfway up the mountain. Contract out in 2014-15. Estimated cost of $118,000.

9 East Court Street Sidewalk – Add new section of sidewalk from Branch Street to Yancey Street. Seek 50 percent DOT funding in 2013-14 for payment in 2014-15. Estimated City cost of $27,000. Cannot be paid for with Powell Bill Funds, since it is a State maintained road.

10 North Garden Street – Storm drainage and roadway rehabilitation. Evaluate timing of project in 2014-15. Estimated cost of $218,700.

11 Morgan Terrace – Repave and replace asphalt curb. Sewer work is needed near intersection with Clay Street. Evaluate timing of project in 2014-15.

12 Morehead Road – Curb and possible gutter installation. Evaluate timing of project in 2014-15.

13 Foxfire Community – Replace asphalt curb on South McDowell Avenue and Woodland Street. Evaluate timing of project in 2014-15. City crews will undertake some spot curb repairs in 2013-14.

14 Logan Street Sidewalk – Add new section of sidewalk behind Wells Fargo Bank. Evaluate timing of project in 2014-15. May be able to seek DOT funding.

15 West Fourth Street (East Marion) – Pave street. Evaluate timing of project in 2014-15.

16 Cross Street – Curb and gutter and sidewalk replacement. Water line replacement needed in conjunction with this project. Evaluate timing of project in 2014-2015.

17 Bakersville Road – Street rehabilitation and widening. Seek Community Development Block Grant funding if apartment development receives funding or evaluate timing of project in 2014-2015. Estimated cost of $45,000.

18 Open up Washington Street to Miller Avenue – Evaluate timing of project in 2014-15.

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Park Priority List
August 2013

Priority Project

1 Community Building Park – Complete Master Plan renovations to park including sidewalk from picnic area to small children's area, retaining wall for small children's area. Also install adult swings and benches in playground area. – To be completed by City crews in 2013-14

2 Clinchfield Park – Construct greenway between park and Virginia Road - To be completed by City crews in 2014-15, with contractor assistance as needed

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that, with the State budget apparently shifting all Rural Center funding to the N.C. Department of Commerce, he had asked McGill to stop work on the Old Fort-Marion Water and Sewer Study until it was determined if the State will honor existing Rural Center grant contracts. The City Manager reported that Dennie Martin of Martin-McGill and N.C. Representative Josh Dobson have both advised that the existing Rural Center grant contracts will be honored. Mr. Martin has checked with the Rural Center and the State and reported that the Rural Center is paying grant invoices and will continue to do so, under State scrutiny, until the programs are officially transitioned to the Department of Commerce. This transition may occur as soon as September.

The City Manager asked Council for permission to allow McGill Associates to start work on the Old Fort-Marion Water and Sewer Study.

Council Member Clark suggested that the City Manager may want to call Rural Center Interim President Elaine Matthews and get her opinion on whether the Planning Grant is safe for this project. Council Member Clark stated that, if Ms. Matthews says the City and Town are safe in proceeding with the project, then he would be comfortable with starting the project.

Mayor Little and Council Members agreed by consensus to authorize the City Manager to have McGill Associates begin work on the Old Fort-Marion Water and Sewer Study if Rural Center Interim President Elaine Matthews advises that the City and Town are safe in proceeding with the project,

The City Manager reported that the City received a $48,150 grant from the Kate B. Reynolds Charitable Trust to fund a part-time Farmer's Market Manager, through additional hours for Lou Godfrey in the Marion Business Association (MBA) office, to purchase EBT equipment for the Market, to purchase fans for the Farmer's Market and to fund marketing and promotions for the Market. The City Manager stated that the MBA was able to purchase the needed equipment and begin the additional hours for Lou Godfrey in July.

The City Manager advised that a bill passed by the North Carolina General Assembly near the end of this legislative session takes away the authority of the Clean Water Management Trust Fund (CWMTF) to approve grants for wastewater projects. Tom Massie of the CWMTF staff and Dennie Martin advised the City Manager on August 9 that water and wastewater programs will be transitioned to the N.C. Department of Environment and Natural Resources under the supervision of NCDENR Assistant Secretary Mitch Gillespie.

The City Manager reported that, therefore, the City's grant application for a sewer extension to Marion Travel Plaza on Sugar Hill Road will not be funded. He further stated that NCDENR may have information on the new programs within 90 days or less.

The City Manager stated that, in late February, McGill submitted a Clean Water State Revolving Fund grant application for the East Court Street Sewer Replacement Project. As previously mentioned, the project would replace sewer lines from Oak Street and East Court Street to Spring Street, at which point the sewer line is of sufficient size. In early April, the City received approval from the State for a low interest Clean Water State Revolving Loan of 2.00 percent. The maximum loan term the City can request is 20 years. The loan amount is equal to the estimated project cost of $1,250,550. The annual payments on a $1,250,550 loan over 20 years would be $75,915.84.

The City Manager advised that the City had hoped to receive grant money to fund part or all of the project. Council approved the City having McGill submit a Preliminary Engineering Report by July 1, to cost $10,000-$15,000. Money spent on the Preliminary Engineering Report could be reimbursed by the loan proceeds. This report was submitted to the State by the required date. Plans and specifications would have to be submitted to the State by July 1, 2014 and the construction contract would have to be executed by January 2, 2015.

The City Manager stated that, after follow up discussions with Dennie Martin, the City looked at resubmitting this project for grant funding in the September grant cycle. Assistant DENR Secretary Mitch Gillespie tried to help position the City to have a better chance at qualifying for grant money for this project, but it does not appear that the City will be able to qualify for grant funding. Therefore, Dennie believes that the 2.00 percent loan is the best deal the City will get from the CWSRF program. Dennie is looking at other funding options, since many infrastructure grant programs, such as Rural Center, Clean Water Management Trust Fund and CDBG are being modified and/or consolidated. The City Manager suggested seeking other grant sources for this project or other potential projects that can be sought.

Mayor Little and Council Members expressed general agreement with the City Manager's recommended strategy for the East Court Street Sewer Project.

Public Works Director Brant Sikes advised that McGill had completed work on the grant funded Water System Hydraulic Model. Staff and McGill Associates are reviewing the draft plan. The City Manager suggested that the Hydraulic Model would be submitted for Council review at a meeting in the near future.

COUNCIL MEMBER COMMENTS:

Council Member Clark asked the City Manager if there was any update on the US 221 Widening Project. The City Manager advised that this matter was on the agenda for discussion at the September 10 Council Planning Session.

Council Member Clark stated that he would be going to Nashville the following day for a Southern Municipal Conference meeting. At this meeting, North Carolina League of Municipalities Executive Director and two other State League Directors from other states will be honored for their upcoming retirements.

ADJOURNMENT: Upon a motion by Council Member Ramsey, seconded by Council Member Doggett, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

AA.000000242 (24)

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 3, 2013 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; Allen Lawrence, Police Chief; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Dillon Green, 230 Carolina Avenue, Marion, NC; Ronnie Watkins, 45 James Drive, Marion, NC; Andrew Rouse, 163 Fleming Avenue, Marion, NC; Samuel Jones, 60 Zion Hill Road, Marion, NC; Christopher Boyette, 269 Forest Road, Marion, NC; Thomas Moomaw, 537 Rutherford Road, Marion, NC; Joshua Morgan, 40 Proctors Knob, Marion, NC; Chris Chaffin, 59 Euclid Avenue, Marion, NC; Austin Lambert, 224 Maple Avenue, Marion, NC; Amy Moomaw, 537 Rutherford Road, Marion, NC; Donna Boyette, 269 Forest Road, Marion, NC; Alex Brown, 855 Roby Conley Road, Marion, NC; Duncan Davidson, Marion, NC; Matt Greene, 230 Carolina Avenue, Marion NC; Shawn Thomas, 224 Maple Avenue, Marion, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

CONSENT AGENDA: Upon a motion by Council Member Ramsey, seconded by Council Member Clark, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – August 20, 2013 Regular City Council Meeting Minutes.

B. Consider Reappointment of Mayor Pro Tem Lloyd Cuthbertson to Isothermal Planning and Development Commission Rural Transportation Planning Organization

Council reappointed Mayor Pro Tem Cuthbertson to another two year term on the Isothermal Planning and Development Commission Rural Transportation Planning Organization Technical Advisory Committee.

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

ADOPT ORDINANCE TO AUTHORIZE DEMOLITION OF DILAPIDATED HOUSE: The City Manager advised that staff had completed the condemnation process for a dilapidated house on Forest Park Road in the Eastfield neighborhood. The property owner has failed to take action to demolish the house.

The City Manager stated that this house would be ready to demolish, as soon as asbestos is removed, if the demolition authorization is given by Council.

Mayor Little noted that the City always provides ample notice and time to allow property owners to take action.

Upon a motion by Council Member Martin, seconded by Council Member Clark, Council voted unanimously to adopt the following Ordinance as recommended:

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;

WHEREAS, pursuant to and in compliance with the said Ordinance a certain dwelling(s)/structures(s) located on property described on Forest Park Road, having Parcel Identification Number 1711.06-39-1656 and as more fully described in Exhibit A was found to be unfit for human habitation or hazardous;

WHEREAS, the owners(s) of the above-described property is as follows: Lannie Dean Carter, Jr.;

WHEREAS, on the 14th day of June, 2013, 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 July 14, 2013 (a copy of the order is attached hereto as Exhibit B); and

WHEREAS, the owners 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 3rd day of September, 2013.

AA.00000243 (24)

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: 13-09-03-1

CONSIDER APPROVAL OF STREET CLOSURE REQUEST ON MAIN STREET BETWEEN FORT AND COURT STREET FOR DIFFERENCE MAKERS BIKE NIGHT ON SATURDAY EVENING, SEPTEMBER 21: The City Manager advised that Mr. Louie Parrow of Difference Makers had requested permission to close Main Street between Fort and Court Street for the Difference Makers Bike Night on Saturday Evening, September 21 between 6:00 p.m. and 9:00 p.m. The street would likely need to be closed by about 5:00 p.m. for this event. This is the same block used on many occasions for car shows, most of which have taken place on Saturday evenings. The City Manager stated that the Bike Night took place on Saturday evenings on July 20 and August 17 at the Farmer's Market Shelter with no problems. Mr. Parrow wants to move the event to Main Street, in an attempt to attract more people. Saturday evenings generally work well for the closure of Main Street, particularly in the Fort to Court Street block.

The City Manager reported that the City has submitted a request to DOT to approve the street closure.

Mayor Little advised that he had spoken to Mr. Parrow and suggested that he request approval to move the Bike Night to Main Street, in an attempt to grow the event.

Council Member Clark asked if Mr. Parrow intended to hold monthly Bike Night events on Main Street. The City Manager stated that this would be an initial trial event, but that Mr. Parrow had indicated a desire to hold monthly events during nice weather in the future.

Council Member Clark stated that he supported the approval of the request, but would not want DOT to start limiting street closure requests by the City, that could possibly affect large, long-standing City events such as the Mountain Glory Festival. The City Manager advised that DOT had always been very helpful and responsive to City requests for street closures. Council Member Clark said that the City of Marion was fortunate to have a good working relationship with DOT, as DOT was not always easy to deal with in other communities.

Upon a motion by Council Member Clark, seconded by Council Member Doggett, Council voted unanimously to approve the request of Mr. Louie Parrow of Difference Makers to close Main Street between Fort and Court Street for the Difference Makers Bike Night on Saturday Evening, September 21 between 6:00 p.m. and 9:00 p.m.

APPROVE RESOLUTION HONORING NORTH CAROLINA LEAGUE OF MUNICIPALITIES EXECUTIVE DIRECTOR ELLIS HANKINS, UPON HIS RETIREMENT: The City Manager advised that long-time N.C. League of Municipalities Executive Director Ellis Hankins is retiring January 31, 2014. The League has asked member cities to consider adopting resolutions or proclamations honoring Mr. Hankins upon his retirement.

Council Member Clark said that he has known Mr. Hankins for many years and that Mr. Hankins has done an excellent job for the League and for all cities in North Carolina. Council Member Clark made a motion that Council enthusiastically approve a Resolution honoring Mr. Ellis Hankins upon his upcoming retirement as Executive Director of the North Carolina League of Municipalities. The motion was seconded by Mayor Pro Tem Cuthbertson. All members of Council voted in favor and the motion was passed. The adopted Resolution read as follows:

A Resolution of the City of Marion Honoring Ellis Hankins upon his Retirement from the North Carolina League of Municipalities

WHEREAS, S. Ellis Hankins has been a leader in municipal government and leadership in North Carolina for nearly 30 years, serving the North Carolina League of Municipalities in various capacities from 1982-1994 and as Executive Director since 1997; and

WHEREAS, the work of S. Ellis Hankins benefitted the citizens of the cities, town and villages in the State of North Carolina in countless ways over the past three decades; and

WHEREAS, S. Ellis Hankins has worked to promote good government in North Carolina through guiding the League in providing non-partisan advocacy, insurance, technical assistance and other services as directed by the membership; and

WHEREAS, S. Ellis Hankins has been a great friend of the City of Marion and all municipalities in North Carolina, providing tireless help and leadership at all times and always being a faithful advocate of municipal government; and

WHEREAS, most of all, S. Ellis Hankins is a man of integrity and strong character and a true professional who will be greatly missed by the City of Marion, all municipal governments in North Carolina and the State as a whole; and

WHEREAS, S. Ellis Hankins is retiring from service with the North Carolina League of Municipalities, effective January 31, 2014 and the City of Marion wishes to recognize and honor Ellis on his three decades of exemplary public service, to thank him for his assistance and friendship to the City of Marion and to wish him the best of success in his retirement.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Council Members of the City of Marion do hereby honor S. Ellis Hankins for faithful and dedicated service to the State of North Carolina, the City of Marion and all municipalities in North Carolina and offering the sincere appreciation of the City of Marion to S. Ellis Hankins for a job well done.

ADOPTED this the 3rd day of September, 2013.

Stephen R. Little
Mayor

Lloyd Cuthbertson
Mayor Pro Tem

A. Everette Clark
Council Member

Juanita Doggett
Council Member

AA.00000244 (24)

Billy Martin
Council Member

Don Ramsey
Council Member

APPROVE VOTING DELEGATE AND ALTERNATE FOR N.C. LEAGUE OF MUNICIPALITIES CONFERENCE: The City Manager advised that Council action is needed to approve the voting delegate and alternate for the N.C. League of Municipalities conference in Hickory from October 13-15. Council Member Clark, Council Member Doggett and the City Manager will be attending this conference.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Martin, Council voted unanimously to appoint Council Member Clark as the City's voting delegate and Council Member Doggett as the City's alternate voting delegate for the N.C. League of Municipalities Conference in Hickory, to be held October 13-15.

REVIEW/CONSIDER APPROVAL OF REQUEST FROM DUKE ENERGY FOR RIGHT OF WAY ACROSS CITY PROPERTY ON COLLEGE DRIVE: The City Manager advised that, as previously discussed, Duke Energy had requested a right of way across City property on College Drive to allow for the upgrade of distribution line serving the County's Universal property. Specifically, Duke requests a 30' right of way, encompassing 0.81 acres, to allow Duke to upgrade distribution lines on City property beside College Drive to the County's Universal building. Duke indicates that the distribution lines will be placed next to the road, just outside the 60' DOT right of way.

The City Manager stated that, at the June 4 Council meeting, Council approved a modified version, as drafted by Mayor Little, of the right of way agreement proposed by Duke. Duke subsequently submitted a letter, agreeing to the City's revised right of way, with the exception of a paragraph added by Mayor Little under Section D as paragraph 2 as follows:

"Grantee shall have the duty to promptly and completely remove from the Right of Way and Premises all trees and parts of trees and other vegetation that Grantee cuts or causes to be cut to protect its lines. Such repair and complete removal shall take place within seven (7) days of the cutting of trees and other vegetation or within seven (7) days of Grantee damaging the Premises."

The City Manager advised that Duke indicates that the business practices it has filed with the N.C. Utilities Commission will not allow this paragraph to be included.

The City Manager reported that Mayor Little reviewed Duke's letter and recommended that Council approve a revised right of way, with the paragraph to which Duke objects revised to read as follows:

"Grantee shall have the duty to promptly remove from the Right of Way and Premises all trees and parts of trees and other vegetation that Grantee cuts or causes to be cut to protect its lines, in a manner consistent with the standard business practice that the Grantee has filed with the North Carolina Utilities Commission."

The City Manager stated that he received word from Duke Energy earlier that day that the changes proposed by Mayor Little would be acceptable.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following Right of Way Agreement with Duke Energy concerning the City's Old Waste Treatment Property on College Drive:

PREPARED BY: Karol P. Mack, Associate General Counsel, Duke Energy Corporation

Mail To: Duke Energy Carolinas, LLC
Records Management ST30C
P.O. Box 1007
Charlotte, N.C. 28201

Site 000571
Land Unit 1181896
Project No 000571-391145

STATE OF NORTH CAROLINA)
:
RIGHT OF WAY AGREEMENT
COUNTY OF MCDOWELL)

THIS INDENTURE, made and entered into this __ day of _____, 20__, by and between **CITY OF MARION**, having a mailing address of P.O. Drawer 700, Marion, North Carolina 28752-0700 (hereinafter, the "Grantor"), and **DUKE ENERGY CAROLINAS, LLC**, a North Carolina limited liability company, having a mailing address of P.O. Box 1007, Charlotte, North Carolina 28201-1007 (hereinafter, the "Grantee");

WITNESSETH:

That Grantor, in consideration of Ten Dollars ($10.00) and other valuable considerations paid by Grantee, the receipt of which is hereby acknowledged, does grant and convey unto Grantee, its successors and assigns, a perpetual easement and right of way, for the purposes and subject to the terms and conditions herein below set out, over and across the land of Grantor (hereinafter "Premises") lying in the State and County aforesaid, acquired by Grantor by the following:

Deeds recorded in Deed Book 161 at Page 142 and Deed Book 93 at Page 2691, both in the Office of the Register of Deeds for McDowell County.

The easement and right of way herein granted by Grantor to Grantee, its successors and assigns, over the Premises above described consist of the following:

(a) Grantee's Use of Right of Way Strip. Grantor grants to Grantee, for itself and its successors and assigns, a perpetual easement within the Right of Way Strip (as defined herein) to enter and construct, reconstruct, replace, rebuild, enlarge, modify, remove, inspect, maintain and use multiple lines (either overhead or underground, or both) for the purpose of transporting electricity and for communications use. As used herein, the "Right of Way Strip" shall refer to that portion of land containing 0.81 ± total acres (Area 1 = 0.03 Acres and Area 2 = 0.78 Acres), all as shown on that certain plat of survey entitled "Right-of-Way to be Acquired from Town of Marion," (Sheets 4 of 5 and 5 of 5) dated March 13, 2013, marked Map: 000571-390833, said plat attached hereto as **Exhibit A** and incorporated herein by reference. A "line" may consist of overhead and/or underground wires, conductors, cables, conduits and other necessary apparatus, fixtures, hardware and appliances deemed necessary by Grantee for the transportation of electrical energy and/or for the personal communications purposes of Grantee or its successors or assigns, including, without limitation, conduits, static wires, guy wires, anchors, grounds, footings, foundations, crossarms, insulators, electronic equipment and other associated equipment. Overhead lines or cables may be supported by single or multiple rows of towers, poles or other structures (without limitation as to number) placed at necessary and proper intervals upon the Right of Way

Strip. In connection with Grantee's rights within the Right of Way Strip, Grantee shall have the right (i) to clear and keep the Right of Way Strip free of trees and other vegetation (except as provided in (b) hereinbelow), structures, and other objects of any nature including, without limitation, satellite signal receiver systems and all other objects (whether above ground or below ground) which may, in Grantee's opinion, interfere in any way with or endanger Grantee's lines or the maintenance and operation of Grantee's lines, (ii) to install and maintain fences, gates and roads within the Right of Way Strip to afford Grantee access to the Right of Way Strip and (iii) to plant and maintain shrubs and ornamental trees within the Right of Way Strip at locations selected by Grantee and remove the same.

(b) Grantor's Reserved Use. Grantor shall be entitled to use the Right of Way Strip for all purposes not inconsistent with the rights and easements herein granted to Grantee, including (i) the right to cultivate crops, plants, shrubs and trees of a species that will not exceed fifteen (15) feet in height at maturity, provided that any such vegetation does not impede Grantee's use of and access to the Right of Way Strip, (ii) the right to pave, improve and use the Right of Way Strip for temporary vehicular parking, provided Grantor installs protective barriers satisfactory to Grantee for Grantee's structures, (iii) the right to use the Right of Way Strip for recreation, provided no structures or objects (above or below ground) are erected or placed without the prior written approval of Grantee, (iv) the right to retain existing roads and drives and sewer, water and other utility lines within the Right of Way Strip at their existing locations as of the date of this instrument, (v) the right to use, construct and maintain new paved or unpaved roads, streets and driveways and new water, sewer, drainage and other utility lines or pipes crossing the Right of Way Strip, provided such facilities conform to the following requirements: (A) such facilities cross the Right of Way Strip from one side of the Right of Way Strip to the other side at an angle of not less than thirty (30) degrees between the center line of said facilities and the center line of the Right of Way Strip, provided that no road, street or driveway intersects entirely or partially within the Right of Way Strip with any other road, street or driveway, (B) no portion of such facilities is located within twenty-five (25) feet of any of Grantee's supporting poles, towers, or structures, and (C) such facilities are constructed in strict compliance with all clearance requirements of Grantee and all other regulations and ordinances then applicable to electrical conductors, (vi) the right to maintain existing fences and the right to build new fences on the Right of Way Strip with the prior written approval of Grantee, provided any such new fences conform to the following requirements: (A) such fences shall not be attached to poles, towers or structures, (B) such fences shall be installed at least twenty-five (25) feet from poles, towers or structures, (C) such fences shall not exceed 10 feet in height, (D) such fences shall cross the Right of Way Strip from one side of the Right of Way Strip to the other side at an angle of not less than 30 degrees between the centerline of said facilities and the center line of the Right of Way Strip, and (E) if a fence crosses the Right of Way Strip, a gate shall be installed by Grantor per Grantee's specifications to allow free access required by Grantee's vehicles and equipment and (vii) the right to excavate, grade and fill, provided Grantor receives Grantee's prior written approval.

(c) Grantee's Use of Premises Outside of the Right of Way. Grantor further grants to Grantee, for itself, its successors and assigns, the right to enter upon the Premises for the following purposes and uses:

(1) Grantee and Grantee's successors and assigns relative to the Right of Way Strip may cut, fell and remove any and all trees on the Premises that are or may become tall enough, in Grantee's opinion, to fall on a line or other facility or structure within the Right of Way Strip.

(2) Grantee and Grantee's successors and assigns relative to the Right of Way Strip may enter upon the Premises at any time and from time to time to gain access (for vehicles, equipment and pedestrians) to the Right of Way Strip or to cut, fell and remove trees from the Premises (pursuant to Paragraph (c)(1) herein); and an easement is hereby granted to Grantee for such purpose. Grantee's right to enter the Premises (for which an easement is hereby granted to Grantee) to access the Right of Way Strip or Premises shall be confined to streets, roads and driveways that exist when Grantee's entry is necessary, provided such existing streets, roads and driveways are adequate for Grantee's purposes and afford Grantee reasonably convenient and feasible access to the Right of Way Strip or the location on the Premises where trees are to be cut, fell or removed as provided for hereinabove. If streets, roads and driveways satisfying the requirements in the immediately preceding sentence do not exist at such time, Grantee shall be entitled to use (and an easement is hereby granted for such purpose) the most reasonably convenient and feasible access route or routes over the Premises to access the Right of Way Strip (and Grantee shall be entitled to construct and maintain a roadway or driveway for Grantee's purposes within such route or routes) or the location of the Premises where trees are to be cut, fell or removed as provided for hereinabove.

(d) Grantee's Repair Obligation. Grantee shall promptly and completely repair damage to the Premises, including roads, driveways and fences, resulting directly from Grantee's exercise of its rights granted herein. Provided, however, for purposes of the initial clearing of all trees which Grantee is entitled to cut and remove from the Premises pursuant to Paragraphs (a) and (c) herein, said trees shall, upon such cutting, become the property of Grantee.

Grantee shall have the duty to promptly remove from the Right of Way and Premises all trees and parts of trees and other vegetation that Grantee cuts or causes to be cut to protect its lines, in a manner consistent with the standard business practice that the Grantee has filed with the North Carolina Utilities Commission.

The failure of Grantee to exercise any of the rights herein granted shall not be construed as a waiver or abandonment of the right thereafter at any time or from time to time to exercise any and all of such rights.

TO HAVE AND TO HOLD the aforesaid rights, privileges and easements unto Grantee, its successors and assigns forever.

And Grantor, for the Grantor and for the Grantor's successors and assigns, covenants to and with Grantee, its successors and assigns, that Grantor is lawfully seized of the above described land in fee and has the right to convey the said rights and easements, that the same is free and clear from any and all encumbrances and will forever warrant and defend the title to the said rights and easements against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, this instrument is executed on the date first above written.

GRANTOR

City of Marion

By: _____
Name: _____
Title: _____

STATE OF _____ CAROLINA

AA.000000246 (24)

COUNTY OF _____

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: _____

Date: _____

_____
Notary Public

My Commission Expires: _____

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that, based on guidance from the N.C. Rural Center and the N.C. Department of Commerce, and as discussed with Council at the August 20 Council meeting and Old Fort Mayor Garland Norton, he had given McGill the go-ahead to start work on the Old Fort-Marion Water and Sewer Study. This project is being funded with a $25,000 Rural Center Planning Grant, matched by contributions by the City and Town.

The City Manager stated that McGill's original timeline called for a completion date of February 2014. As previously reported, the Marion and Old Fort Utility Committees met with McGill on July 18 to begin discussing the project. The City Manager noted that meetings will likely resume regarding this project in the near future.

The City Manager advised that City, Chamber of Commerce and Marion Business Association staff had been providing technical assistance to the owners of McDowell Twin Cinema, to help with a fundraising campaign to allow the owners to purchase digital equipment in advance of an impending deadline. The fundraising campaign appears to be off to a great start.

Public Works Director Brant Sikes stated that the Overlook Drive widening and paving project will hopefully be completed within the next two weeks, now that there has finally been an extended period of dry weather.

Mr. Sikes also gave an update on the Crawford Street flood damage repairs. He advised that the City did not receive any bids by the announced deadline the previous week. However, two local contractors have expressed interest in bidding on the project, stating that they just need a little time to submit their bids, since they are behind on scheduled projects, due to the large amount of rain received locally this year.

The City Manager stressed that Mr. Sikes is working as hard as possible to obtain bids, so that the project can soon begin. The City Manager noted that he had been in discussions with staff at the North Carolina Division of Emergency Management concerning possible State disaster assistance for the flood damage repairs.

The City Manager advised that Council had agreed to allow the Farmer's Market Shelter to be used on Sunday, September 29 for a rest stop for the Cycle NC ride. Approximately 1,000 to 1,200 bicyclists will come through Marion that morning. Hopefully, this ride will have a positive economic impact on the City.

The City Manager advised that a bill passed by the North Carolina General Assembly near the end of this legislative session takes away the authority of the Clean Water Management Trust Fund (CWMTF) to approve grants for wastewater projects. Tom Massie of the CWMTF staff and Dennie Martin of Martin-McGill advised on August 9 that water and wastewater programs would be transitioned to the N.C. Department of Environment and Natural Resources (NCDENR) under the supervision of NCDENR Assistant Secretary Mitch Gillespie.

The City Manager stated that the City's grant application for a sewer extension to Marion Travel Plaza on Sugar Hill Road will not be funded. The City was initially told that NCDENR would have information on the new programs within 90 days or less. Dennie Martin suggested that the City make contact with NCDENR Assistant Secretary Gillespie to discuss our project. Mayor Little did so in mid-August. The City Manager stated that the City subsequently learned that the NCDENR grant cycles may not be open until early 2014. The City Manager said that he would keep the Mayor and Council Members updated as progress is made.

The City Manager advised that, in late February, McGill submitted a Clean Water State Revolving Fund grant application for the East Court Street Sewer Replacement Project. In early April, the City received word from the State of the approval of a low interest Clean Water State Revolving Loan of 2.00 percent. The maximum loan term the City can request is 20 years. The loan amount is equal to the estimated project cost of $1,250,550. The annual payments on a $1,250,550 loan over 20 years would be $75,915.84.

The City Manager reported that he had hoped to receive grant money to fund part or all of the project. After follow up discussions with Dennie Martin, the City looked at resubmitting this project for grant funding in the September grant cycle. Assistant DENR Secretary Mitch Gillespie tried to help position the City to have a better chance at qualifying for grant money for this project, but it does not appear that the City will be able to qualify for grant funding. The City Manager stated that Council agreed at the August 20 Council meeting that this project will not be pursued, unless grant money is received. The City Manager stated that he would advise if the City or McGill identifies other grant sources for this project or other potential projects that can be sought.

The City Manager advised that Council Member Doggett had received a recent request to install a small section of guardrail at the intersection of Viewpoint Drive and Crescent Drive. The concern is that vehicles failing to make the sharp left turn from Crescent onto Viewpoint could end up going down the steep embankment and onto North Main Street, now that trees have been removed from the bank.

The City Manager stated that Mr. Sikes had priced material costs for wooden and metal guardrail. Material costs would range from around $1,000 for wood to about $1,500 for metal. Another alternative would be to install warning signage.

Council Member Doggett stated that she believed that a metal guardrail is needed and that reflectors also need to be placed on the guardrail.

Council Member Clark made a motion to install a metal guardrail, with the appropriate signage and reflectors included, at the intersection of Viewpoint and Crescent Drives. The motion was seconded by Mayor Pro Tem Cuthbertson. All Council Members voted in favor and the motion passed.

The City Manager advised that the replacement of the Depot roof over the MBA office was completed in late August. The low bid was submitted by Johnson Roofing in the amount of $15,300. Johnson's have completed the work for $13,800, almost $1,500 less than their bid.

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The City Manager advised that the application of Western North Carolina Housing Partnership (WNCHP) for North Carolina Housing Finance Agency tax credits for a 48 unit senior housing development on Bakersville Road was not approved. WNCHP is strongly considering reapplying for approval of the project next year.

COUNCIL MEMBER COMMENTS: Council Member Doggett stated that the parking space eliminated last year by Council at the intersection of South Main and Railroad Streets, near Killough's Music and Loan, is being used on weekends. Council Member Doggett advised that vehicles parking in this no-parking area block sight distance and she had personally witnessed near accidents as a result.

Police Chief Allen Lawrence advised that he would have this location monitored by officers.

Council Member Clark reported that he had recently read a Charlotte Observer article, stating that NCDOT is reprioritizing all project. He asked if this reprioritization would affect the US 221 widening project.

Mayor Pro Tem Cuthbertson said that he and the City Manager had recently attended the Isothermal Planning and Development Commission Rural Transportation Planning Organization meeting and learned that highway project must be authorized to construct by July 1, 2015, or they will go back for reprioritization. The City Manager stated that he would get specific information on the new DOT funding plan and forward it to the Mayor and Council Members for their review.

RECOGNITION OF BOY SCOUT TROOP 210: Mayor Little welcomed Boy Scout Troop 210 to the meeting. He recognized Scoutmaster Matt Greene, Boy Scouts and parents who were present. Mayor Little said that he understand that the Scouts were working on their Citizenship in the Community badge and encouraged them to ask questions.

Several Scout Members asked various questions regarding the Marion Travel Plaza sewer extension project, the City's right of way agreement with Duke Energy and the North Carolina League of Municipalities. Mayor Little answered questions and then allowed time for photographs to be taken of Troop 210 members with City Council Members, the City Manager and himself.

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 on Tuesday evening, September 10, 2013 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 Everette Clark, Juanita Doggett, Billy Martin and Don Ramsey.

OTHERS PRESENT: Bob Boyette, City Manager; Harriett Thomas, CPA, Finance Director; Heather Cotton, AICP, Planning and Development Director.

GUESTS PRESENT: Chris Forney, 169 Ridley Street, Marion, NC.

OPENING OF MEETING: Mayor Little opened the meeting.

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

1. Housing Demolition – The City Manager advised that he had recently been made aware by Mr. Chris Forney that the City's West Marion Park encroached on two parcels owned by Ms. Mary Forney off of Ridley Street. The total encroachment amount is about 0.25 acres. Mr. Forney appeared before Council and stated that his family could grant the City an easement for the encroachment, but would request the City's help in demolishing a dilapidated house located on one of the parcels. The Mayor and City Council Members agreed by consensus that this was a fair trade. Formal consideration of accepting the easement from the Forney family in exchange for the house demolition will be considered at the September 17 Council meeting.

2. US 221 Widening – The City Manager advised that Public Works Director Brant Sikes had recently developed an estimate of just over $2.2 million for the relocation of water and sewer lines for the US 221 widening project. DOT had indicated an estimate of $1.2 million for this work, but the City Manager said that this estimate did represent a guarantee from DOT. The City Manager stated that he was working to schedule a meeting with DOT between mid and late September to discuss this project.

   Mayor Little proposed a scaled back version of the project that involved the widening terminating at Interstate 40, instead of extending northward to the US 221 Bypass. Council Member Clark said that he thought the City should ask for the entire project, but only if DOT pays for the water and sewer relocation costs.

   After discussion, the Mayor and Council Members agreed by consensus to schedule the meeting with DOT to discuss the US 221 widening project, at which time Mayor Little will communicate that the City only wants the project constructed if DOT pays the entire cost for the water and sewer relocations.

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3. Manufactured Housing Regulations – The City Manager advised that Council Members Clark and Ramsey, Planning and Development Director Heather Cotton and he had meet several months ago with a concerned citizen's group about proposed changes to the City's manufactured housing regulations. Ms. Cotton outlined the changes, which included two proposed ordinances, one that would add some reasonable criteria concerning manufactured housing and one which would create a new R-6 zoning district, which could allow single-wide manufactured housing, as well as other high density development. Council Members Clark and Ramsey stated that they believed the citizen's group was generally satisfied with the proposed changes and that the Planning Board and Council should proceed with sending the changes forward for public notification and hearing.

   Ms. Cotton suggested that she could pursue one of two paths: implementing just the changes related to manufactured housing or additional zoning map amendments consistent with the adopted Comprehensive Plan. After discussion, the Mayor and Council Members agreed to direct staff to begin work with the Planning Board to discuss and send forward recommendations regarding implementing the manufactured housing regulation changes plus the Comprehensive Plan zoning changes.

   Ms. Cotton stated that the broader changes would take some time, so it would likely be early 2014 before any recommendations would come before City Council for public hearing and review. In the meantime, she will work with the Planning Board on identifying recommendations for dimensional requirements and uses for individual districts, as well as clarifying the recommended zoning map changes.

   Ms. Cotton also proposed some changes to the City's regulations regarding driveway standards and stormwater, citing a recent example of a property owner that paved his entire front yard. The Mayor and Council Members agreed with Ms. Cotton working with the Planning Board and City staff to develop recommendations to address these issues.

4. Catawba River Greenway/Round Hill Loop – The City Manager reported that staff would recommend the City taking over maintenance of the Round Hill Loop, located off of the Joseph McDowell Historical Catawba Greenway, at the beginning of the 2014 mowing season, upon the McDowell Trails Association sealing the paved section of this trail and paving the unpaved portion of the trail, in accordance with City's expectations. The City Manager also proposed asking the Phillips family to donate the property on which the Round Hill Loop is located to the City, since the City currently only has an easement for this property. The Mayor and Council Members expressed agreement with these recommendations. The City Manager will pursue the property donation and bring it back to Council for action and will reflect the assumption of City maintenance of the Round Hill Loop in the recommended budget and plans for Fiscal Year 2014-15.

5. Catawba River Greenway Phase 2 - The City Manager advised that the County had proposed entering into a long term lease with the City for the portion of Phase 2 of the Joseph McDowell Historical Catawba Greenway extending across the County's McDowell House property. The Mayor and Council Members agreed by consensus to this proposal and directed the City Manager to seek as long a term as possible for the lease, ideally 99 years. The City Manager stated that he would work on a draft lease with the County Manager and bring a proposal back to Council for formal approval.

6. Mt. Ida Property Access – The City Manager stated that Council had recently approved completing the Mt. Ida property road access, as part of the City's Street and Sidewalk Priority List. He suggested that this work could take place later in the 2013-14 Fiscal Year, to satisfy State grant requirements related to the City's acquisition of the Mt. Ida property, since needed funding was already in place. The Mayor and Council Members expressed agreement with this recommendation.

7. Morehead Cemetery – The City Manager advised that he had spoken in recent months to Larry Boyce of the McDowell Cemetery Association about the City taking over maintenance of the Morehead Cemetery from the Association. The City Manager stated that he and Mayor Little had visited the Cemetery and been very impressed with the work done to clear and clean the Cemetery. The City Manager advised that the City could likely take over maintenance of the Cemetery, effective July 1, 2014, if the Association continued efforts to identify gravesites, fill in sunken graves, remove rock and stumps and other items. The Mayor and Council Members expressed agreement with the City taking over maintenance of the Morehead Cemetery, effective July 1, 2014. Formal consideration of the City taking over the Cemetery maintenance will take place during review of the 2014-15 budget, assuming adequate progress is made by the McDowell Cemetery Association in completing the necessary maintenance items.

8. Annexation Request – The City Manager reported that Mr. Bobby Patel had requested again the annexation of his convenience store near the intersection of Sugar Hill Road and Goose Creek Road. The City Manager stated that the City did not have water service at this location, nor a plan for extending such service in the foreseeable future. The Mayor and City Council Members stated that they had no interest in annexation of this property at the current time.

9. Fund Balance Policy – Finance Director Harriett Thomas reported that the North Carolina Local Government Commission is requiring a note in financial statements regarding compliance with an adopted fund balance policy. She advised that the City does not currently have such a policy. Ms. Thomas presented a draft policy to set a minimum goal of 25 percent available fund balance. She stated that the City has far exceeded this figure in recent years, but an attainable target is recommended. The Mayor and Council Members expressed agreement with the proposed Fund Balance Policy, which will be presented for formal approval at the September 17 Council meeting.

10. Water Plant Staffing – The City Manager advised that Water Plant Superintendent Don Price was recommending the creation of a full-time operator position at the Water Plant, to replace two part-time operators. The City Manager stated that Mr. Price and Ms. Thomas projected that the cost of the full-time position would almost entirely be offset by the elimination of the part-time positions, the reduction in overtime costs, and electrical and chemical savings. No objection was stated by the Mayor and Council Members to this proposal. Formal approval will take place with a future Budget Ordinance Amendment.

11. Fire Department Equipment – The City Manager reported that Fire Chief Jim Neal had recommended the previous year that the City purchase a replacement pumper/tanker truck, for receipt during the 2014-15 Fiscal Year. The City's 2006 pumper/tanker truck will be paid off during the 2013-14 Fiscal Year. After discussion, it was agreed that staff will begin seeking truck bids around December. Bids will then be brought to Council for consideration in early 2014, with delivery of the truck to take place in the 2014-15 Fiscal Year. The truck will be financed through a loan, to be reviewed and approved by Council.

12. Retirement Dinner for North Carolina League of Municipalities Director Ellis Hankins – Council Member Clark stated that he had previously suggested that the City host a retirement dinner for North Carolina League of Municipalities (NCLM) Executive Director Ellis Hankins, who is retiring January 31, 2014. Council Member Clark stated that the NCLM will honor Mr. Hankins at its annual conference in October, so he would suggest that Council hold off discussing a possible retirement dinner for now. If necessary, this idea can be discussed in November or December.

13. Unlocking of Vehicles – The City Manager reported that, many years ago, Council discontinued the practice of the City unlocking vehicles for people who had locked their keys in their vehicles. He stated that McDowell County Sheriff Dudley Greene recently asked Police Chief Allen Lawrence if the City would ever consider unlocking vehicle doors in the City. Sheriff Greene stated that the Sheriff's Department had, between January and July 2013, unlocked 480 vehicles in the County and 453 in the City. The City Manager added that Chief Lawrence had suggested that vehicle owners could be asked to sign a waiver, before vehicles were unlocked.

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Council Members Doggett and Martin stated that this would be a nice public service for the City to provide. Council Member Clark said that the City had discontinued the practice, due to damage done to vehicles, but that he would support the City providing the service again. Council Member Ramsey advised that he would agree with the City providing the service.

Mayor Little suggested that he could review and edit a waiver statement.

The Mayor and Council Member agreed by consensus for the City to authorize staff to begin unlocking vehicles in the City, upon request. Council saw no reason to approve a policy regarding unlocking of vehicles, but the City Manager said that a waiver statement would be prepared and reviewed by Mayor Little prior to the program being reinstituted.

14. Lake James Watershed Reclassification Request – Ms. Cotton advised that she continued to work with County staff concerning the County's
Lake James Watershed Reclassification Request. She said that it may take some time for the request to come back to Council for review.

15. School Resource Officer Grant – Mayor Pro Tem Cuthbertson advised that the State was now offering Cops in Schools grants for a one year period, but renewable for at least one additional year. He noted that the City's School Resource Officer (SRO), Danny Braswell, who was assigned to East McDowell Junior High School, was often called away to answer calls at the Alternative Education Center, Marion Elementary and Eastfield Elementary. Mayor Pro Tem Cuthbertson suggested that the City apply for a grant to fund an SRO position to cover the two elementary schools in the City. He proposed that the approximate $14,000 per year local match be split with the School System, meaning that the City could obtain a sworn law enforcement officer for $7,000 a year for two years, while also helping the elementary schools in the City.

Council Member Clark stated that the City Council originally approved the SRO position only for East Junior High School. He said that funding the SRO position blurred the lines of the City funding public education. The City Manager advised that it was understanding that SRO Braswell was assigned to East and spent the majority of his time at that school, but did at times get called away to other schools. He added that the City had always interpreted its SRO funding, which is done on a 50-50 basis with the School System, as falling under the category of law enforcement.

Council Member Clark advised that he felt that this expenditure should be the responsibility of the School System. After discussion, it was agreed that the City Manager would work with the Police Chief to prepare data regarding the number of calls and approximate time that the SRO is called away from East and develop recommendations concerning a possible grant application for a new SRO.

Mayor Pro Tem Cuthbertson reported that the grant application is due by October 31, so it was agreed that this matter would be discussed again by around early October.

16. Date and Time of Next Planning Session – It was agreed that the next Planning Session would be scheduled as needed, but likely not to take place prior to December.

No action was taken on these items. Items requiring City Council action will be included in 2013-14 Budget Ordinance Amendments, included in future budgets or placed on future City Council meeting agendas for consideration.

ADJOURNMENT: Upon a motion by Council Member Doggett, seconded by Council Member Ramsey, 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, September 17, 2013 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; Harriett Thomas, CPA, Finance Director; Heather Cotton, AICP, Planning and Development Director; Brant Sikes, Public Works Director; Allen Lawrence, Police Chief; Mike Conley, News Reporter, McDowell News.

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GUESTS PRESENT: Chris Forney 169 Ridley Street, Marion, NC; Louie Parrow 552 Ashworth Loop Marion NC; David Turnbill 511Reservoir Road, Marion, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

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

A. Approval of Minutes – September 3, 2013 Regular City Council Meeting Minutes and September 10, 2013 City Council Planning Session Minutes.

B. Approval of Easement

Approved Easement from Mr. Chris Forney across two parcels (McDowell County Parcel Identification Numbers 1701.14-23-9290 and 1701.14-23-7275) owned by Mary Forney, off of Ridley Street, to clear up an encroachment situation from the City's West Marion Park. The Park encroaches on the Forney property for a total of about 0.25 acres. In exchange, the City will agree to demolish and clear the dilapidated house owned by Ms. Forney on Parcel Number 1701.14-23-9290) next to the West Marion Park.

C. Approval of Budget Ordinance Amendments

CITY OF MARION, NORTH CAROLINA
2013-2014 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 2013-14 as adopted by the Marion City Council on the 18th day of June, 2013 is hereby amended as follows:

GENERAL FUND

a. General Fund Expenditures, Police, Account Number 10-510-3330, National Night Out Supplies is increased from $1,700 to $4,279.

b. General Fund Expenditures, Fire, Account Number 10-530-7400, Capital Outlay is increased from $20,050 to $61,850.

c. General Fund Expenditures, Recreation, Account Number 10-620-7400, Capital Outlay Equipment is increased from $33,000 to $46,865.

d. General Fund Expenditures, Non-Departmental, Account Number 10-660-6150, Farmers Market Costs - KBR is increased from $-0- to $31,515.

e. General Fund Expenditures, Non-Departmental, Account Number 10-660-9000, Transfer to Capital Projects is increased from $-0- to $2,659.

f. General Fund Expenditures, Non-Departmental, Account Number 10-660-9600, Insurance, Bond, Workers Comp is increased from $133,895 to $141,000.

g. General Fund Revenues, Account Number 10-313-1000, Hold Harmless Revenue is increased from $-0- to $28,406.

h. General Fund Revenues, Account Number 10-342-1300, National Night Out Revenue is increased from $2,000 to $2,600.

i. General Fund Revenues, Account Number 10-392-1000, Sale of Real Estate is increased from $-0- to $1,000.

j. General Fund Revenues, Account Number 10-398-0800, Farmers Market Grant - KBR is increased from $-0- to $31,515.

k. General Fund Revenues, Account Number 10-399-0000, Fund Balance Appropriated is decreased from $360,554 to $398,556

GENERAL FUND CAPITAL PROJECTS

a. General Fund Capital Project Fund Expenditures, Account Number 11-505-0100, Greenway Phase II-Contingency, is increased from $17,900 to $21,800.

b. General Fund Capital Reserve Fund Revenues, Account Number 11-340-0400, Greenway Phase II-McDowell Trails Match, is decreased from $36,100 to $-0-.

c. General Fund Capital Reserve Fund Revenues, Account Number 11-340-0600, Greenway Phase II-KBR Grant, is increased from $-0- to $40,000.

WATER AND SEWER FUND

a. Water and Sewer Fund Expenses, Account Number 30-660-9600, Insurance, Bond, Workers Compensation is increased from $85,605 to $89,605.

b. Water and Sewer Fund Revenues, Account Number 30-299-0000, Fund Balance Appropriated is increased from $272,222 to $276,222.

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 September 2013.

Stephen R. Little, Mayor

ATTEST:

AA.000000251 (24)

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–13-09-17-1

PUBLIC HEARING – ADOPTION OF ORDINANCE APPROVING CLOSURE OF UNOPENED PORTION OF OLD IDA STREET AND AN UNOPENED ALLEY OFF OF WEST HIGH STREET: Mayor Little Opened the Public Hearing.

City Planner Heather Cotton advised that this is an ordinance to close an unopened portion of Old Ida Street and a sixteen foot unopen alley located adjacent to property owned by the Applicant Paul Bartlett and Frank Routh (DBA Exit 81 Properties, LLC). A resolution of intent on the matter was adopted by City Council on August 20, 2013 (R-13-08-20-1), 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.

The unopened potion of Old Ida Street is approximately 0.38 acres according to a survey completed by Larry Greene Surveying dated July 15, 2013. Property located on the opposite side of Old Ida Street is owned by Maxwell M. Corpening Jr. Memorial Center Inc. The City does not maintain any portion of Old Ida Street.

There is one piece of property that is land-locked from High Street, and would take access from Old Mt. Ida Street. However, based on an evaluation of existing all unopened rights-of-way including an unopen portion of Oak Street and northern portion of Old Ida Street, there is no indication that closing the southern end of Old Ida Street would be detrimental to public interest or limit access to said property or any other property. A map of the existing rights-of-way, as well as property boundary lines was presented to Council Members for review.

The sixteen foot unopen alley is approximately 0.07 acres according to the survey. Property located on both sides of the unopen alley is owned by the Applicant. The City does not maintain any portion of the alley, and there is no indication that closing the alley would be detrimental to public interest or limit access to any other property.

There were no citizens present to discuss this request to close this section of old Ida Street and West High Street.

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 permanently closing this portion of Old Ida Street and the unopened Alley as requested:

AN ORDINANCE
PERMANENTLY CLOSING
A PORTION OF OLD IDA STREET AND
UNOPEN ALLEY

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 20, 2013 adopted a resolution declaring its intent to permanently close a portion of Old Ida Street and an unopen alley, 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 20, 2013, at which no owner of property adjoining Old Ida Street and unopen alley intended to be closed appeared to express opposition to the closing; and

WHEREAS, After the hearing, it appears to the satisfaction of the City Council that closing the described Old Ida Street 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 Old Ida Street and the unopen alley as shown, for identification and location purposes only, on a survey of prepared by R.L. Greene Surveying dated August 5, 2013, and as recorded on Map Book 1, Page 148 in the Office of the McDowell County Register of Deeds, be, and it is hereby, permanently closed.

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 17th day of September 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-13-09-17-2

It was the consensus of Council Members that property owners need to know where the Right of Ways are and that nothing can ever be built on them.

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

ADOPT RESOLUTION AUTHORIZING FINAL SALE OF CITY PROPERTY ON CITY PROPERTY ON BLUE RIDGE STREET TO MR. WILLIAM REESE SMITH AND MR. KENNETH ROUND: The City Manager advised that at the August 20 Council meeting, Council

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adopted a resolution accepting the offer of Mr. William Reese Smith and Mr. Kenneth Round to purchase 0.20 acres of City property on Blue Ridge Street for $2,500, subject to upset bid. This vacant property was acquired by the City in 1969, as part of the construction of West Henderson Street.

After receiving the required five percent bid deposit from Mr. Smith and Mr. Round, the City published notice in the McDowell News of the proposed sale on August 30. 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 resolution to authorize the final sale of this property to Mr. Smith and Mr. Round.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to approve the following Resolution accepting the offer to purchase city property on Blue Ridge Street 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. William Reese Smith and Mr. Kenneth D. Round have submitted a bid in the amount of $2,500 for the purchase of one parcel of property that is approximately 0.20 acres in size, is owned by the City of Marion and is located on Blue Ridge Street (McDowell County Parcel Identification Number 1701.11-56-5216); and

WHEREAS, the City Council of the City of Marion adopted a resolution on August 20, 2013, in accordance with N.C.G.S. 160A-269, accepting the offer of Mr. Smith and Mr. Round to purchase the above described property 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. Smith and Mr. Round; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion, on August 30, 2013, 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. Smith and Mr. Round.

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 Blue Ridge Street (McDowell County Parcel Identification Number 1701.11-56-5216) 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. William Reese Smith and Mr. Kenneth D. Round 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.

3. The sale of the property is subject to restrictions that will be placed in the deed of sale, prohibiting manufactured housing of any type or construction from ever being placed on this property, and requiring that this property be combined with the adjoining parcel owned by Mr. Smith and Mr. Round, to create one parcel.

Adopted this the 17th day of September, 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-13-09-17-2

CONSIDER APPROVAL OF REQUEST FOR MOBILE FOOD VENDOR: City Planner Heather Cotton advised that Mr. David Turnbill (DBA David's Roadside Grill), was present for this meeting, and had submitted an application to operate a push cart under the mobile food cart ordinance at the North Main Gazebo. The applicant has submitted all of the necessary documentation and meets the requirements of the City of Marion's Mobile Food Cart regulations. The following documentation has been provided and is included as an attachment:

1. Complete application
2. City of Marion Sidewalk Release form
3. Valid North Carolina driver's license
4. Permit from NCDENR on August 28, 2013 approving the mobile food cart
5. Quote from Asheville Insurance Center, Riders Insurances Services for general liability and vehicle liability for both the commercial food trailer and commercial vehicle.(Documentation showing proof of liability insurance listing City of Marion as additionally insured shall be required prior to permit issuance)

A picture of the Food Cart was presented to Council Members.

Upon a motion by Council Member Martin, seconded by Council Member Clark, council voted unanimously to approve the request operate a push cart under the mobile food cart ordinance at the North Main Gazebo as requested.

CONSIDER CIVIL CITATION APPEAL: The City Manager advised that as shown in information presented to Council, Ms. Myra Birchfield was written a $10.00 parking ticket on August 26 for parking in a handicapped parking space in the Grandview Station Shopping Center parking

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lot, with no handicapped placard or tag displayed. A copy of the parking citation was presented to Council for review. Ms. Birchfield was not driving her car, due to her car being in the repair shop. Ms. Birchfield does not possess a handicapped placard, since her special needs child has destroyed such placards on several occasions. Instead, Ms. Birchfield has a handicapped tag on her car.

Police Chief Allen Lawrence verified that a handicapped tag is indeed assigned to Ms. Birchfield.

The City Manager advised that Ms. Birchfield is requesting that the $10.00 penalty for this parking citation be waived. As shown in Section 18-260 of the City Code, "no person shall park a motor vehicle, which does not have displayed in the appropriate location on said motor vehicle, a decal, sticker, tag, etc. issued by the state, signifying that one (1) or more persons in the motor vehicle are handicapped, in any parking space designated as handicapped parking."

The City Manager advised that Council had traditionally waived the $10.00 penalty for handicapped parking citations when people have failed to display their handicapped placard and have produced evidence that they possess a valid placard. In this case, Ms. Birchfield admits that she does not possess a handicapped placard and instead relies on a handicapped tag, which is of no use to her if she is driving a different vehicle.

The City Manager stated that Ms. Birchfield placed our Enforcement Officer in a situation where there was no way to indicate that the vehicle in question had any business parking in a handicapped parking space.

Upon a motion by Council Member Ramsey, seconded by Council Member Doggett, Council voted unanimously to waive the $10.00 parking ticket Ms. Birchfield received on August 26th as requested.

CONSIDER ADOPTION OF AVAILABLE FUND BALANCE POLICY: Finance Director Harriett Thomas advised that as was discussed at the September 10 Council Planning Session, the Governmental Accounting Standards Board (GASB) and the North Carolina Local Government Commission (LGC) are requiring that local governments have an adopted Available Fund Balance Policy and comment on compliance with the policy in the annual financial statements. Cities and counties are judged by the LGC based on how their fund balance compares to similar sized jurisdictions. We have to report total fund balance and available fund balance for appropriation.

We have tried to maintain a total fund balance of 50-60 percent or more. Our peer units typically average around 60 percent or more total fund balance, but there are of course variances. Our available fund balance has averaged between 40-50 percent the past few years and was 45 percent last year.

The Finance Director stated that the policy needs to be in place by October 1st if at all possible recommended an attainable target of 25 percent available fund balance.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to approve the following policy.

RESOLUTION TO ESTABLISH A MINIMUM

AVAILABLE FUND BALANCE POLICY

WHEREAS, for the purpose of improving and maintaining fiscal responsibility as required under the Local Government Budget and Fiscal Control Act, NC General Statute Chapter 159, it is prudent to establish a clear policy defining the level of undesignated available fund balance to be held in reserve by the City of Marion; and

WHEREAS, the North Carolina Local Government Commission is charged with overseeing the fiscal health of cities and counties and recommends a minimum undesignated available fund balance reserve of no less than eight percent (8%) of expenditures; and

WHEREAS, it is necessary to maintain undesignated available fund balance reserve to provide appropriate cash flow for operation of City services, to address emergencies and unexpected opportunities, to increase the potential for investment income, and to enhance the City's credit rating to provide the City the ability to borrow funds at the lowest possible interest rate.

WHEREAS, the City Council of the City of Marion establishes the following goals regarding maintaining an adequate and appropriate minimum undesignated available fund balance in the General Fund.

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

Section 1. The minimum undesignated available fund balance policy for the General Fund instructs management to conduct the business of the City in such a manner that undesignated available fund balance is at least equal to or greater than 25% of budgeted expenditures.

Section 2. Once the City achieves its goal for the minimum undesignated available fund balance, the fund balance amount exceeding the targeted amount may be appropriated for any one-time expenditure. The fund balance available amount exceeding the targeted amount should not be considered a recurring source of funds and should only be appropriated for non-recurring expenditures.

Section 3. The Budget Officer shall prepare a report documenting the status of the undesignated available fund balance to the City Council as part of the annual budget preparation.

Section 4. This resolution shall take effect immediately upon its passage.

ADOPTED this the 17th day of September 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Resolution Number: R-13-09-17-1

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CITY MANAGER REPORTS: The City Manager gave a brief report on current projects.

The City Manager advised that as shown in the letter presented to Council Members, the Insurance Service Office (ISO) recently completed a rerating of the City's Building Inspections program. The City received a rating of 4 for residential property and of 4 for commercial and industrial property. The City previously had a rating of 5 for both residential and commercial/industrial properties.

The City Manager stated that he could not find information on the ratings of individual cities and counties available online, but he did find a summary graph for North Carolina. Of 234 jurisdictions rated for residential inspections, 28 are ranked higher than Marion, 99 (including us) are rated as a Class 4 and 107 are ranked lower than Marion. Of 251 jurisdictions rated for commercial inspections, 32 are ranked higher than Marion, 118 (including us) are rated as a Class 4 and 101 are ranked lower than Marion. Therefore, only about 12 percent of local government building inspections programs are ranked higher than the City of Marion. The City Manager stated that he was not sure why more jurisdictions are rated for commercial inspections than for residential inspections.

Given that we have one building inspector, a Class 4 ranking is very good, especially when we see that not that many cities and counties received higher ratings.

Council Member Clark stated that he would like to see the criteria used with how they come up with a 4 for Marion.

The City Manager advised that on September 4th, Duke Energy sent the correct version of the right of way agreement across City property on College Drive. The agreement was identical to the one approved by Council at the September 3rd and Mayor Little subsequently signed the agreement and it has now been recorded.

The City Manager advised that based on guidance from the N.C. Rural Center and the N.C. Department of Commerce, and as discussed with Council at the August 20 Council meeting and Old Fort Mayor Garland Norton, he had given McGill the go-ahead to start work on the Old Fort-Marion Water and Sewer Study. This project is being funded with a $25,000 Rural Center Planning Grant, matched by contributions by the City and Town.

McGill's original timeline called for a completion date of February 2014. As previously reported, the Marion and Old Fort Utility Committees met with McGill on July 18 to begin discussing the project.

The City Manager advised that at some point this Fall, we would likely schedule another meeting of the Marion and Old Fort Utility Committees to discuss the project.

The Rural Center is paying grant invoices and will continue to do so, under State scrutiny, until the programs are officially transitioned to the Department of Commerce. This transition may occur as soon as the end of September.

The City Manager advised that as previously reported, in April, we received some preliminary plans for the US 221 widening project. It was difficult to determine the exact impact of the project on City water and sewer lines. We did determine that the impacts on commercial buildings, especially south of I-40, are not as bad as first feared. We provided some comments on the plans, including the need to protect existing commercial buildings to the greatest extent possible.

In late June, the City Manager stated that he had received some cost estimates for the utility relocation for the southern section of the project (extending from just north of Old 221 to Goose Creek Road). However, the estimates contained some incorrect measurements of utility lines, so the Public Works Director was asked to look at the plans and develop his own estimates. DOT's initial estimate was a little less than $1 million.

The Public Works Director's estimate for the water and sewer relocation for the section from just north of the Highway 221 Bypass/226 intersection and a point just north of Old 221 south of I-40 is $2,265,532. This is DOT Project 204D. For the section from just north of Old 221 to Goose Creek Road (DOT Project 204E), the Public Works Director's cost estimate is $893,840. The combined cost of the water and sewer relocations for both projects is $3,159,372. The Public Works Director noted that these are rough estimates, but they are based on DOT's preliminary plans and are probably at least in the ballpark.

In late August, the City Manager stated that he had finally received DOT's estimate for the northern part of the project (extending from the northern project limits just south of Countryside Barbeque to just north of Old 221). DOT's estimate for this section is $729,165. This estimate contains incorrect line sizes and distances, so the Public Works Director has been trying to work with DOT over the last week to discuss the errors and to discuss the differences in the DOT and City estimates.

The $3.1 million water and sewer relocation figure is a tremendously high cost. The two projects would likely be done at different times, with Project 204D being completed first. The County has discussed helping us with the cost of the utility relocations, but even if the County funded one-half of the cost, which is unlikely, we would still have to come up with and likely borrow $1 million or more just for the first phase. If the project costs could be split further with McDowell County Schools, then perhaps we have a chance to make the project work. Ideally, we would need the project funded in thirds by the City, County and School System. However, the City Manager stated that he honestly cannot see the County and School System agreeing to fund $1.4 million - $1.5 million for the northern phase, even if each agency could pay their share over time.

McGill Associates, Dennie Martin advised that our only likely source of funding for the utility relocation would be a bank loan. Dennie believes that we could obtain a 20 year loan for the current market rate of 4.5 percent. This term and interest rate would result in annual debt payments of almost $172,000 per year. If the City had to come up with one-third of the debt service, our share would be about $57,300 per year. If the City had to cover one-half of the debt service, our share would be about $86,000 per year.

Mayor Little proposed asking DOT to consider a revised, scaled back design for the project that would terminate at I-40 and not widen the section of US 221 between I-40 and the US 221 Bypass, thereby saving both DOT and the City a considerable amount.

The Public Works Director had received word from DOT on August 27 that the section of the US 221 project from just north of Old 221 to Goose Creek Road had been pushed back another two years. It was already unfunded, with no right of way acquisition before 2023.

In late August, Undrea Major of DOT talked to me about scheduling a meeting to discuss the project and to receive local comments. Undrea suggested meeting in September if at all possible.

The Public Works Director gave an update on the Crawford Street Project. For Miller of Miller engineering will possibly be starting in a couple of weeks on this project and weather contingent two to four weeks to complete the project.

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The City Manager advised that he, Mayor little Matt Smith and Brian Wilson met with a company looking to do a solar project on southern side of the city that perhaps the City, County and McDowell Tech could benefit from. A joint meeting with four boards has been set for Thursday October 3rd at 6:30 P.M. to further discuss this project.

Council Members conceptually agreed to hold this joint meeting.

Mayor Little stated that he would recommend Council participation and for Council members to let the City Manager know if they could attend.

COUNCIL MEMBER COMMENTS: Council Member Doggett stated that he had received a phone call regarding The Tarpley Building and how great it looks.

Mayor Little invited everyone to come to Railroad Day at gazebo on Saturday or Sunday at 2:30P.M. at the Alta Pass. There is no charge.

ADJOURNMENT: Upon a motion by Council Member Clark, seconded by Council Member Doggett, Council voted unanimously to adjourn until Thursday when the meeting will reconvene at the Marion Depot at 1:30.

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 reconvened in Regular Session on Thursday afternoon, September 19, 2013 at 1:30 P.M. at the Marion Depot located at 58 Depot 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; Brant Sikes, Public Works Director; Allen Lawrence, Police Chief; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: David Walker, Chairman, McDowell County Board of Commissioners; Randy Hollifield, McDowell County Commissioner; Joe Kaylor, McDowell County Commissioners; Chuck Abernathy, County Manager, McDowell County; Ashley Wooten, Assistant to the County Manager, McDowell County; Edith Vance, State Street, Marion, NC; Karyl Fuller, Planner, Isothermal Planning and Development Commission Rural Transportation Planning Organization; DOT Representatives: Undrea Major, Doug McNeal, Rick Tipton, Brenda Moore, Craig Young, Steve Trexler, Andy Young, Christina Solberg, Carl Bartlett and James Swinson.

OPENING OF MEETING: Mayor Little opened the meeting and welcomed everyone in attendance.

DISCUSSION OF US 221 WIDENING PROJECT: Mayor Little gave an opening statement and advised that the City wants the US 221 widening project to occur at some point in the future, to provide a four lane link to Rutherford County and South Carolina, but the City cannot afford the projected $1.2 million to $2.2 million costs of water and sewer relocation for the northern fast track section between the US 221 Bypass and Old 221. Mayor Little stated that DOT either needs to fund the water and sewer relocation costs, scale back the project to eliminate the section between the US 221 Bypass and I-40 that is not needed or else not pursue the project at the current time. Mayor Little said that, if the project had been completed according to its original schedule, DOT would have paid for the water and sewer relocation costs.

Council Member Everette Clark discussed some of the history of this project, advising that the project had been talked about for several decades, but delayed numerous times. He said that DOT either needs to pay the water and sewer relocation costs or not complete the project.

Ms. Edith Vance stated that the project should be stopped, as the costs and impacts are too great. She suggested that the project is not needed.

Undrea Major of NCDOT said that he understands the City's concerns and appreciates the input. He stated that DOT had made progress with the design and reducing or eliminating most impacts to commercial buildings. Mr. Major noted that the City had provided comments regarding the 25 percent preliminary plans. Brenda Moore of DOT said that the City's comments were very helpful and were helping DOT to refine the plans.

Mr. Major advised that he had previously informed the City that State law only allowed for the City to pay DOT for utility relocation costs over three years at the conclusion of a project. However, a new State law calls for payment to be made 60 days after a project is completed, which in the case of this project will likely be 2019 or later. The new law does allow for the NCDOT Chief Engineer to grant variances from this requirement. Mr. Major said that this is the best that NCDOT can offer under the current law.

Council Member Doggett asked about the extent of the different sections of the project. Rick Tipton of NCDOT outlined the boundaries of the two phases affecting the City of Marion, the northern section extending from just north of the US 221/NC 226 intersection to just north of Old 221 and the southern section extending from just north of Old 221 to Goose Creek Road.

The City Manager asked why DOT is rushing to complete the northern phase of the project by the July 1, 2015 deadline imposed by the General Assembly to avoid reprioritization of the project, given that the local community did not believe this section to be a benefit and since the project will impose substantial costs on the City.

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Mr. Tipton advised that, at the current time, the project is not on schedule to meet the July 1, 2015 deadline and will almost certainly be reprioritized, along with all projects Statewide.

Council Member Clark asked how much Federal funding is going toward this project. Mr. Tipton said that the project is completely State funded. Council Member Clark asked why Federal funds were not being used. Mr. Tipton said that there are limited Federal dollars that are not available for this project.

Mr. Major advised that he understood that the projected $1.2 million to $2.2 million utility relocation cost was too high for the City. He asked if there was a lower number that the City could find acceptable.

Mr. Tipton added that DOT was continuing to try to find ways to reduce the utility relocation costs.

Mr. Major suggested that the City seek a variance from the DOT Chief Engineer regarding the utility relocation costs.

Council Member Doggett asked about the differences in the DOT and City estimates for the utility relocation costs. The City Manager stated that the current DOT estimate of $1.2 million assumes some utilities being left in place, while the City estimate of $2.2 million assumes that all utilities will need to be relocated. Mr. Tipton stated that DOT was continuing to refine its estimates.

Council Member Martin asked what will happen if DOT constructs the project and the City refuses to pay the utility relocations costs. Mr. Tipton advised that State law provided for DOT to keep a portion of the City's Powell Bill distribution in such a case. Mr. Major said that he believed that only 10 percent of the City's Powell Bill funds could be retained by DOT, meaning that it could take the City several decades to fully pay for the utility relocation costs. Council Member Martin advised that the State will get its money from the City one way or the other.

Council Member Clark advised that the City cannot afford to lose any Powell Bill funds, as this money is needed to maintain City streets and sidewalks.

County Manager Chuck Abernathy asked about the cost of the entire project from Marion to south of Rutherfordton. Mr. Tipton said that the total project cost is $200 million or more. Mr. Abernathy suggested that the value of a four lane section between I-40 and the South Carolina line was tremendous, for economic development purposes, and stated that the County could likely assist the City with any utility relocation costs.

Mayor Little suggested that DOT should agree to slow down construction of the northern section, to allow the City more time to work with DOT to obtain firm estimates on the utility relocation costs, to seek a variance from DOT for the utility relocation costs and to pursue legislative options.

Mr. Sikes asked if DOT would be willing to work with him further regarding the utility plans. Mr. Tipton stated that DOT would definitely be willing to do so.

Mayor Pro Tem Cuthbertson asked if new bores would be needed under I-40 for the utilities. A DOT representative stated that new bores should not be needed.

The City Manager advised that he hoped it was clear to DOT that the northern section of the 221 project north of I-40 was not needed at the current time. He advised that completing the northern section first would not help the City and County economically, unless the entire project to Rutherfordton was completed. The City Manager asked what the City would need to do to formally request that the project be delayed past July 1, 2015, to allow for it to be reprioritized and possibly redesigned, so that the City will have time to seek to reduce the utility costs, work through DOT procedures and pursue legislative options.

Mr. Tipton suggested that DOT and City staff work on the utility plans to try to reduce the water and sewer relocation costs as much as possible. Once a firm number is identified, the City can then seek a variance from utility relocation costs from the DOT Chief Engineer and/or pursue legislative options. He added that it was almost a certainty that the project will not be authorized for construction by July 1, 2015 and will be reprioritized.

County Commissioner Joe Kaylor asked if the project had received funding from the Board of Transportation. Mr. Tipton said that the northern section is fully funded.

Mayor Pro Tem Cuthbertson asked if the project would stay on schedule if it proceeded. Mr. Tipton acknowledged that DOT usually encounters delays during the planning portion of the project, but is usually pretty good at staying on schedule once construction begins.

Mr. Major asked if there are any remaining design concerns. The City Manager commended DOT on working with the City to reduce and mostly eliminate impacts to commercial buildings south of I-40. He said that the remaining concern was to a few buildings located just north of the US 221/NC 226 intersection. Ms. Moore said that the City's concerns about these buildings had been noted and that she was hopeful that impacts to this buildings could also be reduced or eliminated.

Mr. Major stated that the planning process for the project will continue on October 23 with a merger team meeting. This meeting will mainly focus on avoidance and minimization mostly related to environmental issues. After that meeting, DOT will put together the final environmental documents and there will be further opportunities for local participation and input.

Mayor Little thanked everyone present for their attendance and participation and said that the City looked forward to continuing to work with the County and DOT on this project.

ADJOURNMENT: Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Martin, Council voted unanimously to adjourn the meeting.

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, October 1, 2013 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 Don Ramsey.

Mayor Stephen R. Little was not present for this meeting due to illness.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Brant Sikes, Public Works Director; Allen Lawrence, Police Chief; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Sonya Henry 77, White Tail Trail Marion, NC; Barbara Conley, 61 Woodlawn Street, Marion, NC; George & Lisa Pittman, Lake Tahoma Road Marion, NC; Palmer & Ron Hensley, 100 Hillcrest Drive, Marion, NC; Wilma Hawkins, 77 Mackey Farm Drive, Old Fort, NC; Elsie House, 99 Pleasant Valley Drive, Marion, NC; Jan Ramsey, 188 Hillcrest Drive, Marion, NC; Pauline Buckner, 220 California Avenue, Marion, NC; Della Watson, PO Box 306, Marion, NC; Kay McKesson, PO Box 1877, Marion, NC; Margaret Bowman, 130 McIver Drive, Marion, NC; Charles Tate, Marion, NC; Wynn Jackson, 1139 West Henderson Street, Marion, NC; Edna Kate Vaughn, 110 East Wilhemenia Street, Marion, NC; Lucy Lewis, 336-B Morehead Road, Marion, NC; Annette Byrant, 110 Rock Cliff Drive, Nebo, NC; James Lindsey, 21 Woodlawn Street, Marion, NC; Larry Boyce, PO Box 1913, Marion, NC; Wayne Silver, 260 Old Clear Creek Road, Marion, NC; Reverend Harvey Johnson, 63 Tomahawk Trail, Marion, NC; Reverend Luther & Linda Gamble, 115 Overcash Road, Troutman, NC; Rachel Gamble, 210 Deaton Street, Statesville, NC; Diron Chloe, 653 Veteran's Drive, Marion, NC.

OPENING OF MEETING: Mayor Pro Tem Cuthbertson presided over this meeting due to the absence of Mayor Stephen R. Little and opened the meeting with a moment of silence.

CITIZEN OF THE MONTH – SELECTED BY COUNCIL MEMBER RAMSEY: Council Member Ramsey stated that he had the great pleasure of nominating as Citizen of the Month one of the most beloved and highly esteemed citizens of our City:

EDNA KATE VAUGHN

Council Member Ramsey advised that Ms. Vaughn is a life-long resident of Marion and is known affectionately to everyone by her first name only, Ms. Edna. Since 1952, she has loved and cared for over 200 families in Marion, most of whom consider her to be an integral part of their families' lives.

Edna is the only child born to Rev. Garfield and Rev. Katie Phillips Vaughn, who were evangelists and pastors in the AME Zion Church. Edna was elected on several occasions to serve as a delegate to the General Conferences of the AME Zion Church in the election of Bishops and general officers of the Church. In 1967, she received a commendation from the late U.S. Congressman Roy A. Taylor for her achievements at McDowell Technical Community College.

Council Member Ramsey stated that it would be difficult to choose which has been the greater part of her ministry, the many people she tirelessly cared for and continues to care for, or her gift of music. At an early age, Edna's parents recognized her musical talents, and she began to sing and play the piano in her parents' churches.

Edna traveled and sang with her mother for many years and traveled on many occasions as the musician for the legendary group known as the "Soul Stirrers." She was brought into the group by a lifelong family friend, Rev. Luther Gamble. At one time, the late Sam Cook, a member of the Rock and Roll Hall of Fame, was also part of that group. She continues in her music ministry performing at nursing homes with a dear friend, Curt Gurley.

Council Member Ramsey stated that Edna has committed her life to kindness and devotion to helping others and is an inspiration to us all.

Council Member Ramsey concluded that, although a woman of average size, Edna Kate Vaughn, is a woman of great stature with a kind heart big enough to include so many, including all of us here in the City of Marion.

Mayor Pro Tem Cuthbertson, Council Members, family and friends all shared kind words and congratulated Ms. Edna Kate Vaughn on being selected as Marion's Citizen of the Month for October.

DISCUSS REQUESTED TRAFFIC SIGNAL AT WEST HENDERSON AND WILHEMENIA STREETS: The City Manager advised that Council Member Martin had received a request again from members of Mt. Moriah Baptist Church on East Wilhemenia Street for a traffic signal at the intersection of West Henderson and Wilhemenia Streets. The City has asked DOT on multiple occasions for a traffic signal at this location. West Henderson Street is a State maintained road, so these requests have to go to the North Carolina Department of Transportation. The City Manager stated that DOT has repeatedly turned down the request. DOT has guidelines that they must follow before they put up traffic signals. DOT staff has indicated that there is not enough traffic coming from Wilhemenia Street to allow for a traffic signal.

The City Manager reported that traffic counts have been taken twice in the last 10 years. The City had hoped that the additional traffic to the new Super Wal Mart would have made a difference, but it did not when new traffic counts were taken last year. Several years ago, at the City's request, DOT did put up the flashing warning signal that pedestrians can activate, but that is all they have been willing to approve.

Council Member Martin stated that the City Council has repeatedly supported this requests; however, DOT has not approved the request. He suggested that the City convene a meeting at the site with DOT, City, Church and community representatives.

Council Member Martin advised that the City has addressed this issue in every way possible and that it would be worthwhile to have DOT hear directly from the community. He noted that a member of Mt. Moriah Baptist Church recently suffered a serious accident at the intersection and that it was fortunate that the accident was not fatal.

It was the consensus of Council to direct the City Manager to set up a meeting at the West Henderson Street/Wilhemenia Street intersection with DOT, City, Church and community representatives.

Mr. Wynn Jackson stated his support for a traffic signal at this location and noted that stopped school buses even get passed in this section of West Henderson Street.

The City Manager stated that a meeting will be set up as soon as possible and that the Church and community members would be contacted.

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CONSENT AGENDA: Upon a motion by Council Member Doggett, seconded by Council Member Clark, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – September 17, 2013 Regular City Council Meeting Minutes and September 19, 2013 Special City Council Meeting Minutes.

B. Approval of Citation Appeals

Council approved the waiver of the $10.00 penalty for a parking citation issued to Ms. Jordan Revis on September 16, 2013 for overtime parking in the Gazebo Parking Lot on North Main Street, while serving as a grand juror.

Council approved the waiver of the $10.00 penalty for a parking citation issued to Ms. Delica Bates on September 16, 2013 for overtime parking in the Gazebo Parking Lot on North Main Street, while serving as a grand juror.

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

CONSIDER ADOPTION OF RESOLUTION AUTHORIZING THE SALE OF CITY PROPERTY ON YANCEY STREET BY NEGOTIATED OFFER AND UPSET BID: The City Manager advised that Ms. Victoria Wilkerson submitted an offer to purchase 0.13 acres of City property on Yancey Street in the West Marion neighborhood for $500 and that Mr. Walter Hooper had later submitted an offer of $550 for this same property. This property was acquired by the City earlier this year through tax foreclosure and contains a dilapidated house. The tax card indicates a value of $11,060 for the property and $6,060 for the house.
The City Manager advised that Public Works Director Brant Sikes, Building Inspector Jay Suttles and he had looked at the outside and inside of the house. The City Manager stated that it was the opinion of Mr. Suttles that the house is beyond practical repair, given the presence of black mold, collapsed ceilings and floors, roof issues and general disrepair inside the house. The City Manager reported that Mr. Suttles advised that the house would need to be gutted and it could take $30,000 to make repairs, which is well beyond the value of the property.

The City Manager advised that this property is clearly not needed by the City. Although small, the property could be a building lot. The City Manager stated that Council may certainly consider either bid or could reject both bids.

Council Member Clark noted that there are also back taxes owed on this property.

A discussion followed.

Council Member Clark made a motion to reject the offers of Ms. Victoria Wilkerson and Mr. Walter Hooper to purchase the 0.13 acre City property at 37 West Yancey Street and to direct staff to pursue demolition of the house, after which time the property can be put up for sale. The motion was seconded by Council Member Martin and approved unanimously by Council.

DISUCSS SCHOOL RESOURCE OFFICER GRANT APPLICATION: The City Manager advised that, as mentioned by Mayor Pro Tem Cuthbertson at the September 10 Council Planning Session, the North Carolina Department of Public Instruction has opened a grant cycle for School Resource Officer (SRO) funding. Grants are due in mid-October. Under this grant program, the State would pay for two-thirds of the salary and benefits for an SRO position for two years.

Police Chief Allen Lawrence advised that he has assessed the current SRO position at East Junior High. Information from Chief Lawrence was presented to Council for their review. Chief Lawrence noted that, with the number of schools in the City increasing from two to four in recent years, the SRO position at East had become stretched. He outlined the number of calls received at the different schools in the City during the 2012-13 school year. Chief Lawrence reported that, a year or two ago, SRO Danny Braswell was only spending about 50 percent of his time at East. After receiving complaints from East, the Police Department began steering most calls to other schools to patrol officers. Mr. Braswell now estimates that he spends 75 percent of his time at East. Charles Gaffigan, the Principal at East, agrees with this estimate.

Chief Lawrence stated that the additional SRO position would allow the Police Department to provide coverage of, and service to, the public schools in the City.

The City Manager noted that, if the grant is funded, the first year local costs would likely run around $18,000 and the second year costs around $15,000. The first year local costs would be higher to equip the new officer. The City Manager stated that if Council wishes to seek this grant, he would recommend that we do so only if the School System agrees to pay at least 50 percent of the total local costs for the life of the grant. Eventually, there would need to be an agreement regarding the allocation of costs after the grant ends. The City Manager stated that he would tentatively suggest a funding formula of 25 percent City/75 percent School System. This is less than the 50-50 funding split for the SRO position at East, but more in line with what the City could probably afford in the future.

Mayor Pro Tem Cuthbertson stated that the grant only covers SROs for elementary or middle schools and that the School System appears willing to split the local cost o a 50-50 basis with the City.

Council Member Clark asked if the position would be split with the School System year round or just during the school year. The City Manager stated that the costs would be split year round.

Council Member Clark asked what will happen to the position when the grant ends. The City Manager suggested that the City only commit to keeping the position for the life of the grant, but immediately begin conversations with the School System about a possible split of the cost of the SRO position after the grant ends.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to authorize the City Manager to work with McDowell County School to apply for a grant application from the North Carolina Department of Public Instruction to fund a School Resource Officer to serve Marion Elementary School and Eastfield Global Magnet School, on the condition that the local costs are split on an equal 50 percent City/50 percent McDowell County Schools basis.

Mayor Pro Tem Cuthbertson advised that the new Interim School Superintendent, Mark Garrett, would need to have an agreement to review concerning the SRO position. The City Manager stated that he would draft such an agreement and give it to Mayor Pro Tem Cuthbertson to present to Mr. Garrett within the next day or two.

CONSIDER ADOPTION OF RESOLUTION – LAKE JAMES WATERSHED RECLASSIFICATION: The City Manager reported that, as previously discussed, at the September 19 Joint Utility Committee meeting, County Manager Chuck Abernathy advised that N.C. Department of Environment and Natural Resources (NCDENR) staff had rejected the County's request to transfer development rights from the protected National Forest acreage to allow the City of Marion to be held harmless. The County Manager stated that he subsequently had a conference call with Assistant DENR Secretary Mitch Gillespie, Mitch's assistant Tom Reeder and DENR staff involved in the watershed reclassification process. The County Manager said that Secretary Gillespie had advised that the City of Marion could be held harmless in one of two ways, by the County

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submitting and receiving approval at high levels of DENR for the transfer of development rights from the National Forest to the City or by a request to the Environmental Management Commission. Either route would result in the desired outcome.

The City Manager reported that the County Manager advised that the County needed to close on the property for the future water plant and water intake by the end of October, since the option period is about to expire. The County needs to know that they are on the right track and asked if the City Council could approve a resolution consenting to the reclassification of Lake James to a Class 4 Watershed, on the condition that the City is held harmless and no development impacts of any sort apply to any properties in the City.

The City Manager stated that Mayor Little had subsequently drafted a proposed resolution, which would consent to the watershed reclassification with the condition that there are development impacts on property in the City.

Council Member Clark stated that he was not comfortable with the resolution and asked that a sentence be added to the resolution to make it clear that Council would not consent to the reclassification unless the City was exempt from the Class IV watershed rules.

A discussion followed.

Council Member Doggett stated that it was important to note that the resolution does not endorse the County's water plant project, just provide an endorsement of the watershed reclassification with very specific conditions attached that completely protect the City and ensure that there are no development impacts that result.

Council Members stated that they had no objection to the additional language proposed by Council Member Clark, since it reinforced the City's conditional approval.

Council recessed the meeting for a few minutes, while the City Manager spoke to Mayor Little by telephone about this matter.

After Council reconvened, the City Manager advised that Mayor Little had agreed to the inclusion of the additional language.

Upon a motion by Council Member Clark, seconded by Council Member Doggett, Council voted unanimously to adopt the following Resolution, approving the reclassification of the Lake James watershed on a conditional basis:

Resolution
By the City of Marion, North Carolina
Endorsing Reclassification of the Lake James Watershed

WHEREAS McDowell County, North Carolina ("McDowell County") is seeking a reclassification of the watershed of Lake James from the current category of Water Supply V to the category of Water Supply IV ("the watershed reclassification");

AND WHEREAS the Water Supply IV watershed for Lake James includes some property within the corporate boundary of the City of Marion, North Carolina ("City of Marion");

AND WHEREAS as a part of the endeavor to obtain a watershed reclassification, McDowell County is seeking a variance or modification of the rules, regulations and statutes that would restrict use and development of land within the corporate boundary of the City of Marion that is also within the boundary of the Water Supply IV watershed for Lake James;

AND WHEREAS endorsement of the watershed reclassification by the City of Marion is a requirement in order for McDowell County to continue to pursue the watershed reclassification;

AND WHEREAS the City Council of the City of Marion, North Carolina is willing to endorse the watershed reclassification on the strict and absolute condition that the watershed reclassification will not produce or result in any level whatsoever of interference of any kind with, impairment of any kind to, or restrictions of any kind on the ordinances and provisions of the City of Marion relating to land use and land development within the corporate boundary of the City of Marion.

NOW, THEREFORE, be it resolved that the City Council of the City of Marion, North Carolina does hereby endorse the reclassification of the watershed of Lake James from the current category of Water Supply V to the category of Water Supply IV, subject to the following strict condition.

THIS ENDORSEMENT is made on the strict and absolute condition that the watershed reclassification will not produce or result in any level whatsoever of interference of any kind with, impairment of any kind to or restrictions of any kind on the ordinances and provisions of the City of Marion relating to land use or land development within the corporate boundary of the City of Marion. If there is at any time any interference, impairment or restriction relating to land use or land development within the corporate boundary of the City of Marion produced by or as a result of the watershed reclassification, this endorsement by the City of Marion is and shall be revoked and shall be completely and totally void for all purposes, retroactively to the date this endorsement with its strict condition is adopted.

THIS ENDORSEMENT if further made subject to and on the condition that the State of North Carolina Department of Environment and Natural Resources and the United States Environmental Protection Agency exempt the City of Marion from all current and future rules and regulations that apply to the surface water Classification IV for the watershed of Lake James.

In Witness of the adoption of this resolution in Open Session by the City Council of the City of Marion on the 1st day of October, 2013, this instrument is executed by Stephen R. Little, Mayor of the City of Marion, on this 2nd day of October, 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Resolution Number: R-13-10-01-1

DISCUSS NOVEMBER COUNCIL MEETING SCHEDULE: The City Manager advised that Council typically cancels meetings that fall on the day of a City election. The City election will be held this year on Tuesday, November 5, the same day as a Council meeting.

Upon a motion by Council Member Clark, seconded by Council Member Doggett, Council voted unanimously to cancel the November 5 Regular City Council meeting.

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ADD ON ITEM – ACCEPTANCE OF GOVERNOR'S HIGHWAY SAFETY PROGRAM GRANT: Police Chief Allen Lawrence advised that he has served for several years as the regional coordinator for the Governor's Highway Safety Program. This entitles his agency to receive a $20,000 grant for the purchase of law enforcement equipment and to cover his travel expenses to periodic meetings. Chief Lawrence asked that Council consider adoption of a resolution to accept this grant

Upon a motion by Council Member Martin, seconded by Council Member Clark, Council voted unanimously to adopt the following Resolution, accepting the $20,000 Governor's Highway Safety Program grant:

North Carolina governor's Highway Safety Program
Local Governmental Resolution Form GHSP-02-A

WHEREAS, the Marion Police Department (herein called the "Agency" has completed an application contract for traffic safety funding; and that Marion City Council (herein call the "Governing body") has thoroughly considered the problem identified and has reviewed the project as described in the contract.

THREEFORE, NOW BE IT RESOVED BY THE Marion City Council IN OPEN MEETING ASSEMBLED IN THE CITY OF Marion, NORTH CAROLINA , THIS 1st DAY OF October, 2013, AS FOLLOWS:

1. That the project referenced above is in the best interest of the Governing body and the general public; and
2. That Chief Allen Lawrence is authorized to file, on behalf of the governing body, and application contract in the form prescribed by the governor's highway Safety Program for federal funding in the amount of $20,000.00 to be made to the Governing body to assist in defraying the cost of the project described in the contract application; and
3. That the Governing Body has formally appropriated the cash contribution of $0 as required by the project contract, and
4. That the Project Director designated in the application contract shall furnish or make arrangement for other appropriate person to furnish such information, date, documents and reports as required by the contract, if approved. Or as may be required by the Governor's Highway Safety Program and
5. That certified copies of this resolution be included as part of the contract referenced above, and
6. That this resolution shall take effect immediately upon its adoption.

DONE AND ORDERED in open meeting.

Steve Little, Mayor

Attest:

J. Robert Boyette, City Manager

Date:_____

ADD ON ITEM – APPROVAL OF DIFFERENCE MAKERS BIKE NIGHT – The City Manager advised that Mr. Louie Parrow had contacted him, requesting that the Difference Makers group be allowed to hold a Bike Night on Main Street, between Fort and Court Streets, on Saturday, October 19 from 6:00P.M. to 9:00 P.M. The Bike Night event scheduled to be held on Saturday evening, September 21 was cancelled, due to rain.

The City Manager stated that Mr. Parrow advised that he would get necessary paperwork to the Marion Police Department to allow submittal of this request to NCDOT for approval. In the event that the request is not approved by DOT, the City Manager advised that Difference Makers could use the Farmer's Market parking lot for the event.

Upon a motion by Council Member Clark, seconded by Council Member Doggett, Council voted unanimously to approve the request of Difference Makers to hold a Bike Night on Main Street, between Fort and Court Streets, on Saturday, October 19 from 6:00P.M. to 9:00 P.M.

CITY MANAGER REPORTS: The City Manager gave a brief report on current projects.

The City Manager advised that, as requested by Council Member Clark at the September 17 Council meeting, he presented Council Members with summary information on the recent rerating of the City's Building Inspections Program by the Insurance Service Office (ISO) recently completed a rerating of the City's Building Inspections program. The City received a rating of 4 for residential property and of 4 for commercial and industrial property. The City previously had a rating of 5 for both residential and commercial/industrial properties.

As shown in the information, the criteria considered by ISO included a jurisdiction's building code adoption, building code enforcement, training, level of certification and experience of inspectors, requirements for licensing of contractors, public awareness programs, administrative policies and procedures, staffing level, hazard mitigation procedures (floodplain management in our case), procedures for final inspections and certificates of occupancy and other assorted minor items. The City's score improved between 2008 and 2013, a great result for a City the size of Marion.

The City Manager advised that the City's Advisory Board/Volunteer Dinner will be held on Tuesday, October 8 at 6:00 p.m. at the Depot.

Public Works Director Brant Sikes reported that the paving had been completed on Overlooks Drive and that the project is finished, except for some final cleanup work.

Mr. Sikes stated that Miller Engineering has started work on the Crawford Street flood damage repairs. The project is about halfway done.

Mayor Pro Tem Cuthbertson asked when the Crawford project would be completed. Mr. Sikes stated that he hoped the project could be completed by the end of October.

The City Manager advised that the caboose relocation to the Depot had been delayed until October 9, due to the schedule of the firm contracted to move the caboose.

The City Manager advised that the Farmer's Market Shelter was used on Sunday, September 29 for a rest stop for the Cycle NC ride. Approximately 1,300 bicyclists came through Marion that morning. The City Manager stated that Cycle NC representatives and riders complimented the City for the hospitality shown at the rest stop. Cycle NC will hopefully return to Marion in a future year for a rest stop or overnight stay.

Council Members thanked the City Manager for his assistance with the event.

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The City Manager advised that, the day before 4th Grade students throughout McDowell County visited the McDowell House, as part of the Overmountain Victory Trail event. The students learned from historical reenactors, who were hand to talk about life in the 1700's. The City Manager stated that the event went very well.

The City Manager thanked Public Works Director Brant Sikes and Police Chief Allen Lawrence for the assistance of their departments in making the event successful.

The City Manager advised that the City had not heard anything back from NCDOT after the meeting on September 19 between the City, County and NCDOT to discuss the US 221 widening project.

COUNCIL MEMBER COMMENTS:

Council Member Martin advised that there would be a fish fry on Friday, October 4 at Addie's Chapel United Methodist Church to raise money for the continued renovation of the Historic Morehead Cemetery off of Morehead Road.

Council Member Clark asked about the plans of the State to realign the boundaries of the Regional Councils of Government (COGs). The City Manager advised that the North Carolina General Assembly had discussed, but not yet approved, realigning district boundaries. The idea is to have the boundaries of State agency districts be the same, which might necessitate changes to COG boundaries.

Council Member Doggett asked if the new gun laws passed by the General Assembly this past legislative session, and taking effect today, would allow for weapons on City greenways and trails. The City Manager reported that, based upon guidance received from the UNC School of Government, the City had already interpreted the legislation from the previous year as allowing weapons on greenways and trails. Therefore, signs prohibiting weapons on the Greenway had already been changed.

Council Member Ramsey stated that the City could post a sign on the Greenway, asking, but not mandating, people not to bring weapons on the Greenway.

ADJOURNMENT: Upon a motion by Council Member Clark, 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, October 15, 2013 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; Allen Lawrence, Police Chief; Brant Sikes, Public Works Director; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Megan Webster, PO Box 1572 Marion, NC; Karin Conley, 128 Hankins Road, Marion NC; Nancy Spencer, 96 Cross Creek Drive, 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 Doggett, Council voted unanimously to approve the consent agenda as follows:

A. **Approval of Minutes** – October 1, 2013 Regular City Council Meeting Minutes

PUBLIC APPEARANCE – FAMILY SERVICES OF MCDOWELL COUNTY: Ms. Megan Webster, Executive Director of Family Services of McDowell County, appeared before Council to discuss funding needs for Family Services.

Ms. Webster stated that, due to slowdowns in State payments, Family Services has been operating out of their reserve funds for the past four months. The reserve funds are now almost depleted. Grant money will not come in from the State until November and the organization is in need of assistance.

Ms. Webster advised that her Board of Directors had asked that she come before City Council and request a onetime donation of $3,000. The County is making a donation as well and, with both donations, Family Service can make payroll and continue operations until the State grant money arrives.

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Ms. Webster stated that Family Services provides a vital need in the community of addressing domestic violence issues and providing needed help and shelter for domestic violence victims.

Ms. Karin Conley, President of Family Services, stated that the Family Services Board and staff work very hard to provide a needed service for the community and work within a small budget. She advised that Family Services has several fund raisers coming up, but needs help at this time.

Council Member Doggett stated that Family Services provides a valuable service for the community and works hard to raise funds. She noted that she had attended the Family Services Ladies Day fundraiser the year before and had a wonderful time.

Council Member Clark stated that he had reviewed the financial information for Family Services provided in the agenda packet and there was no doubt the organization needed the money.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to approve a onetime donation of $3,000 to Family Services of McDowell County.

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

REVIEW REQUEST FROM MARION ELEMENTARY SCHOOL:

The City Manager stated that he had received a request from Marion Elementary School Principal Rod Slagle requesting the removal of parking spaces blocking sight distance from the exit of Marion Elementary School onto Robert Street.

The City Manager advised Public Works Director Brant Sikes, Police Chief Allen Lawrence and he looked at this location in early October and agreed that there is a sight distance problem and believe that it would be wise to remove one parking space on either side of the Marion Elementary School main exit onto Robert Street. The Street Committee looked at the location as well on October 8 and recommended approval of the request.

The City Manager advised that Council action would be needed to adopt an amendment to the City Traffic Schedule, in order to approve the request.

Council Member Clark asked if the City already had an ordinance that prohibited parking immediately next to driveways.

The City Manager stated that there may be such an ordinance, but the City also has an ordinance that allows for marked parking spaces, such as the ones in question, to be legal. Therefore, his recommendation would be to adopt the Traffic Schedule ordinance amendment to make it clear that parking was prohibited in this location.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to adopt the following ordinance to establish no parking zones immediately adjacent to the Marion Elementary School exit onto Robert Street, as requested.

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
ROBERT STREET PROHIBITED	PARKING 156 FEET EAST OF THE	SOUTH SIDE, BEGINNING SOUTHEASTERN CORNER OF THE ROBERT STREET AND FLEMING AVENUE INTERSECTION AND EXTENDING 115 FEET EASTERLY

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

Adopted this the 15th day of October, 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-13-10-15-1

DISCUSS SEEKING PROPOSALS FOR MARKETING STRATEGY:

The City Manager advised that, as has been briefly mentioned previously, the Marion Business Association (MBA) has discussed the creation of a Marketing Strategy for the City. The MBA Economic Development Committee wants to see how much a Marketing Strategy would cost and recommends that the City seek proposals for such services. The City Manager presented a draft Request for Proposals (RFP) for a Marketing Strategy.

Marion Business Association President Nancy Spencer stated that she and the MBA believed that the City had many good assets, but that marketing was the key. Ms. Spencer said that the City needs to get out the message that Marion is a great place to live, work, shop, visit and play.

The City Manager stated that, before an RFP was sent out, he wanted to discuss it with Council see if there was any objection to obtain marketing proposals. There would be no commitment on the part of the City, until such time as Council decided to award a contract in the future.

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Council Member Doggett asked if the North Carolina Department of Commerce or the North Carolina League of Municipalities had the ability to assist cities with marketing.

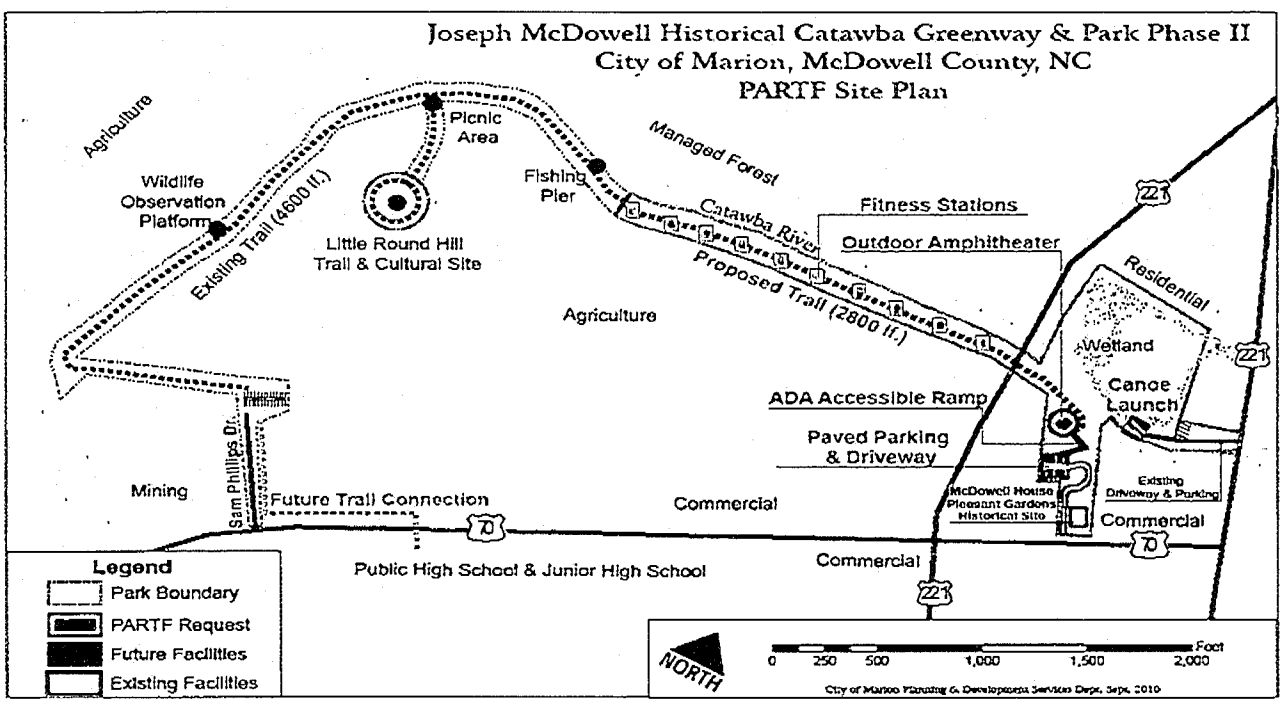
Council Member Clark stated that the League did not offer marketing assistance and that he did not believe that the Department of Commerce did either. The City Manager advised that he would check with the Department of Commerce to make sure.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to authorize the City Manager to send out Requests for Proposals for a Marketing Strategy for the City, with no commitment made by the City to enter into a contract with any firm, until such time as approval is given by Council.

GREENWAY UPDATE: Planning and Development Director Heather Cotton presented Council Members with an update on Phase 2 of the Joseph McDowell Historical Catawba Greenway.

Ms. Cotton advised that surveying work had been completed and design work was now underway by McGill Associates. The design work should wrap up in the next 30-60 days. The design will be presented to Council, the County Commissioners and the McDowell House Committee for review. Permitting can then take place, with construction bids being sought next spring or summer. Construction can hopefully be completed by the end of 2014, in advance of the March 2015 Parks and Recreation Trust Fund grant deadline.

The following map shows an overview of Phase 2 of the Greenway, in relation to Phase 1:



Mayor Little and Council Members thanked Ms. Cotton for her work on this project and stated that they looked forward to the implementation of Phase 2 of the Greenway.

PRESENTATION BY POLICE CHIEF ALLEN LAWRENCE – POLICE DEPARTMENT SERVICE ENHANCEMENTS: Police Chief Allen Lawrence presented Council Members with some recent service enhancements implemented in the Police Department. One change is to reinstitute patrol districts, which should allow for more consistent patrol presence throughout the City. This change was instituted on October 1, with the City Manager's full support.

The City Manager stated that he had given Chief Lawrence a challenge when he came to work for the City to look for ways to improve patrol presence throughout all areas of the City. Chief Lawrence delivered on this challenge with the implementation of patrol districts.

Chief Lawrence presented Council with a map, showing the location of three patrol zones. Patrol officers will patrol within their assigned zone, when they are not answering calls.

Chief Lawrence also advised that he has implemented a briefing at the beginning of each shift by the sergeant of the outgoing shift. He stated that this change should improve communication between shifts and give the officers coming onto a shift more information about what to look out for during their shift.

Chief Lawrence stated that another change, as recently authorized by Council, is for the Police Department to begin offering unlocking of vehicles as a service to the public. This change should shorten waiting times for people to have their vehicles unlocked and build an even stronger working relationship with the Sheriff's Department. The vehicle unlocking will only take place after someone has signed a waiver form, releasing the City from damage to vehicles. Chief Lawrence presented the waiver form to Council for review.

Mayor Little stated that the waiver form looked very good and should meet the City's needs.

Council Member Clark commended Chief Lawrence for his efforts and advised that visibility and patrol presence has always been very important for citizens.

Council Member Clark stated that he is on the North Carolina League of Municipalities Risk Management Services Board, which oversees the insurance programs for the League. In this capacity, he said that he has become aware of a growing trend with officers driving and using their computers, as this would be the same as texting and driving.

Chief Lawrence stated that he is a certified driving instructor and plans to do some strategic driver's safety training with the officers.

Mayor Little and Council Members thanked Chief Lawrence for his efforts.

APPROVE STREET CLOSURE FOR NEW YEAR'S EVE CELEBRATION: The City Manager advised that the County, Marion Business Association and Marion Rotary Club will soon begin planning this year's 5th Annual New Year's Eve Celebration. They hope to build on the events held the past four 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 (if necessary) to drop the gold nugget, without objection.

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The City Manager asked that Council approve the street closure for this event on Main Street between Fort and Henderson Streets on December 31 between 7:00 p.m. and 1:00 a.m. The event will take place between 9:00 p.m. and 12:30 a.m.

Upon a motion by Council Member Clark, Seconded by Council Member Martin, Council voted unanimously to approve the street closure for the New Year's Eve Celebration on Main Street between Fort and Henderson Streets on Tuesday, December 31 between 7:00 p.m. and 1:00 a.m.

DISCUSS DILAPIDATED HOUSING: The City Manager advised that, at the July 16 Council meeting, Council granted a 90 day extension on the demolition of the dilapidated house at 110 West High Street. No action has been taken by the property owner; however, Building Inspector Jay Suttles recently spoke to the property owners, who still intend to the take down the house themselves.

The City Manager stated that the City is already projected to meet or exceed its demolition budget for 2013-14, so it would not hurt the budget if the demolition of this structure was delayed for several additional months. The City Manager advised that this house is not in good shape, but is not the worst one in the City.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to grant the property owners at 110 West High Street an additional 90 days to demolish the structure on the property. Council indicated its willingness to issue further extensions, as long as some progress is made by the property owners.

DISCUSS STREET REQUEST: The City Manager advised that Ms. Hilda Messer had recently requested a street light at the end of Buena Vista Ridge, located off of Stroud Street. The City Manager presented Council with a map of Buena Vista Ridge. The City currently has a street light at the intersection of Buena Vista Ridge and Stroud Street. Ms. Messer advises that one is needed at the end of the street, which is approximately 236 feet in length.

The City Manager stated that Police Lieutenant Jamie Harklerode looked at this location and advised that the end of the street is very dark and could benefit from a street light. The Street Committee also looked at the location on October 8 and recommends approval of the request.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to approve a street light at the end of Buena Vista Ridge, as requested.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager gave an update on the US 221 widening project and advised that North Carolina Representative Josh Dobson had learned from DOT staff in Raleigh that the project will not meet a July 1, 2015 deadline imposed by the General Assembly and will be reprioritized next year. This reprioritization will give the City additional time to address the utility relocation issue with DOT regarding this project, either through additional lobbying, legislation or both.

Council Member Clark stated that he appreciated Mayor Little sending letters to U.S. Senators Burr and Hagan, Congressman Meadows and U.S. Secretary of Transportation Foxx, asking for Federal help for the US 221 widening project.

Council Member Doggett reported that she discussed the City's situation involving having to pay for the utility relocation costs to N.C. Secretary of Transportation Tony Tata at the North Carolina League of Municipalities Conference in Hickory the day before. Secretary Tata said that he would look into the situation.

The City Manager advised that the 30th Annual Mountain Glory Festival, held on Saturday, October 12, was a great success. There were almost 150 vendors registered, which was the most ever. There was great weather and as large a crowd as ever seen at Mountain Glory. The City Manager noted that the County provided a free shuttle service from the Senior Center to the Festival area for the first time this year.

The City Manager stated that the Festival Committee met earlier that day to discuss ways to grow and improve the Festival in future years. He said that he wished to thank the Marion Business Association Board, staff and volunteers, as well as the Public Works Department, Police and Fire Departments for their work in making the Festival possible and ensuring a great day.

Council Member Clark stated that he visited 20 or 25 of the vendor booths and thanked the vendors for coming. He said that he always hears that Mountain Glory is the best festival in the region and how much the vendors appreciate the assistance and hospitality of the Festival volunteers.

Mayor Little said that he enjoyed visiting with vendors and the public at the Festival and that he commended everyone on the great job they did.

The City Manager advised that he had set up a meeting set with DOT Division Traffic Engineer Anna Henderson and community/church representatives to discuss the requested traffic signal at West Henderson and Wilhemenia Streets. The meeting is scheduled take the following day at 11:00 a.m. at the intersection. The City Manager stated that he would update Council regarding the results of this meeting.

The City Manager reminded Council Members that would be no Council meeting on November 5. The only Council meeting in November will be held on November 19.

Public Works Director Brant Sikes stated that 90 percent of the Crawford Street Project is done and that Miller Engineering should wrap up its work in the next week, after which time Public Works can make necessary sidewalk repairs to allow the street to be opened by the end of October.

Council Member Martin stated that he would like to extend a special thank you to Mr. Ford Miller. Mr. Miller put a lot more into this project than the amount he charged the City.

After a brief discussion, Mayor Little and Council Members agreed to invite Mr. Miller to the November 19 Council meeting and honor him as a group as the Citizen of the Month for November.

COUNCIL MEMBER COMMENTS: Council Member Ramsey stated that he attended the North Carolina League of Municipalities Conference in Hickory the past two days and learned a lot of interesting things. He advised that he heard numerous positive comments and compliments made regarding City Manager Bob Boyette and Council Member Clark.

Council Member Doggett stated that she also attended the League Conference and learned a lot. There were many informative sessions from which to choose. She noted that Tom Reeder of the North Carolina Department of Environment and Natural Resources told a session that any project with an economic development component would essentially receive an automatic approval from the State in regards to environmental permitting.

Council Member Doggett commended the volunteers regarding the great work they did during the set up and break down of this year's Mountain Glory Festival.

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Council Member Clark stated that he would echo what Council Members Ramsey and Doggett had to say regarding the League meeting. Through the years, he too had learned a lot from the meetings and he appreciates the opportunity to get to attend them.

Mayor Little advised that he appreciated the prayers, calls and support he received in recent weeks both before and after his heart procedure. Mayor Little said that the procedure was a success and that he had already made a full recovery.

ADJOURNMENT: Upon a motion by Council Member Clark, seconded by Council Member Ramsey, 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, October 1, 2013 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 Don Ramsey.

Mayor Stephen R. Little was not present for this meeting due to illness.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Brant Sikes, Public Works Director; Allen Lawrence, Police Chief; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Sonya Henry 77, White Tail Trail Marion, NC; Barbara Conley, 61 Woodlawn Street, Marion, NC; George & Lisa Pittman, Lake Tahoma Road Marion, NC; Palmer & Ron Hensley, 100 Hillcrest Drive, Marion, NC; Wilma Hawkins, 77 Mackey Farm Drive, Old Fort, NC; Elsie House, 99 Pleasant Valley Drive, Marion, NC; Jan Ramsey, 188 Hillcrest Drive, Marion, NC; Pauline Buckner, 220 California Avenue, Marion, NC; Della Watson, PO Box 306, Marion, NC; Kay McKesson, PO Box 1877, Marion, NC; Margaret Bowman, 130 McIver Drive, Marion, NC; Charles Tate, Marion, NC; Wynn Jackson, 1139 West Henderson Street, Marion, NC; Edna Kate Vaughn, 110 East Wilhemenia Street, Marion, NC; Lucy Lewis, 336-B Morehead Road, Marion, NC; Annette Bryant, 110 Rock Cliff Drive, Nebo, NC; James Lindsey, 21 Woodlawn Street, Marion, NC; Larry Boyce, PO Box 1913, Marion, NC; Wayne Silver, 260 Old Clear Creek Road, Marion, NC; Reverend Harvey Johnson, 63 Tomahawk Trail, Marion, NC; Reverend Luther & Linda Gamble, 115 Overcash Road, Troutman, NC; Rachel Gamble, 210 Deaton Street, Statesville, NC; Diron Chloe, 653 Veteran's Drive, Marion, NC.

OPENING OF MEETING: Mayor Pro Tem Cuthbertson presided over this meeting due to the absence of Mayor Stephen R. Little and opened the meeting with a moment of silence.

CITIZEN OF THE MONTH – SELECTED BY COUNCIL MEMBER RAMSEY: Council Member Ramsey stated that he had the great pleasure of nominating as Citizen of the Month one of the most beloved and highly esteemed citizens of our City:

EDNA KATE VAUGHN

Council Member Ramsey advised that Ms. Vaughn is a life-long resident of Marion and is known affectionately to everyone by her first name only, Ms. Edna. Since 1952, she has loved and cared for over 200 families in Marion, most of whom consider her to be an integral part of their families' lives.

Edna is the only child born to Rev. Garfield and Rev. Katie Phillips Vaughn, who were evangelists and pastors in the AME Zion Church. Edna was elected on several occasions to serve as a delegate to the General Conferences of the AME Zion Church in the election of Bishops and general officers of the Church. In 1967, she received a commendation from the late U.S. Congressman Roy A. Taylor for her achievements at McDowell Technical Community College.

Council Member Ramsey stated that it would be difficult to choose which has been the greater part of her ministry, the many people she tirelessly cared for and continues to care for, or her gift of music. At an early age, Edna's parents recognized her musical talents, and she began to sing and play the piano in her parents' churches.

Edna traveled and sang with her mother for many years and traveled on many occasions as the musician for the legendary group known as the "Soul Stirrers." She was brought into the group by a lifelong family friend, Rev. Luther Gamble. At one time, the late Sam Cook, a member of the Rock and Roll Hall of Fame, was also part of that group. She continues in her music ministry performing at nursing homes with a dear friend, Curt Gurley.

Council Member Ramsey stated that Edna has committed her life to kindness and devotion to helping others and is an inspiration to us all.

Council Member Ramsey concluded that, although a woman of average size, Edna Kate Vaughn, is a woman of great stature with a kind heart big enough to include so many, including all of us here in the City of Marion.

Mayor Pro Tem Cuthbertson, Council Members, family and friends all shared kind words and congratulated Ms. Edna Kate Vaughn on being selected as Marion's Citizen of the Month for October.

DISCUSS REQUESTED TRAFFIC SIGNAL AT WEST HENDERSON AND WILHEMENIA STREETS: The City Manager advised that Council Member Martin had received a request again from members of Mt. Moriah Baptist Church on East Wilhemenia Street for a traffic signal at the intersection of West Henderson and Wilhemenia Streets. The City has asked DOT on multiple occasions for a traffic signal at this location. West Henderson Street is a State maintained road, so these requests have to go to the North Carolina Department of Transportation. The City Manager stated that DOT has repeatedly turned down the request. DOT has guidelines that they must follow before they put up traffic signals. DOT staff has indicated that there is not enough traffic coming from Wilhemenia Street to allow for a traffic signal.

The City Manager reported that traffic counts have been taken twice in the last 10 years. The City had hoped that the additional traffic to the new Super Wal Mart would have made a difference, but it did not when new traffic counts were taken last year. Several years ago, at the City's request, DOT did put up the flashing warning signal that pedestrians can activate, but that is all they have been willing to approve.

Council Member Martin stated that the City Council has repeatedly supported this requests; however, DOT has not approved the request. He suggested that the City convene a meeting at the site with DOT, City, Church and community representatives.

Council Member Martin advised that the City has addressed this issue in every way possible and that it would be worthwhile to have DOT hear directly from the community. He noted that a member of Mt. Moriah Baptist Church recently suffered a serious accident at the intersection and that it was fortunate that the accident was not fatal.

It was the consensus of Council to direct the City Manager to set up a meeting at the West Henderson Street/Wilhemenia Street intersection with DOT, City, Church and community representatives.

Mr. Wynn Jackson stated his support for a traffic signal at this location and noted that stopped school buses even get passed in this section of West Henderson Street.

The City Manager stated that a meeting will be set up as soon as possible and that the Church and community members in would be contacted.

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CONSENT AGENDA: Upon a motion by Council Member Doggett, seconded by Council Member Clark, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – September 17, 2013 Regular City Council Meeting Minutes and September 19, 2013 Special City Council Meeting Minutes.

B. Approval of Citation Appeals

Council approved the waiver of the $10.00 penalty for a parking citation issued to Ms. Jordan Revis on September 16, 2013 for overtime parking in the Gazebo Parking Lot on North Main Street, while serving as a grand juror.

Council approved the waiver of the $10.00 penalty for a parking citation issued to Ms. Delica Bates on September 16, 2013 for overtime parking in the Gazebo Parking Lot on North Main Street, while serving as a grand juror.

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

CONSIDER ADOPTION OF RESOLUTION AUTHORIZING THE SALE OF CITY PROPERTY ON YANCEY STREET BY NEGOTIATED OFFER AND UPSET BID: The City Manager advised that Ms. Victoria Wilkerson submitted an offer to purchase 0.13 acres of City property on Yancey Street in the West Marion neighborhood for $500 and that Mr. Walter Hooper had later submitted an offer of $550 for this same property. This property was acquired by the City earlier this year through tax foreclosure and contains a dilapidated house. The tax card indicates a value of $11,060 for the property and $6,060 for the house.

The City Manager advised that Public Works Director Brant Sikes, Building Inspector Jay Suttles and he had looked at the outside and inside of the house. The City Manager stated that it was the opinion of Mr. Suttles that the house is beyond practical repair, given the presence of black mold, collapsed ceilings and floors, roof issues and general disrepair inside the house. The City Manager reported that Mr. Suttles advised that the house would need to be gutted and it could take $30,000 to make repairs, which is well beyond the value of the property.

The City Manager advised that this property is clearly not needed by the City. Although small, the property could be a building lot. The City Manager stated that Council may certainly consider either bid or could reject both bids.

Council Member Clark noted that there are also back taxes owed on this property.

A discussion followed.

Council Member Clark made a motion to reject the offers of Ms. Victoria Wilkerson and Mr. Walter Hooper to purchase the 0.13 acre City property at 37 West Yancey Street and to direct staff to pursue demolition of the house, after which time the property can be put up for sale. The motion was seconded by Council Member Martin and approved unanimously by Council.

DISUCSS SCHOOL RESOURCE OFFICER GRANT APPLICATION: The City Manager advised that, as mentioned by Mayor Pro Tem Cuthbertson at the September 10 Council Planning Session, the North Carolina Department of Public Instruction has opened a grant cycle for School Resource Officer (SRO) funding. Grants are due in mid-October. Under this grant program, the State would pay for two-thirds of the salary and benefits for an SRO position for two years.

Police Chief Allen Lawrence advised that he has assessed the current SRO position at East Junior High. Information from Chief Lawrence was presented to Council for their review. Chief Lawrence noted that, with the number of schools in the City increasing from two to four in recent years, the SRO position at East had become stretched. He outlined the number of calls received at the different schools in the City during the 2012-13 school year. Chief Lawrence reported that, a year or two ago, SRO Danny Braswell was only spending about 50 percent of his time at East. After receiving complaints from East, the Police Department began steering most calls to other schools to patrol officers. Mr. Braswell now estimates that he spends 75 percent of his time at East. Charles Gaffigan, the Principal at East, agrees with this estimate.

Chief Lawrence stated that the additional SRO position would allow the Police Department to provide coverage of, and service to, the public schools in the City.

The City Manager noted that, if the grant is funded, the first year local costs would likely run around $18,000 and the second year costs around $15,000. The first year local costs would be higher to equip the new officer. The City Manager stated that if Council wishes to seek this grant, he would recommend that we do so only if the School System agrees to pay at least 50 percent of the total local costs for the life of the grant. Eventually, there would need to be an agreement regarding the allocation of costs after the grant ends. The City Manager stated that he would tentatively suggest a funding formula of 25 percent City/75 percent School System. This is less than the 50-50 funding split for the SRO position at East, but more in line with what the City could probably afford in the future.

Mayor Pro Tem Cuthbertson stated that the grant only covers SROs for elementary or middle schools and that the School System appears willing to split the local cost o a 50-50 basis with the City.

Council Member Clark asked if the position would be split with the School System year round or just during the school year. The City Manager stated that the costs would be split year round.

Council Member Clark asked what will happen to the position when the grant ends. The City Manager suggested that the City only commit to keeping the position for the life of the grant, but immediately begin conversations with the School System about a possible split of the cost of the SRO position after the grant ends.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to authorize the City Manager to work with McDowell County School to apply for a grant application from the North Carolina Department of Public Instruction to fund a School Resource Officer to serve Marion Elementary School and Eastfield Global Magnet School, on the condition that the local costs are split on an equal 50 percent City/50 percent McDowell County Schools basis.

Mayor Pro Tem Cuthbertson advised that the new Interim School Superintendent, Mark Garrett, would need to have an agreement to review concerning the SRO position. The City Manager stated that he would draft such an agreement and give it to Mayor Pro Tem Cuthbertson to present to Mr. Garrett within the next day or two.

CONSIDER ADOPTION OF RESOLUTION – LAKE JAMES WATERSHED RECLASSIFICATION: The City Manager reported that, as previously discussed, at the September 19 Joint Utility Committee meeting, County Manager Chuck Abernathy advised that N.C. Department of Environment and Natural Resources (NCDENR) staff had rejected the County's request to transfer development rights from the protected National Forest acreage to allow the City of Marion to be held harmless. The County Manager stated that he subsequently had a conference call with Assistant DENR Secretary Mitch Gillespie, Mitch's assistant Tom Reeder and DENR staff involved in the watershed reclassification process. The

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County Manager said that Secretary Gillespie had advised that the City of Marion could be held harmless in one of two ways, by the County submitting and receiving approval at high levels of DENR for the transfer of development rights from the National Forest to the City or by a request to the Environmental Management Commission. Either route would result in the desired outcome.

The City Manager reported that the County Manager advised that the County needed to close on the property for the future water plant and water intake by the end of October, since the option period is about to expire. The County needs to know that they are on the right track and asked if the City Council could approve a resolution consenting to the reclassification of Lake James to a Class 4 Watershed, on the condition that the City is held harmless and no development impacts of any sort apply to any properties in the City.

The City Manager stated that Mayor Little had subsequently drafted a proposed resolution, which would consent to the watershed reclassification with the condition that there are development impacts on property in the City.

Council Member Clark stated that he was not comfortable with the resolution and asked that a sentence be added to the resolution to make it clear that Council would not consent to the reclassification unless the City was exempt from the Class IV watershed rules.

A discussion followed.

Council Member Doggett stated that it was important to note that the resolution does not endorse the County's water plant project, just provide an endorsement of the watershed reclassification with very specific conditions attached that completely protect the City and ensure that there are no development impacts that result.

Council Member stated that they had no objection to the additional language proposed by Council Member Clark, since it reinforced the City's conditional approval.

Council recessed the meeting for a few minutes, while the City Manager spoke to Mayor Little by telephone about this matter.

After Council reconvened, the City Manager advised that Mayor Little had agreed to the inclusion of the additional language.

Upon a motion by Council Member Clark, seconded by Council Member Doggett, Council voted unanimously to adopt the following Resolution, approving the reclassification of the Lake James watershed on a conditional basis:

Resolution
By the City of Marion, North Carolina
Endorsing Reclassification of the Lake James Watershed

WHEREAS McDowell County, North Carolina ("McDowell County") is seeking a reclassification of the watershed of Lake James from the current category of Water Supply V to the category of Water Supply IV ("the watershed reclassification");

AND WHEREAS the Water Supply IV watershed for Lake James includes some property within the corporate boundary of the City of Marion, North Carolina ("City of Marion");

AND WHEREAS as a part of the endeavor to obtain a watershed reclassification, McDowell County is seeking a variance or modification of the rules, regulations and statutes that would restrict use and development of land within the corporate boundary of the City of Marion that is also within the boundary of the Water Supply IV watershed for Lake James;

AND WHEREAS endorsement of the watershed reclassification by the City of Marion is a requirement in order for McDowell County to continue to pursue the watershed reclassification;

AND WHEREAS the City Council of the City of Marion, North Carolina is willing to endorse the watershed reclassification on the strict and absolute condition that the watershed reclassification will not produce or result in any level whatsoever of interference of any kind with, impairment of any kind to, or restrictions of any kind on the ordinances and provisions of the City of Marion relating to land use and land development within the corporate boundary of the City of Marion.

NOW, THEREFORE, be it resolved that the City Council of the City of Marion, North Carolina does hereby endorse the reclassification of the watershed of Lake James from the current category of Water Supply V to the category of Water Supply IV, subject to the following strict condition.

THIS ENDORSEMENT is made on the strict and absolute condition that the watershed reclassification will not produce or result in any level whatsoever of interference of any kind with, impairment of any kind to or restrictions of any kind on the ordinances and provisions of the City of Marion relating to land use or land development within the corporate boundary of the City of Marion. If there is at any time any interference, impairment or restriction relating to land use or land development within the corporate boundary of the City of Marion produced by or as a result of the watershed reclassification, this endorsement by the City of Marion is and shall be revoked and shall be completely and totally void for all purposes, retroactively to the date this endorsement with its strict condition is adopted.

THIS ENDORSEMENT if further made subject to and on the condition that the State of North Carolina Department of Environment and Natural Resources and the United States Environmental Protection Agency exempt the City of Marion from all current and future rules and regulations that apply to the surface water Classification IV for the watershed of Lake James.

In Witness of the adoption of this resolution in Open Session by the City Council of the City of Marion on the 1st day of October, 2013, this instrument is executed by Stephen R. Little, Mayor of the City of Marion, on this 2nd day of October, 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Resolution Number: R-13-10-01-1

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DISCUSS NOVEMBER COUNCIL MEETING SCHEDULE: The City Manager advised that Council typically cancels meetings that fall on the day of a City election. The City election will be held this year on Tuesday, November 5, the same day as a Council meeting.

Upon a motion by Council Member Clark, seconded by Council Member Doggett, Council voted unanimously to cancel the November 5 Regular City Council meeting.

ADD ON ITEM – ACCEPTANCE OF GOVERNOR'S HIGHWAY SAFETY PROGRAM GRANT: Police Chief Allen Lawrence advised that he has served for several years as the regional coordinator for the Governor's Highway Safety Program. This entitles his agency to receive a $20,000 grant for the purchase of law enforcement equipment and to cover his travel expenses to periodic meetings. Chief Lawrence asked that Council consider adoption of a resolution to accept this grant

Upon a motion by Council Member Martin, seconded by Council Member Clark, Council voted unanimously to adopt the following Resolution, accepting the $20,000 Governor's Highway Safety Program grant:

North Carolina governor's Highway Safety Program
Local Governmental Resolution Form GHSP-02-A

WHEREAS, the Marion Police Department (herein called the "Agency" has completed an application contract for traffic safety funding; and that Marion City Council (herein call the "Governing body") has thoroughly considered the problem identified and has reviewed the project as described in the contract.

THREEFORE, NOW BE IT RESOVED BY THE Marion City Council IN OPEN MEETING ASSEMBLED IN THE CITY OF Marion, NORTH CAROLINA , THIS 1ST DAY OF October, 2013, AS FOLLOWS:

1. That the project referenced above is in the best interest of the Governing body and the general public; and
2. That Chief Allen Lawrence is authorized to file, on behalf of the governing body, and application contract in the form prescribed by the governor's highway Safety Program for federal funding in the amount of $20,000.00 to be made to the Governing body to assist in defraying the cost of the project described in the contract application; and
3. That the Governing Body has formally appropriated the cash contribution of $0 as required by the project contract, and
4. That the Project Director designated in the application contract shall furnish or make arrangement for other appropriate person to furnish such information, date, documents and reports as required by the contract, if approved. Or as may be required by the Governor's Highway Safety Program and
5. That certified copies of this resolution be included as part of the contract referenced above, and
6. That this resolution shall take effect immediately upon its adoption.

DONE AND ORDERED in open meeting.

Steve Little, Mayor

Attest:

J. Robert Boyette, City Manager

Date: _____

ADD ON ITEM – APPROVAL OF DIFFERENCE MAKERS BIKE NIGHT – The City Manager advised that Mr. Louie Parrow had contacted him, requesting that the Difference Makers group be allowed to hold a Bike Night on Main Street, between Fort and Court Streets, on Saturday, October 19 from 6:00P.M. to 9:00 P.M. The Bike Night event scheduled to be held on Saturday evening, September 21 was cancelled, due to rain.

The City Manager stated that Mr. Parrow advised that he would get necessary paperwork to the Marion Police Department to allow submittal of this request to NCDOT for approval. In the event that the request is not approved by DOT, the City Manager advised that Difference Makers could use the Farmer's Market parking lot for the event.

Upon a motion by Council Member Clark, seconded by Council Member Doggett, Council voted unanimously to approve the request of Difference Makers to hold a Bike Night on Main Street, between Fort and Court Streets, on Saturday, October 19 from 6:00P.M. to 9:00 P.M.

CITY MANAGER REPORTS: The City Manager gave a brief report on current projects.

The City Manager advised that, as requested by Council Member Clark at the September 17 Council meeting, he presented Council Members with summary information on the recent rerating of the City's Building Inspections Program by the Insurance Service Office (ISO) recently completed a rerating of the City's Building Inspections program. The City received a rating of 4 for residential property and of 4 for commercial and industrial property. The City previously had a rating of 5 for both residential and commercial/industrial properties.

As shown in the information, the criteria considered by ISO included a jurisdiction's building code adoption, building code enforcement, training, level of certification and experience of inspectors, requirements for licensing of contractors, public awareness programs, administrative policies and procedures, staffing level, hazard mitigation procedures (floodplain management in our case), procedures for final inspections and certificates of occupancy and other assorted minor items. The City's score improved between 2008 and 2013, a great result for a City the size of Marion.

The City Manager advised that the City's Advisory Board/Volunteer Dinner will be held on Tuesday, October 8 at 6:00 p.m. at the Depot.

Public Works Director Brant Sikes reported that the paving had been completed on Overlooks Drive and that the project is finished, except for some final cleanup work.

Mr. Sikes stated that Miller Engineering has started work on the Crawford Street flood damage repairs. The project is about halfway done.

Mayor Pro Tem Cuthbertson asked when the Crawford project would be completed. Mr. Sikes stated that he hoped the project could be completed by the end of October.

The City Manager advised that the caboose relocation to the Depot had been delayed until October 9, due to the schedule of the firm contracted to move the caboose.

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The City Manager advised that the Farmer's Market Shelter was used on Sunday, September 29 for a rest stop for the Cycle NC ride. Approximately 1,300 bicyclists came through Marion that morning. The City Manager stated that Cycle NC representatives and riders complimented the City for the hospitality shown at the rest stop. Cycle NC will hopefully return to Marion in a future year for a rest stop or overnight stay.

Council Members thanked the City Manager for his assistance with the event.

The City Manager advised that, the day before 4th Grade students throughout McDowell County visited the McDowell House, as part of the Overmountain Victory Trail event. The students learned from historical reenactors, who were hand to talk about life in the 1700's. The City Manager stated that the event went very well.

The City Manager thanked Public Works Director Brant Sikes and Police Chief Allen Lawrence for the assistance of their departments in making the event successful.

The City Manager advised that the City had not heard anything back from NCDOT after the meeting on September 19 between the City, County and NCDOT to discuss the US 221 widening project.

COUNCIL MEMBER COMMENTS:

Council Member Martin advised that there would be a fish fry on Friday, October 4 at Addie's Chapel United Methodist Church to raise money for the continued renovation of the Historic Morehead Cemetery off of Morehead Road.

Council Member Clark asked about the plans of the State to realign the boundaries of the Regional Councils of Government (COGs). The City Manager advised that the North Carolina General Assembly had discussed, but not yet approved, realigning district boundaries. The idea is to have the boundaries of State agency districts be the same, which might necessitate changes to COG boundaries.

Council Member Doggett asked if the new gun laws passed by the General Assembly this past legislative session, and taking effect today, would allow for weapons on City greenways and trails. The City Manager reported that, based upon guidance received from the UNC School of Government, the City had already interpreted the legislation from the previous year as allowing weapons on greenways and trails. Therefore, signs prohibiting weapons on the Greenway had already been changed.

Council Member Ramsey stated that the City could post a sign on the Greenway, asking, but not mandating, people not to bring weapons on the Greenway.

ADJOURNMENT: Upon a motion by Council Member Clark, 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, October 15, 2013 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; Allen Lawrence, Police Chief; Brant Sikes, Public Works Director; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Megan Webster, PO Box 1572 Marion, NC; Karin Conley, 128 Hankins Road, Marion NC; Nancy Spencer, 96 Cross Creek Drive, 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 Doggett, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – October 1, 2013 Regular City Council Meeting Minutes

PUBLIC APPEARANCE – FAMILY SERVICES OF MCDOWELL COUNTY: Ms. Megan Webster, Executive Director of Family Services of McDowell County, appeared before Council to discuss funding needs for Family Services.

Ms. Webster stated that, due to slowdowns in State payments, Family Services has been operating out of their reserve funds for the past four months. The reserve funds are now almost depleted. Grant money will not come in from the State until November and the organization is in need of assistance.

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Ms. Webster advised that her Board of Directors had asked that she come before City Council and request a onetime donation of $3,000. The County is making a donation as well and, with both donations, Family Service can make payroll and continue operations until the State grant money arrives.

Ms. Webster stated that Family Services provides a vital need in the community of addressing domestic violence issues and providing needed help and shelter for domestic violence victims.

Ms. Karin Conley, President of Family Services, stated that the Family Services Board and staff work very hard to provide a needed service for the community and work within a small budget. She advised that Family Services has several fund raisers coming up, but needs help at this time.

Council Member Doggett stated that Family Services provides a valuable service for the community and works hard to raise funds. She noted that she had attended the Family Services Ladies Day fundraiser the year before and had a wonderful time.

Council Member Clark stated that he had reviewed the financial information for Family Services provided in the agenda packet and there was no doubt the organization needed the money.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to approve a onetime donation of $3,000 to Family Services of McDowell County.

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

REVIEW REQUEST FROM MARION ELEMENTARY SCHOOL:
The City Manager stated that he had received a request from Marion Elementary School Principal Rod Slagle requesting the removal of parking spaces blocking sight distance from the exit of Marion Elementary School onto Robert Street.

The City Manager advised Public Works Director Brant Sikes, Police Chief Allen Lawrence and he looked at this location in early October and agreed that there is a sight distance problem and believe that it would be wise to remove one parking space on either side of the Marion Elementary School main exit onto Robert Street. The Street Committee looked at the location as well on October 8 and recommended approval of the request.

The City Manager advised that Council action would be needed to adopt an amendment to the City Traffic Schedule, in order to approve the request.

Council Member Clark asked if the City already had an ordinance that prohibited parking immediately next to driveways.

The City Manager stated that there may be such an ordinance, but the City also has an ordinance that allows for marked parking spaces, such as the ones in question, to be legal. Therefore, his recommendation would be to adopt the Traffic Schedule ordinance amendment to make it clear that parking was prohibited in this location.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to adopt the following ordinance to establish no parking zones immediately adjacent to the Marion Elementary School exit onto Robert Street, as requested.

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
ROBERT STREET	PARKING PROHIBITED	SOUTH SIDE, BEGINNING 156 FEET EAST OF THE SOUTHEASTERN CORNER OF THE ROBERT STREET AND FLEMING AVENUE INTERSECTION AND EXTENDING 115 FEET EASTERLY

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

Adopted this the 15th day of October, 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-13-10-15-1

DISCUSS SEEKING PROPOSALS FOR MARKETING STRATEGY:
The City Manager advised that, as has been briefly mentioned previously, the Marion Business Association (MBA) has discussed the creation of a Marketing Strategy for the City. The MBA Economic Development Committee wants to see how much a Marketing Strategy would cost and recommends that the City seek proposals for such services. The City Manager presented a draft Request for Proposals (RFP) for a Marketing Strategy.

Marion Business Association President Nancy Spencer stated that she and the MBA believed that the City had many good assets, but that marketing was the key. Ms. Spencer said that the City needs to get out the message that Marion is a great place to live, work, shop, visit and play.

AA.000000273 (24)

The City Manager stated that, before an RFP was sent out, he wanted to discuss it with Council see if there was any objection to obtain marketing proposals. There would be no commitment on the part of the City, until such time as Council decided to award a contract in the future.

Council Member Doggett asked if the North Carolina Department of Commerce or the North Carolina League of Municipalities had the ability to assist cities with marketing.

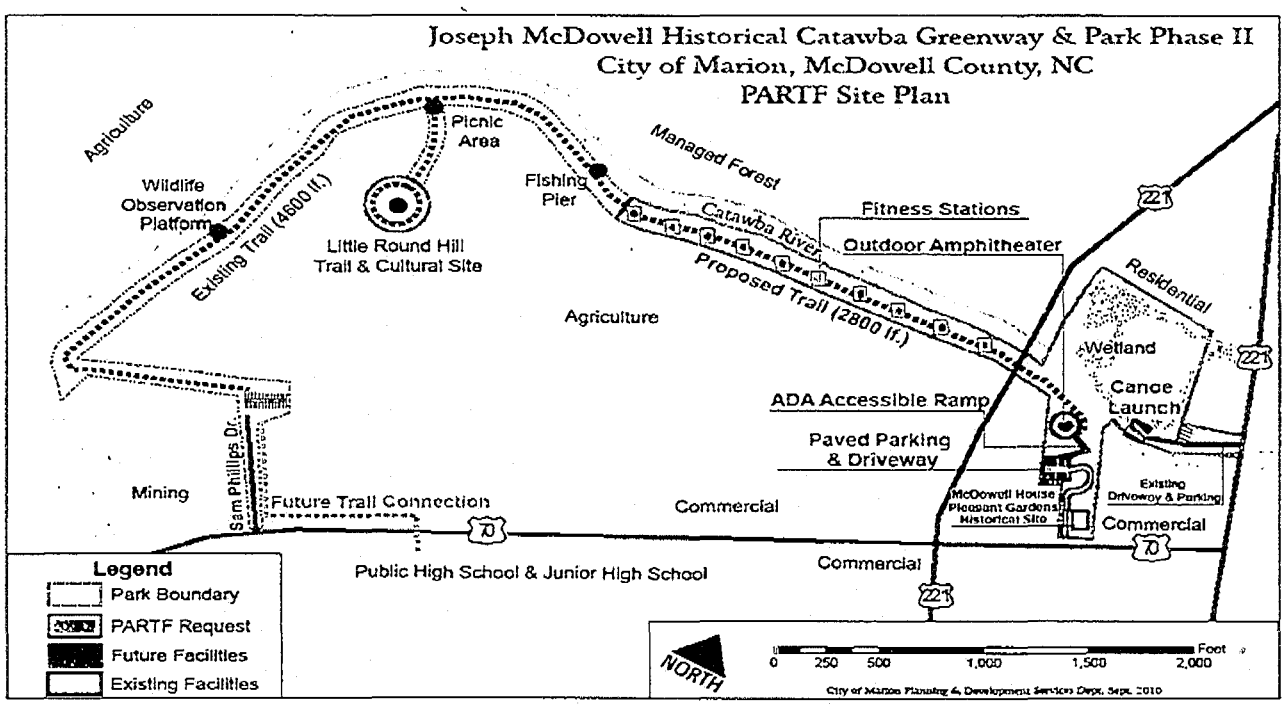
Council Member Clark stated that the League did not offer marketing assistance and that he did not believe that the Department of Commerce did either. The City Manager advised that he would check with the Department of Commerce to make sure.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to authorize the City Manager to send out Requests for Proposals for a Marketing Strategy for the City, with no commitment made by the City to enter into a contract with any firm, until such time as approval is given by Council.

GREENWAY UPDATE: Planning and Development Director Heather Cotton presented Council Members with an update on Phase 2 of the Joseph McDowell Historical Catawba Greenway.

Ms. Cotton advised that surveying work had been completed and design work was now underway by McGill Associates. The design work should wrap up in the next 30-60 days. The design will be presented to Council, the County Commissioners and the McDowell House Committee for review. Permitting can then take place, with construction bids being sought next spring or summer. Construction can hopefully be completed by the end of 2014, in advance of the March 2015 Parks and Recreation Trust Fund grant deadline.

The following map shows an overview of Phase 2 of the Greenway, in relation to Phase 1:



Mayor Little and Council Members thanked Ms. Cotton for her work on this project and stated that they looked forward to the implementation of Phase 2 of the Greenway.

PRESENTATION BY POLICE CHIEF ALLEN LAWRENCE – POLICE DEPARTMENT SERVICE ENHANCEMENTS: Police Chief Allen Lawrence presented Council Members with some recent service enhancements implemented in the Police Department. One change is to reinstitute patrol districts, which should allow for more consistent patrol presence throughout the City. This change was instituted on October 1, with the City Manager's full support.

The City Manager stated that he had given Chief Lawrence a challenge when he came to work for the City to look for ways to improve patrol presence throughout all areas of the City. Chief Lawrence delivered on this challenge with the implementation of patrol districts.

Chief Lawrence presented Council with a map, showing the location of three patrol zones. Patrol officers will patrol within their assigned zone, when they are not answering calls.

Chief Lawrence also advised that he has implemented a briefing at the beginning of each shift by the sergeant of the outgoing shift. He stated that this change should improve communication between shifts and give the officers coming onto a shift more information about what to look out for during their shift.

Chief Lawrence stated that another change, as recently authorized by Council, is for the Police Department to begin offering unlocking of vehicles as a service to the public. This change should shorten waiting times for people to have their vehicles unlocked and build an even stronger working relationship with the Sheriff's Department. The vehicle unlocking will only take place after someone has signed a waiver form, releasing the City from damage to vehicles. Chief Lawrence presented the waiver form to Council for review.

Mayor Little stated that the waiver form looked very good and should meet the City's needs.

Council Member Clark commended Chief Lawrence for his efforts and advised that visibility and patrol presence has always been very important for citizens.

Council Member Clark stated that he is on the North Carolina League of Municipalities Risk Management Services Board, which oversees the insurance programs for the League. In this capacity, he said that he has become aware of a growing trend with officers driving and using their computers, as this would be the same as texting and driving.

Chief Lawrence stated that he is a certified driving instructor and plans to do some strategic driver's safety training with the officers.

Mayor Little and Council Members thanked Chief Lawrence for his efforts.

AA.0000002274 (24)

APPROVE STREET CLOSURE FOR NEW YEAR'S EVE CELEBRATION: The City Manager advised that the County, Marion Business Association and Marion Rotary Club will soon begin planning this year's 5th Annual New Year's Eve Celebration. They hope to build on the events held the past four 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 (if necessary) to drop the gold nugget, without objection.

The City Manager asked that Council approve the street closure for this event on Main Street between Fort and Henderson Streets on December 31 between 7:00 p.m. and 1:00 a.m. The event will take place between 9:00 p.m. and 12:30 a.m.

Upon a motion by Council Member Clark, Seconded by Council Member Martin, Council voted unanimously to approve the street closure for the New Year's Eve Celebration on Main Street between Fort and Henderson Streets on Tuesday, December 31 between 7:00 p.m. and 1:00 a.m.

DISCUSS DILAPIDATED HOUSING: The City Manager advised that, at the July 16 Council meeting, Council granted a 90 day extension on the demolition of the dilapidated house at 110 West High Street. No action has been taken by the property owner; however, Building Inspector Jay Suttles recently spoke to the property owners, who still intend to the take down the house themselves.

The City Manager stated that the City is already projected to meet or exceed its demolition budget for 2013-14, so it would not hurt the budget if the demolition of this structure was delayed for several additional months. The City Manager advised that this house is not in good shape, but is not the worst one in the City.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to grant the property owners at 110 West High Street an additional 90 days to demolish the structure on the property. Council indicated its willingness to issue further extensions, as long as some progress is made by the property owners.

DISCUSS STREET REQUEST: The City Manager advised that Ms. Hilda Messer had recently requested a street light at the end of Buena Vista Ridge, located off of Stroud Street. The City Manager presented Council with a map of Buena Vista Ridge. The City currently has a street light at the intersection of Buena Vista Ridge and Stroud Street. Ms. Messer advises that one is needed at the end of the street, which is approximately 236 feet in length.

The City Manager stated that Police Lieutenant Jamie Harklerode looked at this location and advised that the end of the street is very dark and could benefit from a street light. The Street Committee also looked at the location on October 8 and recommends approval of the request.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to approve a street light at the end of Buena Vista Ridge, as requested.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager gave an update on the US 221 widening project and advised that North Carolina Representative Josh Dobson had learned from DOT staff in Raleigh that the project will not meet a July 1, 2015 deadline imposed by the General Assembly and will be reprioritized next year. This reprioritization will give the City additional time to address the utility relocation issue with DOT regarding this project, either through additional lobbying, legislation or both.

Council Member Clark stated that he appreciated Mayor Little sending letters to U.S. Senators Burr and Hagan, Congressman Meadows and U.S. Secretary of Transportation Foxx, asking for Federal help for the US 221 widening project.

Council Member Doggett reported that she discussed the City's situation involving having to pay for the utility relocation costs to N.C. Secretary of Transportation Tony Tata at the North Carolina League of Municipalities Conference in Hickory the day before. Secretary Tata said that he would look into the situation.

The City Manager advised that the 30th Annual Mountain Glory Festival, held on Saturday, October 12, was a great success. There were almost 150 vendors registered, which was the most ever. There was great weather and as large a crowd as ever seen at Mountain Glory. The City Manager noted that the County provided a free shuttle service from the Senior Center to the Festival area for the first time this year.

The City Manager stated that the Festival Committee met earlier that day to discuss ways to grow and improve the Festival in future years. He said that he wished to thank the Marion Business Association Board, staff and volunteers, as well as the Public Works Department, Police and Fire Departments for their work in making the Festival possible and ensuring a great day.

Council Member Clark stated that he visited 20 or 25 of the vendor booths and thanked the vendors for coming. He said that he always hears that Mountain Glory is the best festival in the region and how much the vendors appreciate the assistance and hospitality of the Festival volunteers.

Mayor Little said that he enjoyed visiting with vendors and the public at the Festival and that he commended everyone on the great job they did.

The City Manager advised that he had set up a meeting set with DOT Division Traffic Engineer Anna Henderson and community/church representatives to discuss the requested traffic signal at West Henderson and Wilhemenia Streets. The meeting is scheduled take the following day at 11:00 a.m. at the intersection. The City Manager stated that he would update Council regarding the results of this meeting.

The City Manager reminded Council Members that would be no Council meeting on November 5. The only Council meeting in November will be held on November 19.

Public Works Director Brant Sikes stated that 90 percent of the Crawford Street Project is done and that Miller Engineering should wrap up its work in the next week, after which time Public Works can make necessary sidewalk repairs to allow the street to be opened by the end of October.

Council Member Martin stated that he would like to extend a special thank you to Mr. Ford Miller. Mr. Miller put a lot more into this project than the amount he charged the City.

After a brief discussion, Mayor Little and Council Members agreed to invite Mr. Miller to the November 19 Council meeting and honor him as a group as the Citizen of the Month for November.

COUNCIL MEMBER COMMENTS: Council Member Ramsey stated that he attended the North Carolina League of Municipalities Conference in Hickory the past two days and learned a lot of interesting things. He advised that he heard numerous positive comments and compliments made regarding City Manager Bob Boyette and Council Member Clark.

Council Member Doggett stated that she also attended the League Conference and learned a lot. There were many informative sessions from which to choose. She noted that Tom Reeder of the North Carolina Department of Environment and Natural Resources told a session that any project with an economic development component would essentially receive an automatic approval from the State in regards to environmental permitting.

AA.00000275 (24)

Council Member Doggett commended the volunteers regarding the great work they did during the set up and break down of this year's Mountain Glory Festival.

Council Member Clark stated that he would echo what Council Members Ramsey and Doggett had to say regarding the League meeting. Through the years, he too had learned a lot from the meetings and he appreciates the opportunity to get to attend them.

Mayor Little advised that he appreciated the prayers, calls and support he received in recent weeks both before and after his heart procedure. Mayor Little said that the procedure was a success and that he had already made a full recovery.

ADJOURNMENT: Upon a motion by Council Member Clark, seconded by Council Member Ramsey, 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 19, 2013 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; Harriett Thomas, CPA, Finance Director; Heather Cotton, AICP, Planning and Development Director; Allen Lawrence, Police Chief; Brant Sikes, Public Works Director; Dawn Penland, Accounting Assistant; Freddie Killough, Executive Director, Marion Business Association; Nancy Spencer, President, Marion Business Association; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: William Kehler, 60 East Court Street, Marion, NC; Shane Fox, 1423 Cedar Creek, Lenoir, NC; Amy Bridges, 111 West Court Street, Rutherfordton, NC; Randy Hintz, 55 Broad Street, Asheville, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

CONSENT AGENDA: Upon a motion by Council Member Doggett, seconded by Council Member Ramsey, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – October 15, 2013 Regular City Council Meeting Minutes.

B. Approval of Longevity Pay

Council approved the payment of longevity pay for City employees, as included in the 2013-14 City budget, as well as the purchase of a turkey for City employees and contract employees. The following is a summary of longevity pay by department:

DEPARTMENTAL SUMMARY- LONGEVITY 2013

DEPARTMENT	GROSS AMOUNT
Administration	$ 6,720.01
Purchasing	$ 1,241.20
Planning and Development	$ 2,662.76
Police	$12,213.50
Fire	$ 3,881.12
Public Works Administration	$ 604.71
Fleet Maintenance	$ 1,010.71
Streets	$ 5,957.34
Sanitation	$ 4,065.51
Utility Maintenance	$ 4,679.00
Water Plant	$ 2,346.22
Wastewater Treatment	$ 5,672.32
Total	$51,054.40

C. Approval of Budget Ordinance Amendments

CITY OF MARION, NORTH CAROLINA
2013-2014 BUDGET ORDINANCE
(Second Amendment)

AA.000000276 (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 2013-14 as adopted by the Marion City Council on the 18th day of June, 2013 is hereby amended as follows:

GENERAL FUND

a. General Fund Expenditures, Recreation, Account Number 10-620-7400, Capital Outlay Equipment is increased from $46,865 to $58,010.

b. General Fund Expenditures, Non-Departmental, Account Number 10-660-5600, Family Services is increased from $-0- to $3,000.

c. General Fund Expenditures, Non-Departmental, Account Number 10-660-7500, 61% Purchasing Allocation is increased from $-0- to $32,000.

d. General Fund Revenues, Account Number 10-392-1000, Sale of Real Estate is increased from $1,000 to $3,500.

e. General Fund Revenues, Account Number 10-399-0000, Fund Balance Appropriated is decreased from $398,556 to $442,201

WATER AND SEWER FUND

a. Water and Sewer Fund Expenses, Account Number 30-810-7500, 39% Purchasing Allocation is increased from $-0- to $20,000.

b. Water and Sewer Fund Revenues, Account Number 30-377-0600, Rural Center Grant is increased from $-0- to $14,696.

c. Water and Sewer Fund Revenues, Account Number 30-299-0000, Fund Balance Appropriated is increased from $276,222 to $281,526.

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 November 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

PUBLIC HEARING – CLOSEOUT OF PERRY STREET/YANCEY STREET SIDEWALK AND DRAINAGE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM: Mayor Little opened the Public Hearing.

Ms. Amy Bridges of Isothermal Planning and Development Commission advised that the purpose of the public hearing was to receive comments from area citizens concerning the City closing out the 2010 Perry Street/Yancey Street Community Block Grant (CDBG) Community Revitalization Project. The City was awarded $606,070.00 to complete the eligible activities which included: Acquisition, Flood and Drainage Improvements and Administration. The project involved the addition of curb and sidewalk on a small section of Baldwin Avenue and on Perry Street, Yancey Street and a section of Eastfield School Road.

Acquisition was completed at a cost of $5,035.00; Flood and Drainage was completed at a cost of $382,311.29 and Grant Administration was completed at a cost of $50,000.

The City Manager stated that the project came in under budget and on time. Planning and Development Director Heather Cotton assisted with writing and administering the grant and Public Works Director Brant Sikes oversaw the project and ensured that the final product was good. Finance Director Harriett Thomas and Accounting Assistant Dawn Penland handled the finances on this project.

Council Member Clark asked if the concrete passed the test. Mr. Sikes said that all concrete batches passed. The City Manager noted that, due to the diligence of Mr. Sikes, the contractor was required to tear out some concrete that did not look good, to make sure that the City received a good final product.

Mayor Little thanked everyone who assisted with this project.

Council Member Martin stated that the curb and sidewalk are a beautiful addition to the community and that the final product looked wonderful.

The City Manager reported that the City hopes to add on to this project with more sidewalk extensions in the future, as grant funding is received.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to close out the 2010 Perry Street/Yancey Street Community Block Grant (CDBG) Community Revitalization Project.

PUBLIC APPEARANCE – MARION BUSINESS ASSOCIATION: Marion Business Association (MBA) President Nancy Spencer appeared before Council and presented the following Quarterly Report for the Marion Business Association:

July - September 2013
Quarterly Report of Marion Business Association

Economic Development Report
10 - New Businesses Opened
ServPro
Coley Graphics
Chance of Sprinkles Cupcakes
Sonya's Sweet Sensations
Catawba Valley Staffing
Photography Studio
Point Blank Outdoors

AA.00000277 (24)

McDowell Hospital Foundation
Shepherd's Table
Country Creation

8 - New Business Owners or New Locations
Employment Staffing moved to ResCare Building on Mill Road
Elizabeth's Closet moved to 150 South Main Street
Nic Nak Shack moved to 1700 North Main Street
K-21 moved to former Dameron & Burgin Building on West Court Street McDowell Electric moved into former Auction Building on Sugar Hill Road Stamey Chrysler Dodge Jeep Sold, now Marion Chrysler
Sun Kissed Tan – North Main Street - New Owners
Johnson Price Sprinkle moved to BiLo Shopping Center

2 - Businesses Closed – ResCare & Scoops Ice Cream
3 -Business Opportunity Inquiries
3 - Business Loan Inquiries
1 - Business Grant Inquiries
92- Business Visits
5 - Property Referral Inquiries
1 - Property Owner Contacts w/ available buildings
0 - Contacts with interested Commercial Developers
0 - New Businesses Breaking Ground
3- Façade Grant Inquires
1 - Façade Grant Awarded (MBA & MEDA Historic Marion Façade Grant Program and MBA Sign Grant)
1- Properties sold

Other Economic Activity:

- Historic Marion Façade Grants – Several grants have been paid. There are still grant funds available.
- Historic Marion Tailgate Market transformed into the Fall Craft Market after Labor Day. The Market will continue through December 14, Tuesdays and Saturdays with locally made crafts added to in season produce.
- MBA maintains an Available Commercial Properties listing of properties in the City of Marion. The listing is also available on the MBA website, www.hometownmarion.com
- The Certified Retirement Community Committee continues to market and promote Marion and McDowell County. The CRC project is a joint effort of the City of Marion, Marion Business Association, McDowell Chamber Commerce, McDowell County and McDowell Tourism.
- The MBA, City of Marion and the Chamber of Commerce assisted McDowell Twin Cinema owner, Robert Harwood, with a Kickstarter Campaign. The theater needs to upgrade to digital film in order to continue business. Mr. Harwood and his family are currently seeking to raise $60,000.00.

Committee Meeting Reports –
MBA Board of Directors met August 13 and September 10, New Board Orientation on July 9

MBA Economic Development Committee met August 27 and September 27. They met several times to review and discuss a marketing proposal.

Mountain Glory Festival Committee met August 19 and September 27 to plan for the October 12 event. This committee is very active and hands on in planning the festival.

Events & Promotions Committee met July 18, August 15 and September 20. The Committee is planning fall and Christmas events and promotions. See the upcoming schedule below.

Historic Marion Tailgate Market Committee will meet in January to plan for 2014.

Other Committees MBA Supports -
WNC Rail Committee
MEDA
McDowell House
McDowell Non-profit Organizations (NPO)

Special Events Report
July 4 Celebration – Rain all day, very good comments about fireworks display

August 9, Shagging in the Streets – Very popular event. August 3, Sidewalk

Yard Sale – Great participation.

September 2, Labor Day Concert with Terry McKinney. Due to rain, held concert inside depot.

Volunteer Hours Committed – 157

Mountain Glory Festival - Saturday, October 12, 9:30 AM – 5:00 PM **Market Fall Festival** - Tuesday, October 29
Trick or Treating for the Kids with Downtown Merchants! 3:30 PM – 5:00 PM
Christmas Parade - Sunday, November 24 – @ 3:00 PM
Appalachian Potter's Market - Saturday, December 7– @ McDowell High
10:00 AM – 4:00 PM – Info 828-652-8610
Blue Ridge Artisans Craft Show, December – @ MACA Info 828-652-8610
Melodies on Main Street - Thursday, December 5 – 5:30 PM – 7:00 PM
New Year's Eve Celebration - Tuesday, December 31 – 9:00 PM - Midnight
Every Thursday Night, 7:00 PM –
Bluegrass Music Jam @ Depot

PRESENTATION OF 2012-13 CITY AUDIT REPORT : Mr. Shane Fox of Martin Starnes & Associates, the contracted City Auditor, appeared before City Council and gave a presentation of the 2012-13 City Audit as follows:

AA.000000278 (24)

MARTIN·STARNES
& ASSOCIATES, CPAs, P.A.

City of Marion
2013 AUDITED FINANCIAL STATEMENTS

Audit Highlights

- Unmodified Opinion
- Cooperative Staff
- General Fund Cash $ 2,694,590
- General Fund Revenues $ 5,393,299
- General Fund Expenditures $ 5,260,874

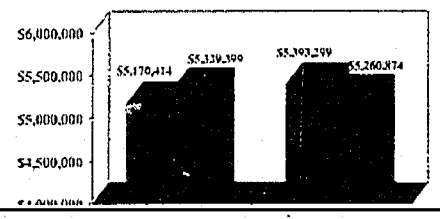
Audit Process

- Planning and risk assessment
- Interim procedures
- Final procedures
- Year-round process

GASB Statement No. 63 & 65

- Deferred outflow of resources
- Deferred inflow of resources
- Net position
- Net investment in capital assets

General Fund Summary



Fund Balance

- Serves as a measure of the City's financial resources available.
  - (Assets + Deferred outflows) - (Liabilities + Deferred inflows) = 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

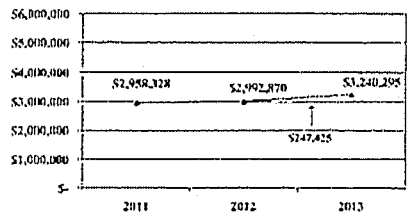
Fund Balance

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.

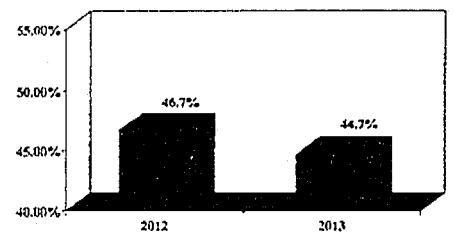
Total Fund Balance General Fund



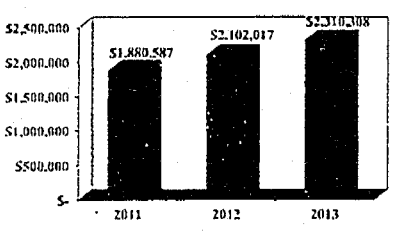
Fund Balance Position-General Fund

Total Fund Balance	$ 3,240,295
Non spendable	- 5,468
Stabilization by State Statute	- 846,091
Available Fund Balance	$ 2,388,736
Available Fund Balance 2012	$ 2,492,576
Decrease in Available FB	$103.840

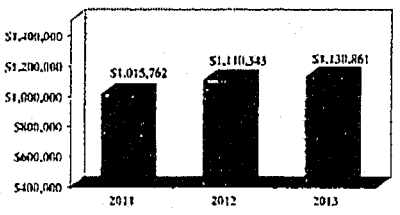
Available Fund Balance as a Percent of Expenditures and Transfers to Other Funds-General Fund



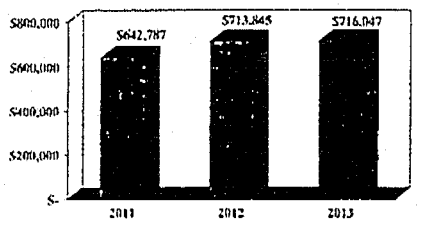
Ad Valorem Taxes



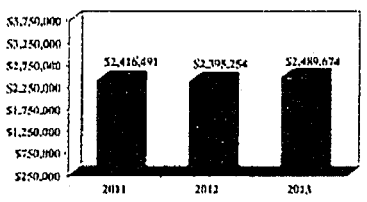
Sales Tax



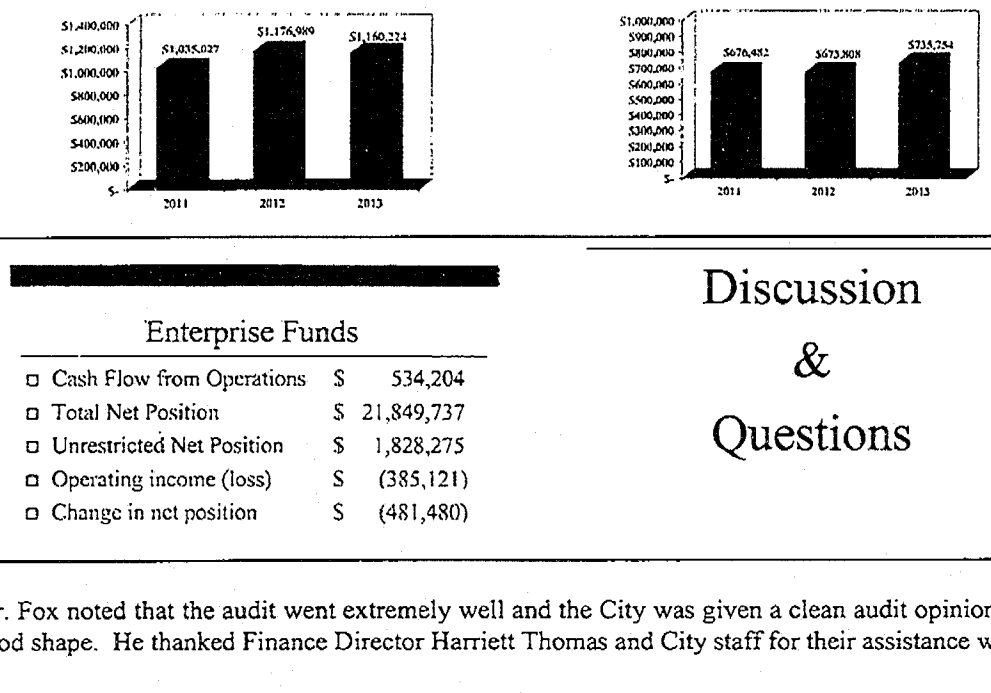
Restricted Intergovernmental



Public Safety



AA.00000279 (24)



Enterprise Funds

▫ Cash Flow from Operations	$	534,204
▫ Total Net Position	$	21,849,737
▫ Unrestricted Net Position	$	1,828,275
▫ Operating income (loss)	$	(385,121)
▫ Change in net position	$	(481,480)

Discussion
&
Questions

Mr. Fox noted that the audit went extremely well and the City was given a clean audit opinion, indicative of the City's finances being in extremely good shape. He thanked Finance Director Harriett Thomas and City staff for their assistance with the audit.

Mayor Little thanked Mr. Fox for giving a thorough but concise presentation.

Finance Director Harriett Thomas gave an overview of the 2012-13 Marion ABC Board audit, which was also conducted by Martin Starnes & Associates. The ABC Board also received a clean opinion on its audit. Ms. Thomas stated that the ABC Board has worked hard to make the City's two ABC stores more profitable, as shown by the City's ABC revenue distribution increasing during the 2012-13 Fiscal Year.

The City Manager commended Ms. Thomas for all her hard work with both audits, for preparing almost all of the two audit reports and for all she does every day to keep the City and ABC Board finances in order. He also thanked Accounting Assistant Dawn Penland and the entire Finance Department for all of their efforts and hard work.

Mayor Little thanked Ms. Thomas and Ms. Penland as well for all they do for the City of Marion.

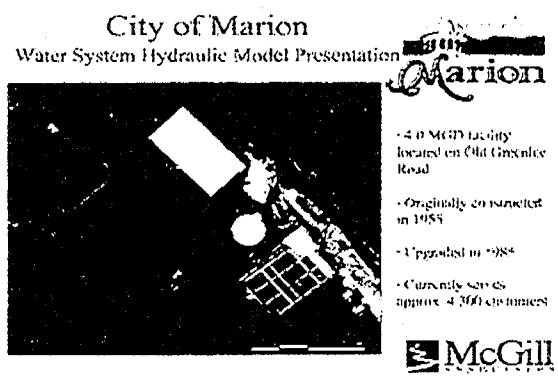
PUBLIC APPEARANCE – WILLIAM KEHLER – GIVE EMS UPDATE: McDowell County EMS Director William Kehler appeared before Council and gave a power-point presentation to Council. He provided an overview of McDowell County EMS and discussed current initiatives and programs, including the new Community Care Program.

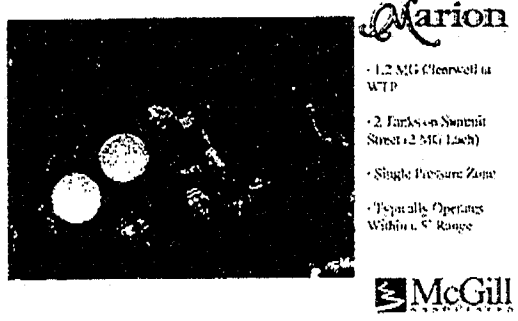
Mayor Little and Council Members thanked Mr. Kehler for the excellent service provided by McDowell County EMS and for his work to lead the department.

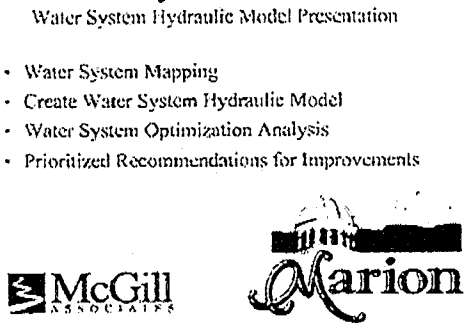
PUBLIC COMMENT PERIOD: There were no unscheduled persons wishing to speak to Council.

PRESENTATION OF WATER SYSTEM HYDRAULIC MODEL REPORT: Mr. Randy Hintz of McGill Associates presented the following power-point presentation of the new proposed Water System Hydraulic Model:









AA.0000000280 (24)

City of Marion
Water System Hydraulic Model Presentation

Water System Mapping

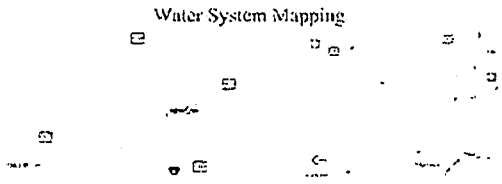
- Obtain Existing GIS Database
- Review/Correction of Mapping Data
- Utilize GPS to Identify Additional Assets
- Compile Information in Updated GIS Database

McGill ASSOCIATES

Marion

City of Marion
Water System Hydraulic Model Presentation

Water System Mapping

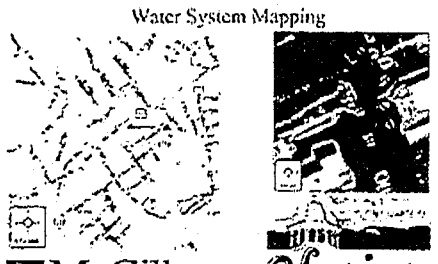


McGill ASSOCIATES

Marion

City of Marion
Water System Hydraulic Model Presentation

Water System Mapping



McGill ASSOCIATES

Marion

City of Marion
Water System Hydraulic Model Presentation

Water System Computerized Hydraulic Model

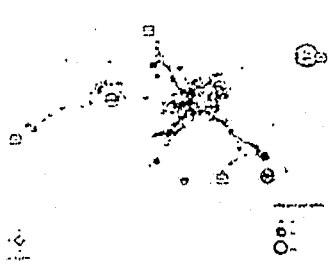
- Prepare Initial Steady-State Hydraulic Model
- Field Testing of Hydraulic Model
- Incorporate Water Billing & Demand Data
- Adjust/Calibrate Model to Better Match Field Data

McGill ASSOCIATES

Marion

City of Marion
Water System Hydraulic Model Presentation

Maximum Daily Water Demand

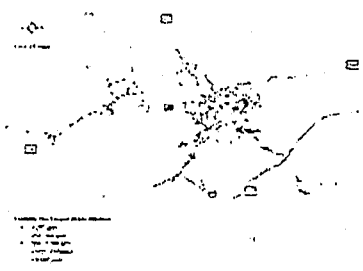


Marion

McGill ASSOCIATES

City of Marion
Water System Hydraulic Model Presentation

Available Fire Flow (at 20 PSI)

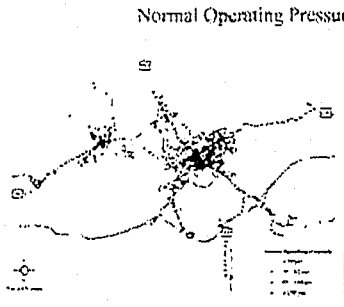


Marion

McGill ASSOCIATES

City of Marion
Water System Hydraulic Model Presentation

Normal Operating Pressures



Marion

McGill ASSOCIATES

City of Marion
Water System Hydraulic Model Presentation

Water System Optimization Analysis

- Analysis for Sub-Standard Conditions
- Perform "What-If" Scenarios Targeting Improvement
- Discuss Results with City Staff
- Prepare Preliminary Cost Estimates

McGill ASSOCIATES

Marion

City of Marion
Water System Hydraulic Model Presentation

Prioritized Recommendations for Improvements

- Discuss Results with City Staff
- Prepare Prioritized Recommendations
- Prepare Cost Estimates for Each Recommendation

McGill ASSOCIATES

Marion

City of Marion
Water System Hydraulic Model Presentation

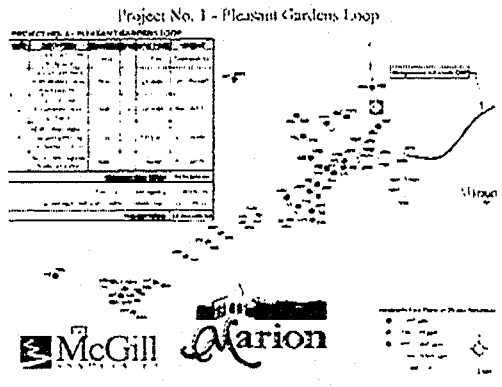
Recommendations & Priorities

Project No. 1	Pleasant Gardens Loop
Project No. 2	Spaulding Road Loop - Phase 1
Project No. 3	Spaulding Road Loop - Phase 2
Project No. 4	Robert Street Loop
Project No. 5a	Bakersville Road - Option 1
Project No. 5b	Bakersville Road - Option 2

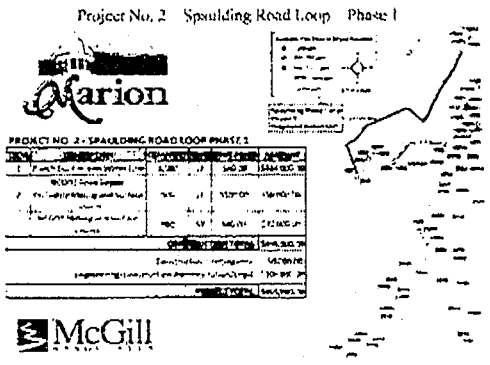
McGill ASSOCIATES

Marion

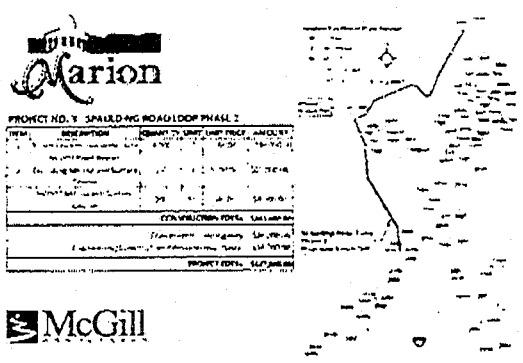
Project No. 1 - Pleasant Gardens Loop



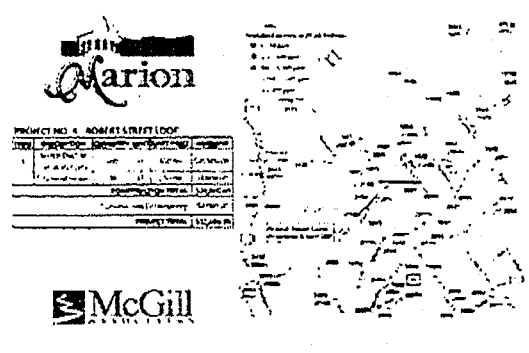
Project No. 2 Spaulding Road Loop Phase 1



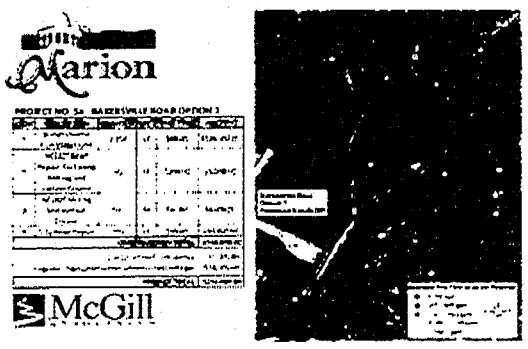
Project No. 3 Spaulding Road Loop Phase 2



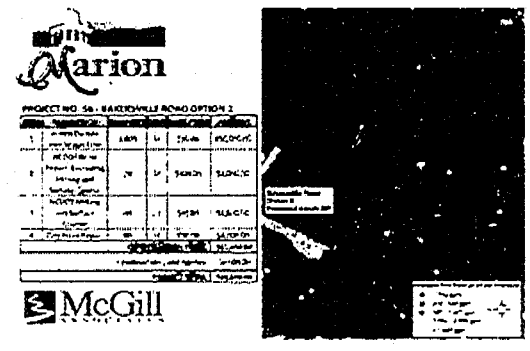
Project No. 4 Robert Street Loop



Project No. 5a Bakersville Road Loop Option 1

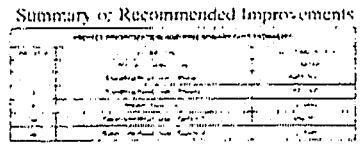


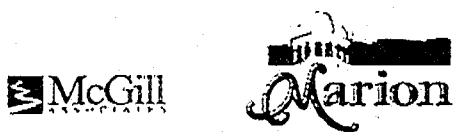
Project No. 5b - Bakersville Road Loop – Option 2



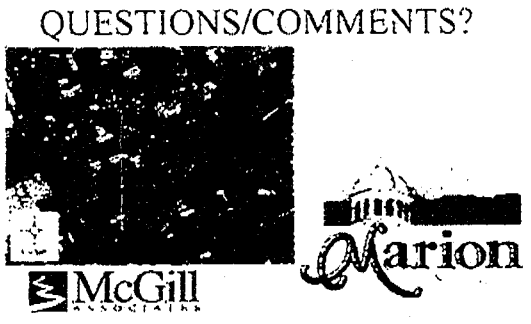
City of Marion
Water System Hydraulic Model Presentation

Summary of Recommended Improvements

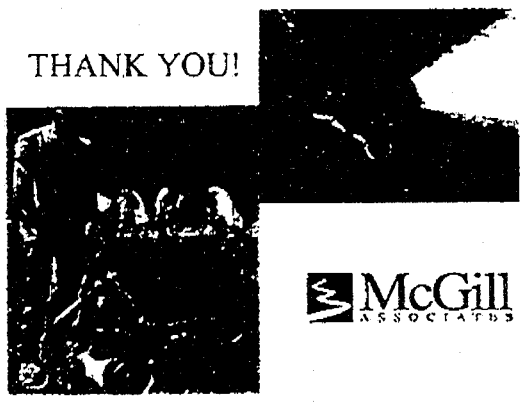




City of Marion
Water System Hydraulic Model Presentation
QUESTIONS/COMMENTS?



THANK YOU!



Council Member Clark pointed out some errors in the document. Mr. Hintz noted these errors and advised that corrections would be made.

Council Member Clark stated that he needed to see the full report. The City Manager asked Mr. Hintz if he could provide the final full report in the near future, so that Council could review the report. Mr. Hintz said that he would provide the final report. The City Manager suggested that Council discuss the report further, after it has a chance to review the final version of the report.

Mayor Little and Council Members agreed to discuss the report further, once the final version was received and reviewed.

Mr. Hintz thanked City staff assistance for their assistance with the project.

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CONSIDER ADOPTION OF AMENDMENT TO ORDINANCE REGULATING WEAPONS IN CITY RECREATIONAL FACILITIES DUE TO RECENT CHANGES IN STATE LAW: The City Manager advised that, as shown in the information presented to Council Members, in the most recent legislative session, the North Carolina General Assembly modified the law regarding the regulation of legally carried concealed handguns by local governments in recreational facilities. Under the new law, cities may still regulate legally carried concealed handguns in specified recreational facilities; however, the definition of recreational facilities has been narrowed only to include athletic fields during organized athletic events, swimming pools and adjacent dressing areas and facilities used for athletic events, including, but not limited to, a gymnasium.

The City Manager stated that, as a result of this change, the UNC School of Government has advised that legally carried concealed handguns cannot be prohibited from greenways, trails, playgrounds or other areas not specifically listed under the revised definition of recreational facility above. The City of Marion does not have any facilities that fall under the revised definition of recreational facility. Therefore, the City ordinance must be changed to allow for legally carried concealed handguns in City parks.

The City Manager advised that, given that the General Assembly has made itself clear in the way cities may regulate concealed firearms in recreational facilities, he would recommend Council adoption of the attached ordinance amendment, to take effect immediately. City staff will then work on a way to amend park signage to comply with the new ordinance and State law.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted to adopt the following ordinance, to amend regulations regarding the legal carry or concealed weapons in City recreational facilities to comply with recent changes in State law:

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 (b)(2) in its entirety and replacing it with the following:

(2) It is prohibited for any person to possess or carry a concealed handgun in or upon any City Recreational Facility as specifically described herein above, except for legally carried concealed handguns, which are permitted under State law (presently N.C.G.S. §14-415.23).

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

Adopted this the 19th day of November, 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-13-11-19-2

ADOPT RESOLUTION AUTHORIZING SUBMISSION OF PEDESTRIAN AND BICYCLE PLANNING GRANT TO NCDOT: Planning and Development Director Heather Cotton stated that the City of Marion does not currently have a bicycle or pedestrian plan that is recognized and/or approved by the North Carolina Department of Transportation (NCDOT). The State's new Strategic Transportation Investment Bill requires that all DOT funded projects be identified as a priority in either the Comprehensive Transportation Plan, Safe Routes to School Plan, and/or Bicycle or Pedestrian Comprehensive Plan. Ms. Cotton advised that she proposed that the City of Marion submit a grant application to NCDOT to seek funding to prepare a comprehensive bicycle plan.

Ms. Cotton reported that the City has been actively working towards implementing recommendations identified within its 2003 Comprehensive Transportation Improvement Plan, and the more recently adopted 2012 Safe Routes to School (SRTS) Action Plan. Combined, the two Plans provide recommendations for both roadway and pedestrian improvements that can be included as priorities in the State Transportation Improvement Program. However, neither Plan includes priorities for bicycle improvements, except that both provide a recommendation for the City to develop a comprehensive bicycle plan that would identify opportunities for future bicycle infrastructure.

Ms. Cotton said that the City has several bicycle/pedestrian projects that it would like to include on the STIP, but is unable to do so under the new law. Therefore, the City would like to move forward with a comprehensive bicycle plan in order to have those priorities identified so that future funding requests can be made to NC DOT.

Ms. Cotton reported that the grant provides 80 percent of the total match up to $50,000 in Marion's population category. The City estimates the cost of the project to be approximately $40,000, which would leave a funding gap of $8,000. Staff is also working on a funding request to the Kate B. Reynolds foundation under the Healthy Places initiative to bridge the funding gap, and provide for some new bicycle storage racks downtown, public parks, and other public spaces. The Kate B. Reynolds grant is due in February with an expected notification date similar to the State's grant award notification in mid-May.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following Resolution authorizing the City's application for NCDOT's 2014 Bicycle and Pedestrian Planning Grant initiative:

RESOLUTION AUTHORIZING THE APPLICATION FOR
NCDOT'S 2014 BICYCLE AND PEDESTRIAN PLANNING GRANT INITIATIVE

WHERAS, the City of Marion is committed to improving safety, protecting the environment and public health, and creating an opportunity for the community to engage in active living through bicycle transportation; and

WHEREAS, the North Carolina Department of Transportation has established a Bicycle and Pedestrian Planning Grant program which provides funding to projects that will result in comprehensive local bicycle and pedestrian transportation plans; and

WHEREAS, there are an increasing number of bicycle users in the community; and

AA.00000283 (24)

WHEREAS, the City of Marion recognizes the need for a comprehensive plan for building bicycle facilities within its corporate limits; and

WHEREAS, such a plan would contribute in a positive way to the overall community development, provide adequate facilities for bicyclists, and increase physical activity.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Marion support and endorse the City's application to the North Carolina Department of Transportation for said funds to do the planning work.

ADOPTED THIS the 19th day of November, 2013.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Resolution Number: R-13-11-19-1

DISCUSS TOWN MEETING AND CITY COUNCIL PLANNING SESSION: The City Manager advised that last year, Council held the annual Town Meeting in April. The City Manager wanted to see if Council wished to hold the Town Meeting in April again. If so, the exact date can be scheduled at a future meeting. Prior to last year, Council had held the annual Town Meeting on or around the third or fourth Thursday of January.

It was the consensus of Council Members to hold the town meeting in April and to schedule the date at a later time.

The City Manager also advised that in past years, when the Town Meeting was held in late January, Council held a Planning Session in early February, to begin setting budget priorities for the coming year and to address current and future priorities. At this time, the City Manager stated that he was compiling a list of Planning Session items. A few of the items are more pressing, so Council could consider holding a Planning Session in December.

It was the consensus of Council to schedule the Planning Session for Tuesday, January 14 at 6:00 p.m. at City Hall.

DISCUSS STREET REQUESTS: The City Manager advised that Ms. Hilda Messer had thanked Council for the recent approval of a street light at the end of Buena Vista Ridge. Ms. Messer has now requested the addition of a street light on Yancey Road, roughly in front of her apartment house at 322 Yancey Road. As shown on a map presented to Council, this property is in the City, but the property directly across the street is not, since it does not have access to City sewer service. There is a pole in front of 322 Yancey Road that is spaced properly from the last street light on Yancey Road, which is two poles toward Oakwood Drive.

The City Manager reported that the Police Department has checked on this location and verified that the area is dark and could use a street light. The Street Committee met on November 12 and recommended the placement of a street light at this location.

In addition, the City Manager stated that he had received a request from Ms. Betty Fowler to place a street light mid-block on Oak Street between North McDowell Avenue and Highland Drive. There are street lights at both intersections. This block is only 256 feet long. There is one pole (basically located in Ms. Fowler's back yard) in between the street lights. Granting this request would violate the City's normal street light spacing of every other pole. The Street Committee met on November 12 and recommended that this request not be approved.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Martin, Council voted unanimously to authorize the placement of a street light in front of 322 Yancey Road and to deny the request for a street light mid-block on Oak Street between North McDowell Avenue and Highland Drive.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that City offices will be closed for Thanksgiving on Thursday and Friday, November 28 and 29. Residential garbage, recycling and street trash will run two days in advance the week the November 25-29, except for the Eastfield area, which will be on a normal schedule. There will be no brush collection the week of November 25-29. City staff delivered to each household a Sanitation Holiday Schedule, since collection dates will be impacted during Thanksgiving and Christmas.

The City Manager advised that the Tree Board met this morning and would like to schedule a proper tree pruning workshop around Arbor Day next year and would like permission to use City facilities to hold the workshop.

Mayor Little and Council Members agreed to start with scheduling one workshop and stated that they believed this could be a good educational opportunity for local citizens.

The City Manager reported that the Christmas Parade is set for this Sunday at 3:00 p.m., November 24. City staff will decorate the City van and have it at City Hall until 2:30 p.m., at which time it will be moved to Advance Auto Parts for the parade lineup. City crews have been working recently to put up all of our Christmas decorations downtown. Mayor Little urged all Council Members who are available to ride in the Parade.

The City Manager stated that the City, Marion Business Association, County and Marion Rotary Club have begun planning for the Fifth Annual New Year's Eve Celebration, to take place on Main Street on Tuesday evening, December 31, between 9:00 p.m. and 12:00 Midnight.

The City Manager advised that, as previously reported, N.C. Representative Josh Dobson advised a few weeks ago that the US 221 widening project would not meet the July 1, 2015 deadline set by legislation and would therefore be reprioritized. The reprioritization will supposedly take place in the Spring of 2014 and the new rankings released around July 2014. My understanding is that intrastate projects such as US 221 will compete with projects across the State. It is possible that the US 221 project will not score well. The City Manager stated that he would let Council know as he hears more about this project.

The City Manager advised that a meeting was held on October 16 with DOT Division Traffic Engineer Anna Henderson and community/church representatives to discuss the requested traffic signal at West Henderson and Wilhemenia Streets. Ms. Henderson is taking further traffic counts of the intersection. The City Manager stated that he doubts that the new traffic counts will be much different than previous ones. He said that Ms. Henderson indicated that she is brainstorming ideas for the intersection. The City Manager stated that he would let Council know what DOT advises, so that future steps can be discussed. The community is very interested in this matter, so Council may want to schedule a meeting at which the community can discuss solutions. The City Manager advised that the Police Chief has increased patrols and traffic enforcement in the area, but the Police Department cannot be there at all times.

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The City Manager advised that DOT District Engineer Doug McNeal recently advised that DOT plans to resurface West Henderson Street, starting at Main Street and proceeding southward to about the US 221 Bypass, next year. The City Manager said that he asked Doug the cost of adding decorative crosswalks at West Henderson and Logan Streets. Doug estimated a cost of $15,000 for the crosswalk. Remaining Downtown Streetscape Project funds (currently about $85,000) have been earmarked for transfer to the Mt. Ida road project. The City Manager reported that the City will likely come in well under budget with our Façade Grant appropriation. Council could consider applying unspent Façade Grant funds this year toward the West Henderson/Logan Street crosswalk. Council direction on this item is needed by the end of December, so that DOT can know whether to include the crosswalk in their contract.

Mayor Little and Council Members agreed to take this matter under advisement and discuss it further at the December 3 Council meeting.

COUNCIL MEMBER COMMENTS:

Mayor Pro Tem Cuthbertson stated that the Christmas decorations in the Downtown area look very good.

Mayor Little stated that he would like to see the lights in the Downtown area left up at least until the end of February, since they look so good.

Council Member Doggett advised that she has been getting good comments on the Christmas decorations as well.

Council Member Doggett said that she appreciated the recent installation of the guardrail on Viewpoint Drive, which she believes will enhance the safety of this street.

Council Member Doggett asked that City staff look at budgeting some improvements to the Community Building in the next budget, including the replacement of blinds and rugs and the installation of a mop and broom closet. The City Manager stated that staff would look at these items, as well as refinishing the floor in the Community Building, and seek to include these items in the 2014-15 Fiscal Year budget.

Council Member Doggett asked about the hot dog vendor that had previously set up on North Main Street in the Downtown area. Mayor Pro Tem Cuthbertson said that the hot dog vendor had relocated to Horton's Store on Sugar Hill Road.

Council Member Ramsey noted that there was a recent problem at the Community Building with the timer on the outside lights not being set correctly. The City Manager advised that this problem had been observed and corrected.

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, December 3, 2013 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; Heather Cotton, AICP, Planning and Development Director; Brant Sikes, Public Works Director; Scott Spratt, Police Investigations Lieutenant; Hill Evans, City Attorney; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Don Doggett, Marion, NC; Margaret Stevens, Old Fort, NC; Ada Mae Cuthbertson, Nebo, NC; Kaye Cuthbertson, Marion, NC; C. Randy Pool, Chief District Court Judge, District 29A; Melissa Adams, McDowell County Clerk of Superior Court; Alice Little, Marion, NC; Ann Harkey, Marion, NC; Kathy Evans, Marion, NC; Fred Moody, Marion, NC; Lee and Ashley Lattimore, Marion, NC; Nancy Clark, Marion, NC; Lanetta Byrd, Marion, NC; Pat and Richard Faulkner, Nebo, NC; Kit and Helen Alverson, Marion, NC; Donna, Steve, Hunter and Connor Shook, Marion, NC; Jamie and Kasey Stevens, Old Fort, NC; Greg, Heather, Grace and Molly Anderson, Marion, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

ADMINISTRATION OF OATH OF OFFICE TO MAYOR STEVE LITTLE: The Honorable Melissa Adams, McDowell County Clerk of Superior Court, administered the oath of office to Mayor Steve Little. Mayor Little's wife, Alice, held their Bible during the administration of the oath of office.

Ms. Adams administered the following oath of office to Mayor Little:

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

Stephen R. Little

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I hereby certify that I, Melissa Adams, McDowell County Clerk of Superior Court, North Carolina, administered the above Oath of Office to Stephen R. Little, this the 3rd Day of December, 2013.

Melissa Adams

ATTEST:

J. Robert Boyette, City Manager/Clerk

ADMINISTRATION OF OATH OF OFFICE TO COUNCIL MEMBER EVERETTE CLARK: The Honorable Randy Pool, Chief District Court Judge of District 29A, administered the oath of office to Council Member Everette Clark. Council Member Clark's wife, Nancy, held the Bible during the administration of the oath of office.

Judge Pool administered the following oath of office to Council Member Clark:

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

A. Everette Clark

I hereby certify that I, Randy Pool, Chief District Court Judge of 29A, North Carolina, administered the above Oath of Office to A. Everette Clark, this the 3rd Day of December, 2013.

Randy Pool

ATTEST:

J. Robert Boyette, City Manager/Clerk

ADMINISTRATION OF OATH OF OFFICE TO COUNCIL MEMBER LLOYD CUTHBERTSON: The Honorable Randy Pool, Chief District Court Judge of District 29A, administered the oath of office to Council Member Lloyd Cuthbertson. Council Member Cuthbertson's wife, Kaye, and his mother, Ada Mae, held the Bible during the administration of the oath of office.

Judge Pool administered the following oath of office to Council Member Cuthbertson:

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

Lloyd Cuthbertson

I hereby certify that I, Randy Pool, Chief District Court Judge of 29A, North Carolina, administered the above Oath of Office to Lloyd Cuthbertson, this the 3rd Day of December, 2013.

Randy Pool

ATTEST:

J. Robert Boyette, City Manager/Clerk

ADMINISTRATION OF OATH OF OFFICE TO COUNCIL MEMBER JUANITA DOGGETT: The Honorable Randy Pool, Chief District Court Judge of District 29A, administered the oath of office to Council Member Juanita Doggett. Council Member Doggett's father, Don Doggett, her sister, Margaret Stevens, and her nephew and niece, Jamie and Kasey Stevens, held the Bible during the administration of the oath of office. Council Member Doggett advised that this Bible had been with her grandfather in World War I and with her father during World War II.

Judge Pool administered the following oath of office to Council Member Juanita Doggett:

I, Juanita Doggett, 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.

Juanita Doggett

I hereby certify that I, Randy Pool, Chief District Court Judge of 29A, North Carolina, administered the above Oath of Office to Juanita Doggett, this the 3rd Day of December, 2013.

Randy Pool

ATTEST:

J. Robert Boyette, City Manager/Clerk

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Mayor Little noted that he was beginning his second term as Mayor and his ninth term overall with the City. He advised that Council Member Clark had served since 1972 and was beginning his eleventh full term of service with the City. Mayor Little stated that Council Member Cuthbertson was starting his sixth term with the City and Council Member Doggett her second. Mayor Little advised that Council Member Billy Martin had been on City Council for 18 years and Council Member Ramsey for two years.

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 Hill Evans as the City Attorney.

McDowell County Clerk of Superior Court Melissa Adams administered the following oath of office to City Attorney Hill Evans:

I, W. Hill Evans, 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.

_____

W. Hill Evans

I hereby certify that I, Melissa Adams, McDowell County Clerk of Superior Court, North Carolina, administered the above Oath of Office to W. Hill Evans, this the 3rd Day of December, 2013.

_____

Melissa Adams

ATTEST:

_____

J. Robert Boyette, City Manager/Clerk

SPECIAL PRESENTATION BY MAYOR LITTLE: Mayor Little presented Mayor Pro Tem Lloyd Cuthbertson with a 20 year pin for completing 20 years of service as a Council Member with the City of Marion.

Council Members congratulated Mayor Pro Tem Cuthbertson for his 20 years of dedicated service to the City of Marion.

BREAL FOR REFRESHMENTS: Mayor Little called for a short recess in the meeting to allow for everyone present to share food and fellowship with friends and family.

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

A. Approve Fire Department Roster/Annual Certification of Firefighters – Council approved the Fire Department Roster and the Annual Certification of Firefighters. A copy of the certification and roster is available at the Marion Fire Department.

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

ELECTION OF MAYOR PRO TEM: Mayor Little advised that the City Code requires Council to elect a Mayor Pro Tem after each City election.

Council Member Ramsey nominated Council Member Cuthbertson as Mayor Pro Tem. Council Member Martin seconded the nomination.

Mayor Little asked if there were any other nominations.

Council Member Ramsey 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.

RESCHEDULING OF CITY COUNCIL PLANNING SESSION: The City Manager advised that Council had previously selected Tuesday, January 14 as the date for the next City Council Planning Session. The City Manager stated that he realized after this action was taken that the selected date conflicted with the Isothermal Planning and Development Commission Board of Directors meeting. He asked if Council wished to consider an alternate date, perhaps Tuesday, January 28, for the Planning Session.

Council agreed by consensus to schedule the next Council Planning Session for Tuesday, January 28, 2014 at 6:00 p.m. at City Hall.

CITY MANAGER COMMENTS: The City Manager advised that City offices will be closed for Christmas on Tuesday-Thursday, December 24-26 and then for New Year's Day on Wednesday, January 1. Residential garbage, recycling and street trash will be unaffected the week of December 23-27, except for Wednesday's route, which will run two days in advance. There will be no brush collection the week of December 23-27. Residential garbage, recycling and street trash will be unaffected the week of December 30-January 3. There will be a partial brush pickup the week of December 30-January 3.

The City Manager noted that the Public Works Department Sanitation Division seeks to schedule its holidays to avoid impacts to residential garbage customers, to the greatest extent possible.

The City Manager reported that the North Carolina Department of Commerce had recently announced the 2014 County Tier Rankings. McDowell County improved from a Tier 1 County to a Tier 2 County, signifying a growing local economy. The City Manager noted that McDowell County's appeared to have the biggest improvement of any County in the State. He stated that the new tier ranking will mean that McDowell County can no longer receive the same level of economic development incentives from the State.

Council Member Clark stated that the new tier ranking was a good thing, even if the level of economic development incentives would be somewhat diminished.

The City Manager advised that the City, Marion Business Association, County and Marion Rotary Club have begun planning for the Fifth Annual New Year's Eve Celebration, to take place on Main Street on Tuesday evening, December 31, between 9:00 p.m. and 12:00 Midnight. He noted that the Public Works, Police and Fire Departments played a vital role in providing staffing for this event.

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The City Manager reported that the National Park Service had recently offered McDowell County a $50,000 grant to remove the non-historic additions to the McDowell House and to perform archaeological work at the site, on the condition that the local community provide at least a $15,000 local grant match. The City Manager stated that the McDowell House Committee had discussed the City, County, Chamber of Commerce and Tourism Development Authority providing $5,000 each to provide the required local match and some excess funds for starting the renovation of the McDowell House.

Council Member Clark made a motion for City Council to authorize $5,000 in funding to go toward the grant match for the McDowell House project. The motion was seconded by Mayor Pro Tem Cuthbertson. All Council Members voted in favor and the motion was passed.

Planning and Development Director Heather Cotton provided a brief update on the design process for Phase 2 of the Joseph McDowell Historical Catawba Greenway, advising that the project design would hopefully be completed within the next 30 days.

The City Manager stated that DOT District Engineer Doug McNeal recently advised him that DOT plans to resurface West Henderson Street, starting at Main Street and proceeding southward to about the US 221 Bypass, next year. The City Manager said that he asked Mr. McNeal the cost of adding decorative crosswalks at West Henderson and Logan Streets. Mr. McNeal provide a cost estimate of $15,000 for the crosswalks. The City Manager asked Council for direction regarding the crosswalks, since DOT needs to know whether to include the decorative crosswalk in its plans by early January.

Council held a discussion about the West Henderson and Logan Street intersection. Council Member Clark made a motion to direct the City Manager to request that DOT add prominent, but non decorative, crosswalks, pedestrian crossing signals and metal mast arm traffic signal poles at this intersection. Council acknowledged that DOT may not approve the entire request at one time, but that the request should be made in the event the request can be implemented over time.

The City Manager thanked Public Works Director Brant Sikes and his staff for their work in putting up Christmas decorations and lights in the downtown area. Mayor Little and Council Members stated that the Christmas decorations looked particularly beautiful this year. Mayor Little said that he would like to see the lights downtown stay on through at least mid-March.

The City Manager stated that Public Works staff were finishing up making changes to rules signs in City parks, to reflect ordinance amendments made by Council in November, due to recent changes in State law that now require local governments to allow legally carried concealed weapons in parks.

The City Manager thanked Ms. Cotton for her work in setting up the refreshments and decorations for the meeting. He noted that Administrative Assistant Debi Sherlin was in Asheville, dealing with a medical emergency involving her mother. The City Manager asked everyone to keep Debi and her family in their thoughts and prayers.

Mike Conley invited the Mayor and Council Members to attend the annual Pilot Club Tree Lighting Ceremony on the Courthouse Lawn on Sunday, December 8 at 3:00 p.m.

COUNCIL MEMBER COMMENTS: Council Member Clark reported that he would be going the following day to Raleigh for the N.C. League of Municipalities Risk Management Services Board meeting, at which the Board would begin setting insurance rates for the 2014-15 Fiscal Year.

Mayor Pro Tem Cuthbertson asked the City Manager to discuss projects submitted to the Isothermal Planning and Development Commission Rural Transportation Planning Organization (RPO). The City Manager advised that staff had recently submitted a total of seven new highway and pedestrian projects to the RPO for consideration in the new DOT Statewide Transportation Improvement Program (STIP). Existing highway projects previously submitted by the City, including the three laning and installation of curb and gutter on Rutherford Road and a US 70 Bypass remain on the RPO list for consideration. The City Manager reported that the new projects include the addition of a sidewalk on North Main Street and Highway 70 West to McDowell High School Road, a sidewalk extension on Sugar Hill Road to I-40, a sidewalk extension on Baldwin Avenue and State Street, the replacement and installation of curb and gutter and a sidewalk extension on East Court Street, the expansion of passenger rail service to include locations between Salisbury and Asheville, interchange improvements to foster future economic development at the I-40/Sugar Hill Road interchange and improvements to and paving of the Peavine Trail.

The City Manager stated that the City of Marion had submitted seven of the 12 new pedestrian and highway projects to the RPO.

Council Member Clark advised that he believed that the RPO/MPO system for evaluating transportation projects would eventually be replaced, as it was becoming very unpopular among many jurisdictions.

Council Member Clark asked how the City's Comprehensive Transportation Plan was progressing. The City Manager stated that DOT had changed its project coordinator recently, leading to delays in the project. He said that he understands that the project will resume in the next month or so. Council Member Clark stated that the City had often run into project delays with past planning efforts from DOT.

Council Member Ramsey noted the recent passing of Pat Brown, who served on the City's Tree Board for many years and was a great friend to everyone in the community. He suggested that Council adjourn the meeting in Mrs. Brown's memory.

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Council Member Doggett, Council voted unanimously to adjourn the meeting, in memory of long-time Tree Board Member Pat Brown, who passed away recently.

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, January 7, 2014 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; Allen Lawrence, Police Chief; Don Price, Water Plant Superintendent.

GUESTS PRESENT: Tim Blenco, 29 Cannon Farm, Marion, N.C.

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 – November 19, 2013 Regular City Council Meeting Minutes and December 3, 2013 Regular City Council Minutes.

RECOGNITION OF RETIREMENT OF SANITATION SUPERINTENDENT DEAN OLLIS: The City Manager advised that it was a pleasure to acknowledge Mr. Dean Ollis, who officially retired from City employment on December 31, after more than 9 years of dedicated service, most of which he spent as Sanitation Superintendent. The City Manager stated that Dean did a great job and always focused on customer service.

Public Works Director Brant Sikes said that it had been a pleasure for him to work with Dean for the past two years and that he appreciated all of Dean's hard work and his positive work attitude.

Mayor Little presented Dean with a plaque that read as follows:

In Appreciation
To
Dean Ollis
for your years of dedication and service
while serving as
Sanitation Superintendent
For the
City of Marion

Where main street meets the mountains
Marion
North Carolina

September 13, 2004 – December 31, 2013

Presented this 7th day of January 2014
By
Mayor Stephen R. Little and Marion City Council

Mayor Little, Council Members and others all shared kind words regarding Dean and his years with the City.

Mr. Sikes introduced the City's new Sanitation Superintendent, Jimmy Lewis. Jimmy has been with the City since 2003, working every job in the Sanitation Division. Mr. Sikes added that Jimmy also knows the importance of good customer service and is already off to a great start.

PUBLIC APPEARANCE - TIM BLENCO – MCDOWELL COUNTY HEALTH COALITION: Mr. Tim Blenco, Chairman of the McDowell County Health Coalition, advised Council of a grant recently awarded to the Health Coalition by the Kate B. Reynolds (KBR) Charitable Trust. This three year, $223,304 grant will fund a new position titled the McDowell County Health Coalition Executive Director.

Mr. Blenco reported that the KBR grant, originally submitted by McDowell County DSS (the award has since been transferred to the Rutherford Polk McDowell District Health Department) funded the Executive Director position 100 percent. The only match the community encumbered was a $20,000 obligation to fund a part-time Coalition Coordinator currently housed by the YMCA. Due to unforeseen circumstances caused by the recent leadership change at DSS, the Coalition is $5,000 short of meeting its match for the award. McDowell County is funding $10,000 of the local match and the YMCA $5,000.

Mr. Blenco stated that the work of the McDowell County Health Coalition is crucial to the long-term health and economic viability of the community. The Coalition also plays a pivotal role in ensuring that the community takes full advantage of the KBR Healthy Places NC initiative. Focused on healthy eating, active living, social determinants of health, access to care, behavioral health, workplace wellness, teen pregnancy prevention and more, the McDowell County Health Coalition is committed to improving a variety of health outcomes in the community.

Mr. Blenco reported that he would respectfully request that the City of Marion provide the YMCA $2,000 (payable over two fiscal years) to sustain the Coalition Coordinator and help the community meet its match obligation. It is very likely that, if the City of Marion funds the $2,000 requested, the Rotary Club of Marion will fund the remaining $3,000.

Mr. Blenco said that he would be happy to answer any questions.

Mayor Little stated that this was an excellent presentation and asked what Council's pleasure would be.

A motion was made by Council Member Martin, seconded by Mayor Pro Tem Cuthbertson, to approve the request to provide $2,000 in total funding to the YMCA to serve as part of the $20,000 local grant match for the Kate B. Reynolds Charitable Trust grant for the McDowell County

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Health Coalition Executive Director position, with $1,000 of the City contribution paid in the 2013-14 Fiscal Year and the remaining $1,000 either paid at the end of the 2013-14 Fiscal Year or included in the 2014-15 budget

Council Member Clark asked if the County would be contributing toward this grant. Mr. Blenco stated that the County would be contributing $10,000 toward the local grant match.

The motion was approved unanimously by Council.

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

CONSIDER ADOPTION OF RESOLUTION AUTHORIZING THE SALE OF CITY PROPERTY ON WEST YANCEY STREET BY NEGOTIATED OFFER AND UPSET BID: The City Manager advised that Ms. Victoria Wilkerson had submitted an offer to purchase a 0.13 acre parcel of City property at 37 West Yancey Street in the West Marion neighborhood for $1,000. This property was acquired by the City in 2013 through tax foreclosure and contained a dilapidated house.

The City Manager reported that, in October, Council rejected an offer of $500 for this property from Ms. Wilkerson and an offer of $550 on this property from Mr. Walter Hooper. Council directed at that time for the house to be demolished. Allen Gurley demolished the house in late November for a cost of $2,500.

Additional information was presented to Council by the City Manager, including a map and photo of the property and the tax card. The tax card indicates a value of $11,060 for the property and $6,060 for the house. However, as noted above, the house on the property has been removed.

The City Manager advised that this property is clearly not needed by the City. Although small, the property could be a building lot. The City Manager stated that the $1,000 offer initially struck him as a bit low, since this is a small, but buildable, lot.

The City Manager reported that, to accept the offer of Ms. Wilkerson, action is needed to adopt the attached resolution, in which case the City will publish notice of Council's acceptance of the offer and allow the public ten days to submit an upset bid. Council could also reject the offer, make a counter-offer or table this item to obtain more information.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted to approve the following Resolution accepting the offer of Ms. Victoria Wilkerson to purchase the City property at 37 West Yancey Street for $1,000, subject to publication of the proposed sale 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, Ms. Victoria Wilkerson has submitted a bid in the amount of $1,000 for the purchase of one parcel of property that is approximately 0.13 acres in size, is owned by the City of Marion and is located on Yancey Street (McDowell County Parcel Identification Number 1701.14-33-8648).

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 Yancey Street (McDowell County Parcel Identification Number 1701.14-33-8648) that is approximately 0.13 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 Ms. Victoria Wilkerson 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 Ms. Wilkerson 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, plus advertising and legal costs.

Adopted this the 7th day of January, 2014.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-14-01-07-1

ADOPT RESOLUTION APPROVING CITY OF MARION WATER SUPPLY PLAN: Water Plant Superintendent Don Price advised that several months ago, he had completed the City's 2012 Water Supply Plan, in accordance with State regulations. Over the past few months, he has made changes to the Plan, at the direction of N.C. Department of Environment and Natural Resources (NCDENR) Public Water Supply Section staff. In mid-December, the City received a letter, advising that NCDENR had approved the City's 2012 Water Supply Plan and stating that the final step for compliance involved Council adoption of a resolution approving the Water Supply Plan.

A copy of the proposed plan was presented to Council Members for review and adoption.

Upon a motion by Council Member Martin, seconded by Council Member Ramsey, Council voted unanimously to adopt the following resolution approving the City of Marion's 2012 Water Supply Plan as presented:

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RESOLUTION
APPROVING CITY OF MARION LOCAL WATER SUPPLY PLAN

WHEREAS, North Carolina General Statute 143-355 (l) requires that each unit of local government that provides public water services or plans to provide such services shall, either individually or together with other such units of local government, prepare and submit a Local Water Supply Plan; and

WHEREAS, as required by the statute and in the interests of sound local planning, a 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 Plan is in accordance with the provisions of North Carolina General Statute 143-355 (l) 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, THEREFORE, BE IT RESOLVED by the City Council of the City of Marion that the Local Water Supply Plan entitled Marion Water Supply Plan and dated December 11, 2013 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 this the 7th day of January, 2014.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-14-01-07-2

A copy of the 2012 City of Marion Water Supply Plan can be found at City Hall.

The City Manager stated that he really appreciated Mr. Price's patience with the State in getting this plan approved, given that he had to submit approximately nine different versions of the Plan.

DISCUSS STREET REQUESTS: Police Chief Allen Lawrence presented the following street requests:

A. Chief Lawrence reported that a resident of Norton Street in the Clinchfield neighborhood recently advised of problems with vehicles parking on Norton Street and making it difficult for people to drive down the street. The lady making the request suggested that Norton Street become a no parking street. Chief Lawrence stated that officers made contact with the owner of the property generating the complaints and that the offending vehicles had been moved off of the street. Follow up patrols and contact with the complainant indicated that the problem appears to have been corrected.

The City Manager noted that the Street Committee met on December 19 and recommended that parking either be left as it is now, or be prohibited on both sides of the street.

Given that the situation has corrected itself, Council agreed by consensus to take no action on this matter at the present time.

B. Chief Lawrence advised that a resident recently told Public Works Director Brant Sikes of a potential hazard involving a vehicle or vehicles parking legally on 5th Street near the Lamar Street intersection. Vehicles on Lamar Street, particularly large vehicles such as school buses, have a difficult time making the right turn from Lamar Street onto 5th Street, when vehicles are parked near the intersection on 5th Street, as evidenced by ruts on the shoulder of the street.

The City Manager stated that the Street Committee looked at this location on December 19 and agreed with prohibiting parking near the intersection.

Council Member Clark asked if there were State statutes that prohibited parking in or near an intersection. Chief Lawrence stated that there likely were such statutes and that he could research the exact language, if needed. The City Manager noted that the Traffic Schedule did not specifically prohibit parking in this intersection, but other sections of the City Code might address parking in or near an intersection.

Given that the situation has corrected itself, Council agreed by consensus to take no action on this matter at the present time, but to consider establishing a no parking zone if the problem reoccurred in the future.

C. Chief Lawrence stated that a request had recently been made to establish a three way stop at Lamar and 5th Street. Currently, traffic must stop coming from the dead end of 5th Street at Lamar Street. Lamar Street ends at 5th Street, but traffic on Lamar does not have to stop, nor does eastbound traffic on 5th Street have to stop at the intersection.

The City Manager reported that the Street Committee reviewed this location on December 19 and thought that either a three way stop should be established at the intersection or 5th Street be made the through street and Lamar Street traffic should be required to stop. The City Manager suggested that it may be a good idea to notify the immediate neighborhood and allow for a chance to comment prior to changes being made.

Council Member Clark noted that the existing traffic pattern at this intersection had been in place for many years, at least as far back as when the area came into the City in the 1980's.

Upon a motion by Council Member Ramsey, seconded by Council Member Martin, Council voted unanimously to direct staff to survey the surrounding neighborhood around the 5th and Lamar Street intersection to determine if the preferred option is a three way stop or making 5th Street

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the through street and requiring traffic on Lamar Street to stop. The City Manager stated that staff would conduct this survey and this matter would come back to Council for review and consideration, most likely in February.

Mayor Pro Tem Cuthbertson stated that he had received complaints about parking on Claremont Street. Chief Lawrence stated that he would look into this location and determine what could be done.

Council Member Ramsey noted one way signs next to the pedestrian crossing on South Garden Street near the EMS building. The City Manager stated that these signs were supposed to be for the City-County parking lot on South Garden Street.

Council Member Doggett stated that she had been told that on weekends the pedestrian crosswalk "Walk" signals do not last as long as it does during the week. The City Manager advised that the traffic signal timing is set by a computer controlled by DOT and that, while it would be possible for the time to vary by day, it is unlikely that is the case.

CONSIDER AWARD OF CONTRACT FOR BUDGETED VEHICLE PURCHASE: Public Works Director Brant Sikes advised that the City recently accepted bids for the purchase of a replacement dump truck for the Public Works Department Street Division. Two qualified bids were received. The low bid was received from West Carolina Freightliner of Connelly Springs in the amount of $91,502, an amount that is $8,498 under the $100,000 budgeted for this truck. The City bid this vehicle early in order to ensure that it could be received by the end of the 2013-14 Fiscal Year.

The following bids were received by the City:

Dealership	Location	Truck	Bid Amount
West Carolina Freightliner	Connelly Springs, NC	Freightliner M2	$91,502.00
White's International	Greensboro, NC	International 7400	$95,325.00

Mr. Sikes noted that the truck bid by West Carolina Freightliner met all of the City's specifications.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Ramsey, Council voted unanimously to award the contract for the purchase of a replacement dump truck for the Public Works Department Street Division to West Carolina Freightliner of Connelly Springs in the amount of $91,502.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that Council Member Martin had forwarded an invitation to the annual Dr. Martin Luther King, Jr. Day Service at Addie's Chapel United Methodist Church on Monday, January 20 at 11:00 a.m.

Mayor Little noted that Mt. Zion A.M.E. Church would hold a Dr. Martin Luther King, Jr. Prayer Breakfast at the Community Building on Saturday morning, January 18.

The City Manager advised that City staff would be conducting smoke testing in sections of the City's sewer system in the near future, to identify and hopefully repair sources of inflow and infiltration. Public Works Director Brant Sikes gave a brief overview of the planned smoke testing to take place over the next few weeks.

The City Manager advised that, once the City performs the smoke testing, staff can see what repairs need to be made. He noted that he had recently spoken to NCDENR staff in Raleigh about the possibility of the City entering into a Special Order by Consent (SOC) with the State to allow for more time to make the needed repairs. The City Manager stated that this matter could be discussed more with Council, once the initial assessments were completed, to determine if the SOC would be a viable option for the City.

The City Manager reported that the City had recently had an inspection of the wastewater collection system by NCDENR. The City was found to be in compliance with the wastewater collection system permit, although the NCDENR staff did recommend that the City take steps to address inflow and infiltration issues.

The City Manager advised that the City had received recertification of the Water Plant lab after the recent annual inspection by NCDENR. There were no issues found and no recommendations given for how the City can improve lab operations.

The City Manager noted that the next Council Planning Session will be held on Tuesday, January 28 at 6:00 p.m. at City Hall.

The City Manager advised that the Fifth Annual New Year's Celebration took place on Tuesday evening, December 31 on Main Street. The event had a great crowd and a variety of activities. This event was a partnership between the City, Marion Business Association, McDowell County and Marion Rotary Club. This year, the McDowell Chamber of Commerce was the main sponsor and there were 13 smaller sponsors. The City Manager thanked the Police Department, Public Works and Fire Departments, the Marion Business Association and the McDowell Arts Council for their help with the event.

The City Manager noted that, prior to the New Year's Eve event, two City police officers, Officer Randy Seay and Officer Matt Huggins, saved the life of a man who was going to hang himself from a tree on Logan Street. He commended these officers for their great work.

The City Manager reported that Mayor Pro Tem Cuthbertson had received word in mid-December that approval was given for a grant for a School Resource Officer to serve Marion and Eastfield Elementary Schools. The City Manager stated that, as soon as final details were identified, the City can begin to seek someone to fill the SRO position.

The City Manager advised that McGill Associates is finishing up the design for Phase 2 of the Joseph McDowell Historical Catawba River Greenway. Upon completion, the proposed design will be reviewed with Council, the County and the McDowell House Committee. After needed permitting takes place, the City can hopefully seek construction bids this Spring or Summer.

The City Manager thanked City staff for their efforts dealing with extremely cold temperatures earlier that day. Fortunately, the City only experienced very minor problems as a result of the cold weather.

COUNCIL MEMBER COMMENTS:

Council Member Clark stated that he would have had several questions for Mr. Blenco regarding the information he presented to Council just prior to the meeting concerning the funding request, had he had time to read over it. Council Member Clark advised that he would like to have individuals or groups making requests to Council to submit information in advance of the meeting, instead of at the meeting, to allow for Council Members to have time to review said information prior to the meeting. Mayor Little and Council Members agreed that individuals or groups making presentations to Council should provide information in advance of the meeting, particularly if a decision is requested of Council.

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Mayor Little advised that the traffic signal at West Henderson and Logan Streets often caused traffic to back up on Logan Street, since much more time is given for West Henderson Street traffic than Logan Street. Council Member Martin stated that he had also observed this problem.

The City Manager stated that, without objection, he would ask DOT to provide more time for Logan Street traffic at this intersection. No objection was stated by Council to the City Manager's suggestion.

ADJOURNMENT: Upon a motion by Council Member Doggett, seconded by Council Member Ramsey, 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 21, 2014 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; Allen Lawrence, Police Chief; Brant Sikes, Public Works Director.

GUESTS PRESENT: Jerry and Robin Broome, 114 Oakwood Drive, Marion, NC.

Guests Representing Cub Scout Pack 806 - Joe Neal, Mitchell Neal, Kevin Smith, Isaac Smith, Josh Smith, Jeff Byrd, Andrew Byrd, Alan Byrd, Max Byrd and Crystal Ledbetter.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

CITIZEN OF THE MONTH – SELECTED BY COUNCIL MEMBER DOGGETT: Council Member Doggett stated that it was with great pleasure that she present Mr. Jerry Broome as the Citizen of the Month for January 2014.

JERRY BROOME

Mr. Broome is the Regional Business Services Representative for Isothermal Planning and Development Commission (IPDC). He has worked for IPDC for over 20 years. During that time, he has assisted thousands of citizens in McDowell County looking for employment and assistance on improving their lives. Mr. Broome's office is located at the Job Link on Baldwin Avenue. Mr. Broome is involved in many aspects of Job Fairs that are held in the County, which is no small task. To have a successful Job Fair, you have to develop a relationship with employers and agencies in the community. Mr. Broome has been able to do this and provide a needed event for our citizens looking for employment.

In addition to Mr. Broome's job, he has taken the time to volunteer with the Chamber of Commerce over the past four years. He was the Chamber of Commerce President in 2013 and is an active member of the Ambassador Committee. This Committee welcomes businesses to the area and assists with ribbon cuttings. Mr. Broome is a member of the McDowell Trails Association, participating in their various events across the County, and helping to make McDowell County a better place for outdoor activities and healthy living. The City Council greatly appreciates all of the cooperation with and efforts that have been made by the McDowell Trails Association. This group of volunteers has saved the citizens of Marion money and enabled the citizens to have trails for family and individual enjoyment.

Mr. Broome has also participated in the LINC class offered through the Chamber and McDowell Technical Community College. He was a member of the first class of LINC. This program is a wonderful opportunity to find out how great our City and County are.

Mr. Broome also serves on the Get NOT Out Committee. This Committee works with local residents to remove barriers to employment and, in many cases, increase education levels. He is also a Board Member with the NC Employment and Training Association. This State association provides staff development training for workforce development professionals.

Mr. Broome is a certified ACT Job Profiler. A job profiler assists businesses in identifying the foundational skills needed by an employee to accomplish a specific job. This process helps employers make the best hiring decision.

Council Member Doggett, Mayor Little and other members of City Council all shared kind words and congratulated Mr. Jerry Broome on being selected as Marion's Citizen of the Month for January.

CONSENT AGENDA: Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – January 7, 2014 Regular City Council Meeting Minutes.

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

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CUB SCOUT PACK 806 Mayor Little recognized and welcomed members of Cub Scout Pack 806 who were present for this meeting working toward their Citizenship in the Community Badge.

APPOINTMENT OF CITY ATTORNEY: The City Manager advised that, as previously discussed, City Attorney Hill Evans has announced that he is retiring in July. He noted that Council has discussed appointing Jennifer Jackson as the new City Attorney, with a $400 per month monthly retainer and a $100 per hour rate. Ms. Jackson formerly served as the main contact for the City when she worked with the Dameron Burgin Law Firm and that firm served as City Attorney. The City Manager advised that Ms. Jackson would likely be considered a part-time City employee, due to new IRS regulations.

The City Manager advised that Council could determine the effective date for the appointment. Both Mr. Evans and Ms. Jackson are fine with setting the effective date anytime between February 1 and July 1.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to appoint Jennifer Jackson as City Attorney, effective April 1, 2014, with a $400 per month monthly retainer and a $100 per hour rate.

CONSIDER AWARD OF CONTRACT FOR PURCHASE OF BUDGETED VEHICLES: The City Manager advised that, as shown in the information presented to Council Members, the City recently accepted bids for the purchase of two fully equipped patrol cars for the Police Department. Three responses were received. The low bid was received from Ilderton Dodge of High Point in the amount of $60,420 for two vehicles. The City will also need to add approximately $3,000 per vehicle for tax and tags, radar units and in-car computers for each car, raising the total price to $66,420. The City Manager noted that the 2013-14 City budget included $73,500 for the purchase of two vehicles. The total cost for the two vehicles should therefore come in more than $7,000 under budget.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to award the contract for the purchase of two fully equipped patrol vehicles to Ilderton Dodge of High Point in the amount of $60,420.

Council Member Clark asked if officers had a preference as to what they drive. Police Chief Allen Lawrence stated that some officers have preferences and some do not. He noted that the Dodge Chargers seem to be holding up really well as patrol cars.

REVIEW OF MARKETING STRATEGY PROPOSALS: The City Manager advised that the Marion Business Association (MBA) Economic Development Committee reviewed five Marketing Strategy proposals received in early December. The Committee recommended narrowing the proposals down to three: The Goss Agency of Asheville, North Star of Nashville, Tennessee and Summit Marketing Group of Hendersonville. The City Manager stated that Planning and Development Director Heather Cotton, MBA Director Freddie Killough and he references on the three preferred firms and all three companies received very high marks. However, there are differences in cost and experience among these three firms, with costs ranging from $20,000-$30,000 all the way up to $60,000-$70,000+.

The City Manager presented Council Members with a summary of all five proposals, followed by the complete proposals. He reported that the MBA Economic Development Committee will be meeting with City, County, Chamber, McDowell Economic Development Association (MEDA) and Tourism Development Authority (TDA) representatives on January 24 to discuss the idea of a coordinated marketing effort for the community and to see what level of funding each organization might be willing to provide.

The City Manager advised that, if Council wishes to pursue the Marketing Strategy, his initial thought is to use unspent Façade Grant funds from this year, which could be anywhere between about $10,000 and $13,000, although the total City share may need to be slightly higher, depending on the firm chosen to complete the project.

Mayor Little stated that a coordinated marketing effort could benefit all of the involved organizations and the entire community. He reported that he would be facilitating the meeting on January 24 and would seek to gain support from all of the involved organizations.

Council Member Clark stated that this is a case where you likely get what you pay for, but he is also concerned about the low bid being very open ended and almost being a blank check.

Council Member Doggett stated that Council Member Clark had a good point about the dollar amount and noted that Council does not need to rush into a decision.

Mayor Pro Tem Cuthbertson asked if the Town of Old Fort was invited to participate. The City Manager reported that the initial meeting on January 24 would be limited to the City, County, TDA, Chamber, MEDA and MBA representatives, but that the group could be expanded. He noted that the TDA often represented the Town of Old Fort, since its office is in the Old Fort Depot.

Council Member Clark stated that some of the money for this project should come from TDA funds.

Mayor Little stated that he agrees that the TDA needs to participate, but will also work to make sure that they do not view this idea as a threat or as a criticism of their current marketing efforts.

Upon a motion by Council Member Clark, seconded by Council Member Doggett, Council voted unanimously to endorse the concept of a joint marketing effort, with City funding capped at $20,000. It was agreed that such funding may need to be provided over at least two Fiscal Years and that the City will provide a lesser amount of funding, perhaps $15,000, if there are adequate funds from other agencies.

ADD ON – REQUEST FOR ENDORSEMENT OF BAKERSVILLE ROAD SENIOR HOUSING DEVELOPMENT: The City Manager advised that Fred G. Mills/United Property Management, LLC planned to submit an application for North Carolina Housing Finance Agency (NCHFA) tax credits for a proposed 49 unit senior housing development on Bakersville Road. The City Manager stated that he and Planning and Development Director Heather Cotton had been in contact with this company. This is the same location for which Western North Carolina Housing Partnership (WNCHP) proposed a similar senior housing development last year. The City Manager noted that WNCHP was not approved for NCHFA tax credits in 2013.

The City Manager stated that the Mills group was requesting City Council endorsement of this project. He advised that City Council had endorsed the WNCHP proposed development in 2013. The City Manager advised that the Mills group had an option to purchase the property on Bakersville Road from Hospice of McDowell County.

Council Member Clark stated that he had no problem with endorsing a senior housing development, but suggested that the City should only commit to seek grant funds to upgrade Bakersville Road and to provide any needed water and sewer extensions, since the City can simply not afford to upgrade the infrastructure without grant assistance. The City Manager advised that such a conditional approval would be consistent with the action taken the prior to support to the proposed WNCHP development.

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Upon a motion by Council Member Clark, seconded Council Member Martin, Council voted unanimously to endorse the proposed Fred G. Mills/United Property Management, LLC 49 unit senior housing development on Bakersville Road, contingent on the City receiving grant funds to upgrade Bakersville Road and to provide any needed water and sewer extensions.

ADD ON – REQUEST FOR SEWER SERVICE – SUGAR HILL ROAD: The City Manager advised that he had recently received a request for sewer service from Mr. Dennis Whitson for a house he owns at 2001 Sugar Hill Road. Mr. Whitson's septic tank recently failed, so Mr. Whitson inquired about connecting to City sewer. The City Manager stated that Public Works Director Brant Sikes advised Mr. Whitson that he would need to connect the house to City water service to receive City sewer service, per City policy. Mr. Whitson subsequently paid for a water and sewer connection for the house.

The City Manager reported that Mr. Whitson had a plumber connect the house to sewer, but learned that it would cost $1,400 to connect the house to water. Mr. Whitson proposed paying the City a monthly water and sewer bill, but not actually connecting the house to water. The City Manager noted that this scenario was unusual, so he wanted to bring it to Council for consideration.
The City Manager added that Mr. Whitson planned to demolish the house after the current tenant moves out and then convert the property to commercial use.

Council Member Clark how the bill would be computed.

The City Manager stated that it would not be cost effective for the City to meter the private well on the property, so he would propose billing Mr. Whitson the minimum water and sewer bill each month. The City Manager suggested that Mr. Whitson would essentially be paying a monthly water availability fee.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to approve the request by Dennis Whitson to connect the house at 2001 Sugar Hill Road to City sewer, without being required to connect to City sewer, on the condition that Mr. Whitson pays a minimum water and sewer bill each month.

ADD ON – NORTH CAROLINA CITY AND COUNTY MANAGEMENT ASSOCIATION AD: The City Manager reported that the N.C. City and County Management Association (NCCCMA) would soon be publishing a commemorative book to celebrate the 50th anniversary of the Association. The NCCCMA is offering local governments an opportunity to purchase a $25 ad in honor or memory of people who have made an impact on the profession. The City Manager asked for permission for the City to purchase such an ad in honor of former City Manager Earl Daniels, who faithfully served the City from 1972 until 2000.

Council Member Clark stated that this was a good idea, but that the City should also purchase such an ad in honor of current City Manager Bob Boyette.

Upon a motion by Council Member Clark, seconded by Council Member Clark, Council voted unanimously to authorize the City to purchase two $25 ads, in honor of former City Manager Earl Daniels and current City Manager Bob Boyette, for an upcoming N.C. City and County Management Association 50th Anniversary commemorative book.

The City Manager thanked the Mayor and Council for authorizing these ads. He said that he very much appreciated the thought and that Mr. Daniels would also be very appreciative.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that 2013-14 property tax collection is over 89 percent through January 17 and is ahead of last year's record pace.

Public Works Director Brant Sikes gave a brief update on the smoke testing that is currently being done on the City wastewater system. He noted that some areas had already been tested, with some inflow and infiltration problems found, and more areas would be evaluated in coming weeks.

The City Manager advised that staff could then evaluate the City's abilities to complete any major repairs, once the scope of the City's inflow and infiltration problems were found.

The City Manager advised that he had recently looked at taxable retail sales for the County and State as a whole for the first five months of the 2013-14 Fiscal Year (July-November). Through the first five months of 2013-14, the taxable retail sales for McDowell County have increased by 6.79 percent over the same time period in 2012-13. Taxable retail sales for North Carolina as a whole for the first five months of 2013-14 have increased by 3.49 percent over the same time period in 2012-13. The City Manager stated that, right now, the County is on target to outpace the State growth in retail sales for the 6th time in the past 8 years. He added that the City now accounts for at least 80 percent of the total retail sales in McDowell County.

The City Manager reported that, between 2005 and 2013, McDowell County's taxable retail sales grew by 25.28 percent, while North Carolina's taxable retail sales only increased by 3.76 percent. He noted that, while not every business is doing well, the total figures are encouraging and will hopefully continue to create more confidence in the local economy.

The City Manager advised that, by early February, if not sooner, he anticipates that McGill will complete the design for Phase 2 of the Catawba River Greenway. Once the design is submitted, it can be reviewed with Council, the County and the McDowell House Committee. After needed permitting takes place, the City can hopefully seek construction bids this Spring or Summer.

The City Manager advised that the Marion Business Association will soon send out and deliver announcements of the next Façade Grant cycle. The deadline for grants to be submitted in this funding cycle will be March 27.

The City Manager advised that the next Planning Session is set for next Tuesday, January 28 at 6:00 P.M at City Hall.

COUNCIL MEMBER COMMENTS: Council Member Clark asked if there are any ethics training classes scheduled for local elected officials.

The City Manager stated that he would check into any scheduled classes and report back to Council. He noted that Mayor Little, Mayor Pro Tem Cuthbertson, Council Member Clark and Council Member Doggett needed to take an ethics class by November, which is one year after their most recent election.

Council Member Clark also stated that he wanted to commend Addie's Chapel United Methodist Church for the impressive service they hosted the day before honoring Dr. Martin Luther King, Jr.

Mayor Pro Tem Cuthbertson commended the Addie's Chapel congregation for being so friendly and welcoming to everyone.

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Council Member Doggett asked for a clarification about information provided by the City Manager concerning the timing of downtown pedestrian crossing signals. The City Manager stated that he would contact DOT Division Traffic Engineer Anna Henderson, obtain more definitive information on the timing of the downtown pedestrian crossing signals and report the information back to Council as soon as possible.

ADJOURNMENT: Upon a motion by Council Member Doggett, seconded by Council Member Ramsey, 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 4, 2014 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 Lloyd Cuthbertson, Council Members A. Everette Clark, Juanita Doggett, Billy Martin and Don Ramsey.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Harriett Thomas, CPA, Finance Director; Brant Sikes, Public Works Director; Allen Lawrence, Police Chief; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Louis and Samantha Parrow, 552 Ashworth Loop, Marion, NC; Marvin Stewart, 184 Park Avenue, Marion, NC; Dean, Melinda and Chris Mace, 66 Norton Street, Marion, NC; Linda King, 245 5th Street C, Marion, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

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

A. Approval of Minutes – January 21, 2014 Regular City Council Meeting Minutes.

B. Receive Report of Unpaid 2013 Real Property Taxes

The City Manager presented a report from Finance Director Harriett Thomas and Tax Collector Brett Moore, listing the City's unpaid real property taxes for 2013, as required by N.C.G.S. 105-369(a). As of January 29, the total of unpaid 2013 real property taxes for the City was $184,113.76. The City's property tax collection percentage as of January 24 was 90.18 percent, which is ahead of last year's record collection pace.

PUBLIC COMMENT PERIOD: Mr. Louis Parrow advised that he intended to present his plans for the 2014 Difference Makers motorcycle events in the Downtown area to Council within the next 30 days.

APPROVE ADVERTISEMENT OF DELINQUENT 2013 REAL PROPERTY TAXES: Finance Director Harriett Thomas advised that N.C.G.S. requires municipalities to advertise tax liens at least once between March 1 and June 30. Ms. Thomas proposed that the City advertise unpaid 2013 real property taxes in the McDowell News on Wednesday, May 14, 2014. This is the same date that McDowell County intends to list its unpaid taxes.

Council Member Clark asked if those who pay their taxes between now and May would be removed from the list.

Ms. Thomas said that names could be removed from the tax listing through Friday, May 9, 2014.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to authorize City staff to advertise unpaid 2013 real property taxes in the McDowell News on Wednesday, May 14, 2014.

APPROVAL OF 2013-14 CITY AUDIT CONTRACT: Finance Director Harriett Thomas presented Council with a proposal from Martin, Starnes and Associates of Hickory, the City's current auditor, to complete the City's 2013-2014 audit for $15,000. Ms. Thomas reported that the City will not be required to have a Single Audit this year, since the City will not reach the required level of grant funding to trigger a Single Audit. The $15,000 cost represents an increase of $400, or less than 3%, over last year's audit fee.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to award the contract for the City's 2013-14 audit to Martin, Starnes and Associates of Hickory, in the amount of $15,000.

CONSIDER APPROVAL OF TRAFFIC SCHEDULE AMENDMENT – 5TH STREET AND LAMAR STREET STOP SIGNS: The City Manager advised that, as directed by Council at the January 7 Council meeting, the Police Department conducted a survey of residents of 5th Street, Norton Street and Lamar Street in the Clinchfield neighborhood, asking whether they preferred a three way stop at the intersection or for 5th Street to be the through street and only traffic on Lamar Street required to stop. A total of 16 residences were surveyed. Of this number, seven said there was no issue, four preferred a three way stop, three preferred having Lamar Street traffic stop and making 5th Street a through street and two felt there was a problem but had no preference between the two options.

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The City Manager stated that an argument could be made either way, recognizing that there is no clear community preference, but that Police Chief Allen Lawrence, Public Works Director Brant Sikes and he recommended that 5th Street be designated as the through street and Lamar Street traffic be required to stop at the intersection.

The City Manager advised that the Police Department is still addressing periodic issues of vehicles parking near the 5th and Lamar Street intersection. The City Manager stated that Chief Lawrence did determine that State law prohibits parking within 20 feet of an intersection on streets with curbs and within 15 feet of an intersection on streets without curbs. Fifth Street does not have a curb, so the 15 foot distance would apply. The City Manager stated that, in addition, the City Code prohibits parking within an intersection or within 20 feet of a crosswalk. There is no marked crosswalk at the 5th and Lamar Street intersection. The City can place no parking signs at a 15 foot distance from the intersection and see if that helps the situation. If it does not, staff may need to come back to Council and propose some parking restrictions.

Council Member Clark asked if a three way stop would not be safest, since this configuration would require everyone to stop.

Ms. Melinda Mace, Mr. Chris Mace and Ms. Linda King, residents of the surrounding area, all suggested that a three way stop be approved for the intersection and asked that the City address vehicles parking on 5th Street near the Lamar Street intersection and creating traffic hazards.

After a brief discussion, Council Members agreed that a three way stop at the intersection would be the safest solution.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to adopt the following ordinance amending the City Traffic Schedule, to direct staff to study parking near the 5th and Lamar Street intersection and to bring back recommendations for addressing parking issues at the 5th and Lamar Street intersection at a future Council meeting:

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
LAMAR STREET	STOP SIGN	AT FIFTH STREET (CF)

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

Adopted this the 4th day of February, 2014.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-14-02-04-1

Council Member Clark suggested that the City could look at making driveway cuts in the curbs, if necessary, to provide additional off-street parking opportunities in the area surrounding the 5th and Lamar Street intersection and to keep on-street parking from being a hazard.

CONSIDER ADOPTION OF RESOLUTION AUTORIZING THE SALE OF CITY PROPERTY ON WEST YANCEY STREET BY NEGOTIATED OFFER AND UPSET BID: The City Manager advised that, in December, Ms. Victoria Wilkerson submitted an offer to purchase 0.13 acres of City property at 37 West Yancey Street in the West Marion neighborhood for $1,000. This property was acquired by the City in 2013 through tax foreclosure and contained a dilapidated house.

The City Manager reported that, at the January 7 Council meeting, Council approved a resolution to authorize the sale of the West Yancey Street property to Ms. Wilkerson for $1,000, subject to publication of the proposed sale and a ten day upset bid period. The City Manager stated that he had obtained the required five percent bid deposit and the cost of the advertisement from Ms. Wilkerson. The notice of the proposed sale then ran in the McDowell News on January 17. On January 27, Mr. Johnny Bartlett submitted a bid for $1,100 for this property. State law requires an upset bid to be at least ten percent higher than the previous bid for the first $1,000 and then five percent higher for any subsequent amount. Therefore, Mr. Bartlett submitted a qualifying upset bid.

The City Manager presented a resolution for Council to adopt to authorize the sale of the West Yancey Street property to Mr. Bartlett for $1,100, subject to publication of the proposed sale and a ten day upset bid period.

The City Manager stated that he would bring a resolution back to Council, after the conclusion of the ten day upset bid period, either with a new upset bid or to authorize the final sale of the property to Mr. Bartlett.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously adopt the following resolution authorizing the sale of 0.13 acres of City property at 37 West Yancey Street to Mr. Johnny Bartlett for $1,100, subject to publication of the proposed sale and a ten day upset bid period:

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

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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, on December 11, 2013, Ms. Victoria Wilkerson submitted a bid in the amount of $1,000 for the purchase of approximately 0.13 acres of property owned by the City of Marion located on West Yancey Street (McDowell County Parcel Identification Number 1701.14-33-8648); and

WHEREAS, the City Council of the City of Marion adopted a resolution on January 7, 2014, in accordance with N.C.G.S. 160A-269, accepting the offer of Ms. Wilkerson to purchase the property, as described above, for a sum of $1,000, 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 Ms. Wilkerson; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion, on January 17, 2014, 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 January 27, 2014, Mr. Johnny Bartlett submitted a bid in the amount of $1,100 for the purchase of the property described above; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the bid submitted by Mr. Bartlett 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 Ms. Victoria Wilkerson and to complete the sale of the property described above to Mr. Johnny Bartlett, 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 1701.14-33-8648) that is approximately 0.13 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 Ms. Victoria Wilkerson to purchase the above described property for $1,000, 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 Ms. Wilkerson the five percent bid deposit that he paid to the City.

4. The City Council accepts the offer of Mr. Johnny Bartlett to purchase the above described property for $1,100, subject to the upset bid process being followed as required by N.C.G.S. 160A-269.

5. The City Clerk shall notify Mr. Bartlett 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 $1,100.

Adopted this the 4th day of February, 2014.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-14-02-04-1

DISCUSS DOWNTOWN PEDESTRIAN CROSSING SIGNAL TIMING: The City Manager advised that he had spoke to DOT Division Traffic Engineer Anna Henderson on January 23 about the timing of downtown pedestrian crossing signals, as had previously been mentioned by Council Member Doggett. The City Manager reported that Ms. Henderson advised that the Main Street traffic signals in the downtown area are coordinated on weekdays, when there are higher traffic volumes. On weekends, when traffic volumes are generally lower, the signals are not coordinated. This means that the signals change faster on weekends and pedestrians are only guaranteed the minimum amount of time to cross the street, based on a nationwide formula of about 3.5 feet per second. During the week, the signals take longer to change and pedestrians have more time to cross the street.

The City Manager stated that Ms. Henderson said that DOT would be happy to extend the signal coordination to weekends, to just Saturday or just to certain hours on Saturdays and Sundays. The City Manager suggested that extending the signal coordination might slow down traffic a bit on weekends, as the signals may hold a little longer, but pedestrians would have more time to cross the street.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Doggett, Council voted unanimously to authorize staff to formally request that DOT extend coordination of traffic signals on Main Street in the downtown area to seven days per week, in order to increase the amount of time that pedestrians have to cross the street, thereby enhancing pedestrian safety.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that, as was discussed at the January 21 Council meeting, he checked into opportunities for required ethics training for City elected officials. Under State law, Mayor Little, Mayor Pro Tem Cuthbertson, Council Member Clark and Council Member Doggett must take ethics training by November 2014, which is one year after their latest election. The City Manager stated that the UNC School of Government will provide a live ethics webinar on Wednesday, May 14. The time for this webinar is set from 10:00 a.m. until 12:00 Noon. The City could host this

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webinar at the Community Building and invite other cities in the region to participate. The City Manager advised that the webinar is likely to cost the City around $125 to $150 total, although the exact cost has not yet been given.

The City Manager stated that other alternative would be for the City to ask Isothermal Planning and Development Commission to host the ethics webinar in Rutherfordton, which would involve some travel, or to participate in the School of Government's On-Demand Webinars from June-October.

Council Member Doggett noted that she may be out of town on the May 14 webinar date. Mayor Little, Mayor Pro Tem Cuthbertson and Council Member Clark advised that they would need to check their calendars to determine their availability. After further discussion, Council directed the City Manager to check more into the On-Demand webinar and whether that would be a better option for the ethics training. The City Manager said that he would bring information about the On-Demand webinar to the February 18 Council meeting for discussion.

The City Manager advised that, as authorized by Council, he sent a support letter for the proposed Bakersville Road senior housing development. The letter makes it clear that the City will only commit to seek grants for any needed infrastructure improvements.

Public Works Director Brant Sikes gave a brief update of smoke testing being conducted on the City's wastewater system. Several areas have been tested and all areas show some degree of inflow and infiltration. City crews are making small repairs as the testing is conducted and will be scheduling larger repairs for the near future.

The City Manager advised that the City's street right of way and Cemetery mowing contractors from last year had both presented proposals for a three year contract with the City, in advance of bids being taken for the mowing work.

The City Manager advised that the City's street right of way mowing contractor from the previous year, Ledford's Landscape and Design, had presented a proposal for a three year contract with the City for the same weekly amount as last year, $1,125 per week, with allowances for fuel adjustments.

Public Works Director Brant Sikes reported that Mr. Ledford's performance improved as the year progressed and that Mr. Ledford had agreed to use a push mower with a bagger for all mowing, except for weedeating around poles and other obstacles, to address concerns of grass clippings being left behind at times.

The City Manager reported that the City's Cemetery mowing contractor from the previous year, Davis Lawn Care, had presented a proposal for a three year contract with the City for $900 per week for Oak Grove Cemetery, an increase from the $750 per week charged last year, and for $125 per week for Morehead Cemetery, which the City plans to assume maintenance of on July 1, 2014.

Public Works Director Brant Sikes reported that Mr. Davis performed excellent work last year with the mowing of Oak Grove Cemetery, with no reported or observed issues.

The City Manager asked Council Members if they wished to consider the three year proposals or to seek bids from other contractors. Mr. Sikes noted that the learning curve for new contractors was steep, so that there was an advantage in retaining contractors who offered a fair price and had performed well.

Council Member Doggett stated that she had seen the street right of way contractor use some teenager last year and that the quality of work was not as good. She noted that, once problems were reported, the street right of way quality did improve.

Council Member Clark stated that he was upset that grass clippings were left on the streets at times last year and that the street right of way mowing contractor was using weedeaters to mow the rights of way, instead of push mowers.

A discussion followed.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Clark, Council voted unanimously to award a three contract to Davis Lawn Care for mowing Oak Grove Cemetery, in the amount of $900 per week, effective with the start of the 2014 mowing season and for mowing Morehead Cemetery, in the amount of $125 per week, effective July 1, 2014.

Council Member Clark stated that he did not want to see weed eaters used for street right of way mowing and would suggest withholding pay for areas not properly mowed.

After further discussion, Council agreed to discuss the possible award of the street right of way mowing contract at the February 18 Council meeting and expressed its desire to have Mr. Ledford present to discuss the proposed contract. The City Manager stated that City staff would ask Mr. Ledford to be present at the February 18 Council meeting.

COUNCIL MEMBER COMMENTS: Mayor Pro Tem Cuthbertson stated that he had not observed any further issues with parking on Claremont Street. Police Chief Allen Lawrence stated that the Police Department had monitored parking in this location, but had not yet made contact with the property owner.

Mayor Little suggested that the Police Department make contact with the property owner and advised them that complaints had been received about on-street parking being a traffic hazard. The City Manager stated that the Police Department would make contact with the property owner and communicate these concerns, but noted that there were no parking restrictions on the side of Claremont Street that had generated the complaints.

Mayor Pro Tem Cuthbertson asked if the metal tree grates had all been installed around the gingko trees on Main Street. Public Works Director Brant Sikes advised that some of the tree grates had been installed and that the rest would be put in place as soon as possible.

Council Member Doggett stated that the new decorative street signs in the downtown area looked great.

Mayor Little reported that he had received many compliments about the new decorative street signs, as well as the lights and snowflakes being left up in the downtown area past the Christmas season.

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

1. Tax Base Growth/Revenues
2. Personnel Policy Amendments
3. Water and Sewer Rates

AA.000000299 (24)

4. Water and Sewer Deposits
5. Donations to Outside Agencies
6. Cyber Liability Insurance
7. Health Insurance Costs
8. Catawba River Greenway Phase 3
9. Police Department Items
10. Marketing Plan

No action was taken on these items. Items requiring City Council action will be included in 2013-14 Budget Ordinance Amendment, included in 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 25, 2014 at 6:00 p.m. at City Hall.

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, February 18, 2014 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 Don Ramsey.

Mayor Stephen R. 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; Brant Sikes, Public Works Director; Allen Lawrence, Police Chief; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Gary Ledford, 1289 North Main Street, Marion, NC; Chad Phillips, Pulliam Street, Marion, NC; Freddie Killough and Nancy Spencer, Marion Business Association Representatives.

OPENING OF MEETING: Mayor Pro Tem Cuthbertson opened the meeting with a moment of silence.

CONSENT AGENDA: Upon a motion by Council Member Doggett, seconded by Council Member Ramsey, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – January 21, 2014 Regular City Council Meeting Minutes.

B. Approve Proclamation – Playful City USA Renewal

AN ORDER TO PROCLAIM FEBRUARY 18TH, 2014 "PLAY DAY" IN THE CITY OF MARION, NORTH CAROLINA

WHEREAS, play is a crucial factor in the overall well-being of children and playspaces and playgrounds within walking distance of children's homes are missing from many communities and neighborhoods, and

WHEREAS, unstructured, unplanned, spontaneous, and self-motivated play is on the decline and fewer children spend time outside at parks and playgrounds, and

WHEREAS, recess is being shortened or removed from school curriculums, and

WHEREAS, children who play are healthier, suffer less obesity and obesity-related health problems such as diabetes and heart disease, do better in school and develop cognitive skills that are linked to learning and academic performance, and

WHEREAS, children who play learn the social skills that help them become happy and well-adjusted adults, and

WHEREAS, parents, schools, child care centers, nonprofit organizations, businesses, churches, synagogues, mosques, and all interested parties wish to raise this community's children to become healthy, happy, and successful adults,

NOW, THEREFORE, I, Stephen R. Little, Mayor of the City of Marion, North Carolina, do hereby proclaim February 18, 2014 as:

"Play Day" in the City of Marion of Marion, North Carolina, and I urge all citizens to celebrate Play Day and support efforts to build and maintain playspaces and playgrounds in their communities and neighborhoods.

Further, I urge all citizens to continue to support and maintain playspaces and playgrounds for the well-being of this and future generations.

Proclaimed this the 18th day of February, 2014.

AA.0000003300 (24)

Stephen R. Little, Mayor

C. Consider Approval of Personnel Policy Amendment

City of Marion
Personnel Policy Amendment

The Personnel Policy of the City of Marion, as adopted on August 21, 2012, is hereby amended as follows:

Section 1. That Article VI, Work Conditions and Expectations, Section 6. Political Activity Restricted is amended by deleting subsection (f) in its entirety and replacing it with the following:

(f) Be a candidate for Mayor or City Council or serve as Mayor or as a Council Member.

Section 2. That Article VII, Leaves of Absence, Section 14. Educational Leave with Pay is amended by deleting this section in its entirety and replacing it with the following:

Educational Leave with Pay

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 will pay or reimburse the verified costs, including course fees, materials, meals and travel costs, as provided for in Article VI, Work Conditions and Expectations, Section 13, Travel and Expense Reimbursement, for the course(s) provided the employee submits the required documentation.

For courses involving a significant commitment of City resources and/or time, the City Manager may require the employee to sign a Continued Employment Agreement for Job Related Training when submitting the Travel Expense Requisition for approval.

In addition, the City will pay fees for certification exams, in accordance with the following provisions:

1. The City will pay for only one school or training class for a particular certification.

2. The City will pay fees no more than two times for certification exams, until the employee passes the exam. Once the employee passes the exam, he/she will be reimbursed for one additional exam fee.

An employee on educational leave with full pay shall continue to earn leave credits and any other benefits to which City employees are entitled.

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

Adopted this the 18th day of February, 2014.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Policy Number: P-14-02-18-1

PUBLIC APPEARANCE – MARION BUSINESS ASSOCIATION: Ms. Nancy Spencer, President of the Marion Business Association (MBA), appeared before Council and gave the following quarterly report for the MBA:

October - December 2013
Quarterly Report of Marion Business Association

Economic Development Report
3 - New Businesses Opened
- My Scented Shack
- Allied Insurance
- VJ Tool & Supply

7 - New Business Owner or New Location
- Appalachian Autoworks relocated to Coca Cola Building
- Morris Heating and Air relocated to West Henderson Street
- Allstate Insurance relocated to West Henderson Street
- Hospice of Rutherford Resale Shop relocated to North Main Street
- Buy Way Auction relocated to The Attic on Highway 70 East

8 - Businesses Closed –
- Rodney Jackson CPA
- Edera Cafe
- Fancy Pants
- Swamp Fox Tavern
- Little Siena
- Dr. Robert Keenan, DDS
- The Jug Sub Shop
- McDowell Twin Cinemas

5 -Business Assistance Inquiries
0 - Business Loan Inquiries
0 - Business Grant Inquiries

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239- Business Visits
3 - Property Referral Inquiries
3 - Property Owner Contacts w/ available buildings
0 - Contacts with interested Commercial Developers
0 - New Businesses Breaking Ground
2- Façade Grant Inquires
0 - Façade Grant Awarded (MBA & MEDA Historic Marion Façade Grant Program and MBA Sign Grant)
0- Properties sold

Other Economic Activity:

- Historic Marion Façade Grants – Austin Furniture installed windows. Will add new awning soon. There are still grant funds available.
- Historic Marion Tailgate Market continued as Fall Craft Market through December 17, Tuesdays and Saturdays with locally made crafts added to in-season produce.
- MBA maintains an Available Commercial Properties listing of properties in the City of Marion. The listing is also available on the MBA website, www.hometownmarion.com
- The Certified Retirement Community Committee continues to market and promote Marion and McDowell County. The CRC project is a joint effort of the City of Marion, Marion Business Association, McDowell Chamber Commerce, McDowell County and McDowell Tourism.
- MBA Office painted and remodeled in December.

Committee Meeting Reports:

MBA Board of Directors met October 8 and November 5.
Board Christmas Breakfast held on December 10.
MBA Economic Development Committee met November 1 and December 13 to review marketing proposals.
Mountain Glory Festival Committee met October 15 to review 2013 festival and begin planning for 2014.
This committee is very active and hands on in planning the festival.
Events & Promotions Committee met October 17 and November 15.
The Committee continues to fine-tune and improve events and promotions for Marion. See the 2014 Calendar of Events.
Historic Marion Tailgate Market Committee will meet in January 21 to plan for 2014.

Other Committees MBA Supports:
WNC Rail Committee
MEDA
McDowell House
McDowell Non-Profit Organizations (NPO)
Get Not Out - Back to Work Program

Special Events Report

Mountain Glory Festival - 404 Volunteer Hours. Great Event. Great Committee. Great sponsor - City of Marion!!!
Tailgate Market Fall Festival - Streets were full of Trick and Treaters!! Great Event.
Marion Christmas Parade - Cold day. Smaller crowd.
Melodies on Main - 150+ children visited Santa Claus. Very good event. Under Market Shelter/weather.
New Year's Eve – Held in cooperation with Marion Rotary Club. Very good turn-out and support.
Volunteer Hours Committed – 562

2014 Calendar of Events

Friday, February 14 - Valentine's Day Dance and Dessert
Saturday, April 12 – Easter Egg Hunt @ YMCA
Saturday, May 3 – Sidewalk Yard Sale
Friday, June 6 – Liver Mush Festival
Friday, July 4 – Independence Day Celebration
Saturday, August 2 – Sidewalk Yard Sale
Tuesday, August 5 – National Night Out
Friday, August 1 or 8 – Shagging in the Street
Monday, September 1 - Terry McKinney Concert, Depot Lawn
Saturday, October 11 – Mountain Glory Festival
Tuesday, October 28 – Market Fall Festival
Sunday, November 23 – Christmas Parade
Thursday, December 4 – Melodies on Main
Saturday, December 6– Appalachian Potter's Market – McDowell High
December – Blue Ridge Artisans Craft Show @ MACA
Wednesday, December 31 – New Year's Eve Celebration
Historic Marion Tailgate Market – Mid-May – October
Tuesdays, 3:00 - 6:00 PM - Saturdays, 9:00 - 12 noon
Fall Craft Market - September – December - Tuesdays, 3:00 - 5:30 PM

The City Manager mentioned that the MBA also held a successful Valentine's Day Dance and Dessert event on the evening of February 14.

Mayor Pro Tem Cuthbertson and City Council Members thanked Ms. Spencer for her report and for the continued good work of the MBA.

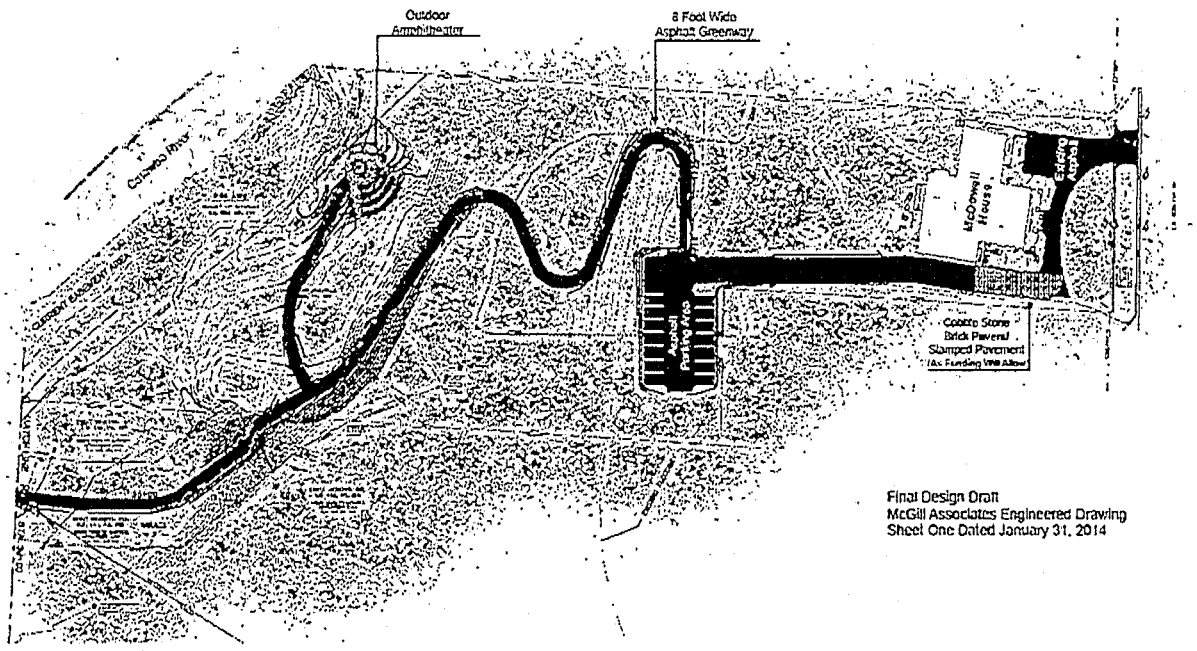
PUBLIC COMMENT PERIOD: There were no unscheduled citizens present for this meeting.

PRESENTATION OF DESIGN FOR JOSEPH MCDOWELL HISTORICAL CATAWBA GREENWAY PHASE II: Planning and Development Director Heather Cotton presented Council Members with a map showing the final proposed design for Phase 2 of the Joseph McDowell Historic Catawba Greenway, as prepared by McGill Associates and herself. Ms. Cotton discussed details concerning the proposed design, which includes over 2,800 linear feet of 8' paved greenway extending from the end of Phase 1 under the US 221 Bypass to the back of the McDowell House property on Highway 70 West, an amphitheater, several fitness stations, a paved access road and parking lot beside and behind the McDowell House. The proposed design for the McDowell House property is as follows:

AA.000000302 (24)

Joseph McDowell Historic Catawba Greenway Phase II

McDowell House Property and Section of Revised Easement Behind Comfort Inn



Final Design Draft
McGill Associates Engineered Drawing
Sheet One Dated January 31, 2014

The City Manager stated that County Manager Chuck Abernathy has stated that he would prefer the City to own, maintain and handle the scheduling of the amphitheater.

Ms. Cotton noted that there would also be additional parking across the Catawba River at the canoe launch site, accessed off of Highway 221 North Business.

Council Member Clark asked about take out points for canoes, and advised that most property along the Catawba River is now posted as private property.

Ms. Cotton advised that it is her understanding that land adjacent to the Yancey Road Bridge is now designated as a takeout point for canoes and that this point has been discussed with the McDowell Trails Association, in an attempt to identify as many legal take out locations as possible.

Ms. Cotton stated that she would proposed approval of the Greenway design, if Council had no objections. She noted that the design would be presented to the McDowell House Committee and County the following day. Upon approval, staff and McGill can proceed with obtaining necessary permits and the project can then go out to bid.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to approve the proposed design for Phase 2 of the Joseph McDowell Historical Catawba Greenway as presented.

CONSIDER AWARD OF MOWING CONTRACT: The City Manager advised that, at the February 4 City Council Meeting, Council discussed offers for three year contracts for cemetery mowing and street right-of-way mowing. At this meeting, Council awarded a three year contract for the mowing of Oak Grove Cemetery mowing contract to Davis Lawn Care and awarded a three year contract for the mowing of Morehead Cemetery to Davis Lawn Care, effective July 1, 2014.

The City Manager noted that Council discussed an offer from the City's 2013 street right-of-way mowing contractor, Ledford's Landscape and Design, for a three year contract for street right-of-way mowing services, in the amount of $1,125. The contract would be subject to a fuel adjustment.

Public Works Director Brant Sikes stated that Mr. Ledford performed generally good work the previous year, after an initial learning curve. Mr. Sikes said that Mr. Ledford responded well to comments about trash not being picked up prior to mowing, occasional reports or observation of mowing locations being missed and complaints about grass clippings being left. Mr. Ledford's performance in regards to the grass clippings showed improvement by the end of last mowing season. Mr. Sikes reported that Mr. Ledford had agreed to purchase a smaller push mower with a bagger and to push mow all narrow strips of grass. Weedeaters will only be used to trim around poles, trees and other such obstructions.

Mr. Sikes stated that he would recommend that Council consider the award of a three year contract to Mr. Ledford, since he was offering a good price and since he did generally good work and had learned the route and City's expectations the prior year.

Mr. Ledford addressed Council and said that he had learned a lot about what the City wanted with the street right-of-mowing the prior year. He stressed that he would be purchasing a smaller push mower with a bagger and to push mow all narrow strips of grass. Weedeaters will only be used to trim around poles, trees and other such obstructions.

Council Member Clark advised that he had been disappointed last year to see Mr. Ledford's staff using weedeaters to mow strips of grass and leaving grass clippings on the streets and sidewalks. Council Member Clark noted that the City is responsible for the collection of property taxes, pays for services such as the street right-of-way mowing contract and must ensure that the work is being done correctly.

Council Member Clark said that Council had a duty to make sure that Mr. Ledford had the equipment to do the job properly.

Mr. Ledford stated that, in the beginning of last year's mowing season, his crew made some mistakes as he learned the route and the City's expectations. He noted that his push mower was also too large for some of the narrow strips of grass, causing him to weedeat some locations. Mr. Ledford advised that he would purchase a smaller push mower and bag all clippings, except for some weedeating around poles and trees.

Mr. Ledford also stated that he had personally seen property owners mowing and blowing grass into the streets, after his personnel had mowed. Mr. Ledford said that he had actually taken photographs of such situations. He noted that there was a tremendous amount of rainfall last year as well, which made the mowing job much harder, especially in regards to removing grass clippings. Mr. Ledford stated that he knows from his experiences last year what needs to be done and how to do the job.

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Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to award Ledford's Landscape and Design a three year contract of street right-of-way mowing, in the amount of $1,125 per week, subject to fuel adjustment provisions, with the understanding that work be performed as set out in the written contract at all times.

SCHEDULING OF TOWN MEETING: The City Manager stated that Council had previously decided to hold the annual Town Meeting in early spring. Last year, the Town Meeting was held on Thursday, April 18 at 7:00 p.m. at the Community Building. The City Manager advised that, this year, the third Thursday of April is the day before Good Friday, which is a City holiday. The Community Building is available right now on any Thursday evening in April. The Town Meeting could be scheduled for Thursday, April 10 or Thursday, April 24, or on any other date desired by Council.

It was the consensus of Council Members to schedule the Town meeting for Thursday, April 24 at 7:00 p.m. at the Community Building, subject to input from Mayor Little once he returns from his trip to Belize.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that staff had received notice that the City was recertified as a Tree City USA. This is the City's 24th year as a Tree City USA. Council Member Clark suggested that the City ask the National Arbor Day Foundation to send a representative next year to present the City's 25 year certificate. The City Manager stated that staff could certainly make such a request.

The City Manager advised that the Tree Board met this morning and that City staff continues to work with the High School on a project to identify various plants and trees at the Joseph McDowell Historical Catawba Greenway.

The City Manager reported that the Tree Board scheduled this year's Arbor Day Celebration for Eastfield Elementary for Friday, March 14 at 9:00 a.m. and for Marion Elementary on Friday, March 21 at 9:00 a.m. Following programs at each school, students will go to Oak Grove Cemetery to plant trees next to the creek and the Duke Energy substation.

The City Manager stated that the Tree Board also suggested a tree be planted in the South Main Street Gazebo Park in memory of former Tree Board Member Pat Brown, who passed away late in 2013. The Tree Board would like to schedule the dedication of such a tree prior to a City Council Meeting in March or April.

Council Member Clark stated that he would like to see if NCDOT would donate the South Main Street Gazebo Park property to the City, since the City has maintained it for many years.

The City Manager advised that Planning and Development Director Heather Cotton had developed Power Point presentations that can be used by Tree Board Members and staff to present to various groups.

The City Manager added that City staff and the Tree Board would also be working to schedule a workshop on tree care this spring, to likely be held at the Community Building.

The City Manager advised that he had received a call from Ms. Rhonda Robbins of the McDowell Child Advocacy Center (CAC), who advised that the grandmother of Lily Kerr, the little girl murdered in 2012 as a result of child abuse, had offered to plant "Lillies for Lily" at a prominent public location along Main Street, in memory of Lily. The City Manager stated that the CAC wanted the City to designate an area for the planting location.

Council held a brief discussion on possible planting spots. Council agreed by consensus to authorize the planting on City property and to have City staff scout out a possible location for the planting. The City Manager stated that he would report back the recommended planting location to City Council.

The City Manager advised that he had recently received a complimentary handwritten note from Mrs. Becky Cross and Mrs. Jane Brown, thanking the City for efforts to remove weeds and noxious plants from Oak Grove Cemetery.

The City Manager advised that as was discussed at the January 21 Council meeting, he checked into opportunities for required ethics training for City elected officials. Under State law, Mayor Little, Mayor Pro Tem Cuthbertson, Council Member Clark and Council Member Doggett must take ethics training by November 2014, which is one year after their latest election.

The City Manager presented options for ethics training. After a brief discussion, Council agreed by consensus to have the City purchase an on-demand webinar from the UNC School of Government in June, after which time the Mayor and Council Member can view the webinar and complete training at their convenience, prior to November.

The City Manager stated that NCDOT would be changing the timing of downtown traffic signals to coordinate the signals seven days per week, and thereby allow more time for pedestrians to cross the street, as had been previously directed by Council. This work should be completed around the end of February.

The City Manager stated that Police Chief Allen Lawrence and Public Works Director Brant Sikes had developed recommendations for a no parking area on 5th Street, Clinchfield, to extend on both sides of 5th Street between Lamar and Hill Streets. The City Manager noted that Council can previously discussed complaints received about vehicles parking in this area. The City Manager suggested that staff send letters to residents of the surrounding area, advising them of the proposed no parking recommendations, and asking them to submit comments either prior to or at the next Council meeting, at which time adoption of the no parking restrictions can be considered by Council.

Council agreed by consensus to authorize the City Manager to send out such advisory letters to residents of 5th Street.

The City Manager stated that McDowell County Schools had received grant funding for a School Resource Officer to be employed by the City to serve Marion and Eastfield Elementary Schools. The City Manager advised that this position would hopefully be filled by the end of March. He thanked Mayor Pro Tem Lloyd Cuthbertson for his assistance with obtaining this grant.

COUNCIL MEMBER COMMENTS: Council Member Doggett thanked the Public Works Department for their hard work in clearing streets and sidewalks during the recent snow.

Council Member Clark noted that Duke Energy experienced no outages during the recent snow event and should be recognized.

The City Manager thanked Public Works Director Brant Sikes, the entire Public Works Department, the Police Department and the Fire Department for their work in dealing with the snow storm. He said that he was proud of all City staff for their efforts in clearing streets and sidewalks and making sure that City services continued.

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ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Council Member Doggett, Council voted unanimously to adjourn this meeting in memory of Mr. Robert Teeter, the Chairman of the Marion ABC Board between 1984 and 2008, who recently passed away.

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 4, 2014 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 Lloyd Cuthbertson, Council Members A. Everette Clark, Juanita Doggett, Billy Martin and Don Ramsey.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Harriett Thomas, CPA, Finance Director; Brant Sikes, Public Works Director; Allen Lawrence, Police Chief; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Jim and Joan Hensley 155 Fern Avenue, Marion, NC; Brett, Heather and Kaelyn Caldwell, Marion, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

CITIZEN OF THE MONTH – SELECTED BY MAYOR PRO TEM CUTHBERTSON: Mayor Pro Tem Lloyd Cuthbertson selected the Citizen of the Month of March 2014.

JOAN HENSLEY

Mayor Pro Tem Cuthbertson advised he was pleased to recognize Ms. Joan Nesbit Hensley as Citizen of the Month for March.

Joan was born and reared in McDowell County. She is the daughter of the late Mr. and Mrs. Judson Ewart Nesbitt

In 1965, Joan married Jim Hensley. Jim and Joan have one daughter Heather who is married to Brett Caldwell. Jim and Joan are the grandparents of a four year old granddaughter, Kaelyn Caldwell.

Twenty-three year ago, Joan and Jim formed T.R.S. Petroleum Installations, Inc. with Joan serving as Secretary/Treasurer.

Joan's work experience is very varied. She worked in the Volunteer Services Department at Western Carolina Center for approximately eight years after which she returned to college and graduated form UNC-Asheville with a B.S.B.M. degree in 1985. Joan also worked as a Curatorial Assistant at Biltmore Estates.

After receiving her Real Estate Broker's License she worked as a real estate broker in in developmental sales in Hendersonville, North Carolina.

Joan's volunteer service includes:

- Serving on the Staff-Parish Relations committee of the First United Methodist Church in Marion.
- Volunteering with the "Make A Impact" project providing food for needy children at Marion Elementary.
- Joan and Jim (It's hard to talk about one without mentioning the other) have worked on the Fundraising Committee for Hospice of McDowell County for 17 years. During this time the Annual Spaghetti Fundraiser has grown from one day to two days and includes deliveries to business and industries.
- Has previously served as a volunteer member of the Hospital Auxiliary at McDowell Hospital and previously served as a volunteer and co-chaired the Membership Committee at the Historic Carson House.
- Most recently, Joan has served as a member of the City of Marion Tree Board with several terms serving as chairwoman. Joan says that serving on the Tree Board "has been a great learning experience."

As a side note, Mayor Pro Tem Cuthbertson stated that those of you who know Joan, know that she always looks like she has just walked out of the pages of "Vogue" magazine.

Mayor Little, Council Members and Family Members all shared kind words regarding Ms. Joan Hensley.

RECOGNITION OF NEWS MEDIA: Mayor Little welcomed back Mike Conley, News Reporter from the McDowell Newspaper who had missed several meetings due to a fall he had taken a couple months back where he injured his foot.

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 – January 21, 2014 Regular City Council Meeting Minutes.

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

AA.000000305 (2:4)

CONSIDER ADOPTION OF RESOLUTION AUTHORIZING THE SALE OF CITY PROPERTY ON WEST YANCEY STREET BY NEGOTIATED OFFER AND UPSET BID: The City Manager advised that in late January, Mr. Johnny Bartlett submitted an offer to purchase 0.13 acres of City property at 37 West Yancey Street in the West Marion neighborhood for $1,100. This property was acquired by the City in 2013 through tax foreclosure and contained a dilapidated house.

At the February 4 Council meeting, Council approved a resolution to authorize the sale of the West Yancey Street property to Mr. Bartlett for $1,100, subject to publication of the proposed sale and a ten day upset bid period. The City Manager stated that he obtained the required five percent bid deposit and the cost of the advertisement from Mr. Bartlett. The notice of the proposed sale then ran in the McDowell News on February 14. On February 20, Ms. Victoria Wilkerson submitted a bid for $1,205 for this property. State law requires an upset bid to be at least ten percent higher than the previous bid for the first $1,000 and then five percent higher for any subsequent amount. Therefore, Ms. Wilkerson submitted a qualifying upset bid. The City Manager obtained the required five percent bid deposit from Ms. Wilkerson.

The City Manager presented Council with a resolution to adopt to authorize the sale of the property to Ms. Wilkerson for $1,205, subject to publication of the proposed sale and a ten day upset bid period. Upon adoption of the resolution, the City Manager stated that he would obtain the cost of the advertisement from Ms. Wilkerson. Notice of the proposed sale can then run in the McDowell News and the ten day upset bid period can begin.

The City Manager stated that he would bring a resolution back to Council, after the conclusion of the ten day upset bid period, either with a new upset bid or to authorize the final sale of the property to Ms. Wilkerson.

The City Manager stated that he would recommend adoption of the enclosed resolution to authorize the sale of 0.13 acres of City property at 37 West Yancey Street to Ms. Victoria Wilkerson for $1,205, subject to publication of the proposed sale and a ten day upset bid period.

Upon a motion by Council Member Ramsey, seconded by Council Member Doggett, Council voted unanimously to adopt the following Resolution authorizing the sale of City Property as recommended by the City Manager.

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 December 11, 2013, Ms. Victoria Wilkerson submitted a bid in the amount of $1,000 for the purchase of approximately 0.13 acres of property owned by the City of Marion located on West Yancey Street (McDowell County Parcel Identification Number 1701.14-33-8648); and

WHEREAS, the City Council of the City of Marion adopted a resolution on January 7, 2014, in accordance with N.C.G.S. 160A-269, accepting the offer of Ms. Wilkerson to purchase the property, as described above, for a sum of $1,000, 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 Ms. Wilkerson; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion, on January 17, 2014, 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 January 27, 2014, Mr. Johnny Bartlett submitted a bid in the amount of $1,100 for the purchase of the property described above; and

WHEREAS, the City Council of the City of Marion adopted a resolution on February 4, 2014, in accordance with N.C.G.S. 160A-269, accepting the offer of Mr. Bartlett to purchase the property, as described above, for a sum of $1,100, 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. Bartlett; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion, on February 14, 2014, 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 February 20, 2014, Ms. Victoria Wilkerson submitted a bid in the amount of $1,205 for the purchase of the property described above; and
WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion received a five percent bid deposit from Ms. Wilkerson; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the bid submitted by Ms. Wilkerson 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. Johnny Bartlett and to complete the sale of the property described above to Ms. Victoria Wilkerson, 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 1701.14-33-8648) that is approximately 0.13 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. Johnny Bartlett to purchase the above described property for $1,100, 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. Bartlett the five percent bid deposit that he paid to the City.

4. The City Council accepts the offer of Ms. Victoria Wilkerson to purchase the above described property for $1,205, subject to the upset bid process being followed as required by N.C.G.S. 160A-269.

5. The City Clerk shall notify Ms. Wilkerson of the acceptance of this offer 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 $1,205.

AA.00000306 (24)

Adopted this the 4th day of March, 2014.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-14-03-04-1

CONSIDER ADOPTION OF TRAFFIC SCHEDULE AMENDMENT: Chief Lawrence advised that as discussed at the February 4 Council meeting, staff had researched options for establishing a no parking area on 5th Street, Clinchfield near the Lamar Street intersection. The Street Committee had reviewed this location in December and recommended establishing a no parking area near the intersection if residents continued to park vehicles near the intersection. The Police Department talked to the one resident whose house is closest to the intersection in December. This resident stopped parking vehicles on the street for a time, but eventually began parking on the street again, leading to continued complaints.

After further review Chief Lawrence stated that he would recommend that a no parking zone be established on both sides of 5th Street extending from 20 feet east of the Lamar Street to 20 feet west of the Hill Street intersection, a distance of 434 feet. All residences in this block have driveways.

The City Manager added that letters were delivered to residents and that he had received one call and had one person come by both in favor of this action.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Martin, Council voted unanimously to adopt the following ordinance to amend the Traffic Schedule to establish a no parking zone in this location.

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
FIFTH STREET (CF)	PARKING PROHIBITED	BOTH SIDES OF STREET, BEGINNING 20 FT. EAST OF THE FIFTH STREET AND
LAMAR STREET		INTERSECTION AND EXTENDING 434 FT. WESTWARD TO A POINT 20 FT. WEST OF THE FIFTH STREET AND HILL STREET INTERSECTION

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

Adopted this the 4th day of March, 2014.

Stephen. R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-14-03-04-1

The City Manager stated that there were several traffic issues on Norton Street in Clinchfield as well. The Street Committee had looked at it as well. Chief Lawrence will look at this area.

The City Manager asked Public Works Director to look at bushes in this area that need to be trimmed that a resident claims has grew into the Street and causing issues.

Council Member Clark stated that he had observed traffic issues coming from Fleming Avenue onto Garden Street that need to be looked at.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that he had recently looked at taxable retail sales for the County and State as a whole for the first six months of the 2013-14 Fiscal Year (July 2013-December 2013). Through the first six months of 2013-14, the taxable retail sales for McDowell County have increased by 6.80 percent over the same time period in 2012-13. Taxable retail sales for North Carolina as a whole for the first five months of 2013-14 have increased by 3.75 percent over the same time period in 2012-13.

AA.000000307 (24)

Therefore, right now, we are on target to outpace the State growth in retail sales for the 6th time in the past 8 years.

The County level is the lowest level at which retail sales are now reported. When data on City retail sales was last collected in 2009, the City of Marion accounted for 76 percent of the retail sales in McDowell County. With the construction of the Wal-Mart Supercenter and the opening of quite a few retail businesses in the City since 2009, the City Manager stated that he believes that the City now accounts for at least 80 percent of the total retail sales in McDowell County.

Between 2005 and 2013, McDowell County's taxable retail sales grew by 25.28 percent, while North Carolina's taxable retail sales only increased by 3.76 percent.

That is not to say that every business is doing well, but the total figures are encouraging.

The City Manager advised that the Tree Board agreed to hold the Arbor Day program and tree planting for Eastfield Elementary on Friday, March 14 at 9:00 a.m. at the school and the Arbor Day program and tree planting for Marion Elementary on Friday, March 21 at 9:00 a.m. at the school. After each program, each school will go to Oak Grove Cemetery to plant trees. A combination of maple trees and evergreens will be planted next to the creek on the southern edge of the Cemetery. As these trees grow, they will provide screening of the Duke Energy substation from the Cemetery.

The City Manager stated that April 24th has been confirmed and set for the Annual Town Meeting

The City Manager advised that The McDowell House Committee has endorsed the proposed design for Phase 2 of the Catawba River Greenway on February 19. We are now proceeding with needed permitting for the project. The City Manager stated that they hope the project can go out for bid in May or June and that construction could start during the summer.

The City Manager stated that he wanted to thank the Street Crews who had been placing the metal grates around the Ginko Trees. They look really nice. The Crews are also working to replace lights on the trees, however, the Public Works Director recently informed the City that our City Arborist Lawrence Moore had concerns with lights being left on. They can make grooves in the trees.

Mayor Pro Tem Cuthbertson stated that the electrical outlets need to be closer to tree.

The Public Works Director Brant Sikes gave an update regarding their continued smoke testing. They have found three or four storm drain issues, a camper connection and lines mostly on private property that citizens will have to repair.

COUNCIL MEMBER COMMENTS: Council Member Martin stated that it appeared the demolition at the park had stopped.

The City Manager stated that they had had asbestos issues that slowed them down.

Council Member Martin also stated that he had notice that the ceiling in community building needs to be replaced.

Council Member Ramsey stated that he is still hearing many positive comments regarding the city snow removal.

Mayor Little stated that Friday March 7th has been set for the Memorial Service for Mr. Dewey Hobbs at the First Baptist Church and invited everyone who wanted to, to attend.

Mayor Little stated that he would be going to league meeting leaving on Saturday in Washington, D.C.

ADJOURNMENT: Upon a motion by Council Member Ramsey, seconded by Council Member Martin, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.00000308 (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 18, 2014 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 Billy Martin and Don Ramsey.

Council Member Everette Clark was not present for this meeting due to a scheduled meeting in Raleigh.

Council Member Juanita Doggett was not present for this meeting due to illness.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Brant Sikes, Public Works Director; Harriett Thomas, CPA, Finance Director; Rusty Jenkins, Patrol Lieutenant; Matthew Crawford, Firefighter; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: W. Andy Bunch 1424 Wolf Pen Road, Old Fort; Melinda, Dean & Chris Mace, 66 Norton Street, Marion, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

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

A. Approval of Minutes – March 4, 2014 Regular City Council Meeting Minutes.

B. Endorse North Carolina 2014 Spring Litter Sweep
Council endorsed the North Carolina Department of Transportation's Spring Littler Sweep 2014 event, to take place between April 26 and May 10.

PRESENTATION OF PROCLAMATION – DONATE LIFE MONTH:
Mayor Little read and presented the following Proclamation for Donate Life Month (Organ Donation) to Mr. Andy Bunch, a heart recipient from Old Fort, on behalf of Carolina Donor Services, the organ procurement organization for North Carolina:

CITY OF MARION, NORTH CAROLINA
Proclamation
DONATE LIFE MONTH - APRIL 2014

WHEREAS, according to the United Network of Organ Sharing, over 120,700 people nationally, including 3,350 people in North Carolina, are awaiting organ transplants, and an average of 18 people awaiting transplants die daily due to severe shortages of organ donors; and

WHEREAS, every 10 minutes, another name is added to the national transplant waiting list and the list is growing faster than the rate of organ donation; and

WHEREAS, providing facts and dispelling myths are key to making an informed decision about becoming a donor and increasing the number of people who sign up as donors; and

WHEREAS, the N. C. Division of Motor Vehicles (NCDMV) plays a critical role with 4.4 million North Carolinians in the State's Donor Registry having registered when they receive their North Carolina's Driver License, making it the 7th largest registry in the country; and

WHEREAS, one organ donor can save the lives of up to eight people and improve more than 50 lives through tissue, blood, bone, bone marrow and cornea donation; and

WHEREAS, North Carolinians are encouraged to get the facts about donation and discuss their wishes with their families and physicians, sign up as donors via the NC DMV by putting a heart on their driver's license or enrolling online at DonateLifeNC.org; and

WHEREAS, Wake Forest University Baptist Medical Center Transplant Center is a leader in life-saving transplants with patients cared for by experts including surgeons, nurse coordinators, social workers, infectious disease specialists, nutritionists, immunologists, and pathologists; and

WHEREAS, Carolina Donor Services is the federally designated organ procurement organization, with offices in Winston-Salem, Durham and Greenville, serving 7 million people in 78 North Carolina counties and Danville, Virginia, and serving 107 hospitals and four transplant centers performing heart, lung, liver, kidney, pancreas, and intestine transplants to maximize the passing of the heroic gift of life from one human being to another through organ and tissue donation; and

WHEREAS, the City of Marion joins healthcare professionals, volunteers, educators, government agencies, faith-based and community groups and private organizations in an effort to boost the numbers of organ, tissue, blood, bone, bone marrow, cornea and stem cell donors throughout North Carolina;

NOW THEREFORE, I, Stephen R. Little, Mayor of the City of Marion, North Carolina do hereby proclaim April 2014 as "DONATE LIFE MONTH" in the City of Marion and commend this observance to our citizens.

Proclaimed this the 18th day of March, 2014.

Stephen R. Little, Mayor

Mr. Bunch advised that he received a heart transplant in October 2004 at Duke University Medical Center. Mr. Bunch stated that he was very fortunate and that it had now been almost 10 years since his transplant.

APPROVAL OF PROCLAIMATION – CHILD ABUSE PREVENTION MONTH: Mayor Little presented the following Proclamation proclaiming April as Child Abuse Prevention Month, upon the request of the McDowell Child Advocacy Center. Mayor Little advised that he will present the proclamation at a Child Abuse Prevention Kickoff Event on Tuesday, April 1 at 11:30 a.m. on the Courthouse Lawn.

CITY OF MARION, NORTH CAROLINA

PROCLAMATION
CHILD ABUSE PREVENTION MONTH - APRIL 2014

WHEREAS, children are vital to our community's future success, prosperity and quality of life, as well as being our must vulnerable assets; and

WHEREAS, all children deserve to have safe, stable, nurturing and healthy homes and communities that foster their well-being; and

WHEREAS, child abuse and neglect is a public responsibility affecting both the current and future quality of life of a community; and

WHEREAS, parents need support and resources to cope with stress and to nurture their children to grow to their full potential; and

WHEREAS, effective child abuse prevention strategies succeed because of partnerships created among citizens, human service agencies, schools, faith communities, health care providers, civic organizations, law enforcement agencies and the business community.

NOW THEREFORE, I, Stephen R. Little, Mayor of the City of Marion, North Carolina do hereby proclaim April 2014 as "CHILD ABUSE PREVENTION MONTH" in the City of Marion and call upon all citizens, community agencies, faith based organizations, medical facilities, elected leaders and businesses to increase their participation in our community's efforts to support families, thereby preventing child abuse and strengthening the communities in which we live.

Proclaimed this the 18th day of March, 2014.

Stephen R. Little, Mayor

Upon a motion by Council Member Ramsey, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to endorse both the Donate Life and Child Abuse Prevention proclamations as presented.

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

CONSIDER ADOPTION OF TRAFFIC SCHEDULE AMENDMENT: The City Manager advised that, as discussed at the March 4 Council meeting, additional complaints had been received about vehicles parking along Norton Street and making it difficult for vehicles to pass. As authorized by Council, letters were sent to all residents of Norton Street, advising them of these complaints and stating that Council would consider adoption of an ordinance to prohibit parking on both sides of Norton Street at the March 18 Council meeting. In the letter, residents were asked to attend this meeting to make comments, or to phone and e-mail him prior to the meeting with any comments that they may have.

Melinda and Dean Mace of 66 Norton Street expressed their support for the proposed no-parking ordinance and thanked the City for efforts to deal with parking issues and suspicious activity at one residence on the street.

The City Manager stated that, without going into detail, he would report that there had been a recent arrest involving one of the residents at this property, along with an arrest of a visitor to the residence that will hopefully take care of some of the issues there for a while.

A brief discussion followed.

Council Member Ramsey suggested that stopping and standing of vehicles also be prohibited on the street. The City Manager stated that Council could certainly add stopping and standing to the ordinance.

Upon a motion by Council Member Martin, seconded by Council Member Ramsey, council voted unanimously to adopt the following Ordinance to amend the City Traffic Schedule and to prohibit stopping, standing and parking on both sides of Norton 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
NORTON STREET	STOPPING STANDING OR PARKING PROHIBITED	BOTH SIDES OF STREET ENTIRE LENGTH OF STREET

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

Adopted this the 18th day of March, 2014.

Stephen. R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-14-03-18-1

Council Member Ramsey also suggested that staff make sure that Norton Street has proper street lighting in accordance with City Policy, in order to further deter illegal activity. The City Manager advised that City staff would check on the need for any additional street lighting on Norton Street.

AA.000000810 (24)

CONSIDER AWARD OF CONTRACT FOR VEHICLE PURCHASE: The City Manager advised that, going back to 2012, Council gave tentative approval for the purchase of a replacement pumper/tanker truck in the Fire Department, said purchase to take place in the 2014-15 Fiscal Year. This truck would allow the City to take out of service a 1975 truck and to make a 1993 truck a reserve unit.

The City Manager stated that staff had previously projected that a pumper/tanker truck would take six to seven months to construct after an order is placed. Therefore, as previously discussed, staff waited until early 2014 to bid out this truck, to ensure that the first payment for the truck did not take place until the 2014-15 Fiscal Year.

Fire Chief Jim Neal provided an overview of the proposed fire truck and the specifications that the Fire Department had developed.

Finance Director Harriett Thomas stated that bids had been sought for this truck, with four bids received. The low bid was received from 4 Guys Inc. of Greeneville, Tennessee in the amount of $395,714.00. This bid met all of the listed specifications. The bid did provide options for a $3,860 discount if one-half of the total amount is paid at the time the chassis is delivered to the factory in about five months and for a $2,500 discount if the City picks up the truck from the factory in Pennsylvania, resulting in a net cost of $389,354.

Ms. Thomas advised that the truck would be ready within 330 days, which is a longer time frame than had been projected. The only bid with a shorter delivery time was the highest one, from Atlantic Emergency Solutions, at 255-285 days.

The City Manager stated that Chief Neal recommends that the City take delivery of the truck from the factory, resulting in a $2,500 discount, to make sure that the truck is in proper operating condition before it leaves the manufacturer's premises. Taking the effective one percent discount ($3,860) on the truck for one-half payment at the time the chassis is delivered could also be chosen. This would require the City to seek financing earlier than otherwise be required, which is not a problem.

The City Manager advised that, to allow the order to be placed for this truck as soon as possible, he would recommend that Council award a contract for the purchase of a pumper/tanker truck for the Fire Department to 4 Guys, Inc. of Greeneville, Tennessee in the amount of $395,714, with staff authorized or directed to elect discounts offered by the manufacturer that would further reduce the cost of the truck.

The City Manager reported that staff also recently solicited bids for equipment for this truck. The reason equipment bids were sought was because the City anticipated a shorter delivery time for the truck and the need to go out for financing in the near future. Only one equipment bid met all of the listed specifications. However, some lower bids only omitted air packs. Because the equipment has a much shorter lead time of only 30-45 days at most, it is very unlikely that suppliers will guarantee their prices for several months. The City Manager stated that he would therefore recommend that the equipment bids be rejected and that the equipment be rebid in a few months. The equipment would be included in the financing for the truck.

Ms. Thomas reported that she would propose to seek financing bids for the truck and equipment in a few months, about two months ahead of the time the one-half payment for the truck is due.

Upon a motion by Mayor Pro Tem Lloyd Cuthbertson, seconded by Council Member Martin, Council voted unanimously to award a contract for the purchase of a pumper/tanker truck for the Fire Department to 4 Guys, Inc. of Greeneville, Tennessee in the amount of $395,714, with staff authorized or directed to elect discounts offered by the manufacturer that would further reduce the cost of the truck, and to reject all equipment bids received for this truck.

The City Manager added that debt payments for the truck and equipment will be included in the 2014-15 budget. The truck will not arrive until well into the 2014-15 Fiscal Year and no money will be spent until 2014-15.

APPROVE WAIVER OF CHARGES FOR COLLECTION OF BULKY TRASH ITEMS DURING SPRING LITTER SWEEP 2014: The City Manager advised that, as is typically done each year, he would recommend that Council authorize the waiver of charges for the collection of bulky trash items and authorize the collection of tires from April 28 – May 2 during the Annual Spring Litter Sweep 2014.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Ramsey, Council voted unanimously to authorize the waiver of charges for the collection of bulky trash items and authorize the collection of tires from April 28 – May 2 during the Annual Spring Litter Sweep 2014.

Mayor Pro Tem Cuthbertson and Council Member Martin thanked the City Manager for arranging for a free Community Shred Event at the Farmer's Market on West Henderson Street on Saturday, April 26.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager stated that he had recently looked at taxable retail sales for the County and State as a whole for the first seven months of the 2013-14 Fiscal Year (July 2013-January 2014). Through the first seven months of 2013-14, the taxable retail sales for McDowell County have increased by 8.29 percent over the same time period in 2012-13. Taxable retail sales for North Carolina as a whole for the first seven months of 2013-14 have increased by 4.65 percent over the same time period in 2012-13. The City Manager advised that McDowell County is therefore on target to outpace the State growth in retail sales for the 6th time in the past 8 years.

The City Manager advised that the plaque had been made for the caboose that notes it was donated by Richard and Martha Spencer. The City will install the plaque in the next few days. Mayor Little will provide some recommendations for the caboose renovation in the near future.

The City Manager advised that the Tree Board held an Arbor Day program and tree planting for Eastfield Elementary on Friday, March 14 at 9:00 a.m. at the school. The Arbor Day program and tree planting for Marion Elementary will be Friday, March 21 at 9:00 a.m. at the school. After each program, each school will go to Oak Grove Cemetery to plant trees. A combination of maple trees and evergreens will be planted next to the creek on the southern edge of the Cemetery. As these trees grow, they will provide screening of the Duke Energy substation from the Cemetery.

The City Manager advised that at the March 4 Council meeting, Council Member Clark reported that he had observed traffic issues resulting from parking in front of apartments at the intersection of North Garden Street and Fleming Avenue. He noted that parking in this location sometimes made it difficult for large vehicles to make turning movements at the intersection. Council Member Clark asked that staff look at this location.

The City Manager stated that he and Police Chief Allen Lawrence looked at this location on March 6. They parked in front of the apartments and watch vehicles turn from Fleming Avenue onto North Garden Street for several minutes. North Garden Street definitely appears wide enough to support parking on this side of the street. Normal sized cars and trucks had no problems navigating this turn. They did observe one larger truck that cut the turn a bit short. No vehicle was coming in the opposite direction.

While this apartment complex does have a driveway and room for parking in the back, vehicles almost always park in front of the units for convenience. Parking has been allowed in this location for a long time.

AA.000000311 (24)

The City Manager suggested that apartment residents may not be very receptive to restricting parking in this location. If Council wishes to consider any parking restrictions, the City Manager stated that he would definitely recommend that the apartment residents be polled, prior to implementing any changes.

Neither Mayor Little nor Council Members proposed any changes to the current parking pattern on North Garden Street at the current time.

The City Manager advised that the annual Downtown Cleanup had been set for Saturday, April 26, from 9:00 a.m. until 12:00 Noon. Council Member Ramsey agreed to have this project also be listed as one of the projects for First Baptist Church's Operation Inasmuch Day, to be held the same day. This could help the City get more participation with the cleanup.

The City Manager stated that, on that same day, from 9:00 a.m. until 12:00 Noon, the City and the Local Government Federal Credit Union (LGFCU) will sponsor a free community shred event at the Farmer's Market on West Henderson Street. Council Member Martin previously mentioned that it would be a nice idea for the City to provide a shred event for the community. The LGFCU gave cities and counties the opportunity to host such an event, at no cost to the local government. The City Manager advised that he immediately responded and Marion was one of three sites selected for the Western region. The LGFCU pays for the Shred It truck and handles publicity. The City is listed as a co-sponsor and also helps with spreading the word about the event.

The City Manager advised that as previously reported, he and Finance Director Harriett Thomas, along with Personnel Technician Tammy Rose, met with Julie Hall and Angela Greene from the N.C. League of Municipalities Risk Management Services (RMS) in early March to discuss the City's health insurance coverage. The City is scheduled to receive a 9 percent health insurance premium increase for 2014-15, which would cost the City about $58,000 per year ($40,000 General Fund, $18,000 Water and Sewer Fund).

The City Manager stated that City staff are working with NCLM staff to identify potential changes to the City's health insurance plan to reduce or possibly eliminate the premium increase. He said that he would report recommendations back to Council as soon as possible.

The City Manager advised that the NCLM is also going to essentially make participation in the Wellness Initiative mandatory, by charging employees 10 percent of the health insurance premium if they do not participate. The City joined the League's Wellness Initiative last year and the City had good participation. The Police Department has been in the Wellness Initiative for about four years, with mandatory participation.

The City Manager reported that, as discussed with Council, the City will also eliminate allowances for spousal coverage, effective July 1, 2014. He said that he and Ms. Rose are talking to the few employees who would be affected. By law, the City must still offer coverage for dependent children.

The City Manager stated that he would update Council Members as information is received and recommendations are developed regarding the City's health insurance coverage.

Mayor Little suggested that City staff obtain quotes from other insurance providers for information. He noted that he hoped that the City could keep its health insurance with the NCLM, but that it would be good to see what other options the City had. Mayor Pro Tem Cuthbertson said that he had no objections to seeking quotes, but wanted to make sure that the City would compare "apples with apples" by quoting similar plans. Council Members Martin and Ramsey also advised that they had no objections to receiving outside quotes.

Upon a motion by Council Member Martin, seconded by Council Member Ramsey, those members of Council present voted to direct the City Manager to seek additional quotes for health insurance coverage for City employees for 2014-15, with said quotes being reported back to Council for comparison with quotes from the N.C. League of Municipalities.

COUNCIL MEMBER COMMENTS: Mayor Pro Tem Cuthbertson stated that he had talked to Mr. Kent Brown regarding planting a tree in memory of Kent's, former City Tree Board Member Pat Brown. Mr. Brown would like for his children to participate in the planting and wants to plant a Forest Redbud Tree, Mrs. Brown's favorite tree. Mayor Pro Tem Cuthbertson said that the ceremony could likely be held on Tuesday, May 6, 2014 at 6:00 P.M., prior to the Regular City Council Meeting.

Public Works Director Brant Sikes advised that a planting site for the tree had been selected at the South Main Street Gazebo Park and that the City's contracted Arborist, Lawrence Moore, had said that early May would be a good time to plant the tree.

Mayor Pro Tem Cuthbertson stated that he would talk to Mr. Brown and receive final confirmation of the planting ceremony date, to allow time for the tree and plaque to be ordered.

Mayor Pro Tem Cuthbertson asked the City Manager about the status of the privilege license changes proposed by the North Carolina General Assembly. The City Manager advised that the proposal still being considered by legislative committees was capping all municipal privilege licenses at $100, but allowing all businesses to be taxed. This change would allow the City to gain $15,000 to $20,000 in revenue per year, but would definitely bring about some fairness concerns.

Mayor Pro Tem Cuthbertson asked for an update on required ethics training for the Mayor and Council Members elected this past November. The City Manager stated that the City will purchase the on-demand ethics webinar from the UNC School of Government when it is available in June. Mayor Little, Mayor Pro Tem Cuthbertson, Council Member Clark and Council Member Doggett can then complete the required training between June and November.

Council Member Ramsey asked the date of the Town Meeting. The City Manager stated that the Town Meeting was scheduled for Thursday, April 24 at 7:00 p.m. at the Community Building.

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Council Member Doggett, those members of Council preset voted to adjourn in memory of United States Forest Service Officer Jason Crisp of Marion and his K-9 Partner, Maros, who were both killed the week before in the line of duty.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.00000312 (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 1, 2014 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; Harriett Thomas, CPA, Finance Director; Brant Sikes, Public Works Director; Allen Lawrence, Police Chief; Rusty Jenkins, Police Patrol Lieutenant; Jamie Harklerode, Police Patrol Lieutenant; Kellie Mann, Police Sergeant; Angie Fineberg, Police Officer; Timothy Cox, Police Officer; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Dr. John Gossett, Vice President, McDowell Technical Community College 54 College Drive, Marion, NC; Johnny Mann, Worley Road, Marion, NC; Bruce & Barbara Brown Marion, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

CITIZEN OF THE MONTH – SELECTED BY MAYOR PRO TEM CUTHBERTSON: Mayor Little selected the Citizen of the Month of April 2014.

Bruce and Barbara Brown

Mayor Little advised that he chose two of the most enthusiastic people you will ever meet as Citizens of the Month for April: Bruce and Barbara Brown. In 1993, Bruce and Barbara Brown moved to McDowell County from Ohio.

Bruce and Barbara are co-owners of Bruce's Fabulous Foods on South Main Street, a business they have run for about ten years. Prior to opening the business, Bruce was the chef for the fine establishment of Josephine's Restaurant.

Mayor Little stated that Barbara previously worked at Community Bank and at one time actually worked for his law office. Mayor Little related how one time he had some mortgage loans to process and his secretary was sick and could not perform the necessary work. Barbara volunteered to do all the paperwork so that the loan could be processed. Mayor Little said that this is but one small example of Barbara being a giving person.

Mayor Little said that, once when the Browns were on vacation in Pennsylvania, a gentleman walked up to Bruce and said that Bruce had a twin who had a cooking show in Western North Carolina. Of course, that person was Bruce.

Bruce has served on the Marion Business Association Board, the United Way Board, and the McDowell Chamber of Commerce Board. Barbara has participated in many community activities including most recently serving on the Marion Business Association Board. Through the restaurant, Bruce and Barbara have reached out and done so much for the community through the years. During National Night Out each year, Bruce and Barbara wrap 1200 hot dogs.

Bruce and Barbara were named Main Street Champions in 2012. Bruce is on a local cable channel on Sunday mornings and was featured on WLOS News 13 this morning.

Bruce has also been featured in several magazines over the years.

Council Members all shared kind words about Bruce and Barbara Brown and congratulated them on their selection as Citizens of the Month for April.

RECOGNITION OF SERVICE OF COUNCIL MEMBER CLARK: Mayor Little advised that, on April 4, Council Member and former Mayor Clark will celebrate 42 consecutive years of service as an elected official with the City of Marion.

Council Member Clark stated that he appreciated Mayor Little noting this upcoming anniversary and that he had enjoyed the opportunity to serve the City for 42 years thus far.

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 18, 2014 Regular City Council Meeting Minutes

B. **Approval of Budget Ordinance Amendments**

CITY OF MARION, NORTH CAROLINA
2013-2014 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 2013-14 as adopted by the Marion City Council on the 18th day of June, 2013 is hereby amended as follows:

GENERAL FUND

a. General Fund Expenditures, Administration, Account Number 10-420-7400, Capital Outlay is increased from $2,500 to $5,100.

b. General Fund Expenditures, Planning & Development, Account Number 10-500-5000, Code Enforcement is increased from $18,000 to $24,000.

c. General Fund Expenditures, Planning & Development, Account Number 10-500-7400, Capital Outlay is increased from $ -0- to $3,000.

d. General Fund Expenditures, Fire, Account Number 10-530-7400, Insurance - Property is increased from $19,500 to $20,889.

e. General Fund Expenditures, Streets, Account Number 10-560-9200, Downtown Decorations is increased from $29,571 to $38,075.

AA.000000313 (24)

f. General Fund Expenditures, Parks and Recreation, Account Number 10-620-6000, Mountain Glory Expenses is increased from $20,000 to $22,206.

g. General Fund Expenditures, Non-Departmental, Account Number 10-660-5850, McDowell Health Coalition Donation is increased from $-0- to $1,000.

h. General Fund Expenditures, Non-Departmental, Account Number 10-660-9750, Economic Development Incentive is increased from $27,000 to $46,626.

i. General Fund Revenues, Account Number 10-319-0100, City Vehicle License is increased from $22,000 to $32,000.

j. General Fund Revenues, Account Number 10-321-0000, Privilege License Revenue is increased from $55,000 to $59,000.

k. General Fund Revenues, Account Number 10-334-1300, COPS Grant is increased from $12,000 to $27,238.

l. General Fund Revenues, Account Number 10-335-0300, Mountain Glory Revenue is increased from $21,000 to $28,945.

m. General Fund Revenues, Account Number 10-335-1000, County Vehicle Tax Collected is increased from $150,000 to $220,000.

n. General Fund Revenues, Account Number 10-335-1150, Vehicle Tax Collection Fees is increased from $2,300 to $8,000.

o. General Fund Revenues, Account Number 10-335-7000, ABC Net Revenue is increased from $60,000 to $80,000.

p. General Fund Revenues, Account Number 10-335-7100, ABC Officer Revenues is increased from $-0- to $1,600.

q. General Fund Revenues, Account Number 10-340-0100, Return Check Fees is increased from $-0- to $150.

r. General Fund Revenues, Account Number 10-341-0500, Refunds/Reimbursement is increased from $8,000 to $11,000.

s. General Fund Revenues, Account Number 10-342-1100, McDowell County Schools is increased from $25,000 to $39,000.

t. General Fund Revenues, Account Number 10-342-1350, Explorer Post Revenue is increased from $-0- to $175.

u. General Fund Revenues, Account Number 10-354-1000, Miscellaneous Revenue is increased from $1,000 to $4,000.

v. General Fund Revenues, Account Number 10-365-1000, Donations - Restricted is increased from $-0- to $250.

w. General Fund Revenues, Account Number 10-370-0000, Powell Bill Allocation is increased from $222,000 to $227,645.

x. General Fund Revenues, Account Number 10-390-0000, Cemetery Revenues is increased from $8,000 to $12,000.

y. General Fund Revenues, Account Number 10-392-2000, Property Insurance Reimbursement is increased from $-0- to $10,501.

z. General Fund Revenues, Account Number 10-399-0000, Fund Balance Appropriated is decreased from $442,201 to $322,722.

INTERNAL SERVICE FUND

a. Internal Service Fund Expenditures, Account Number 35-660-3300, Inventory Purchases, is increased from $200,000 to $250,000.

b. Internal Service Fund Expenditures, Account Number 35-660-7500, Allocation to Other Funds, is increased from $-0- to $52,000.

c. Internal Service Fund Revenues, Account Number 35-399-0000, Fund Balance Appropriated, is decreased from $24,131 to $22,131.

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 1st day of April 2014.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–14–04-01-1

PRESENTATION OF PROCLAMATION – WEEK OF THE YOUNG CHILD: Mayor Little advised that he had proclaimed April 6-12 as the Week of the Young Child, upon the request of the Partnership for Children of the Foothills. Mayor Little said that he was prepared to present the proclamation to a representative of the Partnership for Children; however, no representative of the Partnership for Children was able to attend the meeting.

The Proclamation read as follows:

CITY OF MARION, NORTH CAROLINA
PROCLAMATION
THE WEEK OF THE YOUNG CHILD

WHEREAS, the Partnership for Children of the Foothills is celebrating the Week of the Young Child April 6-12, 2014; and

WHEREAS, the Partnership for Children of the Foothills is working to improve early learning experiences and opportunities that provide a foundation of learning for children in Polk, Rutherford and McDowell Counties in North Carolina; and

WHEREAS, early childhood education teachers, K-12 teachers and others who make a difference in the lives of young children in Polk, Rutherford and McDowell Counties deserve thanks and recognition; and

AA.000000314 (24)

WHEREAS, public policies that support early learning for all young children are crucial to young children's futures.

NOW THEREFORE, I, Stephen R. Little, Mayor of the City of Marion, North Carolina do hereby proclaim April 6-12, 2014 as the Week of the Young Child in the City of Marion and encourage all citizens to work to make an investment in early childhood in the City of Marion and McDowell County.

Proclaimed this the 1st day of April, 2014.

Stephen R. Little, Mayor

PRESENTATION OF ADVANCED LAW ENFORCEMENT CERTIFCATE TO POLICE OFFICER ANGIE FINEBERG: Police Chief Allen Lawrence presented Police Officer Angie Finberg with her Advanced Law Enforcement Certificate from the State of North Carolina. He commended her on this achievement, which requires a combination of experience and education and several hundred hours of training.

Chief Lawrence presented Officer Finberg with her Certificate from the North Carolina Department of Justice that read as follows:

State of North Carolina

Department of Justice

North Carolina 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 n them by the laws of the State, do hereby award to

Angie Kay Fineberg
this
Advanced Law Enforcement Certificate

with all the rights and privilege thereunto belonging.

In Testimony Whereof we fix our hand this 21st day of February, 2014 in Wake County in the State of North Carolina in the United States of America.

_____
Attorney General

_____
Commission Chairman

_____
Director, Criminal Justice Standards Division

Chief Lawrence stated that Officer Fineberg works with a good group of people and that he was really proud of the shift for something they recently did that went above and beyond the call of duty. Chief Lawrence related that on March 20, at 2:30 p.m., McDowell County Communications received a call regarding a man in cardiac arrest at the dentist's office next to the Police Department.

Chief Lawrence advised that Lieutenant Jamie Harklerode, Sergeant Kellie Mann, Office R.J. Hink and Officer Fineberg responded quickly to this call and performed CPR on the gentleman for an extended period of time, as EMS personnel attempted to save the man's life. Chief Lawrence stated that the man unfortunately passed away, but the efforts of these four officers gave the man a chance to live.

Chief Lawrence presented Lieutenant Harklerode, Sergeant Mann and Officer Fineberg with a Police Department challenge coin, in honor of their excellent performance. Chief Lawrence said that Officer Hink was unable to attend the meeting, but would also be given a challenge coin.

Mayor Little stated that this is an incredible evening, with the opportunity to acknowledge Officer Finberg for her completion of the Advanced Law Enforcement Certificate and then recognizing the excellent work of four officers. As Mayor of the City of Marion, Mayor Little stated that he is very proud to be in the presence of all of the officers in attendance tonight.

Chief Lawrence stated that the work of all of the officers makes him very proud to be Chief of the Marion Police Department.

Council Member Clark stated that the gentleman that the officers tried to save was Mr. Harold Mask, who had been a friend of his for many years. Council Member Clark said that the Mask family was very aware of and appreciative of the efforts of the officers and EMS personnel who worked for over an hour to try to save Mr. Mask's life.

Council Member Doggett stated that she was also very impressed with Officer Fineberg and with all our officers who work to achieve their Intermediate and Advanced Certification. She noted that it takes more time to achieve this type of certification than it takes to obtain a Master's Degree.

Council Member Ramsey stated that this certification is definitely a real accomplishment. He advised that he and Mrs. Ramsey were walking along South Main Street when the officers assisted with the work on Mr. Mask. Council Member Ramsey said that officers and EMS personnel worked on Mr. Mask for a very long time, not just a few minutes.

Council Member Martin congratulated Officer Finberg and noted that it takes several hundred hours to achieve this type of certification. He noted that Marion Police Officers always look professional and he is proud of the work that they do. They often go beyond the call of duty, as evidenced by the situation described tonight.

Mayor Pro Tem Cuthbertson congratulated Officer Fineberg and all officers who have sought certifications. He stated that a key factor to this type of accomplishment is that people have to be self-motivated, as is obviously the case with Officer Fineberg.

AA.00000315 (24)

The City Manager advised that the City of Marion is fortunate to have the best group of Police Officers it has ever had. He congratulated Officer Fineberg on receiving her Advanced Certification and thanked the four officers that went above the call of duty to try to save the life of Mr. Mask. The City Manager said that he was very appreciative of the great work that the Police Department and all City employees do on a daily basis. He also noted that he was very proud of Police Chief Allen Lawrence and the leadership he has provided and the progress he has made in his first year as Police Chief.

PUBLIC APPEARANCE – McDOWELL TECHNICAL COMMUNITY COLLEGE - REQUEST PERMISSION TO CONSTRUCT TRAIL ACROSS CITY PROPERTY ON COLLEGE DRIVE: McDowell Technical Community College (MTCC) Vice President Dr. John Gossett appeared before Council and advised that MTCC has undertaken a planning process to apply for a Kate B. Reynolds (KBR) Foundation grant under their Healthy Places Initiative. A committee has been formed and is meeting regularly to define project goals and direction. Initially, three different projects were identified: a gymnasium, a walking/jogging/bike trail and a ball/soccer field. Since that time, the trail and ball projects have been combined. Dr. Gossett reported that the proposed trail would run between MTCC and the County's Universal building, roughly parallel to College Drive. MTCC recognizes that the gymnasium project is a much larger and more costly project and will take a much longer period of time to see through to completion. However, MTCC will run some of the planning for that project concurrent with planning and application for the smaller trail/ball field project.

Dr. Gossett advised that the KBR Healthy Places Initiative has two funding cycles per year. MTCC would like to have the trail/ball project ready for application in the August cycle this year. To accomplish this goal, MTCC needs permission and commitments from two units of local government to move forward with their planning; McDowell County, which owns the majority of the land running parallel to the road between MTCC and the Universal Building, and the City of Marion, who also owns land in this same area. The planned trail would run primarily along an old railway bed that previously ran to the Universal Furniture plant, but is no longer in use and has been largely removed.

Dr. Gossett stated that, unlike most walking/hiking/biking trails, this trail would be somewhat unique to this area, in that it would include a number of planned fitness stations for enhanced exercise opportunities.

Dr. Gossett advised that the preferred routing of the trail involved a pedestrian bridge from the MTCC property over the CSX Railway tracks, with the trail cutting across a corner of the City property before extending across County property. MTCC recognizes that the cost of the bridge may be very expensive and the approval process with CSX Railway may be quite difficult, so the backup options involves a parking lot on the City property, with the trail then extending across the City and County property to the Universal building.

Council Member Clark suggested that the City consider donating the City's property on the right, or north, side of College Drive to MTCC, since that portion of land is separated from the City's property on the opposite side of College Drive. Council Member Clark stated that an alternative would be for the City to grant an easement for the trail and to make it clear that MTCC would be responsible for liability insurance for the trail.

The City Manager noted that the City owned about 4.2 acres on the north side of College Drive and about 66 acres on the south side of the road.

After a brief discussion, Mayor Little and Council Members directed the City Manager to provide maps of the City property and any information regarding the City's needs for the 4.2 acre property on the north side of College Drive at the April 15 Council meeting, at which time Council could entertain the possible donation of the property to MTCC.

Council Member Doggett asked if MTCC was pressed for time with this matter. Dr. Gossett advised that the next grant application was not due until August, so MTCC did have some time. He thanked the Mayor and Council Members for their consideration and said that he was quite certain that the MTCC Board would graciously accept the property donation.

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

ADOPT RESOLUTION APPROVING FINAL SALE OF CITY PROPERTY ON WEST YANCEY STREET: The City Manager advised that the ten day upset bid period for the sale of City property on West Yancey Street ended on March 21 with no upset bids being received. Therefore, Council may adopt a resolution to authorize the final sale of this 0.13 acre parcel to Ms. Victoria Wilkerson for $1,205.

The City Manager advised that, upon adoption of the resolution, the City will schedule a closing for this property.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following Resolution approving the final sale of property on West Yancey Street to Ms. Victoria Wilkerson:

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, Ms. Victoria Wilkerson has submitted a bid in the amount of $1,205 for the purchase of one parcel of property that is approximately 0.13 acres in size, is owned by the City of Marion and is located on West Yancey Street (McDowell County Parcel Identification Number 1701.14-33-8648); and

WHEREAS, the City Council of the City of Marion adopted a resolution on March 4, 2014, in accordance with N.C.G.S. 160A-269, accepting the offer of Ms. Wilkerson to purchase the above described property for a sum of $1,205; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion received a five percent bid deposit from Ms. Wilkerson; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion, on March 11, 2014, 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 Ms. Wilkerson.

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 1701.14-33-8648) that is approximately 0.13 acres in size is hereby declared to be surplus to the needs of the City of Marion.

AA.00000316 (24)

2. The City Council accepts the offer of Ms. Victoria Wilkerson to purchase the above described property for $1,205 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 1st day of April, 2014.

Stephen R. Little, Mayor

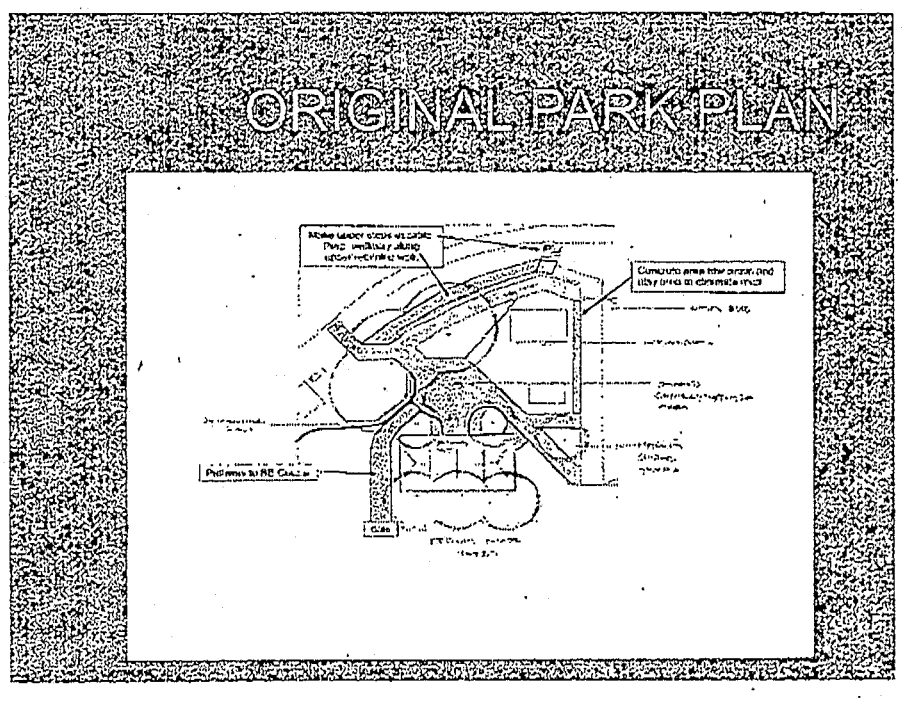
ATTEST:

J. Robert Boyette, City Manager/Clerk

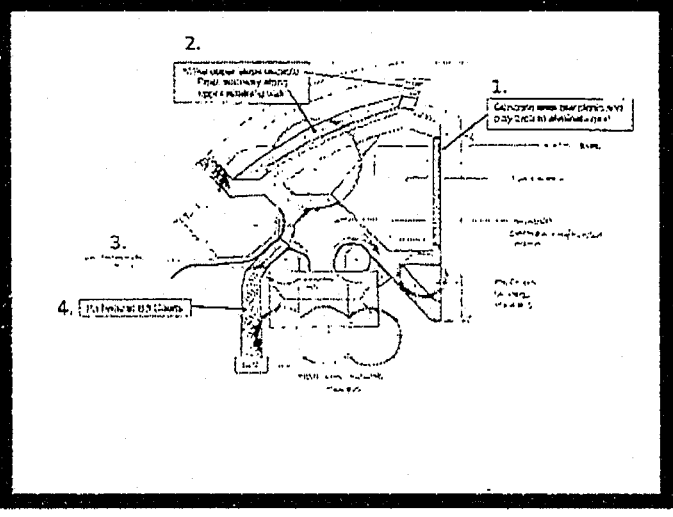
RESOLUTION NUMBER: R-14-04-01-1

REVIEW PROPOSED COMMUNITY BUILDING PARK IMPROVEMENTS: Public Works Director Brant Sikes gave a brief presentation regarding the long awaited final implementation of the Community Building Park Master Plan, which was included in the City's 2013-14 budget. Remaining items include the construction of a retaining wall near the children's play area (with the bouncy animals), the addition of a sidewalk and the placement of an adult swing. After further review, Mr. Sikes stated that both he and the City Manager believe that the sidewalk originally proposed may not be all that beneficial. Mr. Sikes presented the following slides:

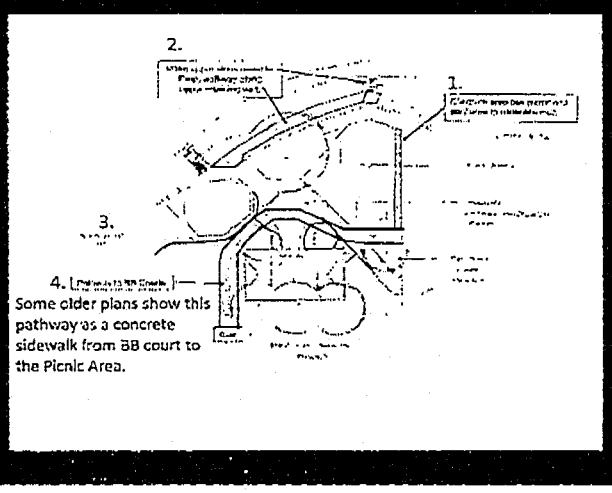




ORIGINAL PARK PLAN



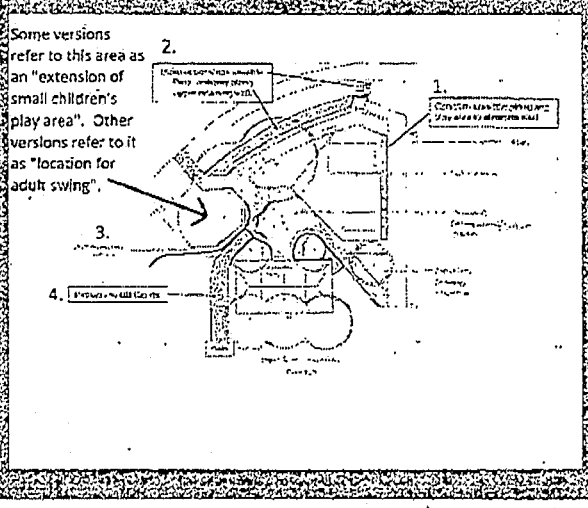
DIFFERENT VERSION OF ORIGINAL PARK PLAN



Some older plans show this pathway as a concrete sidewalk from BB court to the Picnic Area.

AA.00000318 (24)

DIFFERENT VERSION OF ORIGINAL PARK PLAN



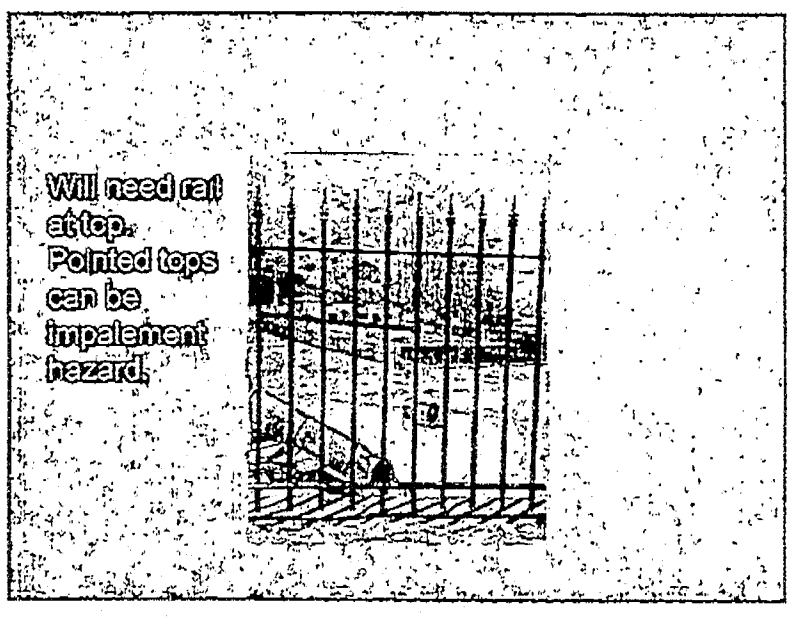
RETAINING WALL

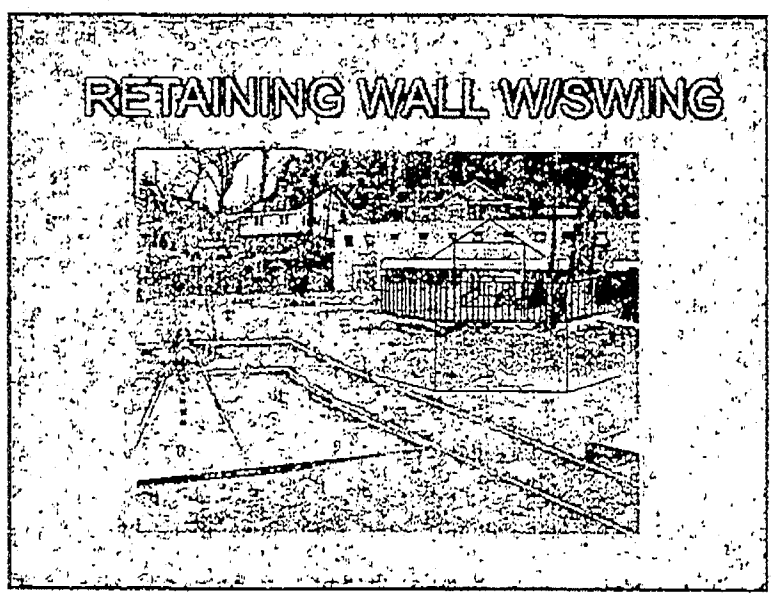
Classic retaining wall block (like wall at splash pad)
6' - 8" tall at highest point
Will require fence
Minimum of 4' tall
Vertical bars spaced no greater than 3 ¾" apart

FOR NEXT PHASE OF UPGRADE

Extend terraced area by constructing retaining wall as shown in original drawing
Will require removal of large stump
Locate adult swing in the newly constructed area
Staff does not recommend constructing sidewalk at this time

AA.00000319 (24)





Council Member Clark stated that he had safety concerns regarding the adult swing. Council Member Ramsey advised that he agreed and suggested that benches be used in that location. Mayor Little and other Council Members also agreed with replacing the adult swing with benches.

After discussion, Mayor Little and Council Members agreed by consensus to authorize staff to proceed with the final Master Plan improvements to the Community Building Park, to involve the construction of a retaining wall, the installation of additional benches in place of an adult swing and with no additional sidewalk included.

Council Member Ramsey suggested that staff look at options for handicapped accessible swings. Mayor Little and Council Member agreed that this idea could be explored as part of the City's 2014-15 budget.

Mayor Pro Tem Cuthbertson asked if the park will need to be shut down during construction. Mr. Sikes said that he hopes the project can be completed in about two weeks once it starts, but that time frame depends on weather. Mr. Sikes stated that sections of the park will need to be closed while the construction work takes place. Upon the suggestion of Council Member Ramsey, it was agreed that the work would take place prior to the end of school this year or else wait until school begins next fall.

DISCUSSION OF REQUEST FROM COALITION AGAINST BIGGER TRUCKS: The City Manager advised that, as shown in information presented to Council Members, Cindy Mills from the Coalition Against Bigger Trucks (CABT) met with him on March 13 to request the City's opposition to proposals in Congress to increase the weight limits for trucks from 80,000 pounds to 97,000 pounds. The CABT opposes the higher weight limits and allowances for large trucks on the grounds of safety and damage to highways and bridges. Ms. Mills disclosed that the CABT is primarily funded by the rail industry, so there is also a business angle to this request.

The City Manager reported that Congressman Mark Meadows serves on a House Committee that will be evaluating this proposal, so the CABT has been targeting local governments in this Congressional District. The CABT asked that Council consider approving and signing a letter, such as one presented to Council, to Congressman Meadows, Senator Burr and Senator Hagan, opposing the proposed increases to the size and weight of tractor trailers. The City Manager presented Council with additional information provided by CABT.

Mayor Little stated that the City of Marion is not a lobbyist for the railroad industry; however, he is concerned about damage to streets and highways caused by large trucks, as well as the safety implications for motorists from larger trucks being allowed on highways.

Council Member Clark stated that supporting the CABT request is a win-win situation for the public, local and State government and the railroads.

Upon a motion by Council Member Martin, seconded by Council Member Clark, Council voted unanimously to authorize Mayor Little and the City Manager to draft a letter to Senator Burr, Senator Hagan and Congressman Meadows, opposing increases in the size and weight of trucks on highways.

CONSIDER ADOPTION OF RESOLUITON AUTHORIZING THE SALE OF CITY PROPERTY ON NORTH McDOWELL AVENUE BY NEGOTIATED OFFER AND UPSET BID: The City Manager advised that Ms. Elaine Tassin submitted an offer to purchase the 0.18 acres of City property on North McDowell Avenue for $1,500. This property was acquired by the City earlier this year through tax foreclosure and is vacant. Ms. Tassin is an adjoining property owner.

AA.00000320 (24)

The City Manager stated that this parcel is clearly not needed by the City. The property is past the end of City maintenance on North McDowell Avenue, but is located on a dedicated right of way. Therefore, this is a buildable lot.

The City Manager presented Council Members with a map of the property, along with the tax card. The property has a tax value of $11,000, which seems a bit high, given that the property does not currently front on a paved street and is small.

To accept the offer of Ms. Tassin, 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 could also reject the offer, make a counter-offer or table this item to obtain more information.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following Resolution authorizing the sale of City property on North McDowell Avenue to Ms. Elaine Tassin, subject to publication of the notice 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, Ms. Elaine Tassin has submitted a bid in the amount of $1,500 for the purchase of one parcel of property that is approximately 0.18 acres in size, is owned by the City of Marion and is located on North McDowell Avenue (McDowell County Parcel Identification Number 1702.20-80-7035).

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 North McDowell Avenue (McDowell County Parcel Identification Number 1702.20-80-7035) that is approximately 0.18 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 Ms. Elaine Tassin to purchase the above described property for $1,500, subject to the upset bid process being followed as required by N.C.G.S. 160A-269.

3. The City Clerk shall notify Ms. Tassin 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 $1,500, plus advertising and legal costs.

Adopted this the 1st day of April, 2014.

Stephen R. Little, Mayor

DISCUSS REQUEST FROM YMCA: The City Manager advised that he had received a written request from the YMCA to use the City stage for the Healthy Kids Day event at the YMCA on Saturday, April 26. In the letter, Misty Walls of the YMCA advised that YMCA staff could pick up the stage on Friday and bring it back on Monday. Depending on what vehicles the YMCA has, it may be necessary for City staff to deliver and pick up the stage.

The City Manager stated that, according to the City Policy on Loaning of Equipment, the City's stages can be loaned to certain outside groups (the YMCA is on this list and eligible to borrow City equipment), but only for events on public property open to the general public. A $50 fee is charged for the stage in such instances.

The City Manager reported that Healthy Kids Day event is open to the general public and free or charge, but is technically not located on public property. However, the event sounds like one that is of benefit to the public, so it would likely be worthy of approval. The City Manager suggested that Council could either approve the request of the YMCA to allow the use of a City stage on YMCA property, thereby granting a waiver to the City Policy on Loaning of Equipment or Council could amend the policy.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to waive City policy to approve the request of the YMCA to use a City stage for Healthy Kids Day, to be held at the YMCA on Saturday, April 26.

SCHEDULE PRE-BUDGET AND BUDGET WORKSHOPS: The City Manager advised that, for the past several years, Council has held a Pre-Budget Workshop around the second Tuesday in May, in advance of his budget presentation on the third Tuesday of May. Council then has normally held a Budget Workshop/Planning Session on the fourth Tuesday of May. Based on this schedule, the City Manager stated that he will plan to present the recommended 2014-15 Budget to Council at the May 20 Council meeting. Since there are five Tuesdays in April this year and to avoid a conflict with the Isothermal Planning and Development Commission Board Meeting on the second Tuesday of May, the City Manager recommend that Council schedule a Pre-Budget Workshop/Planning Session on either Tuesday, April 29 or Monday, May 12 at 6:00 p.m. at City Hall.

The City Manager advised that Council also typically holds a Budget Workshop to review the proposed budget on the fourth Tuesday of May. He proposed that Council hold a Budget Workshop/Planning Session on Tuesday, May 27 at 6:00 p.m.

After a brief discussion of possible meeting dates, it was directed that the City Manager present several meeting dates to Council for consideration between now and the April 15 Council meeting, at which time both workshops can be officially scheduled.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that, as is the case each year, DOT District Engineer Doug McNeal sent a letter, asking if the City wished to take over any State maintained streets. In the past, Council has considered, but declined for the time being, maintenance of Rankin Drive, Spaulding Road and Finley Road. Neither the Public Works Director nor the City Manager recommends that Council take over maintenance of any State streets this year. If Finley Road continues to be able to handle drainage problems well, Council might consider taking over maintenance of that street in a future year.

AA.000000321 (24)

If Council desires to take over a State maintained road this year, a resolution would need to be prepared and adopted by Council no later than the April 15 meeting, in order to meet DOT's May 2 deadline for submitting such changes. If not, the City Manager stated that he would advise DOT that the City has no changes this year.

Council took no action to request that the City assume maintenance of any State maintained roads for 2014.

The City Manager advised that City water crews will hopefully soon complete the water line replacement along Quail Meadows Court, off of Mackey Creek Road, in the next two weeks. This water line replacement has been undertaken to address water quality issues. The replacement has taken longer than anticipated, due to the rough winter the area has experienced and water leaks that the water crew has had to address.

Public Works Director Brant Sikes reported that the City's contracted Arborist, Lawrence Moore, strongly recommends that the City remove lights from the gingko trees on Main Street, to avoid forming grooves in the trees.

Mayor Little and Council Members agreed that they did not want to damage the gingko trees and authorized staff to remove the lights from the trees as soon as possible.

The City Manager noted that the lights had been kept on the trees for an extended period of time this year, at Council's direction, in an attempt to beautify the downtown area.

The City Manager advised that the Tree Board held Arbor Day programs and tree plantings for Eastfield Elementary on Friday, March 14 and for Marion Elementary on Friday, March 21. After a program at the school, each school traveled to Oak Grove Cemetery to plant trees. A combination of maple trees and evergreens were planted next to the creek on the southern edge of the Cemetery. As these trees grow, they will provide screening of the Duke Energy substation from the Cemetery. The City Manager stated that both Arbor Day celebrations went extremely well. The teachers and students seemed to enjoy the day.

The City Manager advised that the McDowell House Committee endorsed the proposed design for Phase 2 of the Catawba River Greenway on February 19. The City is now proceeding with needed permitting for the project and hopes that the project can go out for bid in May or June and construction can start during the summer.

The City Manager advised that, at the April 15 Council meeting, he would present a proposed Interlocal Agreement between the City and County concerning the Greenway to Council for consideration. The agreement authorizes the greenway, amphitheater driveway and parking lot to be constructed and maintained in perpetuity by the City on County property. The agreement calls for shared use of the driveway and parking lot between the City and County. The County Manager will also present this agreement to his Board for approval in April.

The City Manager advised that Jennifer Jackson was administered the oath of office as City Attorney earlier that day.

Council Member Doggett suggested that the City present former City Attorney Hill Evans with a certificate of appreciation for his service to the City of Marion. Mayor Little and Council Members agreed that it would be appropriate to recognize Mr. Evans.

COUNCIL MEMBER COMMENTS:

Council Member Clark asked about the timing of the re-rating inspection for the Marion Area Fire District. He noted that the inspection needed to be done as soon as possible, since property owners would save a considerable amount on their insurance once the fire district rating was improved.

The City Manager advised that Fire Chief Jim Neal had been in frequent contact with the North Carolina Department of Insurance and been told that the inspection would take place later in the year. The City Manager said that he would check with Chief Neal to see if there was any update regarding the timing of the inspection.

Council Member Clark asked about the status of the City's Comprehensive Transportation Plan. The City Manager stated that DOT has changed personnel overseeing this plan several times, which has gotten the project behind. The City Manager advised that DOT still indicated that they hoped to complete the plan by the end of 2014. He noted that the City is not having to pay any money for the plan.

Mayor Pro Tem Cuthbertson stated that it appears that Tuesday, May 6 at 6:00 p.m. will be a good time to hold the tree planting for a memorial tree for former Tree Board Member Pat Brown. The ceremony will be held at the South Main Street Gazebo Park.

Council Member Ramsey noted that Council had voted at the March 18 Council meeting to direct staff to obtain health insurance quotes from providers other than the North Carolina League of Municipalities. Council Member Ramsey said that, while he agreed with seeking the information, he was appreciative of the City's long term relationship with the League and would only want to switch if the City achieved considerable savings.

The City Manager stated that City staff were working with an independent broker with Morrow Insurance, which also helped the City with property and liability insurance coverage, to obtain outside health insurance quotes. The City is also awaiting quotes from the League regarding different levels of benefits. The City Manager advised that the information regarding all quotes would be presented to Council for review as soon as possible.

Mayor Little stated that the City seeking quotes does not mean that the City will necessarily change health insurance providers.

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

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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 15, 2014 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; Harriett Thomas, CPA, Finance Director; Heather Cotton, AICP, Planning and Development Director; Allen Lawrence, Police Chief; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Susan Pyatt Baker, 50 South Main Street, Marion, NC; Jennifer Bledsoe, 714 Arrowhead Trail Marion, NC; Judi Jarvis, 590 Hidden View Loop Marion, NC; Trevor Gouge, 1424 West Tate Street, Marion, NC; Dr. John Gossett, 54 College Drive, Marion, NC; Todd & Connie Campbell, 335 Wilson Valley Drive, Marion, NC; Jill Lucas, 6151 Lake James Road, Marion, NC; Emily Shirley, 799 Baldwin Avenue, Marion NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

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

A. Approval of Minutes – April 1, 2014 Regular City Council Meeting
Minutes.

INTRODUCTION OF NEW EMPLOYEE: Public Works Director Brant Sikes introduced Mr. Scott Costner who was recently hired as Utility Maintenance Superintendent for the City, replacing Steve Basney, who retired on November 30. Mr. Sikes stated that Mr. Costner previously worked for the City in 2004 and 2005 as Assistant Utility Maintenance Superintendent, before returning to work as the Water and Sewer Superintendent for the Town of Drexel. Mr. Costner has all of his water and wastewater certifications and is already doing a great job for the City.

Mayor Little and Council Member welcomed Mr. Costner to the City of Marion.

PUBLIC APPEARANCE – SUSAN PYATT BAKER - McDOWELL ARTS COUNCIL ASSOCIATION: Ms. Susan Pyatt Baker, Executive Director of McDowell Arts Council Association (MACA) gave an update to Council of programs and initiatives taking place at MACA. She stated that, several years ago, the Mayor and Council Members visited MACA to learn of plans for the renovation of the building.

Ms. Pyatt Baker reported that a new roof was put on the MACA building earlier this year, due to fundraising efforts and the receipt of a major gift. In January 2013, new flooring and carpet was installed in several sections of the building, again due to donations being received. MACA has a new awning in front of the building and plan to paint the trim around the windows on the second floor to match the new awning. Plans are currently being made to get new banners for the front of the building.

Ms. Pyatt Baker stated that one of the HVAC units was not working and MACA had to get that unit repaired. MACA has also received bids for lighting for the gift shop and sections of the gallery and propose at some point to get lights in the back of the facility and in the basement.

Ms. Pyatt Baker reported that a new program recently started is a fencing class that is held three nights a week. There are now classes every day of the week and MACA is running out of usable space.

Ms. Pyatt Baker advised that MACA would request it be put back in the City budget, as was the case several years ago. She noted how MACA staff, the Board of Directors and volunteers had worked in recent years to deal with reduced funding and to enhance programs.

Mayor Little thanked Ms. Pyatt Baker and the many MACA Board Members and volunteers who were present for coming to the meeting and for all they did every day to support the arts and to make the downtown area and the entire community a better place. Mayor Little added that the City is fortunate to have MACA in our City.

Council Member Clark asked what MACA's total budget is for the current year. Ms. Pyatt Baker advised that the current budget is approximately $143,000. Council Member Clark stated that is remarkable that MACA does so many program on such a limited budget.

Mayor Little and Council Member advised that they would do their best to include MACA in the City's 2014-15 budget.

PUBLIC HEARING – ADOPTION OF ZONING TEXT AMENDMENT: Planning and Development Director Heather Cotton presented a proposed Zoning Text Amendment to Council to make amendments to the sign regulations to account for changes in sign technology, incorporating new sign standards, and clarifying existing language and examples for various types of signage. A majority of the modifications made to the code included amendments to the existing illumination standards and adding allowances for electronic message center (EMC) signs.

Ms. Cotton advised that, in December 2012, the Planning Board began reviewing changes to the sign ordinance including illumination standards for signs. Since then, several requests have been made to the Board of Adjustment requesting Special Exception approval for EMC signs. These signs are illuminated and can be programmed to display multiple messages for a set duration of time. They can also include flashing, scrolling, and moving text and graphics, which are prohibited in the City Code. Based on the increasing number of requests being made for such signs, Staff conducted research on sign illumination and EMC signs and provided the Planning Board with a 38 page report. This report is on file and available for review in the Planning Department.

Ms. Cotton reported that Staff reviewed codes from around the region, as well as several industry documents including the following:

- Recommended Brightness Levels for On-Premise Electronic Message Centers (EMCs) published by the International Sign Association
- Model On-Premise Sign Code and Best Practices published by the United States Sign Council

As well as information provided from:
- The Illuminating Engineering Society of North America (IENSA)
- International Dark-Sky Association (IDA)

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Ms. Cotton said that, based on the research, Staff recommended changes to the sign code that was consistent with common standards and best practices recommended by industry advocates and regulated by many local governments. She advised that the Planning Board unanimously voted to recommend approval of the Zoning Text Amendment at their April 3, 2014 meeting.

Mayor Little opened the Public Hearing.

Council Member Clark stated that he knows that Ms. Cotton and the Planning Board have worked on the revised Sign Ordinance for a long period of time. However, feels there are some things he does not understand and would like to take more time to read and understand this proposed Ordinance. Council Member Clark suggested that the 32 square foot size limit for political signs in residential districts was too large.

Mayor Pro Tem Lloyd Cuthbertson arrived during this discussion at 7:30 p.m.

There were no citizens present to discuss this item.

Mayor Little closed the Public Hearing.

Mayor Little and Council Members agreed to discuss this item further at the next Planning Session, with the proposed ordinance to be considered in May by Council.

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

CONSIDER DONATION OF PROPERTY TO McDOWELL TECHNICAL COMMUNITY COLLEGE: The City Manager advised that, at the April 1 Council meeting, McDowell Technical Community College (MTCC) Vice President Dr. John Gossett asked Council for permission for MTCC to construct a trail across City property located along the north and west side of College Drive, immediately west of the CSX Railroad tracks. At that meeting, it was noted that the City owns approximately 70 acres of property between the railroad tracks and the County's Universal property. About 66 acres of the City property is on the left side of College Drive as you go toward the Universal building, while 4.2 acres is located on the right side of the road. This 4.2 acre section has an average depth of less than 200 feet and as little as 100 feet in some places.

The City Manager reported that Council Member Clark suggested that the City donate the 4.2 acres on the right side of College Drive to MTCC. Mayor Little and Council Members seemed to agree with this suggestion, but wanted to see a map showing the entire property.

The City Manager presented Council with three maps of the City's property on College Drive. The first map is a copy of a survey from R.L. Greene Surveying. The 4.2 acre section of the property proposed for donation was indicated on the map. The City would retain 66 acres on the south side of College Drive. The second and third maps show aerial views of the property.

The City Manager suggested that a reversion clause be added to the deed, to provide for the property to be returned to the City, if the College ever ceases to use or need the property in the future. The City Manager also proposed that the College pay for any needed surveying and for the closing costs.

Council Member Clark suggested that the donation be subject to the City retaining a 20 foot wide easement for existing utilities and a 20 foot wide easement adjacent to College Drive for future utilities.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to authorize the donation of approximately 4.2 acres of City property on the north side of College Drive to McDowell Technical Community College, with the following conditions:

1. McDowell Technical Community College will be responsible for all closing costs and any needed surveying.

2. The donation is subject to a reversion clause, with the property reverting back to the City if McDowell Technical Community College ever ceases to use or need the property in the future.
3. The City will reserve a 20 foot wide easement for existing utilities and a 20 foot wide easement adjacent to College Drive for future utilities.

CONSIDER APPROVAL OF CITY PARTICIPATION IN SAFE KIDS INITIATIVE: Planning and Development Director Heather Cotton advised that Safe Kids North Carolina is one of more than 600 coalitions affiliated with Safe Kids Worldwide, whose mission is to prevent accidental childhood injury, the leading killer of children age 19 and younger.

Ms. Cotton stated that, every year in North Carolina, some 200 children die from accidental injuries and another 45,000 visit a doctor's office for treatment of such injuries. Safe Kids N.C. is housed within the N.C. Department of Insurance. There are 41 Safe Kids coalitions covering 71 counties in North Carolina. The Safe Kids N.C. program offers free safety materials, equipment sharing, small financial assistance grants, and training to local communities who have a Safe Kids N.C. Chapter to support education and community outreach to reduce preventable injuries.

Ms. Cotton reported that, members of the Marion Police, Fire and Planning departments, along with Major Eugene Edwards with the McDowell County EMS, met with NC Department of Insurance officials on April 2, 2014 to discuss the potential for our community establishing a Safe Kids N.C. chapter. The State was impressed by the level of coordination between local governments, law enforcement and public safety agencies, and public health agencies and organizations through the McDowell Health Coalition. They were also pleased to learn that a number of the initiatives that they support are being accomplished in our community such as child passenger safety assistance programs and operation medicine drop through workgroups established under the coalition.

Ms. Cotton advised that Chief Allen Lawrence worked with the local Safe Kids N.C. coalition in Lenoir and has agreed to chair the coalition if one is started in our community. McDowell Health Coalition has been asked to serve as the fiscal agent for the initiative once it receives its 501(c)(3) status later this year. The next step for establishing the chapter will be to hold a community meeting inviting those interested in and/or working on initiatives to prevent childhood injuries in our community. The purpose of the meeting is to share information about the resources that are available through Safe Kids N.C. and identify those willing to serve as board members for the local coalition.
Council Member Clark asked how much in grant funds were available from Safe Kids. Ms. Cotton stated that the grants were typically capped at $1,000.

Chief Lawrence stated that Safe Kids is a great program and that he is excited about the benefits of starting such a program locally.

Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to authorize the City to participate in the Safe Kids Initiative and to authorize the City to host initial meetings for the initiative at City facilities at no charge.

CONSIDER APPROVAL OF CITY PARTICIPATION IN LET'S MOVE CITIES, TOWNS AND COUNTIES INITIATIVE: Planning and Development Director Heather Cotton advised, that according to data published by the N.C. Nutrition and Physical Activity Surveillance

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System, 31% of children ages 2 to 4 in McDowell County were identified as being overweight or obese in 2012, which is a ten percent increase since 2010 according to the same source. It is estimated, that one-third of all children born in 2000 or later will suffer from diabetes at some point in their lives; many others will face chronic obesity-related health problems like heart disease, high blood pressure, cancer, and asthma. In addition to its serious health consequence, obesity has real economic costs that affect us all. Today's obese children are likely to become tomorrow's obese adults placing a burden on businesses as a result of increasing health care costs and job absenteeism.

Ms. Cotton stated that the National League of Cities and the National Association of Counties have teamed up to help local elected officials reduce childhood obesity in their communities. The program is called "Let's Move! Cities, Towns and Counties". Since its launch in 2010, local elected officials from communities across America have stepped forward to address the nation's childhood obesity epidemic by signing up for the Let's Move! Cities, Towns and Counties (LMCTC) initiative. Those who sign up are encouraged to accomplish five actionable goals that can help reverse the childhood obesity epidemic in their community. These five goals are designed to promote sustainable strategies that will directly impact the health of local residents.

They include:
1. Become a Let's Move City
2. Help parents make healthy family choices
3. Improve the health of schools
4. Increase physical activity opportunities
5. Make healthy food affordable and accessible

Ms. Cotton advised that the Healthy Eating and Active Living Committees of the McDowell Health Coalition encourage the City of Marion to sign up for this campaign and pledge to help solve the childhood obesity epidemic. The City does not have to accomplish this on its own, as members of the Healthy Eating and Active Living Committees are here to help and can provide you with information and resources to keep the program moving forward and reaching identified goals.

Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to authorize the City to sign up and participate in the Let's Move Cities, Towns and Counties initiative.

CONSIDER APPROVAL OF INTERLOCAL AGREEMENT WITH McDOWELL COUNTY – JOSEPH MCDOWELL HISTORICAL CATAWBA GREENWAY PHASE II: The City Manager advised that, after talking to County Manager Chuck Abernathy, he had drafted a proposed Interlocal Agreement for Phase 2 of the Joseph McDowell Historical Catawba Greenway. The agreement grants the City the authority to construct and maintain the greenway, amphitheater and fitness stations on the County's McDowell House property and to construct and have shared use of a paved driveway and parking lot on the property. The agreement cannot be modified or terminated, except with the consent of both the City and County.

The City Manager stated that he would recommend approval of the Interlocal Agreement, so that the City will have authority to make necessary improvements related to Phase 2 of the Greenway Project on 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 Agreement:

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL

AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____ 2014 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 authorize the Joseph McDowell Historical Catawba Greenway to extend across and through the McDowell House property (McDowell County Parcel Identification Number 0792.00-85-9674), located on US 70 West in Marion, to authorize the City to construct, maintain and operate an amphitheater on said property and to authorize the City to construct and have shared use of a paved driveway and paved parking lot on said property; and

WHEREAS, the County is willing to authorize the City's request, as noted above, 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 upon its adoption and it shall continue in effect until terminated by the consent of both parties.
2. The County agrees to authorize the City to construct and maintain a paved trail, constituting an extension of the City's Joseph McDowell Historical Catawba Greenway, across and through the McDowell House property (McDowell County Parcel Identification Number 0792.00-85-9674), located on US 70 West in Marion.
3. The County agrees to authorize the City to construct, maintain and operate an amphitheater on the rear portion of the McDowell House property. The County and City agree that the City shall handle the scheduling of the use of the amphitheater, with the understanding that the amphitheater shall be available for use for programs at the McDowell House.
4. The County agrees to authorize the City to construct and maintain fitness stations and other recreational elements and to allow the City and/or McDowell Trails Association to construct and maintain necessary signage related to the Greenway and to construct and maintain structures honoring project donors on the McDowell House property.
5. The County agrees to authorize the City to construct a paved driveway and paved parking lot on the McDowell House property and to have shared use at all times the Greenway is open of said driveway and parking lot. The County and City agree that maintenance of the driveway and parking lot, after the initial construction, shall be shared on an equal 50 percent County, 50 percent City basis.
6. This Agreement may be modified by mutual, written agreement of the parties. Any formal correspondence concerning this agreement shall 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:_____
Randy Hollifield, 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 APPROVAL OF CONSTRUCTION AGREEMENT WITH DOT – EAST COURT STREET SIDEWALK: The City Manager advised that, in August, Council approved a Street and Sidewalk Priority List, based on expected Powell Bill revenues and expenditures for 2013-14 and 2014-15. One of the projects approved for 2014-15 was splitting the cost of a sidewalk extension on East Court Street between Branch Street and Church Street with DOT, at an estimated cost of $27,000 to the City.

The City Manager reported that, because East Court Street is a US Highway, DOT District Engineer Doug McNeal had previously advised that DOT had to oversee the project. The City cannot construct this project with its own forces. Therefore, Doug proposed a Construction Agreement between DOT and the City, with the costs being split 50-50. With the estimated cost of the project being $54,000, the City's anticipated share is $27,000.

The City Manager stated that DOT has sent a Construction Agreement, which can be adopted, if Council so chooses. Upon adoption, the City would need to pay DOT $27,000 out of the General Fund, because the City cannot use Powell Bill funds for projects completed on State maintained streets.

The City Manager advised that the projected Powell Bill funding gap for 2013-14 and 2014-15 has been reduced considerably, mainly due to City crews completing significant portions of the Mt. Ida road access and Oakwood Drive drainage projects. The City had planned to use General Fund money for the East Court Street sidewalk project. The main change involves paying the $27,000 out of the 2013-14, rather than the 2014-15, General Fund budget.

The City Manager stated that he had spoken to Doug McNeal on April 8 about the timing of the project. Doug said that this is one of the last projects to be funded by DOT Division 13 for 2013-14. He urged the City to consider approving and locking in the project as soon as possible.

Given the City's budget position for the 2013-14 Fiscal Year, the City Manager stated that the City could handle paying the $27,000 this Fiscal Year.

Upon a motion by Council Member Clark, seconded by Council Member Doggett, Council voted unanimously to approve a Construction Agreement with the North Carolina Department of Transportation for the East Court Street Sidewalk and Curb Extension project and to authorize the City to pay $27,000 for the City's one-half share of this project out of the City's 2013-14 General Fund Budget.

CONSIDER APPROVAL OF REQUEST FOR CLOSURE OF FORT STREET BETWEEN MAIN STREET AND LOGAN STREET FOR FIRST BAPTIST CHURCH BLOCK PARTY ON WEDNESDAY MAY 28: The City Manager advised that the First Baptist Church had requested the closure of Fort Street between Main Street and Logan Street for a Block Party on Wednesday, May 28. The actual street closure would need to take place from about 4:00 p.m. to 9:00 p.m. This event is 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 four years without any problems.

The City Manager stated that all businesses with frontage in this block could still be accessed off of Brown Drive. The City Manager stated that he would recommend approval of the closure of Fort Street between Main Street and Logan Street for a Block Party on Wednesday, May 28 between 4:00 p.m. and 9:00 p.m.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Martin, Council approved the request of First Baptist Church to close Fort Street between Main Street and Logan Street for a Church Block Party on Wednesday, May 28, between 4:00 p.m. to 9:00 p.m.

SCHEDULE PRE-BUDGET AND BUDGET WORKSHOPS: The City Manager stated that, after polling Council, the preferred date for the Pre-Budget Workshop/Planning Session was Tuesday, April 29 at 6:00 p.m. at City Hall and for the Budget Workshop/Planning Session was Tuesday, May 27 at 6:00 p.m. at City Hall.

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Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Doggett, Council voted unanimously to schedule the Pre-Budget Workshop/Planning Session was Tuesday, April 29 at 6:00 p.m. at City Hall.

Upon a motion by Council Member Martin, seconded by Council Member Doggett, Council voted unanimously to schedule the Budget Workshop/Planning Session for Tuesday, May 27 at 6:00 p.m. at City Hall.

DISCUSS JUNE MEETING SCHEDULE: The City Manager advised that, on Tuesday evening, June 3, at 7:00 p.m., the North Carolina Rural Center will hold a regional forum at the Depot. This is the same date and time as the City Council meeting. Council Member Clark, who is a member of the Rural Center Board, has advised that the Rural Center is holding several such forums across the State to discuss the future role of the Rural Center. Given the importance of this meeting, the City Manager asked if Council wished to hold the Regular Council Meeting earlier, perhaps at 5:30 p.m. or 6:00 p.m., or to reschedule the meeting to a different night.

Council Member Clark advised that this would be an important meeting and urged the Mayor, Council Members and City Manager to attend.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to cancel the June 3 Regular City Council Meeting.

DISCUSS HEALTH INSURANCE: The City Manager advised that, as previously reported, City staff met with Julie Hall and Angela Greene from the N.C. League of Municipalities Risk Management Services (RMS) in early March to discuss the City's health insurance coverage. The City is scheduled to receive a 9 percent health insurance premium increase for 2014-15, which would cost the City about $58,000 per year ($40,000 General Fund, $18,000 Water and Sewer Fund).

The City Manager stated that he and Finance Director Harriett Thomas worked with the League staff to increase the employee deductible and emergency room co-pay and had reduced the premium increase to 6.2 percent, or a total of $655 per employee.

The City Manager added that, as discussed with Council, the City is also planning to eliminate allowances for spousal coverage, effective July 1, 2014. As directed by Council at the March 18 meeting, City staff is obtaining quotes from other providers regarding health insurance coverage for City employees. Staff is working through Morrow/McDowell Insurance, which provides the City's property and liability coverage. Morrow will obtain quotes from other providers on the City's behalf.

As has been discussed, the City is working with the County and outside providers (Mission, Blue Ridge and the Health Department at least) to obtain proposals for a health clinic for City and County employees, in an effort to cut costs.

The City Manager stated that he would let Council Members know as information is received and would update them as information is received and recommendations are developed regarding the City's health insurance coverage.

Mayor Little and Council Members agreed that further discussion regarding health insurance will take place at the April 29 Pre-Budget Workshop/Planning Session.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager presented Council with our current list of Advisory Board Members and stated that several terms that will expire on June 30. On the Planning Board, the terms of Kit Alverson and Marc Cook as Regular Members will expire. On the Tree Board, the terms of Joan Hensley and Steve Brown will expire. Without objection, the City Manager proposed that staff poll these individuals and see if they are willing to be reappointed for another term.

The City Manager reported that, on the ABC Board, the term of Bill Smith, who passed away on April 2, was set to expire on June 30, so an appointment is needed for a new three year term, to expire June 30, 2017.

Council held a discussion of filling the vacant ABC Board slot. Mayor Pro Tem Cuthbertson suggested that Council discuss advisory board appointments further at the April 29 Pre-Budget Workshop/Planning Session. Mayor Little and Council Members agreed to discuss advisory board appointments further at the April 29 Pre-Budget Workshop/Planning Session.

The City Manager advised that the N.C. League of Municipalities will hold its annual Town Hall Day on Wednesday, June 4 in Raleigh. If Council Members wish to attend, the City Manager stated to let him know and they would be registered.

The City Manager advised that, over the weekend, he had received a request from Mr. Ted Remington for a lighted stop sign on North Madison Street. Mr. Remington is willing to donate $500 toward such a sign.

Public Works Director Brant Sikes advised that he had looked into the request and there are illuminated stop signs; however, they are very costly, at around $1,400 each.

The City Manager stated that Police Chief Allen Lawrence had directed patrol officers to focus on this area from time to time, to address complaints of stop signs being run.

Mayor Little and Council Members agreed by consensus to respectfully decline this request.

The City Manager advised that Administrative Assistant Debi Sherlin had obtained the final confirmation for a ceremony to dedicate a tree in memory of long time Tree Board Member Pat Brown, who passed away in late 2013. The ceremony will be held at 6:00 p.m. on Tuesday, May 6 and involve the planting of a forest pansy redbud tree at the South Main Street Gazebo Park. This ceremony will be immediately prior to the May 6 Council meeting.

The City Manager stated that water crews should soon complete the water line replacement along Quail Meadows Court and Dries Drive, off of Mackey Creek Road.

The City Manager reported that, as directed by Council, the annual Town Meeting has been scheduled for Thursday, April 24 at 7:00 p.m. at the Community Building. It looks like most, if not all, of the City's invited guests will attend. City staff will be present, as usual.

The City Manager stated that, as authorized by Council and recommended by the City's contracted arborist Lawrence Moore, City personnel removed lights from the gingko trees on Main Street in early April.

The City Manager advised that the preliminary Statewide Transportation Improvement Plan (STIP) rankings for existing highway projects were released in early April by the North Carolina Department of Transportation. The two sections of the US 221 widening project affecting the City, R-

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0204D (between the US 221 Bypass and I-40) and R-0204E (between I-40 and Goose Creek Road) scored poorly Statewide. R-0204D ranked about 254th out of 339 Statewide projects, while R-0204E ranked 240th out of 339 Statewide projects. The City Manager said that, based on this low scoring, the projects will almost certainly drop to the regional or division level, so it is unlikely that they will be constructed anytime soon. The City Manager stated that he would advise as more information was received.

The City Manager stated that Marion was recently named one of the Top 17 Small Cities in North Carolina by Cities Journal. The City's ranking was actually 10th. A number of other cities in Western North Carolina were also listed, including Morganton, Lenoir, Brevard, Black Mountain, Hendersonville, Tryon, Valdese, Blowing Rock and Boone.

The City Manager advised that the Farmer's Market opens for the season on Tuesday afternoons on Tuesday, May 6 at 3:00 p.m. The Saturday market will likely open by late June.

The City Manager reported that, at the April 1 Council meeting, Council Member Clark asked about the timing of the North Carolina Department of Insurance (DOI) completing the long-awaited re-rating for the Marion Area Fire District. The City Manager stated that he had spoken to Fire Chief Jim Neal again about the inspection. Chief Neal stated that he now heard that the re-rating inspection should take place this fall. DOI has apparently gotten very far behind in completing the inspections, after it took a considerable period of time training its personnel on new procedures for re-ratings.

The City Manager advised that he and Public Works Director Brant Sikes have spoken about the Community Building Park improvements approved by Council at the April 1 meeting. He stated that the City will either complete the construction work prior to the time school is out in June, or after school starts again in late August, as directed by Council.

The City Manager stated that a citizen wants to donate a wheelchair swing for use at the Community Building Park. Mr. Sikes provided information and a photo regarding the swing.

A brief discussion followed.

Upon a motion by Council Member Ramsey, seconded by Council Member Doggett, Council voted unanimously to accept the donation of the wheelchair swing and to authorize City staff to determine where the swing can be placed in the Community Building Park, once upcoming construction work is completed.

COUNCIL MEMBER COMMENTS: Mayor Pro Tem Cuthbertson mentioned that a fire hydrant at Railroad and Willow Streets appears to be leaking.

Public Works Director Brant Sikes stated that the fire hydrant had been checked and was not leaking, so there could be groundwater coming up around the fire hydrant. Mr. Sikes said that he would check the fire hydrant and see what the problem is.

Council Member Doggett stated that a power line in front of her house of North Garden Street had been repaired and looked hazardous. Mr. Sikes said that he would check the location and contact the appropriate utility representative.

Mayor Little reported that retired Public Works Director Glen Sherlin's mother has passed away the previous Friday. He asked everyone to keep Glen, Debi and the entire family in their thoughts and prayers.

Mayor Pro Tem Cuthbertson requested that this meeting be adjourned in memory of Bill Smith, who passed away on April 2. Mr. Smith served the City directly as a member of the ABC Board, served as a volunteer firefighter with the Marion Fire Department for over 35 years and participated in numerous volunteer activities for his Church, the Marion Rotary Club and many other organizations.

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Council Member Doggett, Council voted unanimously to adjourn in honor and memory of Mr. Bill Smith, who passed away on April 2.

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 held its Annual Town Meeting April 24, 2014 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 Juanita Doggett and Don Ramsey.

Council Members Clark was not present for this meeting due to being out of State attending a North Carolina League of Municipalities Conference and Council Member Martin was out of town attending the North Carolina Black Summit Conference in Durham.

OTHERS PRESENT: J. Robert Boyette, City Manager; Debi Sherlin, Administrative Assistant; Harriett Thomas, CPA, Finance Director; Heather Cotton, AICP, Planning and Development Director; Allen Lawrence, Police Chief; Jim Neal, Fire Chief; Brant Sikes, Public Works Director; Scott Costner, Utility Maintenance Superintendent; Robert Hooper, Assistant Utility Maintenance Superintendent; Jimmy Lewis, Sanitation Superintendent; Larry Carver, Water and Wastewater Treatment Superintendent; Jay Suttles, Building Inspector; Van McKinney, News Reporter WBRM; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: James Martin, 228 Clearwater Drive, Nebo, N.C.; Emily and Clara Shirley 799 Baldwin Avenue, Marion, NC; J. Earl Daniels, Broad Street, Marion, NC; Doris McCurry, Oak Street, Marion, NC; David Wooten, 420 Montevista Avenue, Marion, NC; Helen Alverson, 240 Crescent Drive, Marion, NC; Joe Lawing, Glenwood, NC.

UTILITY REPRESENTATIVES:

PUBLIC SERVICE COMPANY OF NORTH CAROLINA:
Don Hallingse, External Relations Manager

UNITED STATES POSTAL SERVICE:
No one was in attendance

CHARTER CABLE COMPANY:
No one was in attendance

MARION BUSINESS ASSOCIATION:
Freddie Killough, Executive Director

McDOWELL COUNTY EMERGENCY SERVICES:
William Kehler, Director of Emergency Services

DUKE ENERGY:
Robin Nicholson, Government and Community Relations Manager
Alton Greene, Supervisor at the Marion Operations Center

FRONTIER:
No one was in attendance

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION:
No one was in attendance

TOWN 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.

CITIZEN COMMENTS:

Helen Alverson complimented the City and individual departments for their great service and responsiveness. She advised of concerns with speeding at times on Fleming Avenue. Police Chief Allen Lawrence said that he would have officers focus on Fleming Avenue more. Council Member Doggett added that she often sees vehicles not fully stopping at the stop sign at Fleming and Garden.

Ms. Alverson also asked about a possible natural gas extension on Crescent Drive. Don Hallingse of PSNC Energy said that he would look at the location. Ms. Alverson also asked about cutting limbs around power lines. Alton Greene of Duke Energy agreed to speak to Ms. Alverson about specifics regarding this matter.
Doris McCurry expressed an interest in starting more community watches. Chief Lawrence said that he shared this interest and agreed to speak to Ms. McCurry after the meeting. Ms. McCurry complimented the new decorative street signs downtown and asked if they could be extended into other areas of the City. Mayor Little stated that Council had an interest to do so, but it would take some time, due to budget constraints. The City Manager noted that the City was looking at ways to put the blue signs on less decorative poles to save money.

Ms. McCurry suggested that the City bring in departments stores to fill in empty spaces downtown. Marion Business Association (MBA)Executive Director Freddie Killough explained how most chain department stores no longer like to go into downtown areas, but noted that the City and MBA tried to fill empty spaces, if property owners are willing, and to pursue contacts and interested businesses.

Ms. McCurry asked if the City flushed streets. The City Manager advised that the City now swept streets, instead of flushing them, to avoid washing contaminants and debris into streams.

Ms. McCurry asked if the City and County tax bills could be put on one notice. The City Manager reported that the County had spoken to the City previously about collecting City taxes, but that it would not be cost effective for the City to make this change, since the County would charge fees for such collection.

Ms. McCurry stated that the tax information on her properties was incorrect. Mayor Little suggested that Ms. McCurry speak to the County Tax Department and point out information that needed to be corrected.

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Emily Shirley suggested that the City and/or MBA hold a vacant building tour. Ms. Killough said that this was a good idea and noted that the MBA maintained an available properties list and website and tried to match up interested business with available properties.

Ms. Shirley thanked the City for all of the work in recent years on greenways and trails. She noted that the Downtown Wi-Fi system was down. Ms. Thomas advised that the City was awaiting advice from its information technology consultant on the price to repair or replace the system, which has become unreliable. The City Manager stated that the Wi-Fi system was now 6-7 years old and had become antiquated and would likely need to be replaced.

Clara Shirley, eight year old daughter of Emily, asked if there were any clubs or groups who could help pick up litter. Mayor Little said that this was an excellent idea. Ms. Killough stated that the City and MBA were holding a downtown cleanup on Saturday and that scouts had participated in this event in prior years.

Clara also asked if there were groups that donate money to the homeless shelter and to help poor people and if schools could help. Mayor Little and Council Member Doggett said that there were many churches and other clubs and groups that helped, many of whom did not even seek recognition.

Jim Martin of Nebo asked about employment opportunities for seniors. Mayor Little suggested that Mr. Martin visit Job Link and the Employment Security Commission. Ms. Killough discussed the Title V program for seniors and stated that Mr. Martin could inquire about this program at the Senior Center.

The City Manager thanked Earl Daniels, who was present, for his legacy and financial stewardship during his 28 years of service as City Manager. The City Manager advised that the public likely did not appreciate all that Earl did and how Earl, Council Member Clark and many others who served during this time took the City from being almost broke in 1972 to being financially sound, with excellent equipment and facilities.

Don Hallingse of PSNC Energy said that PSNC was working on extending natural gas service to Baxter Healthcare.

Robin Nicholson of Duke Energy advised that Duke was working on remediation work on the dams on their lakes.

William Kehler gave an update on EMS activities and programs. He also noted improvements and changes were being implemented at the County 911 Communications Center. Mr. Kehler stated that the EMS would hold its Safety Camp in June. He said that he was so impressed with the great questions asked by Clara Shirley that EMS would invite her to attend the Safety Camp at no charge.

Freddie Killough advised that the Downtown Cleanup would be held on Saturday from 9:00 a.m. until 12:00 Noon and that the Hospice spaghetti dinner would be held tomorrow (Friday) at First United Methodist Church.

Mayor Little reported that there would be a free community shred event at the Farmer's Market parking lot on West Henderson Street on Saturday from 9:00 a.m. until 12:00 Noon and that Healthy Kids Day would be held at the YMCA on Saturday as well.

Joe Lawing asked about Duke Energy's efforts to protect the electric grid from terrorist attacks. Robin Nicholson stated that Duke had interconnections and redundancies to protect the grid as much as possible. Mr. Lawing asked if Duke Energy had sufficient capacity to handle the peak demand this summer. Ms. Nicholson said that Duke was well prepared to handle the expected peak demand and a demand even greater than expected.

Mayor Little thanked everyone again for coming to this year's Town Meeting.

ADJOURNMENT: The Town Meeting was adjourned at 8:00 P.M.

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 held a Special Meeting on Tuesday evening, April 29, 2014 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 Everette Clark, Juanita Doggett, Billy Martin and Don Ramsey.

OTHERS PRESENT: Bob Boyette, City Manager; Harriett Thomas, CPA, Finance Director; Heather Cotton, AICP, Planning and Development Director.

GUESTS PRESENT: Marilyn Foreman, 773 Peppers Creek Road, Marion, NC 28752

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 2014-15 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 47th year in a row that the City has not increased the tax rate.

The City Manager reported that he expected the total 2014-15 budget to be only slightly more, if any more, than the total 2013-14 original budget and the 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.

Mayor Little and Council Members expressed their agreement with the general direction of the 2014-15 budget, as presented by the City Manager.

The City Manager stated that the proposed 2014-15 Budget would be presented to Council at the May 20 Council meeting and that Council had previously agreed to hold a Budget Workshop to review the Budget on Tuesday, May 27 at 6:00 p.m. at City Hall.

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

A. Request from Animal Groups – Ms. Marilyn Foreman advised that Paws & Claws, a local animal group, and other animal groups were requesting the City to prohibit all tethering of animals in the City and to require that all animals be fenced. Mayor Little stated that the City and County were fortunate to have many groups passionate about particular issues and that it was not always possible for the City to satisfy every group fully. Council agreed to take this matter under advisement.

B. Adoption of Zoning Text Amendment – Planning and Development Director discussed details of the proposed amendments to the Zoning Ordinance to address electronic message signs and other sign related regulations. After discussion, Council directed that changes be made to limit all signage in residential zoning districts to four square feet. These changes will be incorporated in a draft Zoning Text Amendment that will presented to Council for consideration at the May 6 Council meeting.

C. Advisory Board Appointments – The City Manager advised that two slots each on the Planning Board and Tree Board were set to expire on June 30. He stated that there was a vacancy on the ABC Board, with the recent passing of Bill Smith. Council agreed to begin considering advisory board appointments at the May 6 Council meeting.

D. Discuss County's Request for Water Withdrawal from Lake James – The City Manager reported that McGill Associates is assisting the County with obtaining approval from Duke Energy for a water withdrawal for a future Lake James intake. The County is seeking to withdraw as much water as possible, not knowing what the future may hold. The City Manager advised that, based on McGill's recommendations, the County wants to ask for a water withdrawal of 3.1 million gallons per day. This amount is the most the County can request, based on a technical study Duke did of their chain of lakes. To justify such a large withdrawal amount, the County is asking for a letter from the City stating that the City would "support the construction of the intake as a back-up to the City's current water supply intakes, or to supplement the City's current water supply when required."

   After discussion, Mayor Little and Council Members agreed by consensus to authorize the letter of support to be sent to the County and to direct the City Manager to discuss with the County the possibility of allocating water from the intake to the City for use in the event of a disaster or emergency.

E. State Street Sidewalk Extension – The City Manager reported that Council Member Doggett recently suggested that the City pursue a sidewalk extension on State Street from the East McDowell Junior High School property to Baldwin Avenue. He stated that this is a project the City Council has wanted to pursue in the past and one which was included as a recommendation in the Safe Routes to School (SRTS) Plan. The City had hoped for SRTS grant funding to become available, but such grant funds have never materialized.

   The City Manager advised that Public Works Director Brant Sikes had obtained quotes for this sidewalk extension. The recommended option is to contract out the curb and sidewalk extension, but not to construct a sidewalk across the front of the McDowell Mission Ministries Men's Shelter property, which is completely paved. The contracted price for this option is $29,000.

   The City Manager suggested that the State Street sidewalk project could be added to the City's project schedule for 2014-15, with the goal of having the project completed before school starts in late August.

   Mayor Little and Council Members agreed by consensus to authorize the City Manager to proceed with this project in 2014-15 and to seek to have the project completed before school starts in late August.

F. Purchase of Additional Police Car – The City Manager reported that Police Chief Allen Lawrence was concerned about having numerous police cars on the road with over 100,000 miles, including some with over 150,000 miles. The City Manager stated that the City recently purchased two replacement cars and have the opportunity to purchase another by the end of the Fiscal Year from Ilderton Dodge at the State contract price of $30,210. The City Manager advised that the City has approximately $12,000 in drug seizure funds and could supplement this amount with about $25,000 from the General Fund to purchase a fully equipped patrol car. The City Manager stated that, since it appeared that the General Fund should end this Fiscal Year with a surplus and since the City is behind on its police car rotation schedule, he would recommend that Council consider authorizing the purchase of the additional police car before the end of 2013-14.

   Mayor Little and Council Members agreed by consensus with the City Manager's recommendation. This purchase will be authorized with the approval of Budget Ordinance Amendments in an upcoming Council meeting.

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G. Outside Agency Funding Requests

1. McDowell Mission Ministries Request – The City Manager stated that McDowell Mission Ministries Executive Director Bill Warren sent a letter, requesting $8,000 in funding from the City in 2014-15. The City Manager advised that, in 2011-12, City Council approved $5,000 in funding for McDowell Mission, with $10,000 approved in 2012-13. There amounts are a little different from the $8,000 figure used in Rev. Warren's letter. Most of the funding provided by the City the past two years has been done at the end of the Fiscal Year, when it is more apparent what the City's financial condition will be.

   The City Manager suggested that, if Council wishes to provide funding to McDowell Mission Ministries, that such funding be provided prior to the end of the 2014-15 Fiscal Year. Mayor Little and Council Members agreed by consensus to donate $6,000 to McDowell Mission Ministries prior to the end of the 2014-15 Fiscal Year. This donation will be authorized with the approval of Budget Ordinance Amendments in an upcoming Council meeting.

2. Freedom Ministries Funding Request – The City Manager stated that he received a letter from Danny Hampton, Executive Director of Freedom Life Ministries, asking for a $4,000 contribution to help fund renovations to the Old City Hall building on Logan Street. According to Mr. Hampton's letter, Freedom Life Ministries assists people who were formerly incarcerated. The City Manager advised that Freedom Life Ministries was recently approved for a Façade Grant for external improvements to the building. The City Manager advised that Freedom Life Ministries is a social service type organization and should be funded at the County or State levels. Cities cannot spend money on social services.

   Mayor Little and Council Members agreed that the City cannot provide funding for Freedom Life Ministries, but noted that they appreciate the good work that the organization does in the community.

3. MACA Funding Request – The City Manager reported that McDowell Arts Council Association (MACA) Executive Director Susan Pyatt spoke to Council at the April 15 Council meeting, presenting the enclosed information. MACA is asking to be put back in the City budget, although no exact amount was specified. The City Manager stated that he planned to recommend $5,000 in funding for MACA in the 2014-15 City budget. Mayor Little and Council Members expressed agreement with this recommendation.

4. N.C. League of Municipalities Regulatory Assistance Technical Fund – The City Manager advised that the N.C. League of Municipalities sent information concerning the establishment of the Regulatory Technical Assistance Fund to assist municipalities with regulatory issues, such as electrical rates, wastewater and stormwater matters. The suggested contribution for Marion is $624.56, based on a set formula. The City Manager reported that the City has participated in similar endeavors before with the League, with generally positive outcomes, and would recommend that we participate in this new alliance, since the initial investment is very small and the issues on which the League will provide assistance are very important,

   Mayor Little and Council Members agreed by consensus with the City Manager's recommendation for the City to join this program.

H. Privilege License Changes – The City Manager stated that staff is looking at potential adjustments to business privilege license taxes. Recommended changes will be presented to Council for consideration at the May 20 Council meeting.

I. Garbage Fees – The City Manager advised that Finance Director Harriett Thomas and he had discussed and planned to recommend increasing the City's monthly fee for garbage collection at mobile home parks and apartment complexes. Recommendations regarding this matter will be presented to Council for approval in May or June.

J. Permit Fee Review – The City Manager reported that staff is looking permit fees, to determine if any adjustments should be proposed. Any recommended changes will be presented to Council for review by June.

K. Cleaning of County Courthouse – The City Manager advised that Mayor Pro Tem Cuthbertson and he had recently spoken to County Manager Chuck Abernathy about the City assisting the County with cleaning the exterior of the County Courthouse. The City Manager suggested that the City could provide labor, a pressure washer and some assistance with a bucket truck, the County could supply labor and the School System could help by providing its bucket truck, which reaches higher than the City's bucket truck.

   Mayor Little and Council Members expressed agreement with the City Manager's proposal for the City to assist the County with the cleaning of the County Courthouse.

L. Health Insurance – The City Manager reported that, as authorized by Council, the City sought proposals for health insurance for City employees. The City Manager noted that the best renewal from the City's current health insurance provider, the N.C. League of Municipalities, would be $655 per employee per month, an increase of $38 per month, or 6.2 percent, over the $617 per employee per month currently paid by the City. The City Manager noted that the recommended alternate option would be from Blue Cross Blue Shield, for a $1,000 deductible, in the amount of about $541 per employee per month, a savings of almost $128,000 per year over what the City would have paid the League in 2014-15.

   Council Member Everette Clark stated that he served on the League's Risk Management Services Board of Directors, which oversees the League's three insurance pools, including the health insurance pool. Council Member Clark advised that the City had no choice but to accept the Blue Cross Blue Shield bid and the resulting savings. He noted that the City was getting a good deal from Blue Cross Blue Shield, but suggested that the City ask for the premium to be locked in for at least two years.

   The City Manager stated that he would include the Blue Cross Blue Shield health insurance premium cost in the recommended 2014-15 City budget, without objection, and that staff would ask Blue Cross Blue Shield to lock in the quoted premium amount for at least two years. Mayor Little and Council Members agreed by consensus with this recommendation.

   The City Manager advised that City and County staff had been discussing the idea of a health clinic for City-County employees, in order to reduce health claims. He noted that there had been initial discussions with potential providers, but that the County wanted to take the process slowly and explore all options. Mayor Little and Council Members acknowledged that the clinic idea would not be possible without the County's participation and authorized the City Manager to continue discussions. Information will be brought back to Council for review at a future time.

M. Downtown Wi-Fi – The City Manager reported that the City's downtown wi-fi system that was installed in 2007 was no longer working properly. The City's Information Technology consultant has advised that the system is now so old that it cannot be repaired. The City Manager stated that the system could be replaced with a modern, faster system, with more wireless nodes, for a cost of about $19,900. Mayor Little stated that the wi-fi system had become an embarrassment for the City and should be replaced. Council Member Martin

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suggested that the new system be as good as the City could afford. Mayor Little and Council Members agreed by consensus for the City to proceed with the replacement of the downtown wi-fi system. This project will be authorized with the approval of Budget Ordinance Amendments in an upcoming Council meeting.

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Council Member Clark, 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, May 6, 2014 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 Lloyd Cuthbertson, Council Members A. Everette Clark, Billy Martin and Don Ramsey.

Council Member Doggett was not present for this meeting due to being out of town on a Church trip.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Harriett Thomas, CPA, Finance Director; Brant Sikes, Public Works Director; Allen Lawrence, Police Chief; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Allen & Alesia Ferguson, 80 West Grayson Street, Marion, NC; Will & Alma Jean McAdams, 145 Highland Drive, Marion, NC; Margaret Morrison, 81 Mitchell Street, Marion, NC; Charles & Daisey Allen, 129 Allen Drive, Fletcher, NC; Debra Mace, 1277 Lake Tahoma Road, Marion, NC; Freddie Killough, Executive Director, Marion Business Association; Nancy Spencer, President, Marion Business Association; Al Washington, Nebo, NC; Lee Freeman, 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 May 2014.

WILL AND ALMA JEAN MCADAMS

Council Member Billy Martin advised that he was pleased to recognize Will and Alma Jean McAdams as Citizens of the Month for May.

Mr. and Mrs. McAdams have been residents of Marion since 1979 and reside on Highland Drive. They have three children, eight grandchildren and one great grandchild.

Mr. and Mrs. McAdams are members of Mt. Moriah Missionary Baptist Church. Mr. McAdams is the Senior Deacon at Mt. Moriah and Mrs. McAdams is a Deaconess, Pastor's Aide, helps with hospitality and works with the kitchen staff. She is also a Missionary who attends to the needs of the elderly and the sick and shut-ins. Mrs. McAdams helps deliver Meals on Wheels at the Senior Center. Both Mr. and Mrs. McAdams are involved with the Prison ministry where they help serve 100-130 meals to the prisoners 4 times a year. Mrs. McAdams traveled in North and South Carolina for 20 years singing with the renowned Lake Lure Gospel Singers.

Both Mr. and Mrs. McAdams have each retired twice from their places of employment. Mr. McAdams worked as a registered nurse for 30 years at St. Joseph's Hospital in Asheville and then for 16 years as a registered nurse at Asheville Urological Associates. Mr. McAdams has been active with Boy Scouts Troop 818 at the Church of Jesus Christ of Latter Day Saints here in Marion. He is also a rabid Carolina Tar Heels fan and coached basketball with the McDowell County Recreational Basketball League for 7 years, winning the championship 5 of those years.

Mrs. McAdams retired after 36 years of service with Coats America and after 33 years of service with Baxter Health Care. For 28 years, Mrs. McAdams worked at both Coats America and Baxter Health Care simultaneously, a remarkable achievement. Mrs. McAdams always has a smile on her face and is a joy to everyone she encounters.

Mayor Little, Council Members, family members and friends all shared kind words about Mr. and Mrs. McAdams and congratulated them on their selection as Citizens of the Month for May.

CONSENT AGENDA: Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Ramsey, those members of Council present voted to approve the consent agenda as follows:

A. Approval of Minutes – April 15, 2014 Regular City Council Meeting Minutes, April 24, 2014 Town Meeting Minutes and April 29, 2014 City Council Pre-Budget Workshop/Planning Session Minutes.

RECOGNITION OF DEBRA MACE AS MARION'S 2013 MAIN STREET CHAMPION: Freddie Killough, Executive Director of the Marion Business Association (MBA), advised that Debra Mace was selected by the MBA Board of Directors as Main Street Champion for 2013. Ms. Mace is a

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former President of the Marion Business Association, served on the MBA Board for many years and has been a faithful volunteer for numerous years. In particular, Ms. Mace is a vital part of the Mountain Glory Festival Committee and has volunteered for numerous years, serving as the Set-Up Captain, one of the most important jobs at Mountain Glory.

Ms. Killough said that Ms. Mace was unable to attend the N.C. Main Street Conference in late March in New Bern, so this meeting is an opportunity to formally present her with the Main Street Champion award and to thank her for all of her service to the community over the years.

Mayor Little presented the 2013 Main Street Champion Award to Ms. Mace. Mayor Little and Council Members thanked Ms. Mace for her tremendous service to the downtown area and the entire community and congratulated her on her selection as Main Street Champion.

PUBLIC APPEARANCE – MARION BUSINESS ASSOCIATION:

Ms. Nancy Spencer, President of the Marion Business Association (MBA), appeared before Council and gave the following quarterly report for the MBA for January to March 2014:

January - March 2014

Quarterly Report of Marion Business Association
Economic Development Report

12 - New Businesses Opened
7 - Businesses Closed
3 - Business Relocations/New Owners
8 - Business Opportunity Inquiries
2 - Business Loan Inquiries
3 - Business Grant Inquiries
259 - Business Visits
2 - Property Referral Inquiries
1 - Property Owner Contacts w/ available buildings
2 - Contacts with interested Commercial Developers
0 - New Businesses Breaking Ground
12 - Façade Grant Inquires
0 - Façade Grant Awarded (MBA & MEDA Historic Marion Façade Grant Program and MBA Sign Grant)
1 - Properties sold

Other Economic Activity:

- Historic Marion Façade Grants – Grant cycle January - March. Grants announced in April.
- WNC Rail Committee still desires to see rail service to Western North Carolina. There is no funding allocated for Western North Carolina. The Committee will reconvene in Marion on May 8 to discuss the possible expansion of excursion trains in WNC.
- MBA maintains an Available Commercial Properties listing of properties in the City of Marion. The listing is also available on the MBA website, www.hometownmarion.com
- The Certified Retirement Community Committee is continuing marketing efforts.
- Movie Theater Project – MBA collaborated with City, County, Chamber, MEDA and TDA to commit funds for a feasibility study for a movie theater in Marion.
- MBA hosted 4 school groups to talk about entrepreneurship and event marketing. Very good response.
- Partnered with MTCC Small Business Center for REAL Class to teach entrepreneurship.
- Met with VEDIC coordinator about USDA business loan program offered for McDowell County.

Committee Reports:

MBA Board of Directors met January 14, February 11 and March 11.

MBA Economic Development Committee worked on marketing proposals. The Committee is on hold to build community support and hopes to regroup in May or June.

Mountain Glory Festival Committee had 2014 planning meeting on March 14. Craft application and sponsorship packets will be mailed in April.

Events and Promotions Committee met on January 2 and February 20. The Committee held a very successful fund- raiser with Valentine dance and dessert.

Historic Marion Tailgate Market Committee met January 21 to plan for 2014 season. A grower/producer meeting information meeting was held on February 8.

Other Committees MBA Supports:

MEDA; McDowell House; McDowell Non-profit Organizations (NPO); Get Not Out/Joblink

January - March Volunteer Hours - 153

2014 Calendar of Events:

Friday, February 14 - Valentine's Day Dance and Dessert
Saturday, April 12 – Easter Egg Hunt @ YMCA
Saturday, May 3 – Sidewalk Yard Sale
Friday, June 6 – Liver Mush Festival
Friday, July 4 – Independence Day Celebration
Saturday, August 2 – Sidewalk Yard Sale
Tuesday, August 5 – National Night Out
Friday, August 1 or 8 – Shagging in the Street
Monday, September 1 - Terry McKinney Concert, Depot Lawn
Saturday, October 11 – Mountain Glory Festival
Tuesday, October 28 – Market Fall Festival
Sunday, November 23 – Christmas Parade
Thursday, December 4 – Melodies on Main
Saturday, December 6– Appalachian Potter's Market – McDowell High
December – Blue Ridge Artisans Craft Show @ MACA
Wednesday, December 31 – New Year's Eve Celebration
Historic Marion Tailgate Market – Mid-May – October Tuesdays, 3:00 - 6:00 PM - Saturdays, 9:00 - 12 noon
Fall Craft Market - September – December - Tuesdays, 3:00 - 5:30 PM

Mayor Little commended Ms. Spencer for providing an excellent report and thanked her and the MBA Board and staff for their efforts to enhance the City of Marion.

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

CONSIDER ADOPTION OF ZONING TEXT AMENDMENT: The City Manager advised that, as shown in the memo from Planning and Development Director Heather Cotton, Ms. Cotton had been working on amendments to the Zoning Ordinance to revise the Sign Ordinance. The City Manager stated that the changes mainly involved creating reasonable allowances for electronic message signs, but also incorporated some changes proposed by Council at the April 29 Planning Session, including establishing a four square foot size limit for all signs in residential districts. The City Manager noted that Ms. Cotton had also added graphics to the Sign Ordinance, which should be very helpful to developers, business owners and contractors. The City Manager noted that Ms. Cotton had conducted research on the minimum duration messages had to be displayed on electronic signs and found that requirements varied considerably in Western North Carolina, ranging from no regulations to complete prohibition of such signs. Ms. Cotton and the Planning Board recommended a one minute minimum time for messages displayed on electronic signs.

The City Manager noted that the proposed Zoning Text Amendment was recommended for approval by the Planning Board in a unanimous vote on April 3 and that Council previously held a public hearing on the proposed ordinance at the April 15 Council meeting.

Mayor Little stated that he thought that the one minute minimum time period for messages displayed on electronic signs was appropriate.

Council Member Clark said that he thought the proposed Zoning Text Amendment was on target and commended Ms. Cotton and the Planning Board for their work on this matter.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, those members of Council present voted to adopt the following Zoning Text Amendment as revised:

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 4. *Sign Regulations*, is amended in its entirety to the following:

DIVISION 4. SIGN REGULATIONS

21-4.1 General Purpose and Intent.

The purpose of this section is to support and complement the various land uses allowed in the City of Marion by regulating the installation and placement of signs. These regulations are adopted under the zoning authority of the City to achieve the following.

- To encourage the effective use of signs as a means of communication while preserving the rights of free speech under the First Amendment to the United States Constitution.
- To preserve the scenic and aesthetic features that serve to unify the City of Marion and convey a message of quality in order to protect and promote the development of the tourist industry and provide for the protection of the quality of life for residents and visitors.
- To insure the safety of the local and visiting motorist on the public roads by reducing the detracting influence of uncontrolled advertising signage
- To providing reasonable regulations while safeguarding the interest of local businesses.
- To insure light, air, and open space is maintained, to reduce hazard at intersections, and to protect property values of the entire community.

21-4.2 Applicability.

21-4.2.1 Permits Required.

It shall be unlawful for any person to erect, construct, enlarge, attach, post, paint, move, replace, or in any other manner display any sign without first obtaining a sign permit from the Zoning Administrator, except otherwise prohibited, exempted, or not requiring a permit under this chapter. Additional permits may be necessary pursuant to the regulations in the state building code or other sections of this ordinance.

21-4.2.2 Permit Application.

(a) **All Permanent Signs.** A sign permit shall not be issued until a complete application for each separate sign and support structure has been submitted to and approved by the zoning administrator.

(b) **Permanent Off-Premises Signs.** The sign structure must be completely installed within one hundred eighty (180) days from the date of permit issuance. During the 180-day period, the new sign structure shall be considered in existence for the purpose of spacing of adjacent signs as set out in the appropriate rules and regulations of this chapter. The off-premises sign owner shall pay an annual renewal fee for each off-premises sign Off-premises initial and annual renewal fees shall be required to be paid by the owners of the off-premises sign structures for each permit requested in order to defray the cost of the administrative and inspection expenses incurred by the City of Marion in administering the permit procedures. Such fee schedules shall be determined by the city council.

(c) **Alteration of Sign Face**. Resurfacing of a sign, if in conformance with the applicable provisions of this chapter, shall be considered maintenance or repair and shall not require a permit.

21-4.2.3 Compliance Required.

Any sign, which becomes a legal nonconforming sign as herein defined may continue to exist provided that no nonconforming sign shall be:

(a) Changed or replaced with another nonconforming sign, except that the sign face may be changed on an existing sign structure so long as it is not enlarged or expanded.

(b) Relocated, except in conformance with the requirements of this chapter.

(c) Re-established after damage or destruction in excess of fifty (50) percent of the value at the time of the damage or destruction.

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(d) Modified in any way, which increases the sign's degree of nonconformity. (e) Re-established after the sign structure has been removed.

21-4.2.4 Message Type.

(a) **Noncommercial Message.** Any sign display or device allowed under this chapter may contain, in lieu of any other copy, any otherwise lawful noncommercial message.

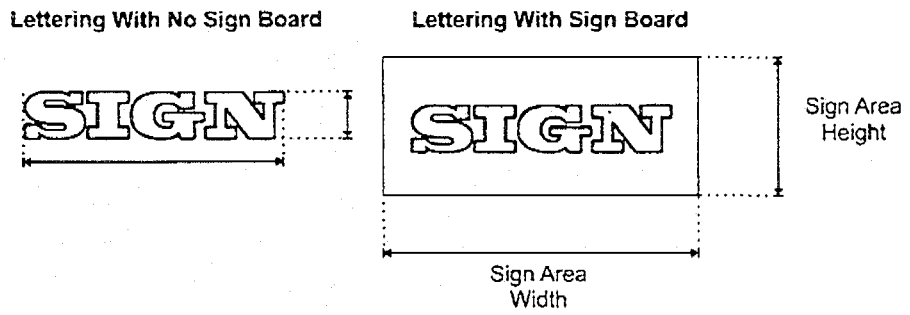
(b) **Commercial Message.** Any sign wording, logo, or other representation that directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

21.4.3 General Provisions.

21-4.3.1 Measurement of Sign Face.

(a) The area of a sign face shall be deemed to be the entire area within the smallest square or rectangle that will encompass the outer limits of the text, representation, emblem, logo, symbol, or other display on the sign. The area shall include any material or color forming an integral part of the background of the display or used to differentiate the sign from the structure against which it is placed. See Figure 4.3-1.

Figure 4.3-1: Sign Area Measurement



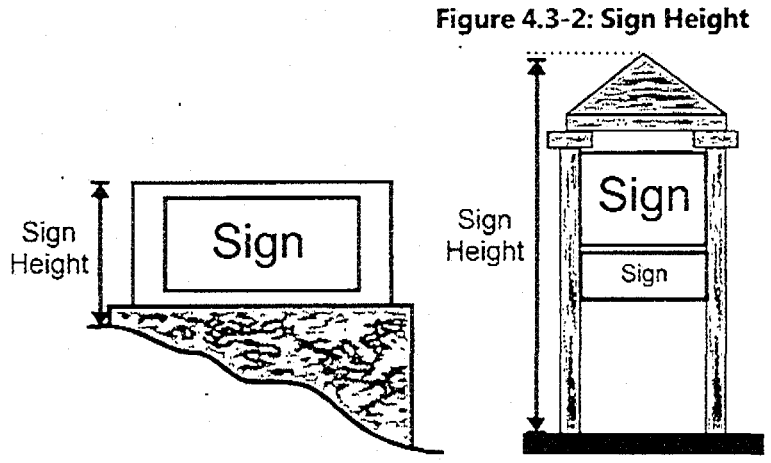
(b) The structural members not bearing informational or representational matter shall not be included in computation of area of a sign face.

(c) A sign may include double-sided display so long as both sides are of the same size and location on the sign structure, otherwise it shall be deemed two separate signs.

21-4.3.2 Measurement of Sign Height.

The height of a sign shall be measured from the highest point of a sign or its support whichever is greater, to the base of the sign at the highest adjacent grade. See Figure 4.3-2.

Figure 4.3-2: Sign Height



21-4.3.3 Location.

(a) All permitted signs, with the exception of public signs, shall be located outside of a public right- of-way and outside of the clear-site triangle.

(b) Such signs shall be no closer than twenty (20) feet from the edge of the traveled way where the right-of-way is unknown or does not exist.

(c) The following signs are permitted by zoning district provided such signs are in conformance with all applicable provisions in this chapter. All other signs are prohibited pursuant to section 21-4.6:

TABLE 21-4.3.3: DISTRICT SIGN PROVISIONS

District Sign Provisions	District Types: R-1 Single Family Residential; R-2 General Residential; R-1 Neighborhood; M-1 Industrial; DO Downtown Overlay; C-2 General Business; O-I Office Intuitional					
Sign Type	**R-1& R-2**	**C-1 & C-2**	**M-1**	**O-I**	**B1 & DO**	**Description**
Arm sign	P	P	P	P	P	Sec. 21-4.5(1)(c)
Banner (temporary)	E(1)	E	E	E	E	Sec. 21-4.4(15)
Building marker	E	E	E	E	E	Sec. 21-4.4(1)
Building-mounted banner	P(1)	P	P	P	P	Sec. 21-4.5(2)(c)
Canopy awning	P(1)	P	P	P	P	Sec. 21-4.5(2)(b)
Changeable copy sign	P(1)	P	P	P	P	Sec. 21-4.5(1)(d)
Construction sign	E	E	E	E	E	Sec. 21-4.4(2)
Digital petroleum price signs	N	P	P	N	N	Sec. 21-
Digital time, date, temperature	N	P	P	P	P	Sec. 21-
Directional sign (on-premise)	N	E	E	E	N	Sec. 21-4.4(3)

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Drive-thru menu sign	N	P(3)	N	N	N	Sec. 21-4.5(1)(e)
Electronic message sign (on-	P(4)	P(3)	N	P	N	Sec. 21-4.5(3)
Flag	E	E	E	E	E	Sec. 21-4.4(5)
Government sign	E	E	E	E	E	Sec. 21-4.4(6)
Holiday decoration	E	E	E	E	E	Sec. 21-4.4(7)
Home occupation sign	P	P	N	N	P	Sec. 21-4.5-(1)(c), -
Incidental sign	E	E	E	E	E	Sec. 21-4.4(8)
Legal or warning sign	E	E	E	E	E	Sec. 21-4.4(9)
Multi-tenant/mixed-use monument	P(1)	P	P	P	N	Sec. 21-4.5(1)(b)
Occupant/street number sign	E	E	E	E	E	Sec. 21-4.4(10)
Pedestrian canopy sign	P(1)	P	P	P	P	Sec. 21-4.5(2)(d)
Pole-mounted sign	N	P	P	P	P	Sec. 21-4.5(1)(f)
Portable political campaign sign	E	E	E	E	E	Sec. 21-4.4(11)
Public art/murals	E	E	E	E	E	Sec. 21-4.4(12)
Off-premises advertising	N	P	P	P	P	Sec. 21-4.5(4)
Off-premises directional	P(1)	P	P	P	P	Sec. 21-4.5(4)(b)
Real estate sign	E	E	E	E	E	Sec. 21-4.4(13)
Single tenant monuments	P(1)(2)(5)	P	P	P	P	Sec. 21-4.5(1)(a)
Special event sign	E	E	E	E	E	Sec. 21-
Stadium/recreational sign	E(2)	N	E	E	N	Sec. 21-4.4(14)
Sidewalk "A-frame" sign	N	N	N	N	E	Sec. 21-4.4(4)
Vending/automatic teller, gas	E(1)	E	E	E	E	Sec. 21-4.4(16)
Wall-mounted sign	P(1)	P	P	P	P	Sec. 21-4.5(2)(e)
Wall-mounted projecting arm sign	P(1)	P	P	P	P	Sec. 21-4.5(2)(a)
Window sign/display	E(1)	E	E	E	E	Sec. 21-4.4(17)
Yard sale sign	E	E	E	E	E	Sec. 21-

E = Permit Not Required
P= Permit Required
N= Not Permitted
S = Special Exception

(1) Approved businesses (excluding home occupations).
(2) R-2 only
(3) C-2 only
(4) Non-commercial non-residential

21-4.3.4 Illumination.

Any sign illuminated by a direct or indirect source of light including but not limited to neon, fluorescent, incandescent, light-emitting diode (LED), or other similar lighting or light-producing element shall adhere to the following provisions in addition to all other applicable regulations.

(a) All Illuminated Signs.

(1) Signs may be illuminated by a direct or indirect source of light, provided the indirect light source is shaded, shielded or directed so that no direct rays or glare emanating from the light source are visible from any public right-of-way or abutting property.

(2) Unless otherwise stated in this chapter, the average level of illumination on the vertical surface of any direct or indirect illuminated sign shall not exceed three (3) foot-candles, unless permitted ground-mounted or bottom-mounted lighting fixture is used, in which case the average level of illumination on the vertical surface of the sign shall not exceed two (2) foot-candles. A foot candle is defined as a unit of illuminance or light falling onto a surface. One foot candle is equal to one lumen per square foot. A lumen is the basic measure of the quantity of light emitted by a source.

(3) No sign shall have flashing, scrolling, intermittent, fluttering, or animated illumination which has changing light intensity, brightness or color, or simulates movement unless otherwise expressly permitted with this chapter.

(4) No illuminated sign shall be permitted within one hundred (100) 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.

(5) Illuminated signs shall be shielded so as to prevent beams or rays of light from being directed at any portion of a public right-of-way or adjacent property. Illumination intensity or brilliance shall not cause glare or impair the vision of motorists, and shall not interfere with any driver's operation of a motor vehicle.

(6) Any outdoor open-faced sign where the source of illumination is uncovered or exposed, such as but not limited to, neon tubing, LED lighting, or other exposed illumination source is prohibited unless otherwise expressly permitted in this chapter. See Figure 4.3-3

Figure 4.3-3: Example of Open-Lighted Sign



(7) All lighting shall meet all applicable state electrical codes.

(b) Direct Illumination Signs.

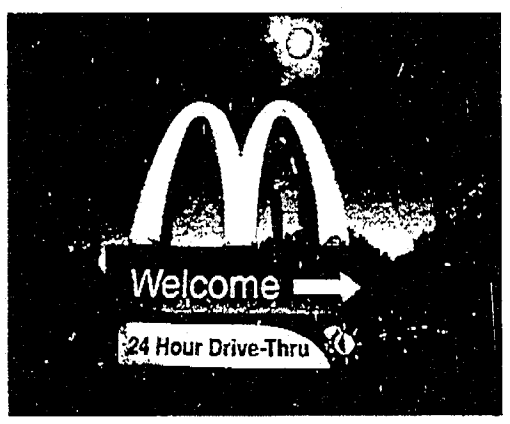
For the purposes of this chapter, a sign illuminated from an internal light source so that light shines through a translucent surface or where the silhouette of alphabetic or numeric characters, symbols, or logos are illuminated as a result of the light source illuminating the back ground shall be considered a direct illumination sign. See Figure 4.3-4:

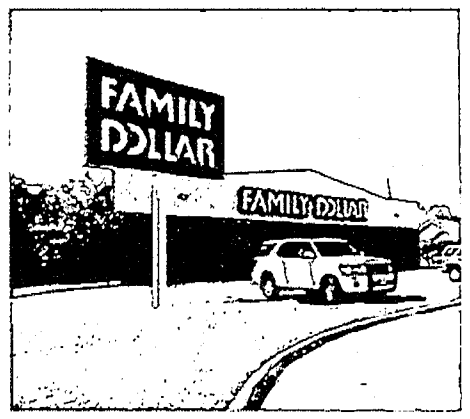
Figure 4.3-4: Examples of Direct Illumination Signs



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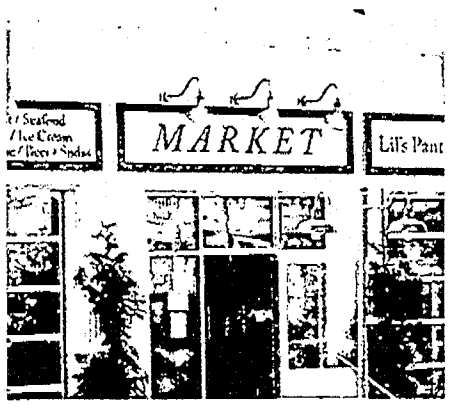
(1) Channel letter type signs may use neon tubing as an internal illumination source, provided that the light source is shielded by translucent face or that a silhouette type sign is used where the light source illuminates the sign background and the letters or symbols are opaque.

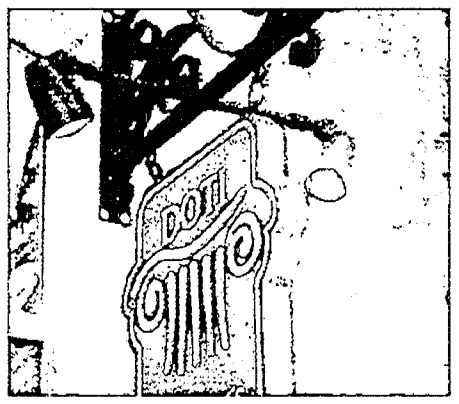
(2) With the exception of backlit signs, it is recommended that direct illumination signs consist of light colored letters or symbols on a dark background to improve visibility.

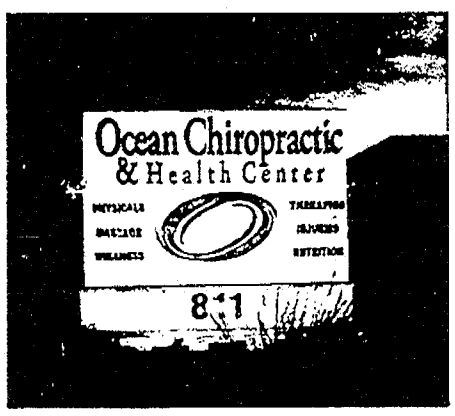
(c) Indirect Illumination Signs.

For the purpose of this chapter, a sign illuminated primarily by light being directed toward, across, or from behind and not from within the sign structure is considered an indirect illumination sign. See Figure 4.3-5

Figure 4.3-5: Examples of Indirect Illumination Signs





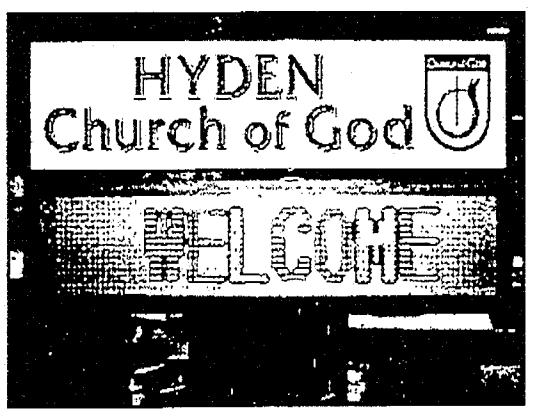


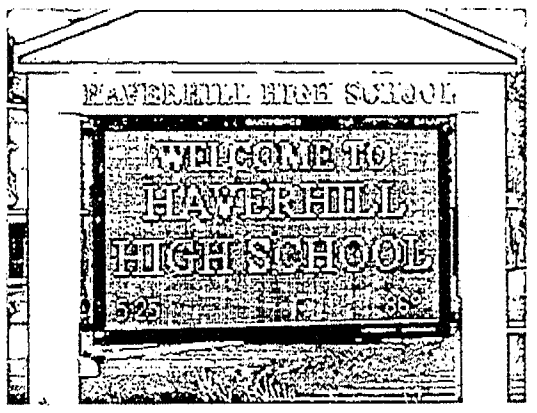


(d) Electronic Message Center (EMC) Signs.

An electronic message center (EMC) sign is an electronically activated changeable copy sign that can be programmed manually or by computer to display message content during a fixed duration of time. See Figure 4.3-6.

Figure 4.3-6 Examples of Electronic Message Center Signs





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Where electronic message center signs are permitted they must conform to the following regulations:

(1) No sign shall be brighter than is necessary for clear and adequate visibility and shall not exceed a maximum of 7,500 cd/m^2 during daylight hours or greater than 750 cd/m^2 between dusk and dawn so as not to cause glare or impair the vision of motorists, and shall not interfere with any driver's operation of a motor vehicle.

(2) Such sign shall come equipped and be controlled by either a combination of a photosensor and a time switch, astronomical time switch, or other manufacturer installed dimming technology that automatically adjusts the brightness in direct correlation with ambient light conditions.

Sec. 21-4.3.5 Historic signs.

A sign designated as a historic resource by the Historic Resources Commission shall be exempt from the requirements of this Chapter as to height, illumination, location, and sign area and may be maintained as legally conforming signs subject to the following conditions.

a. All parts of the exempted historic sign including neon tubes, incandescent lights and shields, and sign faces shall be maintained in a functioning condition as historically intended for the sign to the greatest degree possible.

b. The wording or image of a historic sign may be altered only if the alterations do not substantially change the historic dimensions, height, scale, style, or type of materials of the historic sign.

c. Failure to maintain a historic sign as required above shall be grounds for disallowing an exemption from the requirements of this Chapter. The sign shall thereafter be brought into compliance with the requirements of this Chapter subject to a determination by the Planning Director.

d. Full reconstruction of a historic sign shall require approval of the Historic Preservation Commission or, in the CBD zoning district, the Design Commission of the Marion Business Association.

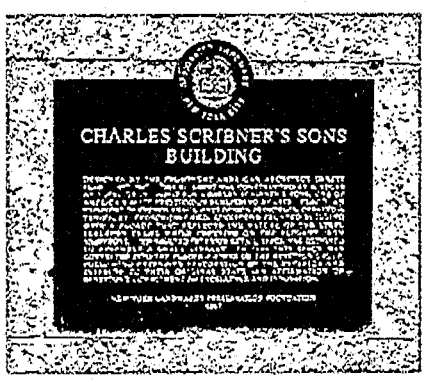
Sec. 21-4.4 Signs Not Requiring a Permit.

A permit is not required for the following signs, provided they are not prohibited as defined in Section 21-4.6, and provided they comply with all provisions set forth in this chapter. 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 this chapter.

(1) **Building Marker Signs.**

A sign cut or etched into the masonry, or constructed of bronze or similar material on a building.

Figure 4.4-1: Examples of Building Marker Signs





(2) **Construction Signs.**

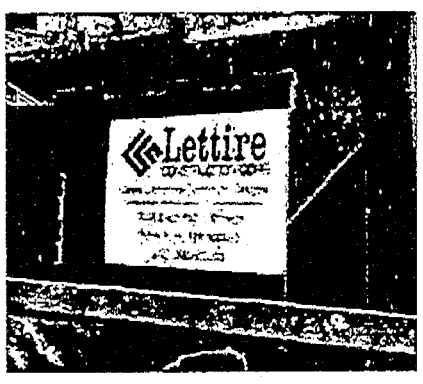
(a) Construction signs shall be allowed provided such signs do not exceed one (1) sign per street frontage with a maximum of two (2) signs per construction site.

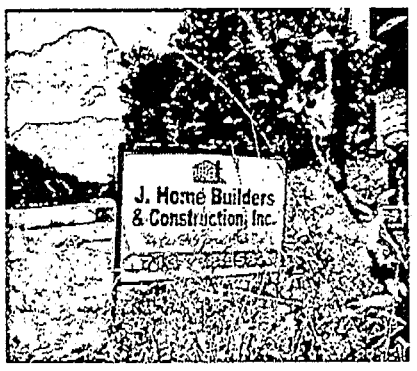
(b) Non-residential and multi-family construction signs shall not exceed thirty-two square feet in area and residential construction signs shall not exceed four (4) square feet in an area.

(c) Such signs shall not exceed eight (8) feet in height.

(d) Signs shall not be erected prior to the issuance of a building permit and shall be removed within seven (7) days after the issuance of a certificate of occupancy.

Figure 4.4-2: Examples of Construction Signs





(3) **Directional Signs.**

(a) Directional signs must be located on-premise to which directions are indicated.

(b) Directional signs may not exceed four (4) square feet per face.

(c) Such signs may contain no copy other than directional information.

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(d) No more than two (2) signs per entrance or exit shall be permitted.

(e) A sign larger than four (4) square feet or illuminated shall require a sign permit and shall be installed in conformance to the state building code.

(f) In addition to such signs, one (1) parking lot informational sign not exceeding nine (9) square feet shall be permitted identifying the conditions of use.

Figure 4.4-3: Examples of Directional Signs.





(4) **Sidewalk A-Frame Signs.**

(a) Placement shall be within three (3) feet of the building except that such signs may be placed no less than two and one-half (2 ½) feet from the edge of curb where it abuts on-street parking. A minimum five (5) foot wide unobstructed pathway shall be maintained to provide free and clear pedestrian accessibility.

(b) Such signs shall be designed to be visible to and orient pedestrian traffic, and not intended for viewing by motorists.

(c) Shall be removed from the sidewalk and placed indoors when business is closed.

(d) No more than one (1) sidewalk sign per entrance.

(e) Such signs shall be constructed in an "A-Frame" design and shall be no greater than three feet (3) wide and six (6) feet in height.

(f) Only used to list specials or menus.

(g) Such signs 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. Spray-painted messages shall be prohibited

(h) Such signs located in the Downtown Overly (DO) District shall be constructed utilizing colors and materials that compliment the downtown business decor and give the appearance of being commercially constructed.

(i) Such signs located in the Downtown Overly (DO) District and 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.

Figure 4.4-4: Examples of Downtown Sidewalk Signs

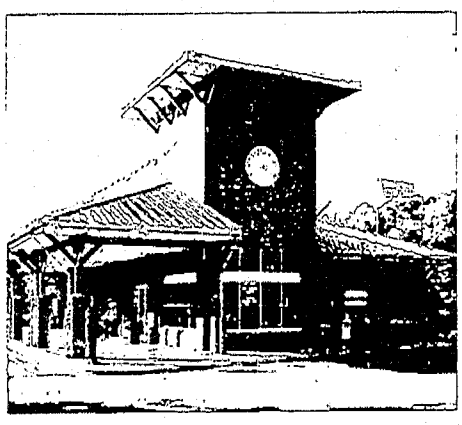




(5) **Flags.**

Flags or insignia of any nation, state, county or municipality, any religious, civic or fraternal organization, or any educational or cultural facility provided that the height of the flagpole does not exceed the maximum building height and includes no more than three (3) individual poles installed less than one hundred linear feet apart.

Figure 4.4-5: Examples of Flags





(6) **Government Signs.**

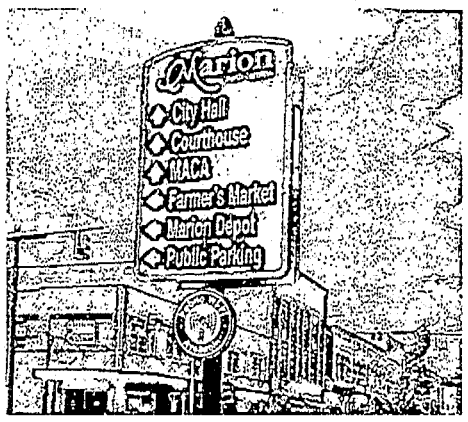
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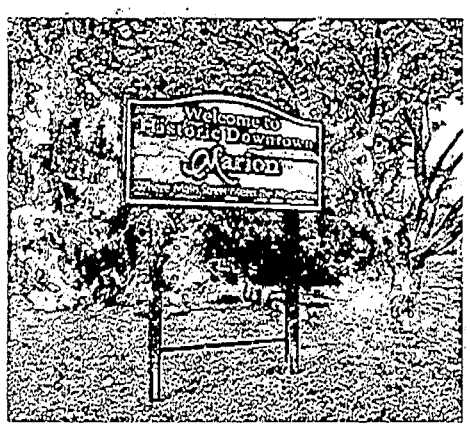
(a) Signs posted by various local, state, and federal agencies in the performance of their duties such as regulatory signs, welcome signs and traffic signs.

(b) Signs installed under governmental authority which note the donation of buildings, structures or streetscape materials.

(c) Any other sign required by local, state, or federal law, statute or ordinance.

Figure 4.4-6: Examples of Government Signs

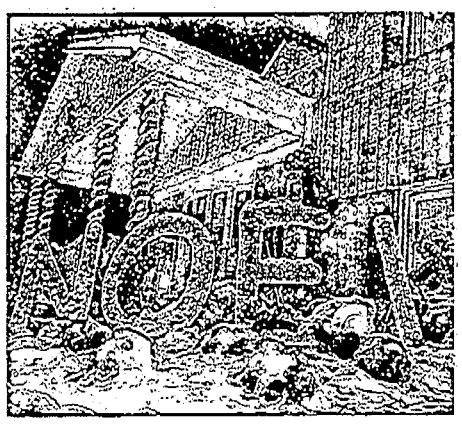




(7) **Holiday Decorations (Temporary).**

Temporary decorations or displays are permitted when such are clearly incidental to and are customarily and commonly associated with any national, local or religious holiday or celebration provided that such signs do not create a public safety hazard or a distraction to motorists.

Figure 4.4-7: Examples of Holiday Decorations





(8) **Incidental Signs.**

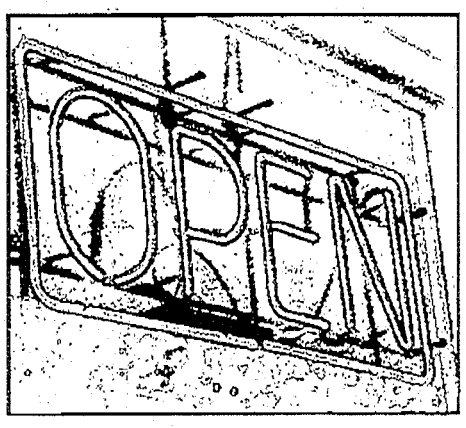
(a) On-premise sign that are intended to provide information of a general directive or are informational in nature, which bears no advertising matter, and does not exceed two (2) square feet of sign copy area.

(b) Such signs shall be attached flush to a building, which may include windows and doors.

(c) Such signs shall not scroll, flash, simulate movement, or create a distraction to motorists, and shall meet all requirements for illumination; except that indoor neon signs meeting the provisions for incidental signs are permitted.

(d) Indoor electronic message center signs visible from a public right-of-way or adjacent property are prohibited except those that conform to the provisions for incidental signs and the requirements of section 21-4.5(3) of this chapter.

Figure 4.4-8: Examples of Incidental Signs





(9) **Legal or Warning Signs.**

(a) Signs erected to warn of danger or hazardous conditions such as signs erected by public utility companies or construction companies.

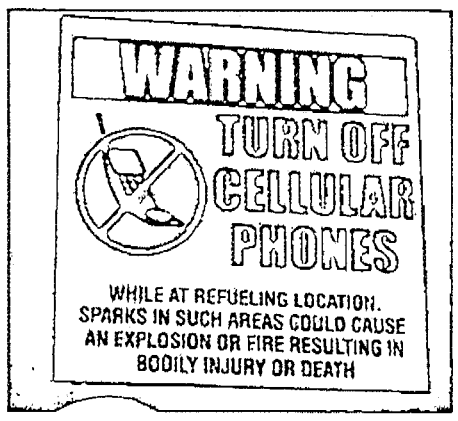
(b) Signs required for or specifically authorized for a public purpose by any law, statute or ordinance.

(c) Signs that display information pertinent to the safety or legal responsibilities of the general public with regard to a particular piece of property shall be located on the premises to which the information pertains. No advertising may be affixed to such sign.

Figure 4.4-9: Examples of Legal or Warning Signs

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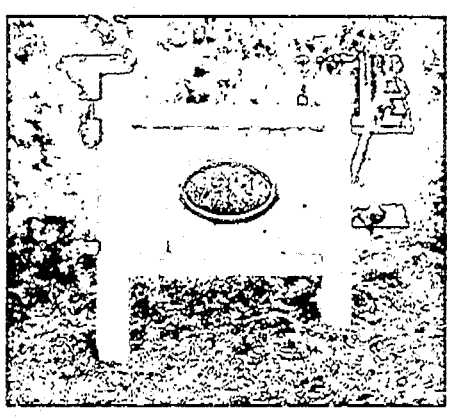


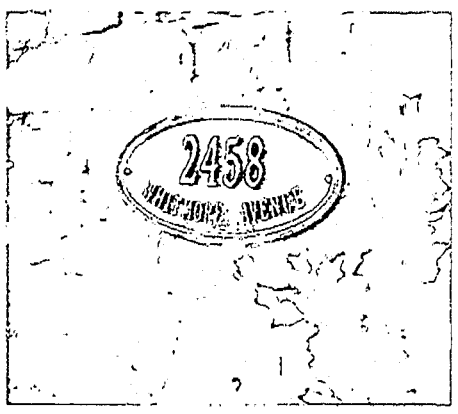


(10) **Occupant/Street Number Signs.**

Such signs shall be affixed to structures, mailboxes, and driveway entrances which serve to identify the address of the structure or occupant. All such signs shall be placed in such a manner as to be visible from the street.

Figure 4.4-10: Examples of Occupant/Street Number Signs





(11) **Portable Political Campaign Signs.**

(a) Political signs shall not be illuminated.

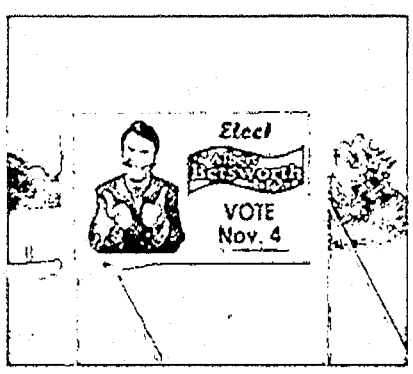
(b) Such signs shall be in compliance with North Carolina General Statutes for size on NCDOT rights-of-way, and in all other locations such signs shall not exceed thirty-two (32) square feet in non-residential zoning districts, and four (4) square feet in residential zoning districts. Freestanding signs exceeding this size shall be required to obtain a permit and must comply with regulations for permanent freestanding signs within the district they are located.

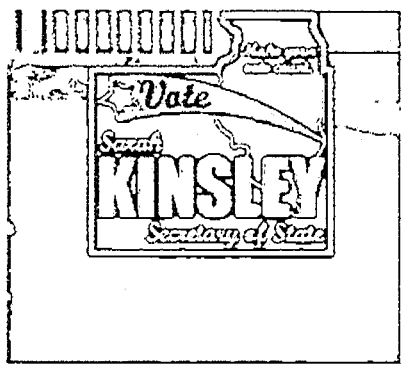
(c) No sign shall be higher than 42 inches (four feet) above the edge of the adjacent roadway as measured from the edge of pavement.

(d) Such signs shall not be located within landscaped beds and shall not be attached to trees or utility poles or on city-owned property, and shall not be located in a manner that blocks site visibility at street intersections, obscure motorist visibility, or obstruct another sign.

(e) Political signs may be displayed sixty (60) days prior to an election and removed no later than seven (7) days after the election. In the event of a runoff election, political signs for the candidates involved may remain until seven (7) days after the runoff election. Signs not removed after seven (7) days shall be removed by the City and shall be held for ten (10) days before being discarded.

Figure 4.4-11: Examples of Portable Political Campaign Signs.

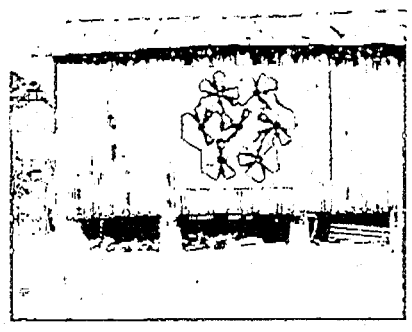


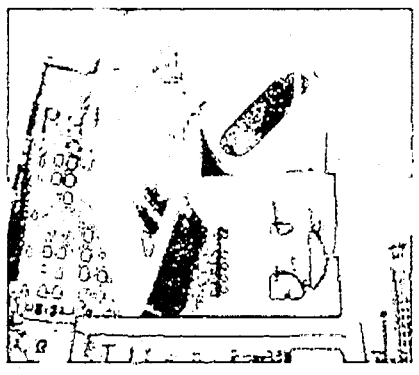


(12) **Public Art/Murals.**

Any work of art intended for the pleasure and enjoyment of the public and approved by resolution by the City Council, and/or recommended by either McDowell Arts Council or the Marion Business Association.

Figure 4.4-12: Examples of Public Art/Murals





(13) **Real Estate Signs**

(a) Such signs shall not be illuminated.

(b) Such signs shall be no greater than four (4) square feet in area and four (4) feet in height (if freestanding) when located on

residential property,

(c) Such signs shall be no greater than thirty-two (32) square feet in area and eight (8) feet in height (if freestanding) for non-residential property.

(d) Real estate signs, including "sold" signs, shall be removed within thirty (30) days of closing of the sale, rental, or lease of the property.

Figure 4.4-13: Examples of Real Estate Signs

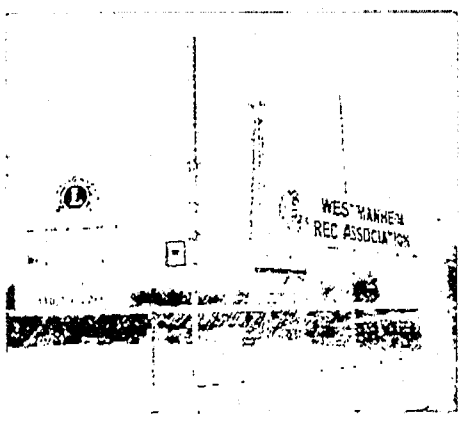


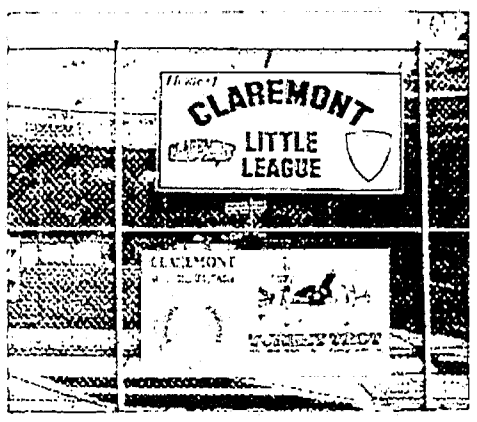


(14) **Stadium and Recreational Signs.**

Signs located within a stadium intended to be read only by the persons seated within the stadium, and not visible from any public right-of-way outside the stadium.

Figure 4.4-14: Examples of Stadium and Recreational Signs





(15) **Temporary Signs.**

A sign that is used in connection with a circumstance, situation or event that is designated, intended, or expected to take place or to be completed within a reasonable short or definite period of time. Such signs shall be permitted provided the following:

(a) **Special Event Signs:**

Signs may be erected by a public agency, school, non-profit, civic or other persons(s) approved by the city to hold a special non-commercial event; or business grand opening, special sale, or business closing.

(1) Such on-premises signs shall not exceed thirty-two (32) square feet.

(2) Signs larger than four (4) square feet shall be attached flush to a building, structure, or fence, and shall not be attached directly to the ground, to a pole, or between two or more poles or similar support structures.

(3) On-premises signs may be erected no greater than thirty (30) days prior to the event and off-premise non-commercial signs may be erected no greater than seven (7) days prior to the event; all signs shall be removed no later than one (1) business day following the event.

(4) Signs shall not be illuminated.

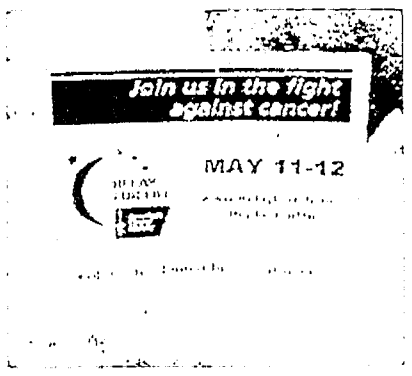
(5) Signs located shall be located on private property.

(6) Off-premise signs shall be limited to no more than one (1) temporary event sign per property at any one time except that one (1) additional sign shall be allowed for each additional street frontage.

(7) Off-premises signs shall contain no commercial messages.

Figure 4.4-15: Examples of Temporary Special Event Signs





(b) **Yard Sale Signs:**

(1) Such signs may be located on-premises only and shall not be located within a public right-of-way nor placed on a tree, street sign or utility pole.

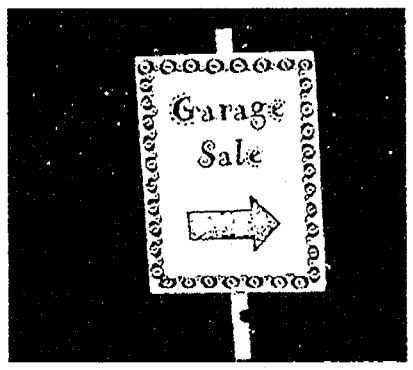
(2) Such signs shall not be illuminated.

(3) Yard sale signs are limited to four (4) square feet in area and four (4) feet in height.

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Figure 4.4-16: Temporary Yard sale Signs



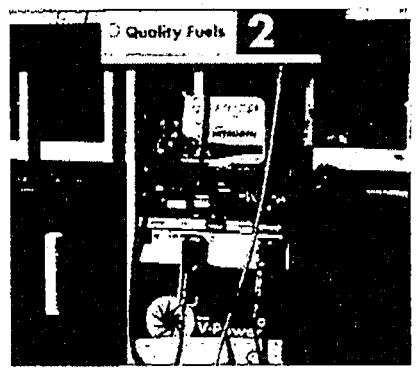


(16) **Vending Machine/Automatic Teller and Gasoline Pump Signs.**

Signs attached to and made as integral part of a vending machine, automatic teller machine, or gasoline pump if advertising or giving information about the products or services dispensed or vended by that machine.

Figure 4.4-17: Examples of Vending machine and Gasoline Pump Signs.





(17) **Window Signs and Displays.**

(a) **Window Displays.**

Merchandise, pictures, or models of product or services that are incorporated as an integral part of a window display.

Figure 4.4-18: Examples of Window Signs and Displays.





(b) **Window and Vehicle Signs.**

(1) Signs which are posted, painted, placed, or affixed to the interior or exterior of a window.

(2) Signs affixed flush to an operational motor vehicle indicating the name of a business, when the vehicle is not intended to be used for display of signs.

Figure 4.4-19: Examples of Window and Vehicle Signs





Sec. 21-4.5 Signs Requiring a Permit.

The following signs are allowed subject to the issuance of a permit. (1) **Freestanding Signs.**

(a) **Single Tenant Monuments.**

1. Single tenant monument signs are permitted in all commercial districts and multi-unit residential community developments with greater than six units.

2. All ground mounted signs shall be located a minimum of five (5) feet behind the public right-of-way to avoid obstructing visibility.

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3. Such signs shall not be located ten (10) feet of a side property line, twenty (20) feet from any public right-of-way intersection, or within a required clear-site triangle.

4. Such signs shall have a solid architectural base that supports the sign and is comprised of masonry materials.

5. Sign display areas shall not exceed 60 percent of the overall monument. The overall monument including bases and structural elements shall not exceed eighty-four (84) square feet and an overall height of seven (7) feet. Except that a monument sign established on a slope will be calculated from the base at highest adjacent grade. See Figure 4.5-1 for calculating measurement of a monument sign. See Figure 4.5-2 for examples of a monument sign.

Figure 4.5-1: Monument Area Measurement.

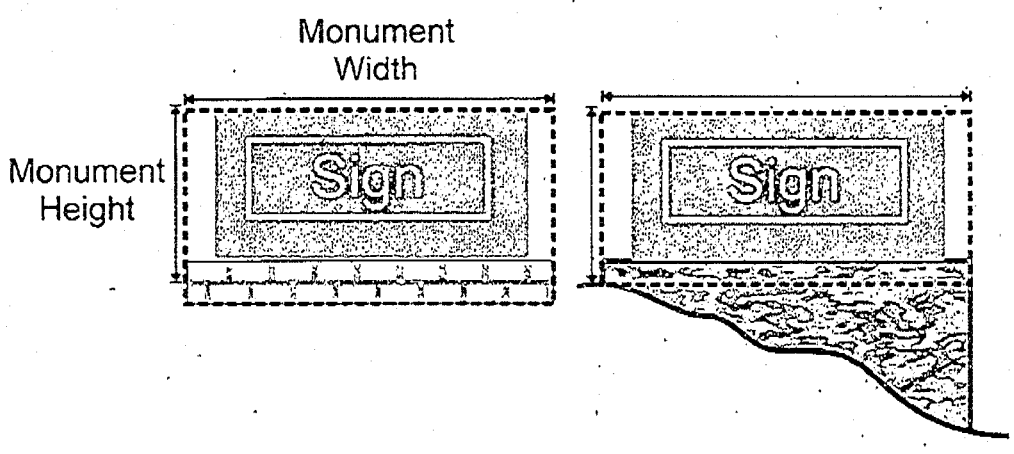
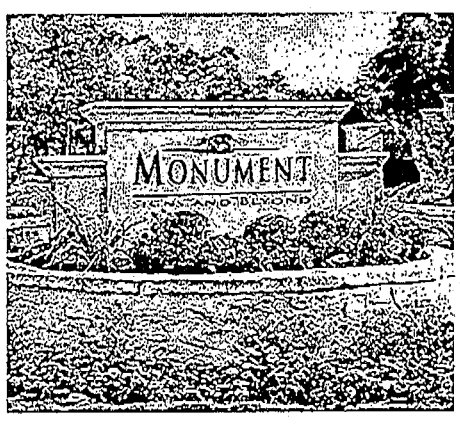
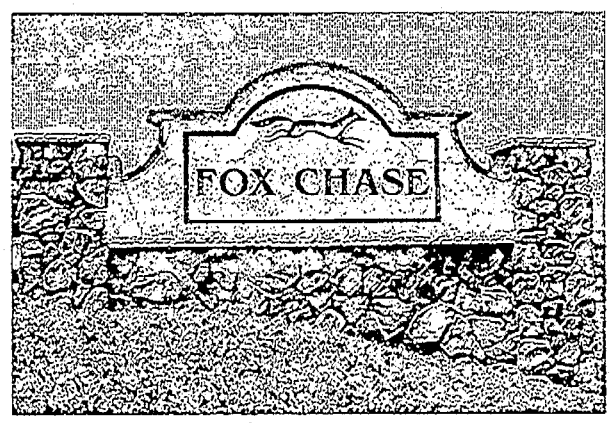


Figure 4.5-2: Examples of Monument Signs.





(b) **Multi-Tenant and Mixed Use Signs.**

1. Multi-tenant and mixed-use signs shall be allowed for multi-tenant commercial, mixed- use, and planned unit developments only. Individual tenant ground mounted signs are not permitted under this set of criteria.

2. Maximum sign area allowed is 100 square feet plus eight additional feet per storefront or office. Including all structural elements, the maximum height of the sign shall not exceed twenty (20) feet. Overall monument (armatures, monument, bases, brick or stone structural elements, etc.) including maximum sign area should not exceed two hundred (200) square feet.

3. One multi-tenant sign per primary street frontage shall be permitted. Additional monuments on secondary road entrances shall not exceed 100 square feet in total area, including all structural elements.

Figure 4.5-3: Examples of Multi-Tenant and Mixed Use Signs.



(c) **Arm Signs.**

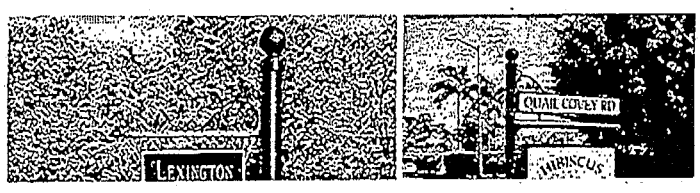
1. Arm signs shall not exceed eight (8) square feet, and no greater than six (6) feet in height from adjacent grade; with the exception of home occupation signs which shall not exceed two (2) square feet in size, and no greater than four (4) feet in height from adjacent
grade.

2. Bottom of sign panels shall maintain a minimum three (3) feet clearance from grade.

3. All arm signs shall be located a minimum of five feet (5) behind the public right-of-way.

4. A ten (10) foot side-yard setback shall be required if the property abuts a residential district.

Figure 4.5-4: Examples of Arm Signs.



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(d) **Changeable Copy Signs.**

A sign capable of having changeable copy, excluding electronic message center signs, for the purpose of advertising a schedule of events, rules and regulations, or similar messages.

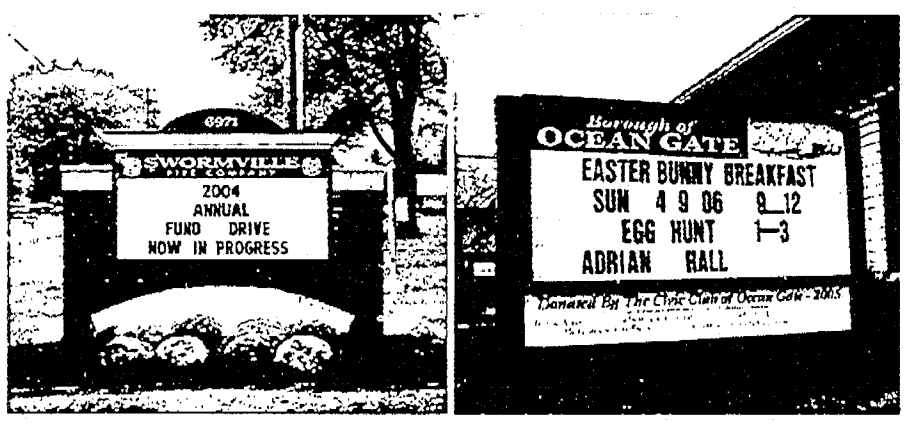
1. Such sign shall not exceed thirty-two (32) square feet, and shall include the name of the on-premise advertiser or co-located with a sign indicating the advertiser's name.

2. Such signs may be double-sided if it is manufactured in one enclosed sign cabinet or by means of insta lation that gives the appearance of being one sign.

3. Such signs shall be located a minimum of five (5) feet behind the public right-of-way. At intersections, no sign shall be located within the clear-site triangle.

4. Such sign shall not be located closer than ten (10) feet to any adjacent lot line. A twenty (20) foot side-yard setback shall be required if the side yard abuts a residential district.

Figure 4.5-5: Examples of Changeable Copy Signs.

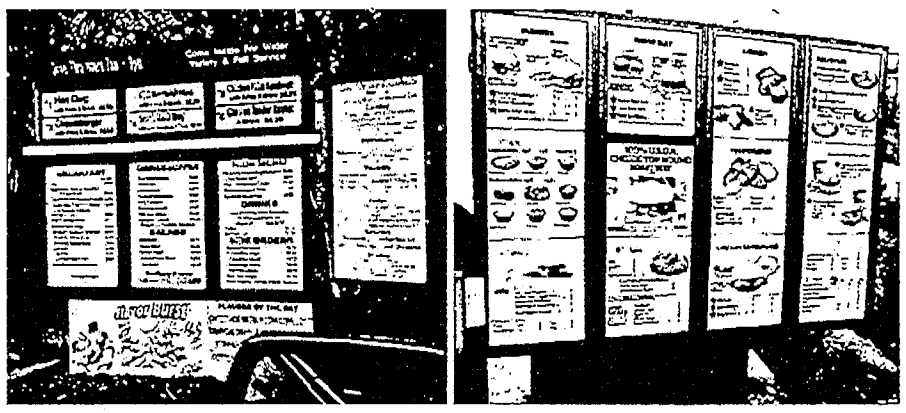


(e) **Drive-Thru Menu Boards.**

1. Such signs shall not exceed sixty (60) square feet and shall conform to the architectural standards and colors of the building.

2. No more than one (1) menu board is permitted per drive-thru entrance.

Figure 4.5-6: Examples of Drive-Thru Menu Boards.



(f) **Pole-Mounted Signs.**

1. Pole-mounted signs shall not exceed one hundred (100) square feet in sign area, and shall not exceed a maximum height of thirty (30) feet within the C-2 General Business District and M-1 Industrial District. Within all other non-residential districts, pole-mounted signs shall not exceed 50 square feet in sign area, and twenty (20) feet in height.

2. There shall be no more than two (2) pole mounted signs permitted per property, except that one additional sign may be permitted at the entrance of each additional road frontage.

3. Such signs, including any structural and/or design elements, shall not encroach into the public right-of-way.

4. A pole-mounted sign within the C-2 District may exceed the height and size requirements provided the following conditions are met:

a. The property is no less than two (2) acres in size.

b. The sign is within a 1,000-foot radius of the centerline of the I-40 interchange.

c. 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.

d. 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, color, lettering style, and arrangement of the sign shall present a professional quality appearance.

e. Special circumstances exist that require deviation from the standard requirements.

f. The sign area does not exceed 300 square feet in size and is no greater than 50 feet in height above the street grade of the adjacent interstate.

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g. Such sign is expressly used for the advertising of interstate dependant businesses (e.g. restaurants, lodging, and/or gas stations).

h. The sign shall not be located within four hundred (400) feet of another sign that is greater than thirty (30) feet in height.

i. The sign application is approved by the board of adjustment.

Figure 4.5-7: Examples of Pole-Mounted Signs



(2) **Building Mounted Signs.**

(a) **Projecting Arm Signs.**

1. A projecting arm sign shall maintain a clearance of eight (8) feet from the bottom of the sign above the finished grade of the sidewalk, with the exception of home occupation signs which shall not exceed two (2) square feet in size.

2. One projecting arm sign per primary business entrance.

3. Such signs shall not project more than four (4) feet from the wall and shall not exceed ten (10) square feet in sign area.

4. Such signs should reflect the proportional and dimensional relationships of the structure.

5. The projecting sign shall not be mounted above the floor of the second story, parapet wall or eave line of the building.

Figure 4.5-8: Examples of Projecting Arm Signs



(b) **Canopy Awning Signs**.

1. All awnings should be made of a flame-resistant woven fabric (suggested weight of 9.25 oz. per square yard).

2. Pitch may vary, but shall be limited to a minimum of 35 degrees and a maximum of 55 degrees.

3. The bottom valance length shall not exceed ten (10) inches, and shall not be less than nine (9) feet above the finished grade of the sidewalk.

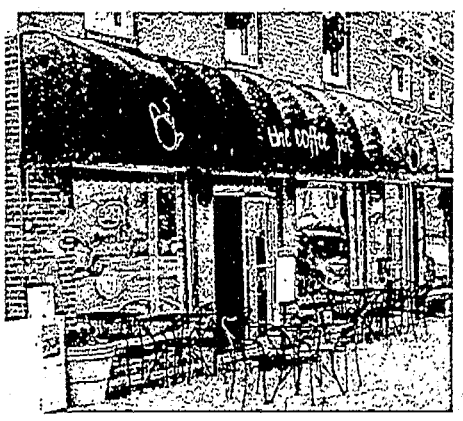
4. All custom screen print shall be professionally designed and applied to the awning.

5. Structural tubing should be steel or aluminum frame only.

6. Any variations to the standard awning specifications shall be approved by the Planning Director upon favorable recommendation by the Marion Business Association.

7. With the exception of pedestrian signs, no other sign temporary or permanent shall be attached to a canopy awning or support structure.

Figure 4.5-9: Examples of Canopy Awning Signs.





(c) **Building-Mounted Banner Signs.**

1. One (1) permanently affixed flag or banner shall be permitted for every five (5) feet of linear building frontage, with no more than five (5) total per building.

2. Such signs shall be attached perpendicular to the building and secured using industry standard mounting hardware.

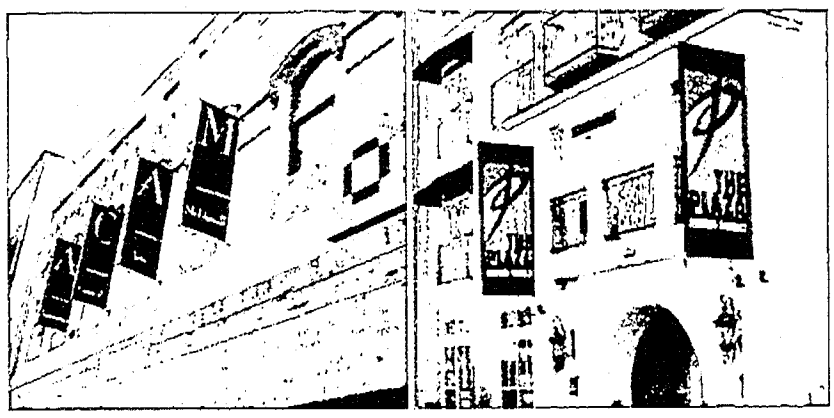
3. No individual building mounted banner shall exceed eight (8) feet in height or three (3)

feet in width.

4. Such sign shall be located above the first floor level of the building frontage with the lowest mounting armature no less than twelve (12) feet above grade.

5. No banner or mounting armature shall be attached to any other existing sign, awning, or other structural apparatus.

Figure 4.5-10: Examples of Building-Mounted Banner Signs.



(d) **Pedestrian Canopy Signs.**

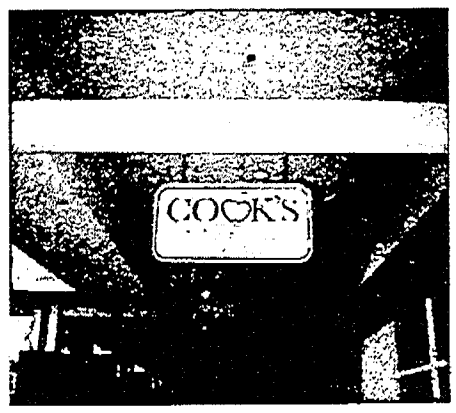
1. Pedestrian canopy signs shall be centered under a canopy or covered walkway, and the bottom of such signs being no less than eight (8) feet above the pedestrian walkway.

2. Such signs shall not exceed three square feet in size.

3. No more than one (1) sign per storefront shall be permitted.

Figure 4.5-11: Examples of Pedestrian Canopy Signs.





(e) **Wall-Mounted Signs.**

1. Such signs shall not have a maximum size limit, with the exception of home occupation signs which shall not exceed two (2) square feet in size.

2. No wall sign shall project more than eighteen inches from the building wall. Further, no wall sign or its supporting structures shall cover any part of a window, nor shall it extend beyond above the highest point of the building wall, roof line, parapet, or mansard roof.

3. No wall sign shall be attached to any cupola, tower, chimney, or other architectural structure that is above the roof line.

4. A transition line should separate the signage from the façade below.

5. Wall signs should reflect the proportional and dimensional relationships of the structure.

Figure 4.5-12: Examples of Wall-Mounted Signs





(3) **Electronic Message Signs.**

Electronic message signs are permitted as a component of otherwise permitted signage subject to the following regulations.

1. No sign shall be placed within 300 feet of a residential district or 100 feet of a residential property, unless otherwise expressly permitted within this chapter.

2. The message and/or graphic image must be complete during the duration of the display, without continuation in content to the next image, message, and/or to any other sign. Transitions from one static message and/or image to the next shall appear instantaneous without the appearance of movement of any kind, and take no longer than two (2) seconds to complete.

3. With the exception of regulatory warning signs, all moving text, graphics, lights creating the appearance of animation, flashing, scrolling, fading, streaming video, and other forms of motion are prohibited.

4. The message display shall remain static for a minimum of one (1) minute before transitioning to another static image.

5. With the exception of time, date, temperature, and petroleum price signs, all other electronic message center (EMC) signs larger than twenty-four square feet but no greater than one hundred square feet shall be approved as a Special Exception by the Board of Adjustment. Double-sided display shall not be calculated individually if the sign is manufactured in one enclosed sign cabinet or by means of installation gives the appearance of being one sign.

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6. Each static message display shall be limited to one monochrome color displayed on a solid black background at any one given time.

7. With the exception of petroleum price signs, all other signs shall have pixel pitch of no greater than 20mm.

8. There shall be no more than one (1) electronic message sign per property, and shall be wall-mounted, co-located with a larger existing pole-mounted sign and affixed no greater than ten (10) feet from adjacent grade, or as an individual monument sign.

9. Such signs which are illuminated or which use electronic lighting to display message shall be subject to the restrictions and limitation applicable to illumination in this chapter.

10. **Limited Exceptions.** .

a. **Time, Date, and Temperature (TDT) Signs.** Time, date, temperature digital display areas shall not exceed 32 square feet per face, and shall not be included in the allowable sign area, provided, that it is co-located on an existing ground-mounted sign and all other requirements for electronic message signs are met.

b. **Petroleum Digital Price Signs.**

1. The total digital display area on one sign shall not exceed 32 square feet, and illuminated numerals shall not exceed twelve (12) inches in height.

2. Such signs may contain single-faced or double-faced display areas.

3. Such signs shall be co-located on an approved ground-mounted or pole-mounted sign.

4. The digital display area shall not be calculated as part of the total allowable display area for an approved sign.

c. **Non-Commercial Message Signs.**

1. The total digital display area on such sign shall not exceed 12 square feet, and shall be installed consistent with the requirements of the chapter for single-tenant monument signs, and shall not be calculated as part of the total allowable display area for an approved sign.

2. No sign shall be placed within 300 feet of a residential district or 100 feet of a residential property, except signs that can be automatically programmed to be turned off between the hours of 10:00 p.m. and 6:00 a.m.

(4) **Off-Premise Advertising Signs.**

Any sign identifying, advertising, or directing the public to a product, service, business or activity sold, located or conducted primarily elsewhere than on the premises is permitted in accordance with the following regulations:

(a) **All Off-Premise Signs.**

1. Each structure shall have no more than one (1) sign, and such sign may have doubled- sided display face.

2. No off-premises outdoor advertising sign in any location shall be more than eight hundred (800) feet from a business, commercial or industrial enterprise located on the same side of the street, road or highway as the sign.

3. No off-premises advertising sign shall be attached to or painted on any building or structure.

4. Notwithstanding all other applicable regulations, such signs set forth in subsection b. below may be constructed within one thousand (1,000) feet of any dwelling unit; or such signs set forth in subsection C or D below may be constructed within five hundred (500) feet of any dwelling unit provided that the owner of any dwelling unit located within such distance executes a statement granting express permission for the placement permitted under this section. Such statement shall refer to the book and page number on which the deed for the owner's property is recorded in the McDowell County Registry and said statement shall be properly notarized. A copy of said statement shall be submitted with application to the zoning administrator.

5. Such signs which are illuminated or which use electronic lighting to display message shall be subject to the restrictions and limitation applicable to illumination in this chapter.

(b) **Directional signs.**

Directional signs shall conform to the standards and provisions of this chapter, except subsection 21-4.5(4(a) of this chapter. Directional signs shall:

1. Contain only the name and logo of a business located in the city limits, with an arrow or other mark to indicate the direction of the business location and the distance to the business from the sign.

2. Such signs shall not exceed four (4) square feet in area per sign face, and may be double- sided.

3. Directional signs shall not be located in the right-of-way and shall have written notarized permission from the property owner in which the sign is located.

4. There shall be no more than one directional sign per street, and no more than two directional signs providing direction to one site.

5. An off-premises sign directing or assisting the flow of pedestrian or vehicular traffic associated with an approved temporary use or civic event shall be considered temporary and shall comply with subsection 21-4.4(15)(a) of this chapter.

(c) **Off-Premise Advertising Signs (Highway)**

In addition to subsection a. above, off-premise advertising signs located where designed to be visible from any U.S. or N.C. highway shall be permitted if in accordance with the following:

1. Such sign shall not exceed three hundred (300) square feet per sign face, and not exceed thirty (30) feet in height above adjacent roadway grade.

2. Shall be no less than twenty (20) feet from the edge of right-of-way or no less than thirty (30) feet from the edge of the traveled way where the right-of-way is unknown.

3. Such signs shall be no less than one thousand five hundred (1,500) linear feet (measuring along both sides of the highway) from any other off-premise advertising sign; no less than five hundred (500) feet from any intersection of the centerlines of any

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street; no less than five hundred (500) feet from any at-grade railroad crossing or any bright; and no less than one thousand (1,000) feet from any dwelling unit, church or place of worship, cemetery, school, playground or park located within six hundred sixty (660) feet of the right-of-way.

(d) **Off-Premises Advertising Signs (Commercial Corridor)**

In addition to Subsection a. above, off-premises advertising signs located where designed to be visible from any other road or street shall be permitted if in accordance with the following:

1. Such sign shall not exceed one hundred (100) square feet per sign face, and shall not exceed thirty (30) feet above adjacent roadway grade.

2. Shall be no closer to the right-of-way than ten (10) feet from the right-of-way, or no closer than twenty (20) feet from the edge of the traveled way where the right-of-way is unknown or does not exist.

3. Such signs shall be at least one thousand (1,000) linear feet (measuring along both sides of the highway) from any other off-premises advertising sign; at least three hundred (300) feet away from any intersection of the centerlines of any streets; at least three hundred (300) feet from any at-grade railroad crossing or any bridge, and at least five hundred (500) feet from any dwelling unit, church or place of worship, cemetery, school, playground or park located within six hundred sixty (660) feet of the right-of-way.

Sec. 21-4.6 Prohibited Signs.

In order to maintain the character and the aesthetic quality within the City of Marion the following signs are prohibited:

(1) Signs which contain words or graphics which are obscene, as that term is defined in N.C.G.S. Chapter 15.

(2) No sign shall be erected or maintained where by reason of its position, wording, illumination, size, shape, or color it may obstruct, impair, obscure, interfere with the view of, or be confused with, any authorized traffic control sign, signal, or device.

(3) Any sign, which obstructs ingress or egress, is located within a clear-site triangle, creates an unsafe distraction for motorist, or obstructs the view of motorist entering a public road or highway.

(4) Signs, whether temporary or permanent, within any street or highway right-of-way, with the exception of governmental signage.

(5) Signs attached, maintained, painted, or drawn on utility poles, towers, telephone poles, trees, bridges and overpasses, rocks or other natural features, benches, or other signs.

(6) No signs located in a manner which are designated to be visible from any road, street or highway, or portion thereof, which is designated a scenic corridor by the city council shall be permitted.

(7) Vehicles used for the sole purpose of displaying signs, and/or any sign designed to be placed and/or transported on wheels.

(8) Signs located on or attached to the roof of a structure, except as expressly permitted herein. (9) Spectacular signs, flashing arrow signs, or any sign advertising copy with changeable letters to display a message or advertise, except as expressly permitted herein.

(10) Signs including but not limited to billboards, "snipe" or "bandit" signs, or those that include people wearing costumes and/or holding temporary signs, except as expressly permitted herein.

(11) Abandoned signs, dilapidated signs, or signs that advertise an activity or business no longer conducted on the property on which the sign is located.

(12) Signs that incorporate flashing, blinking, strobe lights or signs with moving parts or parts, which simulate movement.

(13) Inflatable signs, aerial signs, or balloons (excluding standard latex party balloons) that direct attention to a business, product, service, or other commercial activity conducted, sold, or offered on a permanent or temporary basis.

(14) Permanent or temporary signs placed on property without permission from its property owner or agent.

(15) Any sign or form of lettering attached to, rather than printed on an awning.

(16) Any printed and/or translucent canvas awnings with internal illumination.

(17) Any sign attached to gas pumps or gas pump islands that can be read from off the property.

(18) Temporary "feather" banner signs of any type, size, color, or composition.

(19) Portable signs or any other sign having the potential to be relocated, and which is not permanently installed or permanently anchored to either the ground, pole, canopy, or other structure except as expressly permitted herein.

(20) All other signs that do not conform to the provisions of this chapter.

Sec. Sec. 21-4.7 Sign maintenance.

All signs, supports, braces, poles, wires and other appurtenances of signs or sign structures shall be kept in good repair, maintained in safe condition, and shall conform to the standards in this chapter. Maintenance carried out in accordance with this section shall not require a sign permit, provided the sign is not enlarged, moved or altered in any manner which would create or increase a nonconforming condition.

(1) A sign shall be in a state of disrepair when more than twenty (20) percent of its total surface area is absent, covered with disfigured, cracked, ripped, peeling paint or poker paper, or any combination of these conditions. Any sign in a state of disrepair shall be considered in violation of this chapter.

(2) No sign shall be allowed to stand with bent or broken sign facing, broken supports, loose appendages or struts which cause the sign to stand more than fifteen (15) degrees from the perpendicular.

(3) No sign or sign structure shall be allowed to have weeds, vines or other vegetation growing on it and obscuring it from the street or highway from which it is intended to be viewed.

(4) No illuminated sign shall be allowed to stand with only partial illumination.

(5) Any sign that violates the maintenance provisions listed above shall be in violation of this chapter and shall be repaired or removed as required by the applicable sections of this chapter.

(6) No person may, for the purpose of increasing or enhancing the visibility of any sign, damage, trim, destroy or remove any trees,

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shrubs or other vegetation located within a public right-of-way of any road or highway, except where a legal permit for such has been obtained from the City of Marion and/or the North Carolina Department of Transportation.

Sec. 21-4.8. Revocation of permit.

Any valid permit issued for a lawful sign structure shall be revoked by the zoning administrator for any one (1) of the following reasons:

(1) Mistake of material facts by the issuing authority for which had the correct facts been known, the sign permit in question would not have been issued.

(2) Misrepresentation of material facts by the applicant on the application for permit for the sign.

(3) Failure to pay annual renewal fees.

(4) Failure to construct the sign structure within one hundred eighty (180) days from the date of issuance of the permit.

(5) Any alteration of a sign structure for which a permit has previously been issued which would cause that sign structure to fail to comply with the provisions of this chapter and the rules and regulations promulgated by the city council pursuant thereto.

(6) Any violation of subsection 21-4.11 of this chapter.

(7) Unlawful destruction of trees or shrubs or other growth located on the right-of-way in order to increase or enhance the visibility of a sign structure.

(8) Abandonment or discontinuance of a sign.

(9) Failure to maintain a sign such that it remains blank for a period of twelve (12) consecutive months.

(10) Failure to maintain a sign such that it reaches a state of dilapidation or disrepair as determined by the zoning administrator.

(11) Making repairs to a nonconforming sign which exceed fifty (50) percent of the initial cost of the sign. Total repairs within any twenty-four (24) consecutive months may not exceed fifty (50) percent of the value of the sign. To avoid liability under this clause, the advertiser should contact the zoning administrator prior to making any repairs to discuss the scope of the proposed improvements. The scope of the improvements is limited to the following: repairing the sign or the sign structure, replacing broken glass or other work to keep the sign safe and in good repair.

Sec. 21-4.9. Reconstruction of damaged signs or sign structures.

(1) Any conforming sign or sign structure, which has been damaged may be repaired and used as before, provided all repairs are initiated within thirty (30) days and completed within sixty (60) days' of such damage. However, if the sign should be declared unsafe by the zoning administrator, the owner of the sign or the owner of the record of the real property whereon the sign is located, shall immediately correct all unsafe conditions in a manner satisfactory to the zoning administrator.

(2) As a courtesy to the sign owner, if the zoning administrator discovers that a sign has been damaged or is in an unsafe condition, the zoning administrator will promptly notify the owner of the sign or the owner of record of the real property whereon the sign is located of such damage or unsafe condition. The affirmative duty and liability shall, however, at all times remain with the owner of each sign to keep each sign in a safe and undamaged condition in keeping with the terms of this chapter.

Sec. 21-4.10 Value of Signs

The value of a sign shall be the value for tax purposes of any sign so listed. If the tax value is not available, the value shall mean the original cost of the sign. In the absence of information as to the original cost submitted by the sign owner, the zoning administrator shall estimate the original cost based upon the best information reasonably available.

Sec. 21-4.11 Administration, Enforcement, Appeals.

The zoning administrator shall have the following authority:

(1) To issue a violation notice for any violation of the chapter. A violation notice shall be delivered by certified mail, return receipt requested, or by such other method as allowed by law, to the owner of the sign in violation of the ordinance. Whenever the owner of the sign cannot be located and notified, said notice shall be delivered to the owner of record of the real property whereon the sign is located. The time period provided herein shall commence upon receipt of such violation notice. The violation notice shall identify the sign and shall describe the nature of the violation, refer to the section of the ordinance violated, specify in detail what action must be taken to correct the violation, and specify a reasonable time limit of up to thirty (30) days within which the violation must be corrected.

(2) To issue a remove order for any sign or sign structure not corrected within the time allotted under the violation notice, or for a prohibited sign under the violation notice, or for a prohibited sign as established by this chapter. A remove order shall be delivered to the sign owner or to the owner of record of real property whereon the sign is located in the same manner as set out for a violation notice and shall not be effective until received. The recipient of the remove order shall be allowed thirty (30) days after the receipt of the remove order within which to remove the subject sign at his expense. The remove order shall identify the sign and reasons for the issuance of the remove order and shall refer to the section of the ordinance violated.

(3) To remove or cause to be removed any sign or sign structure not removed in accordance with a remove order after thirty (30) days from receipt of such order, and to assess the receipt of such order with the cost of such removal.

(4) To issue citations for any violation of this chapter in accordance with section 1-10 *Code Enforcement* of the city code.

(5) To issue an unsafe sign notice should the zoning administrator find that any sign has become insecure in imminent danger of falling or otherwise unsafe. An unsafe sign notice shall be delivered to the sign owner or to the owner of the record of the real property whereon the sign is located in the same manner as set out for a violation notice except that the recipient of the notice shall forthwith in the case of immediate danger and in any case within ten (10) days, of receipt, secure the sign in a manner to be approved by the zoning administrator in conformance with the provisions of this chapter or remove such sign. If the notice is not complied with in ten (10) days, the zoning administrator shall remove such

Sec. 21-4.12. Amortization of certain signs.

(1) Spectacular signs shall become nonconforming in all districts within one (1) year after the date of adoption of this chapter, at which time annual permits will expire and shall not be renewed. After the one-year amortization period, all spectacular signs in

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in the city limits shall be considered in violation of this section and shall be removed.

(2) Portable signs, as defined in subsection 21-4.6(20), shall become nonconforming in all districts, unless otherwise specified, as of the date of adoption of this section and shall be removed within six (6) months after the date of adoption.

(3) Electronic message signs in which illumination level and duration of display message exceed the standards set forth in this chapter shall become nonconforming in all districts and shall come into conformance within (1) year after adoption of this chapter, at which time the sign shall be brought into compliance. Existing electronic signs that do not have the functional capability to be programmed to control illumination level and duration of display may remain so long as they do not create a public safety hazard.

Section 3. This ordinance shall become effective upon its adoption with the exception of section 21-4.4(11) Portable Political Campaign Signs, which will be become effective December 1, 2014.

Adopted this the 6th day of May, 2014.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette
City Manager/ Clerk

Ordinance Number: **O-14-05-06-1**

CONSIDER ADVISORY BOARD APPOINTMENTS: The City Manager advised that The City has several Advisory Board terms that will expire on June 30. On the Planning Board, the terms of Kit Alverson and Marc Cook as Regular Members will expire. On the Tree Board, the terms of Joan Hensley and Steve Brown will expire. As authorized by Council, these individuals were contacted to see if they are willing to be reappointed for another term.

The City Manager stated that Kit Alverson and Marc Cook are willing to be reappointed to another three year term on the Planning Board and Joan Hensley is willing to be reappointed to a new three year term on the Tree Board. Steve Brown advised that his schedule will not allow him to remain on the Tree Board, so he asked that he not be reappointed.

The City Manager reported that, On the ABC Board, the term of Bill Smith, who passed away on April 2, was set to expire on June 30, so an appointment is needed for a new three year term, to expire June 30, 2017.

Upon a motion by Council Member Clark, seconded by Council Member Martin, those members of Council present voted to reappointment Mr. Kit Alverson and Mr. Marc Cook to new three year terms on the Planning Board, said terms to end June 30, 2017.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Ramsey, those members of Council present voted to reappoint Ms. Joan Hensley to a new three year term on the Tree Board and to appoint Ms. Nancy Clark to a three year term on the Tree Board, said terms to end June 30, 2017.

Mayor Little suggested that Council wait until the May 20 Council meeting to consider the ABC Board appointment, so that all Council Members can be present and have input. Council agreed by consensus to wait until the May 20 Council to consider the ABC Board appointment.

ADOPT RESOLUTION APPROVING FINAL SALE OF CITY PROPRTY ON NORTH MCDOWELL AVENUE: The City Manager advised that the ten day upset bid period for the sale of City property on North McDowell Avenue ended on April 21, with no upset bids being received. Therefore, Council may adopt a resolution to authorize the final sale of this 0.18 acre parcel to Ms. Elaine Tassin for $1,500. Upon adoption of the resolution, the City will schedule a closing for this property.

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 final sale of City Property on North McDowell Avenue to Ms. Elaine Tassin for $1,500:

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, Ms. Elaine Tassin has submitted a bid in the amount of $1,500 for the purchase of one parcel of property that is approximately 0.18 acres in size, is owned by the City of Marion and is located on North McDowell Avenue (McDowell County Parcel Identification Number 1702.20-80-7035); and

WHEREAS, the City Council of the City of Marion adopted a resolution on April 1, 2014, in accordance with N.C.G.S. 160A-269, accepting the offer of Ms. Tassin to purchase the above described property for a sum of $1,500; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion received a five percent bid deposit from Ms. Tassin; and

WHEREAS, in accordance with N.C.G.S. 160A-269, the City of Marion, on April 11, 2014, 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 Ms. Tassin.

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

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1. The parcel owned by the City of Marion on North McDowell Avenue (McDowell County Parcel Identification Number 1702.20-80-7035) that is approximately 0.18 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 Ms. Elaine Tassin to purchase the above described property for $1,500 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 6th day of May, 2014.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-14-05-06-1

COMMUNITY BUILDING PARK UPDATE: The City Manager advised that the City's contracted arborist, Lawrence Moore, had recently recommended to Public Works Director Brant Sikes that a large poplar tree be removed from the Main Street side of the Community Building Park for safety reasons. As shown in the photo presented to Council, the top of the tree is in poor health. The City Manager stated that the Tree Board was polled about this tree and unanimously agreed with Mr. Moore's recommendation to remove the tree for safety reasons.

The City Manager stated that, if the tree is removed, the Tree Board and staff can look at opportunities for replacement plantings, after the City completes construction work at the Community Building Park this summer or fall.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, those members of Council present voted to remove the diseased poplar tree in the Community Building Park as recommended by the Tree Board and the City's contracted arborist, Lawrence Moore.

The City Manager reported that the Community Building Park Splash Pad would open on Friday, May 16.

Public Works Director Brant Sikes stated that construction of the approved Community Building Park improvements would not be able to take place prior to school letting out in June. Therefore, as directed by Council at a previous meeting, the construction activity will take place after school starts in late August or early September. Mr. Sikes stated that the City will still purchase the necessary materials for the project out of the 2013-14 City budget.

Mr. Sikes added that the wheelchair swing recently donated to the City will be installed once the Community Building Park improvements are completed.

CONSIDER AWARD OF CONRACT FOR PURCHASE OF BUDGETED CHIPPER: The City Manager advised that, as shown in the information presented to Council, the City recently accepted bids for the purchase of a chipper for the Public Works Department Sanitation Division. Four bids were received. The low bid was received from J.P. Carlton Company of Spartanburg, South Carolina in the amount of $27,600. The low bid met all of the bid specifications. A total of $30,000 was budgeted for the purchase of this chipper. The low bid comes in $2,400 below the budgeted amount.

The City Manager stated that he would recommend awarding the contract for the purchase of a chipper for the Public Works Department Sanitation Division to J.P. Carlton Company of Spartanburg, South Carolina in the amount of $27,600.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Martin, those members of Council present voted to award the contract for the purchase of a chipper for the Public Works Department Sanitation Division to J.P. Carlton Company of Spartanburg, South Carolina in the amount of $27,600.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that the annual Downtown Cleanup was held on Saturday, April 26. Almost 20 bags of trash were collected and the railroad bank next to Main Street and the West Henderson exit ramp off of US 221 were cleaned. On that same day, the City and the Local Government Federal Credit Union (LGFCU) sponsored a free community shred event at the Farmer's Market parking lot. The City Manager said that there was an excellent turnout from the public for the Shred Event, which can hopefully be held again in the future.

The City Manager advised that Community Policing Coordinator Jack Wood recently suffered a stroke. Police Chief Allen Lawrence said that Officer Wood was recovering and would hopefully go home the next day and begin therapy.

The City Manager advised that the he had received information from the N.C. League of Municipalities concerning legislation proposed by the North Carolina General Assembly Agriculture and Forestry Awareness Study Commission. The legislation at first glance is very simple and would prevent counties and municipalities from regulating "the removal, replacement and preservation of trees on private property within its jurisdiction." However, the League is concerned that the legislation could be interpreted broadly. The City Manager said that, while the City of Marion does not really regulate trees on private property, there are several impacts to municipalities that could occur according to the League, including threats to City regulation of trees on public right-of-way, City enforcement of Zoning Ordinance regulations requiring the planting and maintenance of trees and other landscaping for development projects and the City's status as a Tree City USA community.

The City Manager asked if Council wished to authorize letters to be sent to Representative Josh Dobson and to Senator Ralph Hise concerning this and other issues of importance to the City.

Mayor Little and Council Members agreed by consensus for the City Manager to send letters to Representative Josh Dobson and to Senator Ralph Hise concerning the tree regulation issue and other issues of importance to the City, such as potential legislation affecting business privilege licenses and possible property tax cap legislation.

Council Member Clark stated that he wonders if the tree regulation issue stems from power companies not wanting to be regulated by municipalities concerning the cleanup of trees and limbs cut within cities.

The City Manager advised that he would present the proposed 2014-15 City Budget to Council at the May 20 Council meeting. He noted that the Council Budget Workshop/Planning Session had been scheduled for Tuesday, May 27 at 6:00 p.m. at City Hall.

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The City Manager advised that the Lillies for Lily planting, as previously authorized by Council, was completed in late April next to the Police Department entrance on South Main Street. The newly planted area looks very nice.

Public Works Director Brant Sikes gave an update on the continued smoke testing and inflow and infiltration evaluation and repairs in the wastewater system. Repairs are being completed and are already making a difference, as shown by the wastewater flow being lower in last week's 1.5 inch rainfall than in similar rain events over the previous year.

The City Manager advised that, as discussed at the April 29 Pre-Budget Workshop/Planning Session, Keith Buchanan of A Plus Networking will soon begin work to replace the City's downtown wi-fi system with a modern, faster system with more antennas. Work should begin on the new wi-fi system in the next week and be completed by June.

The City Manager stated that City crews would be wrapping up the Oakwood Drive drainage project in the near future. The final part of the project, between the homes of Sharon Parker and Jim Segars, will be contracted, since there are some high voltage underground electrical lines in this area. The entire project should be completed by the end of June. After City crews finish their portion of Oakwood Drive, they will start work on the Crescent Drive curb and gutter replacement.

The City Manager advised that, to even out the City's Powell Bill spending somewhat between the 2013-14 and 2014-15 Fiscal Years, he would propose that the City go ahead and complete the State Street sidewalk extension to Baldwin Avenue by June 30. He presented information from Mr. Sikes that a sidewalk, retaining wall and railing on the 70 foot section on Baldwin Avenue between State Street and the First Free Will Baptist Church driveway would run $12,000.

Mayor Little and Council Members agreed by consensus to authorize staff to proceed with contracting out the State Street sidewalk extension to Baldwin Avenue and not to pursue the sidewalk on Baldwin for now, unless the staff at East McDowell Junior High School advises that there are a lot of walkers on Baldwin Avenue who could benefit from the short sidewalk extension.

The City Manager reported that Police Chief Allen Lawrence was conducting driver's safety training for all City police officers this week and next week, including both classroom and field training. The City Manager commended Chief Lawrence for addressing this important topic.

The City Manager advised that the City's Open House for all third grade students in McDowell County would take place this coming Friday, May 9.

COUNCIL MEMBER COMMENTS: Council Member Clark advised that he would be leaving later in the week to attend to the North Carolina League of Municipalities Risk Management Services meeting in San Diego, California.

Council Member Martin suggested that the City look at purchasing portable speed humps. He said he gets periodic requests for speed humps. Council Member Martin said that, since Council has said they do not really want to consider more speed humps, perhaps portable speed humps could be an option. The City Manager advised that staff would conduct some research on portable speed humps and bring information back to Council.

Mayor Pro Tem Cuthbertson asked if the Japanese Maple in front of the Community Building was dying, since it did not look good. Public Works Director Brant Sikes said that he would check with the City's contracted arborist, Lawrence Moore, regarding the health of this tree.

Mayor Little and Council Members extended birthday wishes to Council Member Clark, who was celebrating a birthday.

ADJOURNMENT: Upon a motion by Council Member Ramsey, seconded by Council Member Martin, those members of Council present voted 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, May 20, 2014 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 Don Ramsey.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Harriett Thomas, CPA, Finance Director; Brant Sikes, Public Works Director; Allen Lawrence, Police Chief; Mike Conley, McDowell News.

GUESTS PRESENT: Marilyn F. Reynolds, 313 Black Forest Drive, Marion, NC; Joy Harklerode, 167 Burleson Road, Marion, NC; Sandra Walker, 280 Seagle Street, Marion, NC; Nancy Walker, 77 Lessie Morris Road, Marion, NC; Ashton Helton, 135 Cobblestone Drive, Marion, NC; Sharon Smith, 112 Mosteller Drive, Marion, NC; Connie, Todd and Melanie Campbell, 335 Wilson Valley Drive, Marion, NC; Jim Smith, 112 Mosteller Drive, Marion NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

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

A. Approval of Minutes – May 6, 2014 Regular City Council Meeting Minutes.

PUBLIC APPEARANCE – MERCY FUND ANIMAL RESCUE: Ms. Connie Campbell, a Board Member and volunteer with the Mercy Fund Animal Rescue, Inc. (MFAR), presented information to Council highlighting their organization. Ms. Campbell also introduced Board Members and volunteers of MFAR in attendance.
Ms. Campbell advised that MFAR is a 100% volunteer-based, 501(c)(3) non-profit animal rescue that serves the City of Marion, NC, as well as other areas of McDowell County, NC and surrounding areas. MFAR's mission is to save the lives of animals in need and find safe, loving homes for them. They also advocate on behalf of animals to prevent cruelty and abuse, and to reduce the rate of euthanasia of unwanted animals. They work mainly with dogs, cats, puppies and kittens, but we also take in other small animals, and will come to the aid of any animal in need.

Ms. Campbell reported that MFAR was started in 2006 by Joy Harklerode, who remains its President. Since its beginning, MFAR has found homes for more than 1,500 animals, and impacted the lives of thousands more through our many outreach programs. MFAR is overseen by a board of directors and carries out its mission with the help of dedicated volunteers. The current board consists of 7 members, and there are approximately 40 volunteers who foster, transport animals, help at adoptions, fundraise, and perform a myriad of other tasks that keep the rescue running.

Ms. Campbell provided a brief summary of each of the programs that help MFAR carry out its mission. These programs are:

- Fostering homeless animals.
- Adopting sick, injured, elderly, or otherwise "unwanted" animals.
- Community Pet Food Bank for families in need.
- Trap, Neuter and Return (TNR) program for feral cats.
- Low cost spay/neuter program.
- New Leash on Life program.
- Animal education and advocacy for abused and neglected animals.

Ms. Campbell advised that it is their hope that City Council will see that they are a vital part of the City of Marion, and that their organization has a very positive impact on our city's well-being. MFAR found homes for 134 animals in 2013, and so far this year they have matched up 81 animals with forever families. MFAR is on track to place more than 200 dogs, cats, puppies and kittens into loving homes in 2014. They can only accomplish this with the help of their volunteers, and the support of their community.

Ms. Campbell stated that MFAR is actively seeking a location where they can hold their weekly adoption events that would house them indoors, keeping the animals and volunteers out of inclement weather, and the heat/cold. Their current weekly adoption location is outdoors at the Tractor Supply Co. They are simply hoping that the City would be able to offer them recommendations for other locations within the City or ideas on locations where the pet adoptions can be held. The weekly pet adoptions currently take place each Saturday, from 11:30 a.m. to 4:00 p.m., weather permitting.

Ms. Campbell stated that MFAR would also like to request that City Council consider reducing or eliminating the cost of special event permits for non-profit organizations. In order to cover the costs involved with their rescue, they must hold fundraising events. Some are small, but as their costs grow, their fundraising efforts must also. MFAR's latest event was their first large-scale fundraising event, teaming up with a local car club and also using the parking lot of their weekly adoption location, Tractor Supply Co. Because their event involved bringing in food and craft vendors, MFAR was required to purchase a special event permit, which involved a costly fee. MFAR realizes that anyone planning such an event must pay for the permit, but would like to request that exceptions be made for non-profit organizations, as the fee does take away from the much needed funds MFAR is trying so hard to raise.

Ms. Campbell stated Mercy Fund Animal Rescue respectfully brings these requests before the City Council.

Mayor Little thanked Ms. Campbell for her excellent presentation and for the great work that Mercy Fund Animal Rescue does in the community. Mayor Little suggested that Ms. Campbell talk to Marion Business Association Executive Director Freddie Killough about possible locations for the pet adoptions. Mayor Little stated that the request regarding special event fees could be discussed at City Council's next planning session.

Ms. Campbell thanked Mayor Little and City Council Members for their consideration.

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

CONSIDER ADOPTION OF REVISED PRIVILEGE LICENSE ORDINANCE: Finance Director Harriett Thomas advised that staff had recommended a few adjustments to the City's Business Privilege License schedule, to take effect on July 1. The changes proposed would not affect small businesses, but just larger merchants.
The changes proposed were outlined in information presented to Council.

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Council Member Clark asked how much additional revenue these changes would provide. The City Manager advised that the proposed changes would generate about $5,000 to $6,000 additional revenue for the City for Fiscal Year 2014-15.

Upon a motion by Mayor Pro Tem Lloyd Cuthbertson, seconded by Council Member Doggett, Council voted unanimously to adopt the following Ordinance, revising the City's Business Privilege License schedule, effective July 1, 2014:

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.

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

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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.

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.

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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

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.

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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, 2014.

Adopted this the 20th day of May, 2014.

Stephen R. Little

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-14-05-20-1

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:
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:

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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

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

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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:

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:

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:

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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:

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":

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

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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

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:

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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.

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:
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.

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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;

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
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 $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	125.00
21 to 25 employees	300.00
26 to 50 employees	800.00
51 to 100 employees	2,000.00
101 to 200 employees	4,000.00
201 or more employees	8,000.00

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:

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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:

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

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

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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:

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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

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:
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

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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

CONSIDER ADVISORY BOARD APPOINTMENTS: The City Manager advised that, at the May 6 Council meeting, Council reappointed Kit Alverson and Marc Cook to three year terms as Regular Members of the Planning Board. At that same meeting, Council reappointed Joan Hensley to a new three year term on the Tree Board and appointed former Tree Board Member Nancy Clark to a three year term on the Tree Board. All of these individuals have agreed to serve.

The City Manager stated that, on the ABC Board, the term of Bill Smith, who passed away on April 2, was set to expire on June 30, so an appointment is needed for a new three year term, to expire June 30, 2017.

Council Member Ramsey nominated Mr. Ramsay Grant to serve a three year term on the ABC Board, effective July 1, 2014.

Council Member Clark nominated Mr. J. Earl Daniels to serve a three year term on the ABC Board, effective July 1, 2014.

There being no further nominations, Mayor Little called for a vote on the ABC Board appointment.

The vote was as follows:

Mayor Pro Tem Cuthbertson	Ramsay Grant
Council Member Doggett	Ramsay Grant
Council Member Martin	Ramsay Grant
Council Member Ramsey	Ramsay Grant
Council Member Clark	J. Earl Daniels

Mayor Little announced that, based on the vote, Mr. Ramsay Grant was appointed to the ABC Board by a 4 to 1 margin of City Council.

ADD-ON – APPROVE REQUEST TO ENDORSE NORTH CAROLINA GOLD FESTIVAL AS THE OFFICIAL NORTH CAROLINA STATE GOLD FESTIVAL: The City Manager advised that McDowell County Tourism Development Authority Executive Director Carol Price had requested that City Council endorse the designation of the North Carolina Gold Festival as the Official North Carolina State Gold Festival. The City Manager reported that the McDowell County Board of Commissioners and the McDowell Chamber of Commerce Board of Directors had already approved such an endorsement. The City Manager stated that Ms. Price had advised that State Representative Josh Dobson was planning to introduce legislation to make this designation during the 2015 Session of the North Carolina General Assembly.

Upon a motion by Mayor Pro Tem Lloyd Cuthbertson, seconded by Council Member Billy Martin, Council voted unanimously to endorse the designation of the North Carolina Gold Festival as the Official North Carolina State Gold Festival.

PRESENTATION OF RECOMMENDED 2014 -15 CITY BUDGET: The City Manager presented the recommended 2014-15 City Budget to Council Members. He gave the following presentation providing an overview of the recommended budget:

Proposed City of Marion
Budget
2014-15
May 20, 2014

2014-15 Budget Overview

- Total proposed budget of $9,878,643
- Increase of $153,564, or 1.58%, from 2013-14 budget as of this date
- Total budget is $36,625, or 0.37%, less than 2008-09 budget.

2014-15 Revenues

- Budget contains conservative estimates for revenues.
- Assumes some gains in property tax, sales tax, utility franchise tax and other revenues based on growth already experienced in local tax base, local and Statewide retail sales and local and State economy.
- 3% increase in water and sewer rates is proposed. The average inside water and sewer customer using 5,000 gallons per month would see an increase of $0.70 per month on their water and sewer bill.
- No increases in water and sewer service charges or connection fees.
- Minor adjustments proposed for commercial garbage fees for multi-family residential developments.
- Some adjustments proposed for building permit fees.

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• Continued decreases in interest income.
• Tax rate proposed to remain at $0.51 per $100 valuation. This is the 47th consecutive year with no tax rate increase in the City.

2014-15 Expenditures

• Budget proposes elimination of Water Plant Superintendent position, which has been combined with Wastewater Treatment Superintendent position.
• One position proposed for elimination later in Fiscal Year. Some offset possible if grant funding is received.
• No new staff additions proposed.
• 1.5% cost of living increase proposed for City employees, which is equal to increase in Consumer Price Index over the past 12 months.
• Rising gas prices affect City budget directly and indirectly, through higher fuel costs for City vehicles and higher costs for supplies.
• Continued reductions in targeted operational expenses, which vary by department-travel and training, general supplies, etc.
• Decreases in insurance costs, particularly health insurance, due to City switching providers to Blue Cross Blue Shield.
• Investment in capital outlay spending for projects and vehicle and equipment replacement.

Current City of Marion Projects

• Working with developers on industrial, commercial and residential development projects in various locations around City- gains in property tax base and retail sales
• Certified Retirement Community designation/marketing
• Studying marketing opportunities for City with MBA/other agencies
• Participating in planning for future McDowell House renovations
• Completed Comprehensive/Land Use Plan
• Movie theater recruitment study
• Saving $29,000 per year in commercial cardboard recycling costs by City taking over collection - now seeking to expand collection with grant
• Catawba River Greenway Phase 2
• Mt. Ida future trail development
• Final phase of Downtown Streetscape Project implementation, including decorative street signs and landscaping
• City Comprehensive Transportation Plan
• Working with McDowell Trails Association on Round Hill Loop off Catawba River Greenway Phase 2
• Community Building Park improvements planned
• Various sidewalk replacements and extensions
• Planning Peavine Trail improvements with DOT
• Safe Routes to School safety improvements planned, particularly around East McDowell Junior High School
• Implementing more thorough system of evaluating street resurfacing needs
• Enhancement of Downtown Facade Grant Program, award of 10 grants
• Annual street resurfacing planned later in year
• City website improvements continuing
• Efficiency improvements for ABC Board
• Completing drainage and street improvements on Oakwood Drive and North Garden Street
• Continued promotion of and enhancements to Farmer's Market
• KBR Grant - Farmer's Market Manager
• Making progress on identifying and removal dilapidated structures
• ISO inspection of Fire Department planned to seek to improve fire district rating
• Continuing to stress residential police patrols and business visits and checks
• Evaluating opportunities for additional utility extensions
• Completing Old Fort- Marion water/sewer study
• Energy efficiency improvements and facelift planned at Water Plant
• Carbon system installation at Water Plant to address taste and odor issues
• Water System Hydraulic Model Study completed
• Continuing to pave private and DOT roads- Overlook Drive completed
• Seeking DOT improvements to roads, drainage, traffic signals, safety, etc. - some progress
• Wellness Program enhancements to improve employee health/reduce health insurance costs
• Switching health insurance providers to save money
• 12th Annual City Open House for 3rd Graders in McDowell County
• Implemented grant for creek clean-up/stabilization off South Main Street
• Achieved Police Department CALEA accreditation
• Continued efforts to improve crime tracking, reporting and analysis
• Planning Crescent Drive water line, curb and gutter replacement
• Several water line replacements
• Continue to seek efficiency improvements
• Working with County on planning for Universal Property
• Working with DOT on directional signs for Historic Downtown area off of I-40 and US 221 Bypass
• CDBG Grant completed - Eastfield Area Sidewalks and Drainage
• Working with McDowell Health Coalition - planning for use of KBR funds
• Implementing improvements to Zoning Ordinance- signs first, other items will be forthcoming
• Playful City USA designation - future grant opportunities
• Evaluating stormwater issues
• Worked on vehicle replacement schedule
• Safe Kid's Initiative
• Let's Go Cities, Towns and Counties Initiative
• Water Plant efficiency improvements
• Wastewater Inflow and Infiltration evaluation and repairs
• Replacing Downtown Wi-Fi network
• Working with DOT on US 221 widening project
• Seeking bicycle and pedestrian planning grants
• Day to day service delivery

Grants

• Since 2001, the City has received 120 separate grants totaling over $14.4 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
• City continues to seek grant opportunities to lessen local costs and more grants will be received in the next year.

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Summary

• City has worked on all these and other projects and has grown by over 60 percent since 2001 with virtually no growth in full-time staff. The City will have 95.0 full time equivalent positions in 2014-15, only 0.5 positions higher than in 2001-02.

Council Member Doggett asked if the City had ever discussed placing additional power lines underground in the downtown area.

Council Member Clark stated that the City worked hard with NCDOT and utility companies to put utility lines underground on Main Street in the late 1980's. Placing additional utility lines underground would be a great expense and require the cooperation of utility companies, which is less likely today, since cities have less authority related to dealing with utility companies, due to changes in State law in recent years.

The City Manager thanked Finance Director Harriett Thomas for her hard work in revising and formatting the budget document.

The City Manager advised that Council had previously scheduled a Budget Workshop/Planning Session for Tuesday, May 27 at 6:00 p.m. at City Hall, at which time the proposed 2014-15 City Budget can be discussed in more detail.

Mayor Little thanked the City Manager for his presentation.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager stated that Planning and Development Director Heather Cotton had received a request from Foothills Community Theater to place decorative banners on the black poles in front of MACA, advertising the theater.

Council Member Clark asked how long the banners would be left up. The City Manager advised that he understood that the banners maybe rotate throughout the year, but parameters could certainly be placed on any approval given by Council.

Council Member Ramsey asked if the request was to advertise the theater or individual shows. The City Manager said that he was not exactly sure what the banners will advertise, related to Foothills Community Theater.

It was the consensus of Council Members that more information is needed regarding this request before a decision can be made. The City Manager stated that he would request such information from Foothills Community Theater and bring it back to Council for review at a future meeting.

The City Manager advised that the 12th Annual City Open House was held for 3rd Graders in McDowell County on Friday, May 9. All eight public elementary schools and New Manna Christian School participated. The weather was excellent and it was a great day. The City Manager thanked Administrative Assistant Debi Sherlin for coordinating the event and all City departments for their help with the Open House. The City Manager stated that he sent thank you notes to department heads and Debi, thanking them for their efforts with the Open House.

The City Manager advised that, through the first nine months of 2013-14, the taxable retail sales for McDowell County had increased by 6.95 percent over the same time period in 2012-13. Taxable retail sales for North Carolina as a whole for the first seven months of 2013-14 have increased by 3.45 percent over the same time period in 2012-13. Therefore, right now, McDowell County is on target to outpace the State growth in retail sales for the sixth time in the past eight years.

The City Manager advised that the City's commercial cardboard recycling program had been very successful over the past two years, since the City started collecting cardboard with City forces and eliminated the $29,000 per year contract with GDS. The City Manager reported that the City splits the value of the cardboard with the County, based on the amount collected. That amount has been $4,000-$5,000 per year over the past two years, meaning that the City is breaking even or perhaps even turning a small surplus with the cardboard collection, as opposed to spending $29,000.

The City Manager stated that Public Works Director Brant Sikes recently obtained a grant in the amount of $3,960 from the N.C. Department of Environment and Natural Resources to purchase six additional cardboard dumpsters, to allow the City to collect even more cardboard. The dumpsters will be placed at locations where the City has received requests and where the City expects to receive considerable amounts of cardboard. The City has capacity to service these additional locations, so the additional dumpsters should serve to produce additional cardboard recycling revenue for the City.

The City Manager advised that, regarding residential recycling, the County requires the City to break down cardboard brought to the landfill. The City has had listed in the Sanitation rules for some time a requirement that cardboard be broken down by the resident. City personnel have not always enforced this requirement equally. Based on recent complaints, the City Manager reported that Mr. Sikes is having a door hanger printed up that City personnel can leave at residences, as needed, asking them to break down cardboard. This way, the cardboard can be recycled, not take up so much space on the recycling truck and can be accepted by the County Landfill. State law prohibits cardboard from being thrown away, so this requirement helps the City stay in compliance with State law and produces more cardboard recycling revenue for the City and County.

The City Manager reported that the City's contracted information technology consultant, Keith Buchanan, was nearly complete with the replacement of the downtown wi-fi network. The City obtained permission from the County, Joel Austin and Chad Toney to put new antennas on their buildings along Main Street. Replacement antennas will also be installed on the Police Department, Bill Griffith's building and City Hall. The City Manager said that Mr. Buchanan would soon complete the installation of the new network, which should be considerably faster, more reliable and will hopefully have even more coverage downtown than the current system.

The City Manager advised that the Farmer's Market opened for the season on Tuesday afternoons on Tuesday, May 6 at 3:00 p.m. The Saturday market will likely open by late June. Both markets will run until December.

The City Manager advised that today is Police Chief Allen Lawrence's one year anniversary with the City. The City Manager congratulate Chief Lawrence on an excellent first year with the City.

The City Manager advised that the City was recently renewed as a Playful City USA by Kaboom. The City Manager stated that he and Planning and Development Director Heather Cotton really did not think the renewal was in doubt, but Kaboom went through a competitive selection process. A total of 212 communities, including 13 in North Carolina, were selected as Playful City communities.

The City Manager advised that as previously reported, the preliminary Statewide Transportation Improvement Plan (STIP) rankings for existing highway projects were released in early April. The two sections of the US 221 widening project affecting the City, R-0204D (between the US 221 Bypass and I-40) and R-0204E (between I-40 and Goose Creek Road) scored poorly Statewide. The City Manager stated that these projects are not expected to be constructed anytime soon, based on the low rankings.

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The City Manager reported that NCDOT recently sent notices to property owners along US 221, advising that right-of-way acquisition would begin for this project next month. The City Manager said that he spoke to Doug McNeal with NCDOT, who advised that the notices were sent in error, that the project was not close to starting and that retraction notices were being sent.

The City Manager stated that City staff was working with the County on their efforts to correct errors made with the assignment of 911 addresses.

COUNCIL MEMBER COMMENTS:

Mayor Little reported the need for additional pedestrian crossing signals at the intersection of West Court and Logan Streets. The City Manager advised that NCDOT had installed pedestrian crossing signals on two corners of this intersection, but had stated it could not provide signals for the other two corners, due to space limitations. The City Manager said that he would seek to schedule a meeting at this intersection with NCDOT to see if additional pedestrian crossing signals can be installed.

Mayor Little advised that City staff need to be more gentle with recycling bins, rather than tossing them, to extend the life of the bins. Public Works Director Brant Sikes said that he would address this matter immediately with Sanitation Superintendent Jimmy Lewis.

Council Member Clark suggested that a plaque or sign be installed at the Community Building, to describe the unique history of that building. The City Manager proposed that this matter be discussed further at the May 27 Council Budget Workshop/Planning Session.

Council Member Clark suggested that the City develop a flag, as many other cities have done.

Mayor Pro Tem Cuthbertson advised that Sunday's McDowell News had a nice photograph and description of the ceremony held on May 6 to plant a tree at the South Main Street Gazebo Park, in memory of long time Tree Board Member Pat Brown.

Mayor Pro Tem Cuthbertson reported the need to pick up brush at the US 221/West Henderson Street Exit Ramp. The City Manager stated that City crews were behind on brush collection, due to residents putting out large amounts of brush holidays affecting brush collection, so City staff were making a top priority of catching up with brush on private property. The City Manager said that City Sanitation personnel are chipping the brush at the exit ramp that was cut by churches as part of the April Spring Cleanup as they had time.

Mayor Pro Tem Cuthbertson stated that a Community Memorial Day Service would be held the following Sunday, May 25 at 2:00 p.m. at the McDowell County Senior Center.

Council Member Doggett asked if the City has signs indicating the Historic District. Mayor Little said that the City does have such signs.

Council Member Ramsey advised that the McDowell Hospital now has a golf cart service to provide transportation from its parking lot to the front of the Hospital. He suggested that the City explore allowing golf carts to take disable individuals onto the Catawba River Greenway once a month. Mayor Little and Council Members held a brief discussion on this idea and agreed to discuss it further in the future.

ADJOURNMENT: Upon a motion by Council Member Doggett, seconded by Council Member Ramsey, 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 Tuesday evening, May 27, 2014 at 6:00 P.M. in the Conference Room located at 194 North Main Street for the purpose of holding a Budget Workshop/Planning Session.

BOARD MEMBERS PRESENT: Mayor Steve Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members Everette Clark, Juanita Doggett and Billy Martin.

Council Member Don Ramsey was not present for this meeting due to being 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 2014-15 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 2014-15 City budget will be held on Tuesday, June 17, 2014 at 7:00 p.m. at City Hall.

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

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1. Insurance – Finance Director Harriett Thomas advised that the City's new health insurance carrier, Blue Cross Blue Shield, had offered the City a two percent health insurance premium discount for 2014-15 if the City also purchased a $20,000 life insurance policy and short term disability coverage for City employees. The net impact will be a $920 savings for the City for 2014-15. The City Manager noted that the City would retain life insurance from the N.C. League of Municipalities, since it is provided for the Mayor, City Council, seven retirees (at the retiree's cost), as well as City employees. Council expressed agreement with the City accepting this offer from Blue Cross Blue Shield.

2. Possible Fee Schedule Changes – The City Manager outlined potential Fee Schedule Changes for 2014-15, as follows:

   A. Water and Sewer Rate Increase – The proposed 2014-15 budget calls for a three percent increase in water and sewer rates. Water and sewer service charges and connection fees will remain the same. The average inside residential water and sewer customer using 5,000 gallons of water per month will see an increase of $0.70 per month. Council expressed agreement with this proposal. An ordinance to make these changes will be presented to Council at the June 17 meeting for consideration.

   B. Commercial Garbage Fees – Staff is proposing an increase in the monthly fee charged for collection of garbage at multi-family residential developments (apartment complexes and mobile home parks) from $9 to $12 per month. Council expressed agreement with this proposal. An ordinance to make this change will be presented to Council at the June 17 meeting for consideration.

   C. Permit Fees – The City Manager noted that Building Inspector Jay Suttles has looked at permit fees in other jurisdictions. Staff will submit an ordinance for consideration at the June 17 Council meeting to increase building permit fees by approximately 10 percent, to increase minimum permit fees and to increase sign permit fees by 10-20 percent. Council expressed agreement with this proposal.

   D. Permits for Required Fire Inspections – Council directed that this fee not be pursued at the present time.

   E. Zoning Permits - Council directed that this fee not be pursued at the present time.

   F. Historic Commission Requests – Staff proposes a fee of $100 for requests to the Historic Commission that require advertising. Council expressed agreement with this proposal.

   G. Police Reports – The City Manager reported that Police Chief Allen Lawrence has recommended a fee of $5.00 for Police reports, the same amount charged by many cities. Council expressed agreement with this proposal.

   H. Copy Fees – The City Manager suggested increasing the fee for black and white copies from $.05 to $0.10 per page and for color copies from $0.10 to $0.25 per page. A fee of $0.25 per page is recommended for 11" x 17" copies. Council expressed agreement with this proposal.

   I. Parade Permits – Council directed that this fee not be pursued at the present time.

   J. Housing Demolition – The City Manager stated that many cities charge an administrative fee, in addition to actual costs, for housing demolition. After discussion, Council suggested a $500 administrative charge for housing demolitions.

   K. Flushing/Sweeping/Snow Removal/Aerial Truck Usage – The City Manager noted that Morganton will flush, sweep and remove snow from private lots for a charge of $100 for flushing, $15 per hour for sweeping and $20 per hour for snow removal. Council directed that the City not get into providing flushing, sweeping, snow removal and aerial truck services on private property.

   L. Sign Boards – Council directed not to put in place a fee for use of the City's sign boards.

   M. Handicapped Parking – The City Manager advised that Morganton charges $100 for handicapped parking violations. Marion currently charges $10 for all parking violations. Council suggested that a $50 charge be put in place for handicapped parking violations. An ordinance to make this change will be presented to Council at the June 17 meeting for consideration.

   N. Burning Permits – Council directed that this fee not be pursued at the present time.

   O. Christmas Parade – Council directed that there continue to be no charge for entries to the Christmas Parade.

   P. ABC Permit – Council directed that this fee not be pursued at the present time.

   Fee schedule changes will be considered by Council as part of the 2014-15 Budget adoption, in ordinances to be presented at a future meeting or as approval of Fee and Rate Schedule changes at the June 17 Council meeting or future Council meetings.

2. Portable Speed Humps – The City Manager presented information from Police Chief Allen Lawrence and Public Works Director Brant Sikes concerning portable speed humps, as requested by Council Member Martin at the May 6 Council meeting. After discussion, Council agreed not to pursue the purchase of portable speed humps and not to place any additional speed humps, unless a compelling reason to do so was presented. Council agreed to pass on speeding complaints to the City Manager, so that the Police Department could focus on such issues, through use of the newly designated patrol zones.

3. Catawba River Greenway Phase 3 – The City Manager advised that the County has requested funding for the Catawba River Greenway Phase 3. He stated that he obtained an opinion from North Carolina League of Municipalities General Counsel Kim Hibbard that the City had full authority to provide such funding for a recreation project outside the City.

   Council discussed making a small donation of around $25,000 to the Phase 3 Greenway project. Formal funding approval can take place at a later time.

4. Personnel Policy Amendments – Finance Director Harriett Thomas proposed that the Personnel Policy be amended to eliminate the City's allowance for a $100 contribution toward retiree health insurance, since the City's new health insurance provider will not provide such coverage. The one City retiree receiving the $100 contribution would continue to do so.

   The City Manager presented information on vacation accrual amounts. Council discussed making the City's vacation accrual amounts come closer to the City average and that provided by McDowell County.

   Council agreed to consider these Personnel Policy Amendments at the June 17 Council meeting.

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5. Historical Plaque for Community Building – Council Member Clark suggested that a historical plaque or interpretive information be placed at the Community Building. Council agreed with pursuing this idea. The City Manager stated that staff would work on this matter and bring information back to Council for consideration at a future meeting.

   The City Manager also noted that staff will give more priority to monitoring restroom conditions, trash pickup and cleanliness issues at the Community Building Park. Council discussed the idea of devoting an additional staff person to focus on park maintenance and the idea of constructing a restroom structure outside the Community Building. The City Manager stated that staff would explore these ideas and bring recommendations back to Council at a future meeting.

6. US 221 Widening - Council Member Clark discussed concerns recently passed on to him that NCDOT could be violating the law by diverting money designated for Intrastate projects like US 221 to other projects. He noted that the US 221 project is at least 12 years away from starting and will likely be delayed even more if the City and County do not speak up about the project.

   After discussion, it was agreed that the City Manager would research State law concerning the legal requirements for NCDOT to fund Intrastate projects such as US 221 and that Mayor Pro Tem Cuthbertson and the City Manager would raise concerns the next day at the Isothermal Rural Transportation Planning Organization meeting about the US 221 widening and the new NCDOT funding formula that diverts money from Intrastate projects. The City Manager stated that he would report his finding back to Council as soon as possible.

No action was taken on these items. Items requiring City Council action will be included in the 2014-15 budget or future budgets or placed on future City Council meeting agendas for consideration.

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:

V. 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, June 17, 2014 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 Don Ramsey.

Mayor Steve Little was not present for this meeting, due to undergoing a scheduled surgery.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Harriett Thomas, CPA, Finance Director; Brant Sikes, Public Works Director; Scott Spratt, Police Investigative Lieutenant; Jamie Harklerode, Police Patrol Lieutenant; Daniel Moraz, Police Officer.

GUESTS PRESENT: Andrew, Lori, Abbey, Erin and Lindsey Taylor, 88 Mountain Vista Court, Nebo, NC; Steven, Tiffany and Stephanie Bush, 129 Sunny Street, Marion, NC.

OPENING OF MEETING: Mayor Pro Tem Cuthbertson opened the meeting with a moment of silence.

CONSENT AGENDA: Upon a motion by Council Member Ramsey, seconded by Council Member Clark, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – May 20, 2014 Regular City Council Meeting Minutes and May 27, 2014 City Council Budget Workshop/Planning Session Minutes.

B. Approval of Revised City Pay and Classification Plan – The following City Pay and Classification Plan was approved, effective July 1, 2014.

CITY OF MARION
LIST OF CLASSES ARRANGED BY GRADE
EFFECTIVE JULY 1, 2014

GRADE	CLASSIFICATION	HIRING RATE	MAX
7	Equipment Operator I Maintenance Worker Receptionist	22,179	35,651
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	23,289	37,433
9	Administrative Support Specialist Treatment Plant Operator	24,453	39,306
10	Maintenance Technician/Plant Operator	25,675	41,272
11	Crew Leader/Equipment Operator Fire Inspector Fleet Mechanic Laboratory Technician Lead Telecommunicator Senior Treatment Plant Operator Tax Collector	26,961	43,334
12	Accounting Technician Administrative Assistant Fire Equipment Officer / Field Supervisor Police Officer I Purchasing Agent Zoning Administrator/Codes Enforcement Officer	28,307	45,502
13	Police Officer II	29,015	46,639
14	Fleet Maintenance Supervisor/Mechanic	29,724	47,777

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	Payroll and Personnel Technician Streets Crew Leader I /Maintenance Technician Police Investigator I Master Police Officer Police Officer - Special Assignment		
15	Police Assistant Shift Supervisor Police Investigator II	30,466	48,972
16	Crew Leader/ Equipment Operator II Laboratory Supervisor Streets Crew Leader II /Maintenance Technician	31,209	50,166
17	Assistant Water Utility Maintenance Superintendent Police Shift Supervisor Sanitation Superintendent	32,772	52,675
18	Assistant Fire Chief Administrative Officer	34,410	53,959
19	Investigations Supervisor Public Works Superintendent Water Utility Maintenance Superintendent	36,129	58,074
20	Building Codes Inspector Water Treatment Plant Superintendent Patrol Commander	37,936	60,980
21	Wastewater Collection/Treatment Superintendent Planning & Development Director	39,834	64,029
22	Public Utilities/Projects Director	41,825	67,229
23		43,916	70,589
24	Fire Chief Water and Wastewater Treatment Superintendent	46,113	74,119
25		48,418	77,825
26	Police Chief Finance Director Public Works Director	50,839	81,718

C. Approval of Revised Personnel Policy – Council approved the following revised City Personnel Policy, effective July 1, 2014.

CITY OF MARION
PERSONNEL POLICY
EFFECTIVE JULY 1, 2014

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PERSONNEL POLICY OF THE CITY OF MARION

WHEREAS, the Mayor and City Council of the City of Marion recognizes the importance of its municipal employees in meeting the service needs of City residents; and

WHEREAS, it is the desire of the Mayor and City Council to maintain a municipal work force composed of qualified, competent, dedicated employees; and

WHEREAS, the Mayor and City Council recognize the necessity of equitable rates of pay and reasonable conditions of employment in the maintenance of such a work force; and

WHEREAS, it is the desire of the Mayor and City Council to establish a system of personnel administration that will assure equity of compensation and fair and reasonable employee treatment consistent with the needs of the City and the circumstances of the situation which may be faced from time to time;

NOW, THEREFORE, THE MAYOR AND CITY COUNCIL OF THE CITY OF MARION ADOPTS the following rules and regulations to govern the appointment, classification, salary, promotion, demotion, and employment conditions of the employees of the City of Marion, North Carolina, replacing, where appropriate, the existing articles and sections on personnel, pay plans, class specifications, and benefits.

ADOPTED this 17th day of June 2014.

Article I. Policy

Section 1.

The employment relationship between the City and the employee is terminable at the will of either at any time, with or without cause and with or without notice. No employee, officer, agent or representative of the City has any authority to enter into any agreement or representation, verbally or in writing, which alters, amends, or contradicts this provision or other provisions in these policies. Any exception to this policy of "at will" employment must be expressly authorized in writing, approved by the City Council, and executed by the officers designated by the City Council.

Section 2.

None of the benefits or policies set forth herein is intended because of their publication to confer any rights or privileges upon employees or to entitle them to be or remain employed by the City. The contents of this document and procedure herein are presented as a matter of information.

Section 3.

These personnel policies are not a binding contract, but merely a set of guidelines for the implementation of personnel policies. The City explicitly reserves the right to modify any of the provisions of these policies at any time and without any notice to employees. Notwithstanding any of the provisions within these policies, employment may be terminated at any time, either by the employee or by the City, with or without cause and with or without advance notice.

Section 4.

Since each department of the City has particular personnel and operational requirements, each is authorized to establish supplemental written rules and regulations applicable only to the personnel of that department. All such rules and regulations shall be subject to the final approval of the City Manager and shall not in any way conflict with the provisions of this policy but shall be considered as a supplement to this policy.

AA.00000378 (24)

Article II. General Provisions

Section 1. Purpose

The purpose of these policies is to establish a personnel system that will recruit, select, develop and maintain an effective and responsible work force. These policies are established under the authority of the General Statutes of North Carolina.

The City Personnel Policy has been designed to provide the employees of the City with a copy of the general policies as adopted by the Marion City Council. A brief summary of employee rights and responsibilities are included.

This policy is not an exclusive statement of all the terms of employment. It is also not a guarantee to any employee of the matters covered in any particular topic.

The topics covered herein are subject to change without advance notice, and the individual employer reserves the right to make final decisions as to interpretation of each policy and practice covered herein.

No policy, benefit, or procedure contained herein creates an employment contract for any period of time. All employees will be considered as employees-at-will. Employees may be terminated for failure to satisfactorily perform their duties or simply at the will of the employer, but they shall not be terminated for a discriminatory or illegal purpose.

Section 2. Coverage

This policy shall cover all regular and probationary employees except as specifically exempted. The City Manager, City Attorney, members of the City Council, members of advisory boards and Councils, and part-time employees will be exempted except in sections where specifically included.

Section 3.Definitions

(a) Probationary Employee. A person appointed to a budgeted position that has not yet completed the probationary period.
(b) Part-time Employee. An employee, either permanent regular or temporary, who is regularly scheduled less than, or not to exceed 1040 hours. Permanent part-time employees are defined as those in a regular position who work between 1000 but less than 2080 hours a year.
(c) Regular/Full-time Employee. An employee who has successfully completed the prescribed probationary periods shall be considered regular. However, all City positions are subject to budget review and approval each year by the City Council, and all employees' work and conduct must meet standards of performance and behavior. Therefore, reference to "regular" employees or permanent positions should not be construed as a contract or right to perpetual funding or employment. Regular employees are entitled to all City benefits.
(d) Seasonal/Temporary Employee. Qualified employees appointed to serve in a position for a defined time period, usually less than six months. Such employees are not entitled to City benefits.
(e) Grievance. A claim or complaint based upon an event or condition affecting the circumstance under which an employee works, allegedly caused by misinterpretation, unfair application, or lack of established policy pertaining to employment conditions.
(f) Adverse Action. A demotion, dismissal, reduction in pay, layoff, suspension or undesirable transfer.
(g) Parent. Biological or adoptive person or one who stood in loca parentis to an employee when the employee was a child.
(h) Child. Son, daughter under 18 years of age or 18 or greater who is incapable of self-care because of mental or physical disability that is either: biological, adopted, foster, step, legal ward or child for which employee is standing in loco parentis.
(i) Spouse. Husband or wife recognized by State law.

Section 4. Merit Principle

The purpose of this policy and the rules and regulations set forth is to establish a fair and uniform system of modern personnel administration for all employees of the City.

The City shall embrace the following merit system principles in administering its personnel program:

(a) Applicants and employees shall be assured of fair treatment in all aspects of personnel administration without regard for political affiliation, religious creed, sex, national origin, color, race, or disability. Individuals shall likewise be treated with proper regard for their privacy and constitutional rights as citizens.
(b) Employees shall be recruited, selected, trained, and advanced on the basis of their ability, knowledge, skill, and performance.
(c) Employees shall be retained on the basis of the adequacy of their performance. They shall be guided in ways to correct inadequate performance and separated when inadequate performance cannot be corrected.
(d) Employees shall be protected against coercion for partisan political purposes.
(e) Employees shall receive equitable pay and benefits and eligible employees may receive merit pay increases based upon their performance subject to the availability of funds.

Section 5. Responsibility of City Council

The City Council will establish personnel policies and rules, including the classification and pay plan.

The position of City Clerk is appointed, promoted, suspended and dismissed by the City Council upon recommendation of the City Manager. The City Council will adopt or provide for rules and regulations, resolutions or ordinances concerning personnel policies and other measures that promote the hiring and retention of capable, diligent, and honest employees under the authority of the North Carolina General Statutes, to be administered by the City Manager

The City Council will approve all payroll deductions from employees' payroll checks to outside companies offering a product which could benefit the employee. Some examples include short-term disability, cancer coverage, and vision coverage, etc.

Section 6. Responsibility of the City Manager

The City Manager shall administer the affairs of the City within the authority granted by the adoption of the Council-Manager form of government. The City Manager shall be responsible for assisting in the preparation and maintenance of the position classification plan and the pay plan, and shall perform such other duties in connection with a modern personnel program as are required. The City Manager will prescribe the office hours, workdays, and holidays to be observed by the various offices and departments of the City. All matters dealing with personnel shall be routed to the City Manager. The manager will see that a complete system of personnel files and records are maintained. The City Manager may perform any or all of these duties and responsibilities or assign them to staff employees.

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Section 7. Responsibility of Department Heads

The head of each City department, with the approval of the City Manager, shall manage operations and supervise employees assigned to the department under such rules, regulations and procedures as may be required by the City Manager's standard operational procedures manuals or guidelines as appropriate.

Article III. Recruitment and Employment

Section 1. Statement of Equal Employment Opportunity Policy

It is the policy of the City of Marion to foster, maintain, and promote equal employment opportunity. The City shall select employees on the basis of the applicants' qualification and without regard to age, sex, race, color, creed, religion or national origin. Applicants with disabilities shall be given equal consideration with other applicants for positions if such applicants can, with or without reasonable accommodation, perform the essential requirements of the position.

Section 2. Implementation of EEO Policy

All personnel responsible for recruitment and employment shall continue to review regularly the implementation of this personnel policy and relevant practices to assure that equal employment opportunity based on reasonable performance-related job requirements is being actively observed to the end that no employee or applicant for employment shall suffer discrimination because of age, sex, race, color, creed, religion, national origin, or disability. Notices with regard to equal employment matters shall be posted in conspicuous places on City government premises in places where notices are customarily posted. In addition, the City will comply with the provisions contained within the American's With Disabilities Act (ADA) as amended. It is the City Manager's responsibility to insure compliance and make recommendations for actions to bring the organization into compliance.

Section 3. Recruitment

All opportunities for employment shall be publicized, including applicable salary ranges and employment qualifications. Some jobs will only be advertised within the City workforce. Information on job openings and hiring practices may be provided to recruitment sources including organizations and various media serving the appropriate labor market. In addition, notice of vacancies shall be posted at designated conspicuous sites within City buildings. Individuals shall be recruited from a geographic area as wide as is necessary to insure that well qualified applicants are obtained for City service.

Section 4. Job Announcements

Employment announcements shall contain assurances of equal employment opportunity and shall comply with federal and state statutes prohibiting discrimination in employment matters.

Section 5. Applications for Employment

All persons expressing interest in employment with the City shall be given the opportunity to file an application for employment when a position is vacant or when the City is advertising to fill such positions. Applications will remain active only until that position is filled.

Section 6. Application Reserve File

Upon inquiring, each potential applicant shall be informed of the current job openings. After the active period of six months, applications for candidates not selected shall be kept in a file for two (2) years, in accordance with Equal Employment Opportunity and City Council guidelines and the Records Retention Schedule issued by the NC Division of Archives and History.

Section 7. Qualification Standards/Pre-Employment Requirements

Employees shall meet the employment standards established by the position classification plan and such other reasonable, job-related minimum standards of character, aptitude, knowledge, skills, abilities, and physical condition as may be established by the City Manager with the advice and recommendation of department heads. These qualifications may also include the requirements that applicants be drug free prior to entering the workforce.

(a) Pre-employment Testing. The City Manager has the authority to require pre-employment testing for those who have a conditional offer of employment for full time, permanent positions as well as part time positions. Additionally, the State of North Carolina and the federal government may also establish requirements for pre-employment testing in some instances. In the absence of specific requirements by the City Manager, the procedures for pre-employment testing are set out as follows:

(1) Confidentiality. The results of all tests administered as part of the screening process, including the name of applicants will remain as confidential as possible taking into consideration the fact that the City is a public employer.

(2) Medical Screening for Physical Fitness. Individuals who have applied for a job and have been extended a conditional offer of employment, regardless of full-time permanent or part time status, will be required to undergo a thorough medical screening to be administered by a doctor or healthcare technician chosen and paid for by the City. The determination to require physical examinations and other medical screenings will be based on the responsibilities of the position and other relevant considerations. Normally, any medical screening will relate to and take into account the physical and/or mental requirements of the job as listed in the relevant job description, or any OSHA requirements. A Medical Review Officer, designated by the City, will review and make the final determination concerning the applicant's fitness for the job.

Current employees may also be required to undergo a physical examination to determine ability to perform the duties of his/her position. Such examinations may become particularly important when an employee is being considered for a transfer or a promotion and the City needs to take into consideration the physical requirements of the job as listed in the relevant job description.

When an applicant or an existing employee is being considered for a job that is subject to OSHA requirements for medical review, fitness for duty and the ability to meet the OSHA standards, then all OSHA requirements shall apply and shall be included in the medical screening process. If the results of any required test are unsatisfactory so that a favorable recommendation for employment cannot be obtained by the doctor or health care personnel, then any conditional offer of employment to an applicant may be withdrawn or the promotion or change in job by a current employee may be denied.

(3) Medical Testing and Fitness for Duty. Generally, employees are not required to undergo physicals, psychological or emotional testing or other types of medical testing. However, fitness for duty is a concern to the City so that the City can be assured that the employee is capable of performing his/her duties and is not a risk to the employee or coworkers. If there is any question concerning the employee's fitness for duty, the City may require the employee to undergo a physical or to otherwise participate in appropriate medical screenings to insure the ability to perform the duties and a safe workplace. Under normal circumstances, physicals and other medical testing results from workplace accidents, injuries and events are required as a condition of returning to employment and will be paid for by the City, but for accidents and injuries occurring outside the workplace or for second opinions requested by the employee, the employee may be required to pay the costs. Certain OSHA programs require medical screenings for employees who are subject to or fall under these programs. As a condition of continued employment, the employee shall be required to participate in the screening and to have medical clearance issued by the City's medical service provider.

(4) Medical Screening for Mental or Emotional Fitness. Once an applicant is extended a conditional offer of employment, the applicant may be required to undergo an examination by a licensed psychologist for mental or emotional fitness for duty. Unsatisfactory results from such testing will result in the conditional offer of employment being withdrawn.

(5) Drug and Alcohol Testing. Applicants for full time, part time and temporary positions that have been extended a conditional offer of employment by the City will be required to undergo alcohol and drug tests. Applicants for employment with the City will be advised that a clean result on a drug and alcohol test is a condition of employment. See "Substance Abuse Policy" for more information.

(6) Criminal/Background Investigations. An applicant who has been extended a conditional offer of employment will be subjected to a background investigation in order to determine suitability for employment. A thorough investigation of personal records and background may be obtained to secure the public's interest regarding an applicant's personal and employment history.

(b) Qualifications shall be reviewed periodically to assure that requirements are fair and conform to the actual job performance requirements.

(c) The City may employ an applicant in a trainee capacity that does not meet all minimum qualifications for a particular job if the deficiencies can be eliminated through orientation and on-the-job training.

Section 8. Selection

Department heads shall make such investigations and conduct such examinations as deemed appropriate to assess fairly the aptitude, education and experience, knowledge and skills, character, physical fitness, and other qualifications required for positions in the service of the City. All selection devices administered by the City or by persons or agencies for the City shall be valid measurers of job requirements.

Section 9. Appointments

It is the City's policy to create career opportunities for its employees when possible. Therefore, when a current employee applying for a vacant position possesses the best qualifications of all applicants, that applicant shall be appointed to that position. However, if other applicants possess comparable qualifications and if the City would continue any historical discriminatory employment practices by automatically promoting or transferring the current employee without considering other applicants, then the City must carefully consider the qualifications of other applicants in filling this position.

Section 10. Probationary Period of Employment

An employee appointed to a permanent position shall serve a probationary period of six (6) months, however the City will provide life, medical and dental insurance for the employee at the end of one month of service. New police (sworn) employees are required to serve a twelve (12) month probationary period for certification purposes as required by the State but will be eligible to come off the City probationary period at the end of six months of service and to use leave and receive other benefits which are provided at the end of probation. This time period is to be considered a continuation of the selection process. An employee serving a probationary period following initial appointment may be dismissed with or without cause and without right of appeal at any time during the probationary period. A regular employee serving a probationary period following a promotion shall be demoted as provided in this article if unable to perform assigned duties of the new job satisfactorily.

A probationary employee whose work is unsatisfactory may receive a written warning before being terminated by the department head. If the employee's work is not satisfactory or he/she has not met all the conditions of employment (i.e. CDL, etc.) during the probationary period, the employee may be terminated.

An employee serving a probationary period following initial employment in a permanent position will receive all benefits provided in accordance with this ordinance, with the following exception or as otherwise provided:

(a) Employees may accumulate vacation and sick leave but will not be permitted to use vacation or sick leave during the probationary period.
(b) Employees serving in a probation period following promotion will continue to receive all benefits provided in accordance with this policy.

In unusual cases, for specific reasons approved by the City Manager, the probationary period may be extended for a maximum of an additional six (6) months. In such cases, the employee must be notified of the purpose of the extension, the conditions and performance expectations, and the length of time of the extension. However, sick and vacation leave may be used by the employee in this extended probationary period with prior approval of the department head. Likewise police personnel serving in the second half of his/her twelve (12) month State probationary period may use accumulated sick and vacation with prior approval of the Police Chief.

Section 11. Performance Evaluation

A supervisor shall evaluate performance beginning with the employee's first day on the job. Through open communications with his/her supervisor, the employee should obtain a clear understanding of what is expected related to job performance and a periodic assessment of his/her job strengths and weaknesses. A formal evaluation shall be completed for an employee prior to the completion of his/her probationary period and at least once each year thereafter. The City's performance evaluation program provides a system for appraising the employee's work.

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Section 12. Notification of Action and Pre-disciplinary Action

Before suspensions of three (3) days or more, demotion, or dismissal action is taken, whether for failure in personal conduct or failure in performance of duties, the Department Head will conduct a pre-disciplinary conference. At this conference, the employee may present a response to the proposed disciplinary action. The Department Head will consider the employee's response, if any, to the proposed disciplinary action, and will, within three working days following the pre-disciplinary conference, notify the employee in writing of the final decision to take disciplinary action. The notice of the final disciplinary action shall contain a statement of the reasons for the action and the employee's appeal rights.

Section 13. Promotion

Department Heads shall endeavor to anticipate retirements and turnover and to have employees trained to assume positions of greater responsibility. In filling vacancies an effort shall be made to promote qualified employees from within the City work force before seeking an outside replacement.

When a vacancy occurs, the supervisor and department head in whose department the vacancy occurs shall review all applications received, including those from current City employees wishing to be promoted into the position. If a current City employee is chosen for promotion, the department head shall forward the employee's name to the City Manager and/or the Personnel Department with written recommendations for classification, salary and reasons for selecting the employee over other applicants.

Candidates for promotion shall be chosen on the basis of existing or anticipated job openings, on their qualifications, and on their work records. Employees being promoted must meet the qualification standards to include education, training, and experience for the classification to which the promotion is being made.

Section 14. Demotion

Any employee who fails to maintain high standards of personal conduct or whose work in his/her present position is unsatisfactory may be demoted, provided the employee shows promise of becoming a satisfactory employee in another position. Such a demotion shall be preceded by the warning procedures outlined for cases involving inability to perform duties or failure in performance of duties. An employee who wishes to accept a position with less complex duties and responsibility may be demoted for reasons other than unsatisfactory performance of duties or failures in personal conduct.

In all cases involving demotion, following the pre-disciplinary conference, the employee shall be provided with written notice citing the recommended effective date, reasons for demotion, and appeal rights available, if any.

Section 15. Violation of Good Employment Practices Leading to Suspension, Demotion, or Dismissal

(a) Each employee will be expected to keep his/her personal affairs arranged in such a way that the City of Marion will not be embarrassed.
(b) While on duty, the use of alcohol or illegal substances is strictly prohibited and may be cause for immediate dismissal.

Should an employee require the use of a medication (prescription or over–the-counter) that has side effects (dizziness, drowsiness, etc.), that employee should report the medicine to the immediate supervisor to prevent improper accusations on the part of the supervisor. A decision shall be made as to the employee's ability to stay on his/her regular job, carry out lighter duties or be sent home. The decision will be rendered from the aspect as to the safety of the employee, other personnel and the citizens of the City. The Department Head shall determine if the employee should work or be sent home.

If there is reasonable suspicion by someone in a supervisory capacity or regular employee as to the use of an intoxicant (alcohol, drugs, etc.) by another employee arriving to the job or while on the job with the City of Marion, then the following action may be taken:

(a) The employee or employees involved shall be asked to remain at the location of the incident.
(b) A City Police Officer shall be called to the location of the incident. Upon arriving, the officer shall determine if a law has been possibly violated and take appropriate action. An employee not arrested or charged with a crime, may still be disciplined under City policies.
(c) The employee or employees may be asked to take a drug test or breathalyzer test subject to the requirements of the Substance Abuse Policy. The test shall be at the City's expense.

Refusing to remain at the location of the incident, refusing to comply with the Police Officer's request; or refusing to take either of the tests shall be grounds for a three (3) day suspension subject to dismissal. During the three (3) days, a determination will be made as to the use of an intoxicant on the employee's part. If it is determined that a reasonable suspicion does exist or actual proof is obtained, then the employee or employees will be dismissed.

Section 16. Transfer

An employee who has successfully completed a probationary period may be transferred to the same or similar class in a different department. As vacancies occur in other departments to which an employee would be eligible for transfer, the employee shall notify his/her supervisor of interest in the transfer and submit notice of a desire for transfer to the various department head(s) for consideration. If a department head wishes to hire that employee, the transfer is subject to the approval of the City Manager.

Section 17. Reduction in Force

In the event that a reduction in force becomes necessary, the quality of each employee's past performance and the needs of the City as well as seniority shall be considered in determining those employees to be retained. Regular employees who are to be terminated due to reduction in force shall normally be given at least ten (10) working days' notice of the anticipated layoff.

Article IV. Classification Plan

Section 1. Adoption

The position classification plan, as amended from time to time, is hereby adopted as the position classification plan for the City.

Section 2. Allocation of Positions

The City Manager shall allocate each position covered by the classification plan to its appropriate class in the plan.

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Section 3. Administration of the Position Classification Plan

The City Manager shall be responsible for the administration and maintenance of the position classification plan so that it will accurately reflect the duties performed by the employees in the classes to which their positions are allocated. Department heads shall be responsible for bringing to the attention of the City Manager (1) the need for new positions, and (2) material changes in the nature of duties, responsibilities, working conditions or other factors that may affect the classification of any existing position.

When the City Manager finds that a substantial change has occurred in the nature or level of duties and responsibilities of an existing position, the existing class specification shall be revised or reallocated to the appropriate class within the existing classification plan, or the position classification plan shall be amended establishing a new class to which the position may be allocated.

Section 4. Amendment of Position Classification Plan

Classes of positions shall be added and deleted from the position classification plan by the City Council upon recommendation of the City Manager.

Article V. The Pay Plan

Section 1. Adoption

The schedule of salary ranges and class titles assigned to salary ranges, as amended from time to time, is hereby adopted as the pay plan for the City.

Section 2. Maintenance of the Pay Plan

The City Manager shall be responsible for the administration and maintenance of the pay plan. The pay plan is intended to provide equitable compensation for all positions, reflecting differences in duties and responsibilities, the rates of pay for comparable positions in private and public employment in the area, changes in the cost of living, the financial conditions of the City, and other factors. To this end, the City Manager shall from time to time make comparative studies of all factors affecting the levels of salary ranges and shall recommend to the City Council such changes in salary ranges as appear to be warranted.

Section 3. Use of Salary Ranges

Salary ranges are intended to furnish administrative flexibility in recognizing individual performance among employees holding positions in the same class by rewarding employees for meritorious service. The following general provisions will govern the granting of increases within the pay range:

(a) The minimum rate established for the class is the normal hiring rate, except in those cases where unusual circumstances appear to warrant appointment at a higher rate. Appointment above the minimum rate may be made with the approval of the City Manager when deemed necessary and in the best interest of the City. Above–the-minimum appointments will be based on such factors as the qualifications of the applicant being higher than the desirable education and experience for the class, a shortage of qualified applicants available at the minimum rate, the refusal of qualified applicants to accept employment at the minimum rate, or other similar factors.

(b) All increases are reserved to reward employees for meritorious service. Each year, the City Manager may require department heads to consider the eligibility of employees to receive salary increases and to recommend such advancement or retention at the same rate. Department heads shall consider all factors affecting employee performance and shall submit their recommendations in writing, giving the reasons to advance or retain the employee at the same rate. All such advancements and retention in the salary range must be approved by the City Manager.

Section 4. Payment at a Listed Rate

All employees covered by the salary plan shall be paid at a listed rate within the salary range established for their respective job classes except for employees in a "trainee status", or employees whose present salaries are above the established maximum rate following transition to a new pay plan.

Section 5. Salary of Trainee

An applicant hired or an employee promoted to a position in a higher class, who does not meet all the established requirements of the position, may be appointed at a rate in the pay plan below the minimum established for the position. In such cases, a plan for training, including a time schedule will be prepared.

Trainee salaries may be no more than ten percent below the minimum salary established for the position for which the person is being trained. An employee will remain on the trainee rate until the department head determines that the trainee is qualified to assume the full responsibilities of the position. The department head shall review the progress of each employee in a trainee status monthly, or more frequently as necessary, to determine when the trainee is qualified to assume the full responsibilities of the position. Provided, however, that a trainee shall not be in such status for longer than one (1) year.

Section 6. Pay Rates in Promotion, Demotion, Transfer, Reclassification, and Completion of Probationary Period

When an employee is promoted, demoted, transferred, or reclassified, the rate of pay for the new position will be established in accordance with the following rules:

(a) Promotion: An employee who is promoted shall receive an increase to the minimum of the new pay grade range.

(b) Demotion: The salary of an employee who is demoted may be adjusted to meet the appropriate salary range of the new position, at the recommendation of the Department Head and approval of the City Manager. If the salary of the demoted employee falls above the maximum of the new salary range, the salary shall be frozen until such time as the salary range increases sufficient to include the demoted employee's salary.

(c) Transfer: An employee transferring from a position in one class to a position in another class assigned the same pay range shall continue to receive the same salary.

(d) Reclassification: An employee whose position is reclassified to a class having a higher salary range may be eligible for an appropriate increase, with the recommendation of the City
Manager. If the position is reclassified to a lower pay range and the employee is receiving a salary above the maximum established for the new class, the salary of the employee may be adjusted to meet the appropriate salary range of the new position at the recommendation of the Department Head and approval of the City Manager.

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(e) Probationary Period: An employee who successfully completes the probationary period may receive a five percent pay increase subject to the availability of funds.

Section 7. Pay Rates in Salary Range Revisions

When the City Council approves a change in salary ranges or the City Manager changes the range for a class of positions, the salaries of employees whose positions are allocated to that class shall be affected as follows:

(a) When a class of positions is assigned to a higher pay range, employees in that class shall receive a five percent pay increase or an increase to the minimum of the new pay range, whichever is higher.

(b) When a class of positions is assigned to a lower pay range, the salaries of employees in that class will remain unchanged. If this assignment to a lower pay range results in an employee being paid at a rate above the maximum established for the new class, the salary of the employee shall be maintained at that level until such time as the employee's pay range is increased above the employee's current salary.

(c) When an adjustment is made to a pay range to reflect market changes, or as a result of a complete revision to the classification and pay plan by the City or consultant resulting in reclassification employees in classes within that pay range may or may not receive adjustments, depending on the City's financial condition or recommendations from the revision study.

Section 8. Pay for Part-Time Work

The provisions of this section of the policy apply only to full-time positions. Employees appointed to temporary and part-time positions will be paid at an hourly rate within the appropriate salary range for regular positions, or as determined by the department head.

Section 9. Overtime

To the extent that local government jurisdictions are so required the City will comply with the Fair Labor Standards Act (FLSA).

The City Manager, following FLSA regulations, shall determine which jobs are "non-exempt" and are therefore subject to the Act in areas such as hours of work and work periods, rates of overtime compensation, and other provisions. Non-exempt employees in the general work force will be compensated at a straight time rate for hours up to the FLSA established limit for their positions (usually 40 hours in a 7 day period); non-exempt sworn law enforcement officers in the police department shall be compensated at one and one half times their regular rate of pay for all hours in excess of the maximum hours for the designated work period, as established by FLSA. Non-exempted employees who qualify as firefighters under the FLSA shall be compensated at one and one half times their regular rate of pay for all hours worked in excess of the maximum hours for the designated work period, as established by FLSA. In determining eligibility for overtime in a work period, only hours actually worked shall be considered. Pay for time not worked such as a vacation leave and sick leave will not be counted when determining these threshold hours for overtime eligibility.

Whenever practicable, departments will schedule time off on an hour-for-hour basis within the applicable work period for non-exempt employees, instead of paying overtime. When time off within the work period cannot be granted, overtime worked will be paid at a time-and-one-half rate or taken as compensatory time at a time-and-one-half rate, in accordance with FLSA regulations. Compensatory time may be accumulated up to 80 hours with any hours in excess of this limit to be paid to the employee. Accumulated compensatory time shall be used before accumulated vacation leave. Overtime work must be of an unusual, unscheduled, or emergency nature and be directed or authorized by the department head or authorized representative of the department head. If an employee is called out for emergencies, then the employee will receive overtime pay unless constraints are placed on the budget.

Exempt Employees. Employees in positions determined to be "exempt" from the FLSA (as Executive, Administrative, or Professional staff) will not receive pay for hours worked in excess of their normal work periods. These employees may be granted occasional compensatory leave by their department heads or the City Manager where the convenience of the department allows. In rare cases, such as under conditions designated by the City Council as "Declared Emergency", exempt employees may be eligible for additional pay or time off for extra hours worked, as approved by the City Manager.

The City intends to make deductions from the pay of exempt employees for authorized reasons and prohibits improper pay deductions. Exempt employees who wish to question deductions they believe to be improper may use the City's Grievance procedure, as explained in this policy. If the deduction is found to be improper the City will reimburse the employee for lost pay.

Starting and ending times may vary depending on departmental needs and for operations on a twenty-four hour schedule.

Section 10. Merit System

When the quality of an employee's performance is worthy of special recognition, the employee's salary may be advanced within the same assigned salary rate. Such merit award shall be done only after recommendation of the department head and based on the quality of the individual's work performance. Any such increases in wages and salaries require City Council funding.

Following successful completion of an employee's probationary period, the quality of his/her performance shall continue to be reviewed and appropriate instruction and counsel shall be provided in methods for improving job performance.

Merit awards shall not be granted automatically. A merit award within the applicable salary grade may be granted with the approval of the City Manager to deserving full-time employees in accordance with the following provisions:

(a) When a new employee has completed the initial probationary period, and annually thereafter following a year of continuous service.

(b) A promoted employee shall be eligible for a merit award after a year of continuous service from the date or promotion.

(c) Such an award shall not exceed the maximum salary rate for the class of his/her position.

(d) When the work of the employee is determined to be within the requirements contained in the City of Marion's Performance Evaluation guidelines, as documented on the employee's performance evaluation. All employee awards are dependent upon City Council funding.

(e) When an employee has completed courses, certifications or the recipient of degrees beneficial to the City, the employee may be approved by the City Manager or pursuant an adopted educational incentive schedule, to receive a merit increase.

When an employee's productivity, behavior, attendance or work quality needs to be improved, the department head shall not grant a merit award with the approval of the City Manager, and the employee shall be told where improvement needs to be made.

Section 11. Merit Bonus Plan

The purpose of the merit bonus is to reward employees who have reached the top of their salary range with a merit bonus when their work performance is determined to be meritorious and with City Council Funding.

All regular full-time employees of the City are eligible for a maximum of five merit awards after reaching the top of the employee's salary range. The merit bonus payment (if any) shall be awarded based on the performance of the employee as reflected on the annual performance evaluation. Merit bonuses may be awarded every other year after the employee reaches the top of the salary range for the position classification. Eligible merit bonus payments shall be made in a lump sum and will be payable at the discretion of the employer.

If an employee fails to achieve a merit bonus payment on his/her eligible year, the employee shall become eligible again the following year, provided, however, that the employee shall not earn more than one (1) merit bonus payment in a two (2) year period or a total of five (5) merit bonus payments.

Section 12. Payroll Deductions

Federal Law:	Federal Income Tax, Social Security and Medicare
State Law:	State Income Tax and Retirement
Employees:	Dependent Coverage (Health, Life, Dental)
	Credit Union
	Volunteer Contributions to 401K or Loans
	Child Support
	Bankruptcy
	Garnishment
	Contributions (United Way)
	Other – Coverage elected by employee

Section 13. Longevity Pay

Longevity pay is to recognize long-term service of regular, non-elected, full-time employees who have served at least one (1) year with the City of Marion. An employee who is out of work in a leave status will not earn longevity credit.

Time and Method of Payment

(a) Longevity pay is automatic - payment shall be made when all eligibility requirements are met.
(b) Longevity payments shall be made in a lump sum.
(c) The hiring cut-off date will be November 1st, with payment being made during the month of November.

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:

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

Individuals with six (6) or more years of service will receive five (5) days plus an established fixed amount, times the number of months of service above five (5) years. This fixed amount will be the same for all regular full-time employees approved by the City Council.

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.

Eligibility Requirements

(a) To qualify for longevity pay an employee must be in a current pay status. Employees who have resigned, retired, or otherwise left employment with the City prior to this time shall not qualify for payment. In addition, employees on unpaid leave for 6 months during the previous year shall not qualify for payment.
(b) An employee shall have at least one (1) year of regular, non-elective, full-time service before being eligible for any longevity payments.
(c) The employee must have a regular appointment.
(d) Credit for the service requirement shall not be given for temporary regular or temporary part-time employment and periods of leave.

Records Responsibility

Accurate records on an employee's length of service and the amount of longevity pay shall be kept in the City's personnel department.

Effect of Longevity Pay

Longevity pay is not to be considered a part of annual base pay for classification and pay purposes, nor is it to be recorded in personnel records as a part of annual base salary.

Payroll Deductions

The following payroll deductions are to be made from each longevity payment:
Social Security Tax (FICA)
Medicare
Employee's Retirement

No other deductions are to be made. (Such as: savings bonds, credit union savings or payments, or insurance premiums.)

Continuance of Longevity

AA.00000385 (24)

The continuance of longevity pay as an employee benefit is subject, on a year to year basis, to the availability of funds.

Article VI. Work Conditions and Expectations

Section 1. Work Period

The work period is defined as seven consecutive days. Full-time, non-exempt, employees (other than public safety shift employees) normally work 40 hours per work period and are subject to the overtime provisions set forth within these policies. Police officers and firefighter's work schedule(s) will be established and maintained in accordance with FLSA and work periods will be set as 28 consecutive days. Non-exempt police officers, regardless of rank, are subject to overtime after 171 hours of work over 28 consecutive days. Non-exempt fire-fighters, regardless of rank, are subject to overtime after 212 hours
of work over 28 consecutive days. Exempt employees in administrative, professional or managerial positions shall work the number of hours necessary to assure the satisfactory performance of their duties.

When the activities of a particular department require some other schedule to meet work needs, the City Manager may authorize department heads to create deviations from the normal schedule.

Due to the variation in work schedules and needs among departments, the City makes no attempt to define a uniform policy for rest periods or breaks. Department heads may establish appropriate rest period practices which best serve the City's interest within the work units under their supervision. Such practices shall be subject to review of the City Manager, and shall be limited to one rest period or break in the morning and in the afternoon no longer than 15 minutes each.

All employees are normally allowed thirty (30) minutes or one hour for one (1) meal break during any normal working day. Breaks of at least 30 minutes taken for mealtime will not be counted as part of any employee's normal work hours

Section 2. Designated On-Call Time

Weekend call duty will start at 5:00 PM on Friday and continue through
to 7:00 AM Monday morning.

Responsibilities of McDowell County Communications (located lower level of Marion Police Department)

The dispatcher will screen all calls to determine:
(a) If a police officer can handle the situation or
(b) If the on-call person should be contacted.

Setting up cones to designate hazardous situations, checking of small leaks, etc. should be carried out by the police department. If a dead animal on a street is reported during the week-end, a police officer will remove the animal out of the travel lane to the edge of the street. The on-call person will be contacted at 8:00 AM on Saturday and Sunday to remove any animals reported during the night and at 4:00 PM for any animals reported during the day.

If the call is outside the City Limits, the on-call person will be contacted.

When the dispatcher receives any calls concerning any alarms due to pump stations or either of the treatment plants, they will call the treatment plant to reach the plant operator and if no one is reached, they will page and call the designated on call personnel.

Restrictions

The individual that participates in the weekend program is prohibited from using alcohol or taking medications that cause drowsiness in order that they are fit for duty if called to return.

This individual will have a phone and carry a cell phone with them at all times for communication with the McDowell County Communications or the Marion Police Department. All complaints are to come through the McDowell County Communications. An on-call cell phone is available at Public Words to be provided to the on-call personnel, if needed, for the weekend call duty.

A response time not exceeding thirty (30) minutes will be required. Upon receiving a call, the Public Works on-call person is to respond to the McDowell County Communications dispatcher. The on-call person for the Waste Treatment plant is to respond to the Marion Wastewater Treatment facility operator, if the operator cannot be reached then the on call person should contact the McDowell County Communications dispatcher.

This individual will have access to a City vehicle which will remain parked at the Public Works facility, or Wastewater Treatment Facility. Keys to the Public Works facility, if needed, can be checked out through the Marion Police Department.

This vehicle is not to be used for any personal business. No one is to be allowed in the vehicle except for City employees and the vehicle is to be used only as transportation to and from the job site. The consumption of alcohol or the use of medication that causes drowsiness is prohibited when driving a City vehicle. (see above)

The Public Works on-call individual is to come to the Marion Police Department to punch in on their time card. Once the work has been completed, the on-call person will return to the Marion Police Department and punch out. The Wastewater Treatment on-call individual will punch in and out at the facility.

If it is determined that a problem is too serious for one individual to deal with, the on-call person will have the police dispatcher contact the superintendent of the affected area. (Water Distribution Superintendent or Street Superintendent).

If the superintendents are unavailable, the Public Works Director is to be contacted. If none of these individuals are available, the firefighters on duty at the Marion Fire Department will have the authority to authorize additional personnel.

When it is a major problem (broken water mains, water plant failure, street cave-ins, etc.), the Public Works Director along with the superintendent of the affected area is to be contacted immediately by the Police Department.

For Wastewater Treatment personnel - if it is determined that the problem is too serious for one individual to deal with or if the problem concerns an environmental impact, then the Operator in Responsible Charge should be called. In the event that a more serious problem or the Operator in Responsible Charge cannot be contacted, then the Plant Superintendent should be called.

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When the McDowell County Communications receives a complaint on week days (Monday through Friday), it is to be passed on to the superintendent of the affected area.

When the Public Works Director, the Water Distribution Superintendent or the Street Superintendent leave town, they are to report to the Marion Police Department as to the time of departure and as to the expected time of arrival back in town.

Payment for Call Duty

The on-call person will receive an established payment amount of to be determined by the City Manager (necessary tax deductions etc. will apply) as compensation for taking weekend call duty. If the individual is called out, they will receive their regular rate of pay for all hours worked up to forty and time and half for all hours over forty.

If the weekend call person cannot be contacted within 30 minutes of the first attempt by the McDowell County Communications or Plant Operator, the entire weekend call duty pay will be forfeited, and the employee may be subject to disciplinary action.

The on-call person taking duty during established holidays by the City of Marion will receive four (4) hours off with pay for each day of duty. The schedule for time taken off will be arranged through the employee's supervisor. This time off, if possible, shall be taken within one (1) work week.

Section 3. Volunteer Service

The City encourages and shall permit employees to participate as members of a volunteer emergency service to the extent that such volunteer activities do not interfere with the employee's responsibilities in the City service. However, no employee will be required or will be allowed to volunteer his/her time to the City to perform the same or similar work performed as a regular employee.

Section 4. Safety, Accidents And Driver's License

It is the intent of the City to provide for an ongoing program that assures a safe, healthy work environment for all employees and complies with all safety laws and regulations. To that end, each supervisor shall be responsible for:

(a) Providing safe work procedures and environments;
(b) Implementing safety policies and programs;
(c) Informing and training employees in safe work habits;
(d) Detecting and correcting unsafe practices and conditions;
(e) Investigating accidents and preparing accident reports;
(f) Encouraging employees to report unsafe conditions and to submit practical safety suggestions.

Likewise, each City employee shall be responsible for:

(a) Developing and maintaining safe work habits;
(b) Promptly reporting all accidents and injuries;
(c) Pointing out what are believed to be dangerous practices and working conditions;
(d) Assisting with investigations of accidents;
(e) Taking proper care of safety equipment;
(f) Wearing proper clothing and avoiding loose sleeves, cuffs, rings, bracelets and long hair around moving machinery; and
(g) Knowing the location and use of fire extinguishers, the location of fire exits and the best method for reporting a fire.
(h) Abiding by all safety laws and regulations.

Reporting Vehicle Accidents

If a City vehicle or equipment is involved in an accident, either on a public street or private property, it is not to be moved. The Police Department and the immediate supervisor or department head must be notified immediately. Failure to do so may be grounds for dismissal or other disciplinary action.

An investigation is to be carried out by the immediate supervisor, department head, and the personnel department.

If an employee is involved in an accident that involves a fatality, or any accident in which the driver is issued a citation under state or local laws, for a moving traffic violation, arising from the accident, that employee will be required to submit to an Alcohol and Controlled Substance Test. Testing will be administered immediately following the accident or as soon as medically and legally possible.

Driver's License

Many jobs with the City of Marion require a valid North Carolina driver's license. The following is the policy of the City of Marion regarding suspended and/or revoked driver's license after employment. This policy may not apply to the Police or Fire Departments.

(1) Requirement for Driver's License – All employees in the following departments are required to have a valid North Carolina driver's license:

(a) Sanitation
(b) Street
(c) Water
(d) Water Treatment
(e) Waste Water Treatment
(f) Public Works Administration
(g) Purchasing
(h) Personnel
(i) Planning and Zoning
(j) Inspections
(k) Fleet Maintenance

(2) Suspension and/or Revocation of Driver's License – The following procedure shall be followed regarding suspension and/or revocation of driver's license.

(a) An employee is required to report the loss of his/her driver's license to his/her immediate supervisor the following scheduled workday. Failure to comply will lead to suspension or dismissal.

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(b) Any employee may continue to work for a period of 30 days if his/her driver's license has been suspended unless such license suspension will have a detrimental impact on City operations, in which case suspension of the employee without pay, or dismissal may be authorized by the City Manager.

(c) If the employee's license is reinstated before the end of this time period, no action will be taken. A suspension or revocation for 31 days to 90 days will result in the employee having a non-disciplinary suspension, without pay. If the employee's license is reinstated before this time period ends, the employee may return to his/her position prior to suspension.

(d) An employee, whose license has been suspended or revoked for a period of time longer than 90 days, and is required to have a driver's license, will be dismissed.

(3) Restricted Driver's License – If a restrictive license can be obtained whereby an employee can fulfill his/her job requirement, then employment with the City may continue.

(4) Application – Please note that all reasons for losing one's license cannot be contained in this policy. Therefore, in application of this policy, an employee's work record and reason for loss of license must be taken into consideration in determining the length of suspension, in determining dismissal or in determining reinstatement. Every effort will be made to treat every employee as fairly as possible.

In addition to the above provisions, the City will maintain a safety manual which details safety related procedures and responsibilities. Employees shall be expected to comply with those provisions.

Section 5. Gifts and Favors

(a) No elected official or employee of the City shall accept any gift whether in the form of service, loan, thing of value or promise from any person who to the employee's knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the City.

(b) No elected official or employee shall accept any gift, favor or thing of value that may tend to influence that employee in the discharge of duties.

(c) No elected official or employee shall grant in the discharge of duties any improper favor, service, or thing of value.

Section 6. Political Activity Restricted

Each employee has a civic responsibility to support good government by every available means and in every appropriate manner. Each employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, may advocate and support the principles or policies of civic or political organizations in accordance with the Constitution and laws of the State of North Carolina and in accordance with the Constitution and laws of the United States of America. However, no employee shall:

(a) Engage in any political or partisan activity while on duty;

(b) Use official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office;

(c) Be required as a duty of employment or as a condition for employment, promotion, or tenure of office to contribute funds for political or partisan purposes;

(d) Coerce, solicit or compel contributions for political or partisan purposes by another employee of the City;

(e) Use any supplies or equipment of the City for political or partisan purposes, or

(f) Be a candidate for City Council or Mayor.

Any violation of this section shall subject such employee to disciplinary action up to and including dismissal.

Section 7. Outside Employment

The work of the City will take precedence over other occupational or special interest of employees that may interfere or be perceived as creating a conflict or interference. All outside employment for salaries, wages, or other compensation and all self-employment must be reported to and approved by the employee's department head and City Manager. Outside employment causing or perceived as a conflict of interest shall be disapproved. The City Manager shall be responsible for final interpretation. Conflicting outside employment will be grounds for disciplinary action up to and including dismissal.

The City Manager may restrict the number of hours of outside employment to be worked by an individual employee. As a guideline, the average outside employment hours worked over a calendar year should be no more than one-half the amount of hours worked weekly for the City in a normal work week with no overtime (20 hours per week for a 40 hour employee, 21 hours per week for a 42 hour employee, 28 hours per week for a 56 hour employee).

Employees working a second job are not to apply for unemployment benefits with the outside employer without notifying their supervisor in writing. Authorization to apply for unemployment benefits from an outside employer must be given in writing by the City Manager, in order for the employee to apply for such benefits, since the City will be held responsible for the majority of the unemployment benefit as the primary employer. It is the responsibility of the employee to determine if the outside employer has filed for unemployment benefits on the employee's behalf. Failure to follow this policy shall be grounds for disciplinary action up to and including dismissal. The employee shall be required to reimburse the City for all unemployment benefits charged to the City as a result of outside employment.

Off the job injuries: An employee who sustains an injury or illness in connection with outside employment and is receiving Workers' Compensations benefits from that employer shall not be entitled to receive City Workers Compensation benefits or use accrued City sick leave.

Section 8. Limitation of Employment of Relatives

(a) Members of an immediate family shall not be employed in the same department or same building at the same time. Neither shall two (2) members of an immediate family be employed at the same time if such employment would result in an employee directly or indirectly supervising a member of the immediate family.

(b) This policy shall not be retroactive, and no action will be taken concerning those members of the same family employed in conflict with (a) above prior to the adoption of this policy.

(c) Immediate family is defined for the purpose of this section as spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren plus the various combinations of half, step, in-law and adopted relationships that can be derived from those names, or anyone living as a part of the same household.

(d) No member of any employee's immediate family shall be hired without prior approval of the City Manager.

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(e) Immediate family members of the Mayor, City Council and City Manager shall not be employed in any capacity, either full-time, part-time, temporary or as a contract employee.

Section 9. Conformance to Immigration Law Requirements

All employees are required to furnish proof of citizenship or other required documents indicating a legal right to work in the United States. Copies of the completed form I-9 shall be a permanent part of their personnel file.

Section 10. Confidential Information

No appointed official or employee shall, without the approval of his/her department head, disclose confidential information concerning the property, government, or affairs of the City. Nor shall they, under any circumstance, use such information to advance the financial or other private interest of themselves or others.

Section 11. Controlled Substances

No employee shall use intoxicating beverages or non-prescribed controlled drugs of any kind while on duty. Nor shall an employee report for duty while under the influence of an intoxicant or non-prescribed controlled drug. Any employee using medication or a controlled drug by prescription that may affect job performance or safety shall notify their supervisor. The City's substance abuse, testing, referral and rehabilitation administrative policy contained in the City's drug testing policy will apply in most circumstances. The City Manager will be responsible for administration of this program.

Substance Abuse Policy

Policy Statement:

The use, possession, purchase, sale or manufacture of alcohol, illegal drugs or non – prescribed drugs or being under the influence of alcohol, illegal drugs, or non – prescribed drugs while on City property, while operating City vehicles, or while engaging in City business is strictly **prohibited**.

Scope:

Employees Subject to Testing – All applicants for full or part time positions at the City and all full time and part-time employees.

Alcohol – Means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol including methyl and isopropyl alcohol.

No employee shall report for work or remain at work while having an alcohol concentration of 0.02 or greater.

No employee shall report for work within eight (8) hours after using alcohol.

No employee required to take a post-accident test shall use alcohol for eight hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.

Controlled Substance – The U.S. Department of Transportation (DOT) Requires testing for amphetamines, cannabinoids, cocaine, opiates, phencyclidine, and illegal substances or non – prescribed drugs.

No employee shall report for work or remain when the employee uses any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate a motor vehicle.

No employee shall report for work or remain on duty, if the employee tests positive for controlled substances.

Prescribed Medications - All employees taking prescribed medications that could impair their ability to safely operate a motor vehicle or related activities associated with loading, unloading, inspection and maintenance or other activity that is classified as "on duty time" 49 CFR 395.2 must report this to their immediate supervisor as directed by this policy.

Qualifications for Employment and Prohibited Conduct

Prohibited Conduct – The City prohibits any alcohol misuse and/or drug use that could affect employee performance, including:

Alcohol

(a) Use while at work.
(b) Use during eight (8) hours before reporting for work.
(c) Reporting for work or remaining at work with an alcohol concentration of 0.02 or greater.
(d) Possession of alcohol, including the possessions of medicines containing alcohol (prescription or over the counter), unless the packaging seal is unbroken.
(e) Use during the eight (8) hours following an accident or until he/she undergoes a post-accident test.
(f) Refusal to take a required test.

Note: An employee found to have an alcohol concentration of 0.02 or greater shall not be permitted to remain at work and may be subject to disciplinary action.

Controlled Substance

(a) Use of any drug, except by doctor's prescription, and then only if the doctor has advised that the drug will not adversely affect the employee's ability to safely operate equipment.
(b) Testing positive for illegal drugs; and
(c) Refusing to take a required test.

Consequences and Disqualifications

(a) The employee shall not work or be permitted to work if any of the above listed prohibitions are violated.
(b) Any employee violating these prohibitions will be discharged from employment.

Testing Circumstances

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Pre–employment Testing

All applicants for part-time or full-time positions who have been extended a conditional offer of employment or persons transferring to positions requiring commercial driver's license, will be directed to submit to an Alcohol and Controlled Substance Test.

An alcohol test result must indicate an alcohol concentration of less than 0.02 in order for the employee to be considered for employment.

A drug test will be conducted during the pre-employment process and a negative drug test result must be received before a final offer of employment is made.

Post–Accident–Testing

If an employee is involved in an accident/incident or is injured in an accident/incident involving equipment or vehicles, arising out of and in the course of employment, that employee will be required to submit to an Alcohol and Controlled Substance Test. Testing will be administered immediately following the accident/incident or as soon as medically and legally possible.

The alcohol test must be administered within (2) hours following the accident and in no case shall more than (8) hours elapse before the test is administered. It is the employee's responsibility to notify the City immediately to insure actions are taken to meet the testing requirements.

The driver must refrain from using alcohol for (8) hours following the accident, or until he/she submits to an alcohol test, whichever comes first.

The drug test must be administered within 32 hours following the accident. The driver must remain available for testing, or the City will consider the driver to have refused to submit to the testing.

Note:
Nothing in this requirement should be construed as to require the delay of necessary medical attention for injured people following an accident.

Random Testing:

Random testing will be done on 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.

For alcohol or drug testing an employee may be tested at any time that the employee is at work for the City.

Selection of employees for random testing will be made by a scientifically valid method, such as a random number table or a computer– based random number generator that is matched with drivers' Social Security numbers, payroll identification numbers, or other comparable identifying numbers.

Each time a random selection is made, every employee will have an equal chance of being selected. Random tests will be unannounced and spread reasonably throughout the year. Employees when notified that they have been selected for random testing will proceed immediately to the collection site.

Reasonable Suspicion Testing

Any employee, while on City property, while operating a City Vehicle, or while engaging in City business, acts in a manner sufficient to cause reasonable suspicion that he/she is under the influence of alcohol or drugs will, be required to submit to an Intoxilyzer test and/or a controlled substance test upon the approval and directions of a Marion Police Officer.

Alcohol testing under this section will only be performed by a Marion Police Officer holding a permit issued by the North Carolina Department of Health and Human Services to perform chemical analysis of breath.

Alcohol testing will only be performed using an Intoxilyzer, Model 5000 in accordance with current regulations of the North Carolina Commission of Human Services.

Return to Work Testing

Any employee that, based on the City approval, is allowed to return to work following referral, evaluation, and treatment as a result of a positive alcohol or drug test will be required to submit to a return-to-work alcohol and/or controlled substance test. An alcohol concentration of less than 0.02 and a negative drug test will be required before a return-to-work decision is made.

Follow-up Testing

In the event an employee is allowed to return to work following referral, evaluation, and treatment, a minimum of six (6) unannounced alcohol and/or drug tests will be required during the next twelve (12) months of employment. Follow up testing may continue for up to 60 months following returning to work at the City's discretion, based on recommendations from the Substance Abuse Professional.

Alcohol testing and Controlled substance testing may be performed at any time the employee is at work for the City.

Discipline and Consequences

Pre–employment/Pre–duty

An applicant for part time, full time or transfer with a verified positive controlled substance test result and/or a verified positive controlled substance test result and/or a confirmed breath test result of 0.02 or greater will be denied employment.

Reasonable Cause

Any employee of the City subject to the terms of this policy, as a result of reasonable cause testing, with a verified positive controlled substance test result and/or an alcohol breath test with a confirmed test result of 0.02 or greater will be terminated from employment.

Post-accident

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Any employee of the City subject to the terms of this policy as a result of a post-accident test, with a verified positive controlled substance test result and/or a confirmed alcohol breath test with a confirmed test result of 0.02 or greater will be terminated from employment.

Random

Any employee of the City subject to the terms of this policy, as a result of a random test, with a verified positive controlled substance test and/or a confirmed alcohol test result of 0.02 or greater will be terminated from employment.

Supervisory Training as required by DOT will be provided to all Supervisors.

Educational material as required by DOT will be provided to all employees in safety – sensitive positions.

If an Employee should approach the City for assistance through rehabilitation for drug abuse or alcohol abuse prior to a testing request by the City, the City will consider a medical leave of absence for treatment.

Under no circumstances will the City pay for any counseling or rehabilitation for drug or alcohol abuse except as indirectly paid by the employee's City paid medical insurance policy.

Any questions regarding this policy should be directed to the City of Marion.

Section 12. Use of City Owned Equipment

The personal use of any City owned equipment or supplies by any employee elected or appointed official or individual is prohibited unless authorized by the City Manager. Should authorization be granted, use will be limited to the use specified in the authorization.

Use of a City owned vehicle is governed by the following:

(a) Vehicles owned by the City may be provided to one or more employees in connection with City business and shall be used only on City business. When the vehicle is not used in the City's business, it is kept on the City's business premises. Pursuant to Federal and State law, neither the employee, nor any person, whose use would be taxable to the employee, may use the City vehicle for personal use. No one is to be allowed in the vehicle except for City employees.

(b) For bona fide non-compensatory business reasons, the City may require certain employees to commute to and from work in City vehicles that are not exempted by IRS regulations. In accord with federal and state law, an employee may not use the City owned vehicle for personal uses other than commuting. Under these conditions, the City will account for commuting use as specified and required in IRS regulations.

Section 13. Travel and Expense Reimbursement

Employees and elected and appointed officials will from time to time, be involved in out-of-city travel to attend schools, business meetings, conferences, etc. All reasonable expenses (e.g., meals, lodging, etc.) shall be reimbursed at actual costs for elected and appointed officials, and at the amount set by the Travel Expense Requisitions schedule for employees, while travel in a personal car will be reimbursed at a mileage rate consistent with prevailing IRS limits to the extent authorized by the City Council for non-taxable reimbursements authorized by the City Council.

Advances of travel and expenses may be authorized in unusual cases. The City Manager will approve all requests for travel advances. Such requests shall be made at least ten (10) work days in advance of the actual expenses.

Employees attending meetings, conferences, etc., where lodging is offered and available at the institution, shall be required to use such accommodations.

Reimbursement for meal expenses shall be guided by the adopted
Travel Expense Requisition schedule for employees. Meal expenses shall be reimbursable only when incurred on overnight out-of-City travel, when out-of-City training or when the meal itself is the occasion of a business meeting. Meal expenses shall not be reimbursed when a part of lodging (i.e. breakfast included) or provided as part of the seminar.

All travel claims must be supported by detailed documentation, usually in the form of receipts or similar vouchers.

The City Manager, upon the recommendation by the Finance Director, may deny reimbursement of any questionable, unsupported, or excessive expense claims submitted by employees.

Any violation of the provisions in this section shall be deemed improper conduct and may subject the employee to discharge or other disciplinary action.

Section 14. Discrimination/Sexual Harassment

The City is committed to maintaining a work environment that is free of discrimination. In keeping with this commitment, no discrimination shall be exercised, threatened, or promised against or in favor of any applicant or employee because of his/her race, religion, color, creed, national origin, age, political beliefs, sex or disability.

Harassment consists of unwelcome conduct, whether verbal, physical, or visual that is based upon a person's protected status. The City will not tolerate harassing conduct that affects tangible job benefits, that interferes with an individual's work performance, or that creates an intimidating, hostile, or offensive working environment.

An employee who feels they have been harassed are highly encouraged to bring it to the attention of either the Department Head or the City Manager who shall conduct a thorough investigation and develop a course of appropriate action. The complaint should be submitted in writing. If the employee works directly for the City Manager, the complaint may be filed with the Mayor.

The City forbids retaliation against anyone who has reported harassment. If allegations warrant, the City will investigate to the fullest extent practicable, and will try to keep complaints and the policy of the complaint confidential.

Sexual harassment: The City expressly prohibits any form of sexual harassment and seeks to guarantee all employees the right to work in an environment free from such harassment.

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A particular form of harassment, sexual harassment is defined as unwelcome sexual advances, request for sexual favors, and other physical, verbal, or visual conduct based on sex, constitutes sexual harassment. Sexual harassment happens when submission to the conduct is an explicit or implicit term of condition of employment; submission to or rejection of the conduct is used as the basis for an employment decision; the conduct has the purpose or effect of reasonably interfering with an individual's work performance. Sexual harassment may include explicit sexual propositions, sexual innuendo's, suggestive comments, sexual oriented "kidding" or "teasing", "practical jokes", jokes about gender specific traits, foul or obscene language or gestures, displays of foul or printed or visual material, and physical contact, such as patting, pinching, or brushing against another's body.

The City recognizes that false accusations of sexual harassment can have a serious effect on innocent men and women. Individuals falsely accusing another of sexual harassment will be disciplined in accordance with the nature and extent of his/her false accusation.

Section 15. Personal Appearance and Property

Employees will be expected to wear clothing appropriate to the department and environmental working conditions. Clothing such as shorts and tank tops should not be worn while at work.

Facial jewelry will not be allowed (example: nose, lip, eyebrow, cheek, and tongue). Earrings should be conservative in nature and not pose a safety risk to the employee. Clothing must cover tattoos that are considered offensive in nature.

It shall be the policy of the City of Marion not to replace personal items of City employees lost, damaged, or stolen.

The City will replace, under existing policies, safety gear furnished by the City.

Section 16. Surrender of Property

An employee who is suspended or discharged shall be required to return all items of equipment and supplies, including cell phones, laptop computers and uniforms issued, rented, or owned by the City. Return of such equipment must precede the issuance of such an employee's final pay check.

Section 17. Loaning of Equipment

The City of Marion will not loan out any equipment, chairs, tables, or other types of materials and/or supplies.

This policy does not apply to Federal, State, or local governments, including the Recreation Department, Senior Center, Health Department, School System, McDowell Technical Community College, Keep McDowell County Beautiful, the Marion Downtown Business Association, contractors working for the City of Marion, or any other organization with whom the City has a funding relationship.

Section 18. Residency

The City Manager is required to maintain a 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 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 19. Telephones, e-mail and Internet

Usage of City telephones and computers for personal communications and Internet connections or email for personal reasons should be brief. Likewise, employee use of personal cellular telephones and text messaging devices on the job should be brief.

The Internet service or City owned cellular telephones may not be used for transmitting, retrieving or storing any communications of a discriminatory or harassing nature or which are derogatory to any individual or group, obscene, pornographic or X-rated, or defamatory or threatening in nature or for "chain letters" or any other purpose which is illegal or against City policy or contrary to the City's interest.

Text messaging and receiving or transmitting photographs on City owned cellular telephones should be limited to that only necessary to conduct City business as additional charges are incurred. In addition, downloading of music or additional ring-tones is prohibited. City land line telephones shall not be used for personal long-distance calls.

These systems are intended for business use of the City and all computer information, voice mail and electronic mail messages are considered City records. Therefore, the City maintains the right and ability to enter into any of these systems and to inspect and review any and all data recorded in those systems without prior notice. Since the City reserves the right to obtain access to these systems, employees should not assume that voice mail and electronic mail messages are private and confidential.

Any employee found to be abusing the privilege of City facilitated access to the Internet, use of City owned cellular telephones or City land line telephones will be subject to disciplinary action, which may include termination.

Section 20. Inclement Weather

The Department Head may be called to determine if the offices will be open or closed. An employee unable to work due to inclement weather may use vacation or compensatory time. In emergency situations, designated supervisors or employees may be required to report to work.

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Article VII. Leaves of Absence

Section 1. Holidays

The following days, and other days as the City Council may designate, are holidays with pay for employees and appointed officers of the City working the basic workweek.

New Year's Day
Martin Luther King Day
Good Friday
Memorial Day
July 4th
Labor Day
Veterans Day
Thanksgiving-Two Days-Thursday and Friday
Christmas - Two to Three Days

Christmas -The City will try to observe the same holidays or schedule as McDowell County not exceeding the established holidays as set forth in this policy. Christmas is usually taken the workday before, Christmas Day, and the workday after. New Year's Day, July 4th and Veterans Day are floating holidays. The day observed is the day of the week on which the holiday actually falls. If the Holiday should fall on a Saturday, Friday is observed, if the holiday falls on Sunday, Monday is observed.

Martin Luther King Day, Memorial Day and Labor Day are taken on the Monday that these holidays are observed according to the calendar.

All employees involved in a twenty-four (24) hour, seven (7) day a week operation will be granted eleven (11) or twelve (12) days off, depending on the number of holidays granted other employees, in lieu of fixed holidays. These days can be taken at a time that is agreeable with the department head and the operational schedule of the department.

The granted time off will equal the regular scheduled shift hours that one would normally work. If one is scheduled to work eight (8) hours, then eight (8) hours will be granted off for the holiday. These days may not be taken prior to the passing of the holiday.

For employees having a workweek with greater hours than the basic workweek, holiday leave shall be granted in the same proportion as their workweek is to a forty (40) hour workweek.

Employees still on probation will be given time off, without pay, for holidays.

Section 2. Effect of Holidays on Other Types of Leave

Regular holidays which occur during a vacation, sick or other leave period of any appointed officer or employee of the City shall not be considered as vacation, sick or other leave.

Section 3. Holiday-When Work Is Required

Employees required to perform work on regularly scheduled holidays may be granted "holiday compensatory time off" or paid at their hourly rate for the hours actually worked in addition to any holiday pay to which they may be entitled. "Holiday compensatory time" shall be granted whenever feasible and shall be taken within three (3) months from the time it is earned. "Holiday compensatory time", not taken within three (3) months will be paid out to the employee, unless an extension of time is specifically requested by the employee. An extension of time up to, but not exceeding, twelve (12) months may be granted when specifically requested. Accumulated "holiday compensatory time" shall be used before accumulated vacation leave. Should an employee leave prior to being able to use the holiday, the employee will be paid for the holiday time not taken.

Section 4. Vacation Leave

Vacation leave shall be used for rest and relaxation and in emergencies when sick leave has been exhausted.

(a) Initial Appointment
Probationary Employees serving a probationary period following initial appointment may accumulate vacation leave but shall not be permitted to take vacation leave during the probationary period.

(b) Employees with Previous Local Government Service
Employees with verifiable previous local government service shall be given credit for those years served when computing annual Vacation. These years must be remaining in the employees account, i.e. not cashed out and verifiable via ORBIT.

(c) Vacation Leave-Manner of Accrual
Each full-time regular and probationary employee shall earn vacation leave annually, provided the employee is active and eligible to contribute to the North Carolina Local Government Retirement System, as follows:

Years of Service	Amount of leave earned*
0 - 10 years	10 days (80 hours)
10 - 20 years	15 days (120 hours)
20 and thereafter	20 days (160 hours)

(* hours of vacation earned annually based on an 8 hour work day)

Employees who are out of work in a leave status shall not be eligible for accumulation of vacation leave. For the purposes of vacation leave accumulation, 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 vacation leave earned 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.

(d) Vacation Leave-Maximum Accumulation
Annual 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 for hour basis. Additional accumulated vacation time may be converted to sick leave upon written request from the employee and approval by the City Manager. If the employee separates from service, payment for accumulated annual 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.

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(e) Vacation Leave-Manner of Taking Leave
Vacation leave may be taken as accumulated by regular employees subject to policy and approval by the department head. General guidelines are fourteen (14) day notice for a five (5) day or longer vacation request; five (5) day notice for three (3) to four (4) day vacation request; and two (2) day notice for a one (1) to two (2) day vacation request.

(f) Vacation Leave-Previous Leave Credit
Vacation leave credit accumulated by each employee as of the adoption of these personnel administration policies shall be retained as of the effective date of these policies.

(g) Vacation Leave-Terminal Pay of Vacation Leave
An employee resigning from municipal employment shall be paid for vacation leave accumulated to the date of separation not to exceed a maximum of 200 hours for 40 hour employees, up to 210 hours maximum for 42 hour employees and up to 280 hours maximum for 56 hour employees.

(h) Vacation Leave-Payment for Accumulated Vacation upon Death
The designated beneficiary of an employee who dies while employed by the City shall be entitled to payment for all of the accumulated vacation leave credited to the employee's account, not to exceed a maximum of 200 hours 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 time of death.

Section 5. Sick Leave

(a) Employees with Previous Local Government Service
Employees with verifiable previous local government service shall be given credit for those years served when computing annual Sick Leave. These years must be remaining in the employees account, i.e. not cashed out and verifiable via ORBIT.

(b) 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 1 for employees with less than 5 years of service, multiplied by 2.4 for employees with over 5 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 a 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.

(c) Sick Leave-Maximum Accrual
Sick leave shall accumulate with no maximum accumulation, and may be used as credit for service under the NC Local Governmental Employee's Retirement System.

(d) Sick Leave-Physician's Certificate
The employee's supervisor or department head may require a physician's certificate concerning the nature of the illness and the employee's physical capacity to resume duties for each occasion on which an employee uses sick leave.

Sick leave with pay is not a right that an employee may demand but a privilege granted by the City Council for the benefit of an employee when sick. Sick leave shall be granted to an employee absent from work for any of the following reasons: sickness, bodily injury, required physical or dental examinations or treatment, or exposure to a contagious disease. Sick leave may also be used for illness in the employee's family that requires the care of the employee.

Good attendance is extremely important as it allows each City department to carry out the services and projects assigned to it and expected of it. When employees are absent, projects are delayed, service delivery suffers, and other employees must work harder to complete the same amount of work. Therefore, it is in the interest of employees, supervisors, and the City as a whole to promote good attendance.

Abuse of sick time shall not be tolerated and shall subject the employee to disciplinary action. Examples of abuse of sick time shall include, but not be limited to: taking unapproved leave, failure to notify a supervisor in advance of the need to take a personal day, use of all sick time accrued, or lying about the need for or use of sick time. Supervisors may require the presentation of a physician's note for an employee using sick time to go to a medical or dental appointment for themselves or a family member.

Notification of the desire to take sick leave shall be submitted to the employee's supervisor as early as possible, but in no case later than two hours after the beginning of the scheduled workday. Employees who resign or are dismissed from City employment shall lose all sick leave credits. Employees who retire with the City may apply sick leave credits toward retirement, subject to the rules of the North Carolina Local Government Employee's Retirement System. An employee may transfer sick leave from another governmental agency. Such transferred sick leave may be used in the same manner as sick leave accrued as a City employee. Retroactive transfers of sick leave from another governmental agency are allowed provided that the employee provides documentation from the previous employer of the number of hours to be transferred.

Incentives

Along with disciplining employees for abuse of sick time, it is the policy of the City of Marion to reward employees for excellent attendance. Therefore, the following incentives shall apply for various levels of attendance:

An employee who does not use any sick leave in a three (3) month period, or quarterly, shall receive four (4) hours of personal leave. Such awards shall be made on January 1, April 1, July 1 and October 1 of every year. In order to be eligible for this award, the employee must have been employed with the City of Marion as of the first day of that three (3) month period (October 1 for a January 1 award, January 1 for an April 1 award, April 1 for a July 1 award and July 1 for an October 1 award).

An employee who completes one (1) calendar year of perfect attendance without using any sick leave shall therefore receive sixteen (16) hours of personal leave. Personal leave awarded in accordance with this section will be treated as vacation time, its use approved in advance by the supervisor, with the requirements for notice as are in place for use of vacation time.

Shared Sick Leave

It shall be the policy of the City of Marion to allow a city employee to donate up to fifty percent (50%) of all accumulated sick leave time, in excess of forty (40) hours, to any other city employee having exhausted all of his/her sick leave and vacation leave due to the employee's major illness and/or major surgery.

Sick leave time contributed will remain with the employee given the time and no portion of the time contributed will be returned to the employee contributing the time. Time contributed will be on an hour for hour basis without regard to the hourly rate paid each employee.

Requests for shared sick leave time shall be submitted to the employee's department head. The department head will review the request to insure compliance with the policy and notify the City Manager. If approved by the department head and City Manager,

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proper notification will be given to all city employees of the request. The notice shall state only the employee's name, department, and need of donated sick leave time.

Any employee interested in donating sick leave time will complete the necessary forms provided by the city.

The employee contributing the sick time will be required to sign a notarized statement including, at least, the following information:

(a) The date the contribution is made.
(b) The name and department of the employee to receive the time.
(c) The name and department of the employee donating the time.
(d) The number of hours contributed.
(e) The balance of accumulated sick leave time left after the time contributed is deducted.

Employees Leaving

If an employee is leaving and has already turned in their resignation with department heads well aware of their separation date, the employee will not be allowed to contribute any sick time to another employee who has exhausted their time. If the sick time is not used due to sickness on the employee's part or not applied to retirement, then it will be lost.

If an employee has decided to leave and has not turned in a resignation and the department heads are not aware of the employee quitting, the employee can complete all shared sick leave forms and contribute time to another employee who has met all the criteria to receive shared sick leave time. The forms must be fully processed with all appropriate signatures to be valid.

Section 6. Family Medical Leave Act

The City will grant up to 12 weeks of family and medical leave per rolling twelve month period to eligible employees in accordance with the Family and Medical Leave Act of 1993 (FMLA). A rolling twelve month period is measured backward from the date of any FMLA leave taken. This leave may be paid (coordinated with the City's Vacation and Sick Leave policies), unpaid, or a combination of paid and unpaid. Additional time away from the job beyond the 12 week period may be approved in accordance with the City's Leave without Pay policy.

To qualify for FMLA coverage, the employee must have worked for the City for at least twelve (12) months or fifty-two (52) weeks; these do not have to be consecutive. However, the employee must have worked at least 1,250 hours during the twelve month period immediately before the date when the FMLA time begins.

Family and medical leave can be used for one or more of the following reasons:

(a) The birth of a child and in order to care for that child;
(b) Placement of a child for adoption or foster care.
(c) To care for a spouse, child, or parent with a serious health condition;
(d) The serious health condition of the employee; or
(e) Military exigency.

An employee who takes leave under this policy will return to the same job or a job with equivalent status, pay, benefits, and other employment terms. The position will be the same or one which entails substantially equivalent skill, effort, responsibility, and authority.

Once an employee has exhausted the FMLA, or is in an unpaid leave status, the City will continue to pay the cost of medical insurance for a full thirty (30) days before the employee becomes responsible for the premiums.

A serious health condition is defined as a condition which requires inpatient care at a hospital, hospice, or residential medical care facility, or a condition which requires continuing care by a licensed health care provider. This policy covers illness of a serious and long-term nature resulting in recurring or lengthy absences. Generally, a chronic or long term health condition which results in a period of incapacity or more than three days would be considered a serious health condition.

When the need for intermittent or reduced-schedule leave is foreseeable and is based upon a planned course of medical treatment, the employee must make a reasonable attempt to schedule his/her absences so as to disrupt workplace operations as little as possible.

If a husband and wife both work for the City and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (not parent in-law) with a serious health condition, the husband and wife together may only take a total of 12 weeks leave under FMLA.

An employee taking leave for the birth of a child may use paid sick leave for the period of actual disability, based on medical certification. The employee shall then use all paid vacation and accrued compensatory time for the remainder of the 12 week period.

The request for use of leave must be made in writing by the employee and approved by the Department Head and Town Manager.

Military Exigency is a qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a military service member (Reserve or National Guard) under a call or order to federal active duty in support of a contingency operation. Qualifying events are:

(a) Deployment of service member with seven or fewer days' notice;
(b) Military ceremonies and events such as family-assistance or informational programs related to the family member's active duty or call to active duty;
(c) Urgent, immediate childcare or arranging for alternative childcare for the children of service members;
(d) Attending school or daycare meetings relating to the child of service member;
(e) Making financial or legal arrangements related to a family member's active duty status or call to active duty; or
(f) Post-deployment activities for a period of ninety days after the termination of the service member's active duty status.

Military Caregiver Leave authorizes 26 weeks of absence for an employee whose spouse, son, daughter, parent or next of kin is a current service member who is undergoing treatment, therapy, recuperation or outpatient or has temporary disability retirement, for injury or illness sustained in the line of duty.

The amount of military caregiver leave allowed is:

(a) Limit of one-time per service member per injury;

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(b) Total of 26 weeks of combined FMLA, qualifying exigency and military caregiver leave in any twelve month period in which an employee takes military caregiver leave;
(c) The twelve month period begins on the first day that an employee takes military caregiver leave and ends twelve months later, regardless of method of calculating FMLA year.

Section 7. Maternity Leave

An employee desiring to take a leave of absence from work for reasons caused by or contributed to by pregnancy, miscarriage, childbirth, or recovery from should apply in writing to her supervisor stating the nature of her condition and the anticipated dates and duration of the requested leave. The supervisor shall forward the request to the City Manager for approval.

Failure to report at the expiration of the leave of absence unless an extension has been requested and approved shall be considered a resignation.

An employee may elect to use accumulated vacation leave and/or to use sick leave for the period of actual disability. If an employee wishes to retain all accumulated sick leave and vacation leave, leave without pay may be taken for the entire period.

Leave without pay is available as required by circumstances, agreed on by the department head and the City Manager, and/or medically determined.

Employers are prohibited from terminating, refusing to hire or failing to promote a woman solely because she is pregnant.

Employers must treat pregnancy and childbirth the same as other disabilities under their employee fringe benefit plans.

Mandatory leaves for pregnant employees based on arbitrary time periods in their pregnancy, which are not based on the individual's ability to work are prohibited.

Reinstatement rights of women on leave for pregnancy-related reasons, including credit for previous service, accrued retirement benefits, and accumulated seniority must be observed.

Section 8. Leave Without Pay

A regular employee with at least two (2) years of service may be granted a leave of absence without pay for up to one (1) year by the City Manager. The employee shall apply in writing to the City Manager for leave, stating the reason and the length of time for the leave of absence request.

The employee is obligated to return to duty within, or at the end of the time determined appropriate by the City Manager. Upon returning to duty after being on leave without pay, the employee shall be entitled to return to the same position held at the time leave was granted or to one of like classification, seniority and pay. If the employee decides not to return to work, the supervisor should be notified immediately. Failure to report at the expiration of a leave of absence, unless an extension has been requested and approved, shall be considered a resignation.

(a) Leave Without Pay-Effect on Benefits
An employee shall retain all unused vacation and sick leave while on leave without pay. An employee ceases to earn or accrue leave credits on the date leave without pay begins. The employee may continue to be eligible for benefits under the City's group insurance plans. If the leave without pay including worker's compensation leave as described below, will continue beyond 30 consecutive days employees may continue in the various insurance plans as allowed by the rules and regulations of the insurance carriers by paying for both employee and dependent premium payments for the duration of such leave without pay. These arrangements require prior acknowledgment and agreement by both City and employee affected. Any other benefits continuation issues should also be resolved prior to the commencement of the unpaid leave.

Section 9. Worker's Compensation Leave

An employee injured in an accident arising out of and in the course of employment may elect to use sick leave and/or vacation leave in order to receive the difference between the Worker's Compensation payment and his/her regular salary while he/she is disabled.

This will also apply to an employee injured on the job who is out of work for less than the seven day waiting period required by Worker's Compensation. Once sick/vacation leave is exhausted, the employee will only be entitled to the Worker's Compensation payment. Donated sick leave is not permitted in a Worker's Compensation situation.

Temporary and/or probationary employees will be placed in a leave without pay status and will receive all benefits for which they may be adjudged eligible under the Workers' Compensation Act subject to the provisions of Section 8 of this article.

Section 10. Funeral Leave

An employee, after completing the probationary period, may have up to three (3) days leave at full pay without charge to annual leave or sick leave when attending the funeral of an immediate family member. An immediate family member is defined as a spouse, parent, grandparent, child (or stepchild), grandchild, sibling, stepbrother, stepsister, stepparent or spouse's parents. Additional time to settle affairs of the family may be taken with the approval of the department head and should be charged to vacation leave. Leave to attend funerals of other than the immediate family may be granted by the department head and charged to sick leave.

Section 11. Temporary Disability Leave

Accumulated sick leave is available to employees for the period of temporary disability in the same manner as for any other illness.

Leave without pay may be used by the employee during or after the disability ends as long as a doctor's certification continues to support the disability. The employee may elect to use accumulated vacation leave (1) before going on sick leave, (2) after accumulated sick leave has been exhausted, and/or (3) after the temporary disability has ended. If an employee is temporarily disabled and has exhausted all accumulated sick leave, that employee may be eligible to receive leave without pay for personal disability under the provisions of Section 8 of this article. If an employee wishes to retain all accumulated sick leave and vacation leave, leave without pay may be taken for the entire period.

Reinstatement to the same position or one of like classification, seniority and pay shall be made upon the employee's return to work.

Section 12. Military Leave

Regular employees who are members of the National Guard or Armed Forces Reserve will be allowed two (2) calendar weeks military training leave annually. This leave is to be granted at no loss of regular compensation. Employees will be paid the difference between military pay and the employee's pay but only the amount to make up the difference if the military pay is lower than the regular pay. In no circumstances will the City supplement the military pay to an extent that would yield compensation that is greater than the regular pay of the employee. Employees are required to submit proof of military pay before this supplement is calculated and paid. The employee may elect to use annual leave to cover part or all of the military leave.

If such military duty is required beyond this two (2) calendar week period, the employee shall be eligible to take accumulated vacation leave or be placed in a leave without pay status. Regular employees, who are members of the National Guard or Armed Forces Reserves, have all job rights specified in the Uniformed Services Employment and Reemployment Act.

An employee ceases to accrue vacation or sick leave credits on the date military leave begins however, the time spent in military service is to be considered service to the City and upon reemployment returned to a position the employee would have held had he/she been working during the period of military service. In addition, upon reemployment, the City shall allocate the employer's contribution to a retirement plan for the employee for the period of military service.

Section 13. Civil Leave

(a) An employee who is called for jury duty shall be entitled to leave with pay for such duty and may keep all fees received for jury duty, provided the employee reports for work during required working hours, when not required to be in court. No charge shall be made against his/her accrued leave.

(b) If any employee is subpoenaed to testify in a court case, not related to City employment, the employee must notify his/her supervisor or department head. Charge will be made against the employee's accrued leave, if notice of the leave is provided in advance. Time spent in court by law enforcement officers and others called to testify in cases related to their City employment will be considered work time.

Section 14. Educational Leave with Pay

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 in 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.

An employee on educational leave with full pay shall continue to earn leave credits and any other benefits to which City employees are entitled.

Section 15. Light Duty

In the event of an injury, either on duty or off duty related, an employee is expected to return to duty when authorized by competent medical authority. Some light duty may be authorized but only with work within the department assigned and only within work limits described by the medical authority. The City will not be obligated to create light duty to maintain an employee on the clock. The Department Head is responsible for supervision and assignment of light duty within these guides. Once released by the medical authority the employee is expected to return to perform the full range of regular work within the position description of the position assigned.

Section 16. Leave for Employees with Adverse Reactions to Smallpox Vaccinations.

A regular/full-time employee is entitled to continuation of salary and to leave in addition to the sick leave otherwise available under the following circumstances:

The absence from work is due to an adverse reaction resulting from the employee receiving in employment vaccination against small pox pursuant to the Administration of Smallpox Countermeasures by Health Professionals, section 304 of the Homeland Security Act. The provisions of this section shall not exceed the maximum amount allowed for such leave by the State of North Carolina. An employee qualifying for this leave shall be required to provide their department head with certification from a health care provider justifying the need for leave after the first 24 hours of leave taken pursuant to this section.

Situations involving part-time employees who have an adverse reaction resulting from the employee receiving in employment vaccination against smallpox pursuant to the Administration of Smallpox Countermeasures by Health Professionals, section 304 of the Homeland Security Act will be treated as Worker's Compensation claims.

Section 17. School Involvement Leave

In keeping with the provisions of N.C. G. S. 95-28, full-time regular employees who are parents, guardians, or persons "standing in loco parentis" of a school-aged child shall be granted four hours per year of unpaid leave to attend or otherwise be involved at their child's school. However, the leave is subject to the following conditions:

(a) The leave shall be at a mutually agreed upon time between the supervisor and the employee;

(b) A written request must be submitted to the supervisor for the leave at least 48 hours before the time desired for the leave;

For the purposes of this section, "school" means any public school, private church school, church of religious charter, non-public school, preschool and child daycare facilities.

Employees may be allowed to use accumulated vacation or compensatory time with approval of the supervisor

Section 18. Excessive Absenteeism

(a) **Absence:** Two (2) days of unexcused absences in a four (4) week period is reason for dismissal. Unexcused absences involve taking unapproved leave, or using sick time for an unapproved reason as defined above. Excused absences, when possible, should be authorized in advance by the immediate supervisor. Three (3) days without reporting to work or contacting the appropriate official shall be considered a voluntary resignation.

(b) **Tardiness**: Twice (2) in a one- (1) week-period or three (3) times in a four- (4) week period is reason for dismissal. Tardiness will be considered unexcused except in emergency situations approved by the immediate supervisor.

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Tardiness will be defined as follows: Reporting to work eight (8) minutes or more after the regular start work time of each employee as with the respective departments.

(c) **Leaving Early**: Except in emergency situations, employees will be limited to leave work early two (2) times in a four-week period. Employees are encouraged to take care of personal business on their own time.

Article VIII. Separation, Disciplinary Actions and Reinstatement

Section 1. Types of Separation

All separations of employees from positions in the service of the City shall be designated as one of the following types and shall be accomplished in the manner indicated:

(a) Resignation: A minimum of a two (2) week notice is expected of all resigning personnel. Such notice should be given to the department head (or in the case of department heads, to the City Manager). Employees who do not give proper notice will not be paid for their accumulated vacation leave balance upon termination. Three (3) days without reporting to work or contacting the appropriate official shall be considered a voluntary resignation.

(b) Reduction in Force: In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each employee's past performance, organizational needs, and seniority, in that order, in determining those employees to be retained. Employees who are laid off because of reduction in force shall be given at least one (1) pay period notice of anticipated layoff. No regular employee shall be separated while there are temporary employees serving in the same class in the department, unless the regular employee is not willing to transfer to the position held by the temporary employee.

(c) Disability: An employee may be separated for disability when the employee cannot perform the required duties because of a physical or mental impairment and reasonable accommodations, as required by the American with Disabilities Act (ADA), cannot be made. The employee or the City may initiate action, but in all cases it shall be supported by medical evidence as certified by a competent physician. The City may require an examination at its expense and performed by a physician of its choice. Before an employee is separated for disability, a reasonable effort shall be made to locate alternative positions within the City's service for which the employee may be suited.

(d) Death: All compensation due in accordance with Article VII, Section 4 of these policies will be paid to the designated beneficiary of a deceased employee. The date of death shall be recorded as the separation date for computing compensation due.

(e) Dismissal: If the appointing authority determines that a dismissal action is appropriate, before dismissal action is taken, whether for failure in personal conduct or failure in performance of duties, the Department Head will conduct a pre-disciplinary conference. At this conference, the employee may present any response to the proposed disciplinary action. The Department Head will consider the employee's response, if any, to the proposed disciplinary action, and will, within three working days following the pre-disciplinary conference, notify the employee in writing of the final decision to take disciplinary action. The notice of the final disciplinary action shall contain a statement of the reasons for the action and the employee's appeal rights.

Section 2. Disciplinary Action

An employee may be suspended, demoted, or dismissed by the department head because of failure in performance of duties or failure in personal conduct. The department head shall provide the employee with a written notice including the effective date, reasons for the action, and appeal rights available to the employee.

(a) Failure in Performance of Duties

Failure in the performance of duties includes any aspects of the employee's job, which are not performed as required to meet the standards set by the City Manager.

The following causes relating to failure in the performance of duties are representative, but not all inclusive, of those considered to be adequate grounds for suspension, demotion or dismissal:

(1) Inefficiency, negligence or incompetence in the performance of duties;
(2) Careless, negligent or improper use of City property or equipment;
(3) Physical or mental incapacity to perform duties;
(4) Discourteous treatment of the public or other employees;
(5) Absence without approved leave;
(6) Habitual improper use of leave privileges;
(7) Habitual pattern of failure to report for duty at the assigned time and place.
(8) Willful insubordination.

Prior to making a decision to terminate employment, the Department Head or City Manager will conduct a pre-disciplinary conference.

(b) Failure in Personal Conduct

An employee may be suspended, demoted or dismissed for causes relating to personal conduct detrimental to City service without warning in order to avoid undue disruption of work to protect the safety of persons or property. Before a final decision is made the Department Head or City Manager will conduct a pre-disciplinary conference.

The following causes relating to failure in personal conduct are representative, but not all inclusive, of those considered to be adequate grounds for suspension, demotion, or dismissal:

(1) Fraud in securing appointment;
(2) Conduct unbecoming a public officer or employee;
(3) Conviction of a felony or of a misdemeanor which would adversely affect performance of duties, or the entry of a plea of "no contest" to either;
(4) Misappropriation of City funds or property;
(5) Falsification of City records for personal profit or to grant special privileges;
(6) Reporting to work under the influence of alcohol or narcotic drugs or partaking of such things while on duty or while on public property, except prescribed medication may be taken within the limits set by a physician so long as medically necessary;
(7) Willful damage or destruction of property;
(8) Willful acts that would endanger the lives and property of others;
(9) Acceptance of gifts in exchange for "favors" or "influence";
(10) Incompatible outside employment or conflict of interest;
(11) Violation of political activity restrictions.

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(c) Disciplinary Suspension
An employee who is suspended for disciplinary reasons shall be relieved temporarily of all duties and responsibilities and shall receive no compensation for the period of suspension. The Department Head or City Manager will conduct a pre-disciplinary conference.

(d) Immediate Disciplinary Suspension
An employee may be suspended without notice by the department head for causes related to personal conduct in order to avoid undue disruption of work, to protect the safety of persons or property, or for other serious reasons. Before a final decision is made the Department Head or City Manager will conduct a pre-disciplinary conference. When a department head suspends an employee the employee needs to leave City property at once and remain away until further notice.

(e) Non-Disciplinary Suspension
During the investigation, hearing or trial of an employee on any criminal charge or during the course of any civil action involving an employee, the department head may suspend the employee without pay for the duration of the proceedings as a non-disciplinary action. However, the investigation, hearing, trial, or civil action must involve matters that may form the basis for disciplinary suspension, demotion or dismissal in order for the non-disciplinary suspension to be allowed. Full recovery of pay and benefits for the period of non-disciplinary suspension may be authorized by the City Manager, if the suspension is terminated with full reinstatement of employee.

Exempt employees: In accordance with FLSA requirements to maintain exempt status, suspensions for exempt employees shall normally be for one full work week, especially if the suspension is for failure in performance of duties issues. Under FLSA suspensions of less than a week are authorized for major safety violations or infractions of workplace conduct rules (detrimental personal conduct).

Section 3. Employee Appeal

A regular employee wishing to appeal a demotion, suspension or dismissal may present the matter in accordance with the provisions of the grievance procedure prescribed in these policies.

Section 4. Reinstatement

An employee who resigns while in good standing or who is dismissed because of reduction in force may be reinstated within one (1) year of the date of separation, with the approval of the City Manager. An employee who enters extended active duty with the Armed Forces of the United States, the Public Health Service or with a Reserve Component of the Armed Forces will be granted reinstatement rights as allowed by the Uniformed Services Employment and Reemployment Rights Act.

An employee who is reinstated shall be credited with previous service and previously accrued sick leave and will receive all benefits provided in accordance with this policy and state law. The salary paid a reinstated employee shall be as close as reasonably possible, given the circumstance of each employee's case, to the salary previously attained by the employee in the salary range for the previous class of work, plus any across-the-board pay increases.

Article IX Grievance Procedure and Adverse Action Appeal

Section 1. Policy

It is the policy of the City to provide a just procedure for the presentation, consideration, and disposition of employee grievances. The purpose of this Article is to outline the procedure and to assure all employees that a response to their complaints and grievances will be prompt and fair.

Employees utilizing the grievance procedures shall not be subjected to retaliation or any form of harassment from supervisors or employees for exercising their rights under this policy. Supervisors or other employees who violate this policy shall be subject to disciplinary action up to and including dismissal from City service.

Section 2. Grievance Defined

A grievance is a claim or complaint by an employee based upon an event or condition which affects the circumstances under which an employee works and is allegedly caused by misinterpretation, unfair application, or lack of established policy pertaining to employment conditions.

Section 3. Purposes of the Grievance Procedure

The purposes of the grievance procedure include, but are not limited to:

(a) providing employees with a procedure by which their complaints can be considered promptly, fairly, and without reprisal;
(b) encouraging employees to express themselves about the conditions of work which affect them as employees;
(c) promoting better understanding of policies, practices, and procedures which affect employees;
(d) increasing employees' confidence that personnel actions taken are in accordance with established, fair, and uniform policies and procedures;
(e) increasing the sense of responsibility exercised by supervisors in dealing with their employees.
(f) encouraging conflicts to be resolved between employees and supervisors who must maintain an effective future working relationship, and therefore, encouraging conflicts to be resolved at the lowest level possible of the chain of command through collaboration and/or mediation; and
(g) creating a work environment free of continuing conflicts, disagreements, and negative feelings about the City or its leaders, thus freeing up employee motivation, productivity, and creativity.

Section 4. Procedure

When an employee has a grievance, the following successive steps are to be taken. The number of calendar days indicated for each step should be considered the maximum, unless otherwise provided, and every effort should be made to expedite the process. However, the time limits set forth may be extended by mutual consent. The last step initiated by an employee shall be considered to be the step at which the grievance is resolved. A decision to rescind a disciplinary suspension, demotion or dismissal must be approved by the City Manager before the decision becomes effective.

Informal Resolution. Prior to the submission of a formal grievance, the employee and supervisor should meet to discuss the problem and seek to resolve it informally. Either the employee or the supervisor may involve the Finance Director as a resource to

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help resolve the grievance. Mediation may be used at any step in the process and is encouraged. Mediation is the neutral facilitation of the conflict between or among parties where the facilitator help the parties find a mutually agreeable outcome.

Step 1. If no resolution to the grievance is reached informally, the employee who wishes to pursue a grievance shall present the grievance to the appropriate supervisor (the person who took the action which created the grievance issue, could be immediate supervisor, Division Head, Department Head, etc.) in writing. The grievance must be presented within seven calendar days of the event or within seven calendar days of learning of the event or condition. The written grievance should identify the action that is deemed unfair and the reason the grieving employee believes it to be unfair. The supervisor shall respond to the grievance within seven calendar days after receipt of the grievance. The supervisor should, and is encouraged to, consult with any employee of the City in order to reach a correct, impartial, fair and equitable determination or decision concerning the grievance. Any employee consulted by the supervisor is required to cooperate to the fullest extent possible.

The response from the supervisor for each step in the formal grievance process shall be in writing and signed by the supervisor. In addition, the employee shall sign a copy to acknowledge receipt thereof. The responder at each step shall send copies of the grievance and response to the Finance Director.

Step 2. If the grievance is not resolved by the first level supervisor to the satisfaction of the employee by the supervisor, the employee may appeal in writing to the next level supervisor (Division Head, Department Head, City Manager, etc.) within seven calendar days after receipt of the response from Step 1. The next level supervisor shall respond to the appeal, stating the determination of decision within seven calendar days after receipt of the appeal.

Step 3. If the grievance is not resolved to the satisfaction of the employee at the end of Step 2, the employee may appeal, in writing, to the City Manager within seven calendar days after receipt of the response from Step 2. The City Manager shall respond to the appeal, stating the determination of decision within ten calendar days after receipt of the appeal. The City Manager's decision shall be the final decision. The City Manager would notify the City Council of any impending legal action or any grievance that has not been resolved to the satisfaction of the City Manager and employee(s).

Department Heads. In the case of Department Heads or other employees where the City Manager has been significantly involved in determining disciplinary action, including dismissal, the City may wish to obtain a neutral outside party to either:

(a) provide mediation between the grieving Department Head and the City Manager (see definition of mediation in informal resolution above); or
(b) consider the appeal and make recommendations back to the City Manager concerning the appeal. Such parties might consist of human resource professionals, attorneys, mediators, or other parties appropriate to the situation.

The City Manager's decision shall be the final decision. The City Manager would notify the City Council of any impending legal action.

Section 5. Role of the Finance Director

Throughout the grievance procedure, the Finance Director shall:

(a) advise parties (including employee, supervisors, and City Manager) of their rights and responsibilities under this policy, including interpreting the grievance and other policies for consistency of application;
(b) be a clearinghouse for information and decisions in the matter including maintaining files of all grievance documents.
(c) assist employees and supervisors in drafting statements;
(d) give notices to parties concerning timetables of the process, etc.;
(e) assist employees and supervisors in drafting statements;
(f) facilitate the resolution of conflicts in the procedures or of the grievance at any step in the process; and
(g) help locate mediation or other resources as needed.

The Finance Director shall also determine whether or not additional time shall be allowed to either side in unusual circumstances if the parties cannot agree upon extensions when needed or indicated.

Section 6. Grievance and Adverse Action Appeal Procedure for Discrimination

When an employee, former employee, or applicant, believes that any employment action discriminates illegally (i.e. is based on age, sex, race, color, national origin, religion, creed, political affiliation, or non-job related handicap), he or she has the right to appeal such action using the grievance procedure outlined in this Article (Section 4 above). While such persons are encouraged to use the grievance procedure, they shall also have the right to appeal directly to the Finance Director or City Manager. Employment actions subject to appeal because of discrimination include promotion, training, classification, pay, disciplinary action, transfer, layoff, failure to hire, or termination of employment. An employee or applicant should appeal an alleged act of discrimination within thirty calendar days of the alleged discriminatory action, but may appeal for up to six months following the action.

Article X. Insurance/Retirement Benefits

Section 1. Insurance Benefits

The City offers group hospitalization, life insurance and a separate death benefit that is offered through the North Carolina Local Governmental Employees' Retirement System to employees. The City may make other group insurance plans available for its employees upon authorization of the City Council.

Regular employees are eligible for these benefits beginning on the 31st day of employment.

Section 2. Unemployment Insurance

In accordance with the North Carolina General Statutes, local governments are covered by unemployment insurance. City employees who are laid off or released from the City service may apply for unemployment compensation through the local office of the Employment Security Commission who will determine the employee's eligibility for this benefit.

Section 3. Old Age and Survivor's Insurance

The City, to the extent of its lawful authority and power, has extended social security benefits for its eligible employees and eligible groups and classes of such employees.

Section 4. Retirement Benefits

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The City provides retirement benefits for its employees through the North Carolina Local Governmental Employees' Retirement System (NCLGERS).

All employees who are budgeted to work 1000 hours or more annually are required to join NCLGERS retirement plan according to NC General Statutes.

It shall be the policy of the City of Marion to provide each employee retiring from employment with the City of Marion, after a minimum of twenty (20) years of service, a cash gift equal to two (2) weeks' pay. This gift shall be in addition to any payment for unused vacation leave.

Said gift shall not be paid from the City Taxes or from other State collected Local taxes not authorized for such purposes.

Said retiring employee shall not be paid a longevity payment for any time worked since the last longevity payment was issued by the City.

Section 5. 401K Supplemental Retirement Income Plan

The City provides a 401K plan for active law enforcement personnel, each month contributing an amount equal to five percent (5%) of each officers' salary as required by G.S. Chapter 143 Article 12E. In addition, the City provides a contribution to the 401K plan for non - law enforcement employees. City Council sets the percentage of contribution upon recommendation by the City Manager.

Section 6. Law Enforcement Special Separation Allowance

The City provides a monthly separation allowance to retired sworn law enforcement officers as required in Chapter 143-166.42 of the General Statutes of North Carolina beginning in the month in which the officer retires on basic service retirement. To qualify for the allowance, the officer shall:

(a) Have:
  (1) Completed 30 or more years of creditable services: or
  (2) Have attained 55 years of age and completed five or more years of creditable service
(b) Not have attained 62 years of age; and
(c) Have completed at least five years of continuous service as a law enforcement officer immediately preceding retirement.

Payment to a retired officer under the provisions of this section shall cease at the first of:

(a) Death of the officer; or
(b) The last day of the month in which the officer attains 62 years of age; or
(c) The first day of reemployment by a local government employer in any capacity that requires participation in the North Carolina Local Governmental Employees' Retirement System (NCLGERS).

This section does not affect the benefits to which an individual may be entitled from State, local, federal or private retirement systems.

Section 7. Employee Assistance Program

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.
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 8. Workers' Compensation

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All employees are covered with workers' compensation insurance as required by the General Statutes of North Carolina. This insurance provides payment of medical bills and lost wages as allowed. Employees are required to notify the City as soon as possible after the accident. Failure to notify the City may jeopardize any employee claim for workers' compensation benefits.

Article XI. Personnel Records and Reports

Section 1. Personnel Records Maintained

Such personnel records as are necessary for the proper administration of the personnel system will be maintained by the City Manager or his/her designee. The City shall maintain, in personnel records, only information that is relevant to accomplishing personnel administration purposes.

Section 2. Public Personnel Records Defined

The following information on each City employee is part of an employee's public personnel record:

(a) Name;
(b) Age;
(c) Date of original employment;
(d) Terms of any contract;
(e) Current position and title;
(f) Current salary;
(g) Office to which employee is currently assigned;
(h) Date and amount of each increase or decrease in salary;
(i) Date and type of each promotion, demotion, transfer, suspension, separation or other change in position classification;
(j) The date and general description of the reasons for each promotion;
(k) The date and type of each dismissal, suspension, or demotion for disciplinary reasons;
(l) For dismissals due to disciplinary reasons, a copy of the written notice of the final decision setting forth the specific acts or omissions that are the basis of the dismissal.

Section 3. Access to Personnel Records

As required by NC General Statute, any person may have access to the information listed in Section 1 of this Article for the purpose of inspection, examination, and copying during the regular business hours, subject only to such rules and regulations for the safekeeping of public records as the City Council may adopt. Access to such information shall be governed by the following provisions:

(a) All disclosures of records shall be accounted for by keeping a written record (except for authorized persons processing personnel actions) of the following information: name of employee; information disclosed; date information was requested; name and address of the person to whom the disclosure is made; and purpose for which information is requested. This information must be retained for a period of two years.
(b) Upon request, the record of disclosure shall be made available to the employee to whom it pertains.
(c) Any individual examining a personnel record may copy the information. Any available photocopying facility may be provided and the cost may be assessed to the individual.
(d) Refusal to comply with public records request may be challenged by requesting party.
(e) If challenging party prevails, party can be awarded attorney fees if the City was not substantially justified in denying access to the records. Attorney fees can be charged directly against the local government or by order of the court, directly to any public employee or public official individually if the court finds the refusal to provide public records was knowingly or intentionally committed in violation of the law.
(f) Section 21(c) of HB 961 specifically provides that the court may not award attorney fees if the City acted in reliance upon a judgment or an order of a trial court, or a written opinion, decision, or letter of the Attorney General.

Section 4. Confidential Information

All information contained in the City employee's personnel file, other than the information listed in Section 1 of this Article will be maintained as confidential and shall be open to inspection only in the following instances:

(a) The employee or his/her duly authorized agent may examine all portions of his/her personnel file, except (1) letters of reference solicited prior to employment, and (2) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to his/her patient.
(b) A licensed physician designated in writing by the employee may examine the employee's medical record.
(c) A City employee having supervisory authority over the employee may examine all material in the employee's personnel file.
(d) By order of a court of competent jurisdiction, any person may examine such portion of the employee's personnel file as may be ordered by the court.
(e) An official of an agency of the State or Federal government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the official having custody of the personnel records to be necessary and
(f) essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee or for the purpose of assisting in an investigation of the employee's tax liability. However, such official having custody of such records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
(g) An employee may sign a written release, to be placed with his/her personnel file, that permits the person with custody of the file to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.
(h) Each individual requesting access to confidential information will be required to submit satisfactory proof of identity.
(i) A record shall be made of each disclosure and placed in the employee's file (except of disclosures to the employee and the supervisor).

Section 5. Records of Former Employees

The provisions for access to records apply to former employees as they apply to present employees.

Section 6. Records of Applicants

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Applicants and other information gathered with respect to an applicant will be kept confidential. The City will not release this information without written permission from the applicant.

Section 7. Remedies of Employees Objecting to Material in File

An employee who objects to material in his/her file may place in the file a statement relating to the material considered to be inaccurate or misleading. The employee may seek the removal of such material in accordance with established grievance procedures.

Section 8. Penalty for Permitting Access to Confidential File by Unauthorized Person

The NC General Statutes provides that any public official or employee who knowingly and willfully permits any person to have access to any confidential information contained in an employee's personnel file, except as permitted by the statute, is guilty of a misdemeanor and upon conviction shall be fined in an amount not to exceed five hundred dollars ($500.00).

Section 9. Penalty for Examining and/or Copying Confidential Material without Authorization

NC General Statutes provides that any person, not specifically authorized to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a misdemeanor and upon conviction shall be fined in the discretion of the court but not in excess of five hundred dollars ($500.00).

Section 10. Destruction of Records Regulated

No person may destroy, sell, loan, or otherwise dispose of any public record except as allowed by NC General Statute. Whoever unlawfully removes a public record from the offices where it is usually kept, or whoever alters, defaces, mutilates or destroys it will be guilty of a misdemeanor and upon conviction will be fined no less than ten dollars ($10.00) and not more than five hundred dollars ($500.00).

Article XII. Implementation of Policy

Section 1. Conflicting Policies Repealed

All policies, ordinances or resolutions that conflict with the provisions of these policies are hereby repealed.

Section 2. Separability

If any provision of these policies or any rule, regulation or order thereunder or the application of such provision to any person or circumstances is held invalid, the remainder of these policies and the application of such remaining provisions of these policies or such rules, regulations or orders to persons or circumstances other than those held invalid will not be affected thereby.

Section 3. Violations of Policy Provisions

An employee violating any of the provisions of these policies shall be subject to suspension and/or dismissal, in addition to any civil or criminal penalty that may be imposed for the violation of the same.

Section 4. Effective Date

ADOPTED by the City Council of the City of Marion this the 17th of June 2014 with the effective date of July 1, 2014.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Policy Number: P-14-06-17-1

D. Approval of City Fee Schedule Amendments – Council approved the following amendments to the City Fee Schedule, effective July 1, 2014:

1. Police Reports – A fee of $5.00 per report was approved.

2. Copy Fees – The fee for black and white copies was increased from $.05 to $.10 per page and for color copies from $0.10 to $0.25 per page. A fee of $0.25 per page was approved for 11" x 17" copies.

3. Housing Demolition – An administrative charge for $500 was approved for all City initiated housing demolitions. This fee would not be charged unless the City actually demolished a structure through the condemnation process authorized in the City Code.

E. Approval of Budget Ordinance Amendments

CITY OF MARION, NORTH CAROLINA
2013-2014 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 2013-14 as adopted by the Marion City Council on the 18th day of June, 2013 is hereby amended as follows:

GENERAL FUND

a. General Fund Expenditures, Administration, Account Number 10-420-1300, Utilities is increased from $9,000 to $9,500.

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b. General Fund Expenditures, Administration, Account Number 10-420-3300, Supplies & Materials is increased from $5,700 to $6,500.

c. General Fund Expenditures, Administration, Account Number 10-420-5700, Miscellaneous Expense is increased from $1,000 to $2,000.

d. General Fund Expenditures, Administration, Account Number 10-420-7400, Capital Outlay is increased from $5,100 to $25,400.

e. General Fund Expenditures, Planning & Development, Account Number 10-500-5000, Code Enforcement is increased from $24,000 to $31,000.

f. General Fund Expenditures, Police, Account Number 10-510-3330, National Night Out Supplies is increased from $4,279 to $6,800.

g. General Fund Expenditures, Police, Account Number 10-510-5800, Dispatching Fees is increased from $93,216 to $95,000.

h. General Fund Expenditures, Police, Account Number 10-510-7400, Capital Outlay is increased from $76,500 to $114,695.

i. General Fund Expenditures, Fire, Account Number 10-530-1700, Maintenance & Repairs - Vehicles is increased from $29,000 to $50,000.

j. General Fund Expenditures, Fire, Account Number 10-530-5700, Miscellaneous Expense is increased from $535 to $1,370.

k. General Fund Expenditures, Public Works Administration, Account Number 10-445-2100, Rent - Equipment is increased from $-0- to $1,000.

l. General Fund Expenditures, Streets, Account Number 10-560-4500, Contracted Services is increased from $83,750 to $110,750.

m. General Fund Expenditures, Powell Bill, Account Number 10-570-4500, Contracted Services is increased from $211,240 to $275,240.

n. General Fund Expenditures, Sanitation, Account Number 10-580-5700, Miscellaneous is increased from $900 to $1,600.

o. General Fund Expenditures, Recreation, Account Number 10-620-1500, Maintenance & Repairs – Buildings & Grounds is increased from $3,500 to $4,200.

p. General Fund Expenditures, Recreation, Account Number 10-620-1600, Maintenance & Repairs – Equipment is increased from $1,300 to $4,300.

q. General Fund Expenditures, Recreation, Account Number 10-620-6000, Mountain Glory Expenses is increased from $22,206 to $25,842.

r. General Fund Expenditures, Recreation, Account Number 10-620-7400, Capital Outlay is increased from $58,010 to $83,010.

s. General Fund Expenditures, Cemetery, Account Number 10-640-3300, Department Supplies is increased from $2,500 to $3,500.

t. General Fund Expenditures, Cemetery, Account Number 10-640-3300, Contracted Services is increased from $19,000 to $25,350.

u. General Fund Expenditures, Non-Departmental, Account Number 10-660-6000, McDowell Mission Contribution is increased from $-0- to $6,000.

v. General Fund Expenditures, Non-Departmental, Account Number 10-660-6400, Façade Grant Program is decreased from $20,000 to $15,000.

w. General Fund Expenditures, Non-Departmental, Account Number 10-660-9950, Special Projects is increased from $10,000 to $15,000.

x. General Fund Revenues, Account Number 10-319-0100, City Vehicle License is increased from $32,000 to $43,000.

y. General Fund Revenues, Account Number 10-319-1000, Prior Year Taxes is increased from $45,000 to $54,500.

z. General Fund Revenues, Account Number 10-321-0000, Privilege License Revenue is increased from $59,000 to $60,000.

aa. General Fund Revenues, Account Number 10-334-1200, GHSP Grant Revenue is increased from $-0- to $6,145.

bb. General Fund Revenues, Account Number 10-334-1700, State Controlled Substance Revenue is increased from $-0- to $12,132.

cc. General Fund Revenues, Account Number 10-335-0300, Mountain Glory Revenue is increased from $28,945 to $30,721.

dd. General Fund Revenues, Account Number 10-335-1000, County Vehicle Tax Collected is increased from $220,000 to $290,000.

ee. General Fund Revenues, Account Number 10-335-1150, Vehicle Tax Collection Fees is increased from $8,000 to $18,000.

ff. General Fund Revenues, Account Number 10-335-7000, ABC Net Revenue is increased from $80,000 to $90,000.

gg. General Fund Revenues, Account Number 10-341-0500, Refunds/Reimbursement is increased from $11,000 to $12,500.

hh. General Fund Revenues, Account Number 10-341-1100, Parking Tickets/Civil Citations is increased from $5,000 to $6,000.

ii. General Fund Revenues, Account Number 10-341-3000, Zoning Income/Inspection Fees is increased from $20,000 to $23,500.

jj. General Fund Revenues, Account Number 10-354-1000, Miscellaneous Revenue is increased from $4,000 to $6,000.

kk. General Fund Revenues, Account Number 10-390-0000, Cemetery Revenues is increased from $12,000 to $16,500.

ll. General Fund Revenues, Account Number 10-392-1000, Sale of Real Estate is increased from $3,500 to $6,505.

mm. General Fund Revenues, Account Number 10-392-2000, Property Insurance Reimbursement is increased from $10,501 to $17,000.

nn. General Fund Revenues, Account Number 10-399-0000, Fund Balance Appropriated is decreased from $322,722 to $421,486.

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WATER AND SEWER FUND

a. Water and Sewer Fund Expenses, Utility Line Maintenance, Account Number 30-810-1700, Maintenance & Repairs - Vehicles is increased from $30,995 to $35,000.

b. Water and Sewer Fund Expenses, Water Filter Plant, Account Number 30-812-0200, Salaries is increased from $190,781 to $197,500.

c. Water and Sewer Fund Expenses, Water Filter Plant, Account Number 30-812-0500, Retirement is increased from $19,402 to $22,200.

d. Water and Sewer Fund Expenses, Water Filter Plant, Account Number 30-812-3300, Material & Supplies is increased from $92,000 to $107,000.

e. Water and Sewer Fund Expenses, Waste Treatment Plant, Account Number 30-816-0200, Salaries is increased from $340,498 to $355,500.

f. Water and Sewer Fund Expenses, Waste Treatment Plant, Account Number 30-816-1300, Utilities is increased from $170,000 to $190,000.

g. Water and Sewer Fund Revenues, Account Number 30-299-0000, Fund Balance Appropriated is increased from $281,526 to $345,050.

INTERNAL SERVICE FUND

a. Internal Service Fund Revenues, Account Number 35-391-0000, Sales to General Fund, is increased from $198,000 to $229,000.

b. Internal Service Fund Revenues, Account Number 35-391-1000, Sales to Water & Sewer Fund, is increased from $82,000 to $113,000.

c. Internal Service Fund Expenditures, Account Number 35-660-0400, Professional Services, is increased from $-0- to $1,000.

d. Internal Service Fund Expenditures, Account Number 35-660-1600, Maintenance - Equipment, is increased from $850 to $1,250.

e. Internal Service Fund Expenditures, Account Number 35-660-3300, Inventory Purchases, is increased from $250,000 to $300,000.

f. Internal Service Fund Revenues, Account Number 35-399-0000, Fund Balance Appropriated, is decreased from $22,131 to $11,531.

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

Adopted this the 17th day of June 2014.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–14–06–17–1

F. Adoption of Capital Projects Ordinance – Bicycle Plan Project

CITY OF MARION, NORTH CAROLINA
GENERAL CAPITAL PROJECTS FUND ORDINANCE – BICYCLE INFRASTUCTURE 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 2013-14 as adopted by the Marion City Council on the 18th day of June 2014 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 11-396-0000, Streetscape – Bicycle Plan – KBR Grant is increased from $-0- to $8,000.

b. General Capital Project Fund Revenues, Account Number 11-396-1000, Bicycle Plan – NCDOT Grant, is increased from $-0- to $32,000.

c. General Capital Project Fund Expenditures, Account Number 11-520-0100, Bicycle Plan – Engineering & Consulting, is increased from $-0- to $40,000.

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 June 2014.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–14–06–17–8

G. Adoption of Ordinance – Amend Chapter 1 of City Code, Civil Penalties

ORDINANCE
AMENDING CHAPTER 1
GENERAL PROVISIONS
MARION CITY CODE

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

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

Section 2. Chapter 1 is amended by repealing Section 1-10.9(a)(1) and replacing it with the following:

(1) For parking violations not involving parking in a handicapped space, the civil penalty shall be ten dollars ($10.00). For handicapped parking violations, the civil penalty shall be fifty dollars ($50.00).

Section 3. Chapter 1 is amended by repealing Section 1-10.10(a) and replacing it with the following:

(a) The following fines apply for late payment of civil penalties for parking violations, including handicapped and non-handicapped violations:

(1) When the $10.00 civil penalty for a parking violation is not paid within fourteen (14) days of the issuance of the citation a $25.00 late payment fine shall be assessed.

(2) When the $10.00 civil penalty for a parking violation is not paid within thirty (30) days for the issuance of the citation a $15.00 late payment fine shall be assessed.

Section 4. This ordinance shall become effective on September 1, 2014.

Adopted this the 17th day of June, 2014.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-14-06-17-6

H. Approval of Two Year Extension of Sales Tax Interlocal Agreement With McDowell County

Interlocal Agreement
City of Marion and
McDowell County

Concerning Matters Related to the Distribution of Sales Tax

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 McDowell County Board of Commissioners annually chooses the formula, 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, the five year Interlocal Agreement Concerning Matters Related to the Distribution of Sales Tax between the County and the City, approved by both the County and City in 2009, will expire on June 30, 2014, and

WHEREAS, both the County and City desire to extend the 2009 Interlocal Agreement temporarily to allow for further discussions to take place about a possible long term agreement concerning the distribution of sales tax.

NOW, THEREFORE BE IT RESOLVED AS FOLLOWS:

For the 2014-15 and 2015-16 Fiscal Years, McDowell 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. $445,000, which is the amount retained by the County in the 2013-14 Fiscal Year, is then subtracted from the difference and this $445,000 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.

Other Issues

This Interlocal Agreement may be amended at any time with the consent of both the McDowell County Board of Commissioners and the Marion City Council.

AA.000000406 (24)

Adopted, this the 9th day of June, 2014 by the McDowell County Board of Commissioners and the 17th day of June, 2014 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:_____
Randy Hollifield, 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

By:_____
J. Robert Boyette, City Manager/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:_____
Alison Morgan
Finance Officer
McDowell County

By:_____
Harriett Thomas
Finance Director
City of Marion

PRESENTATION OF PROCLAMATION: The City Manager advised that Mayor Little had prepared a proclamation recognizing and honoring Abbey Taylor, a senior graduating from McDowell High School. Due to scheduled surgery, Mayor Little could not be present for this presentation.

The City Manager advised that among her many achievements, Abbey is the first female from McDowell High School to be accepted to the United States Naval Academy. McDowell Chamber of Commerce Executive Director Steve Bush made the City aware of Abbey's accomplishments.

Abbeys family and several friends were in attendance as the City Manager presented the Proclamation that read as follows.

Proclamation
Recognizing and Honoring
Abbey Lynn Taylor

Whereas, Abbey Taylor is presently a senior at McDowell High School in Marion, North Carolina and is scheduled to graduate in 2014 with superior academic grades placing her 4th in the class of 355 students;

And Whereas, Abbey Taylor has been an active and involved student, being a member and captain of the McDowell High Lady Titans Soccer Team. She serves as Student Body President, is a member of the National Honor Society and Interact Club;

And Whereas, Abbey Taylor has volunteered in many extra-curricular activities including tutoring students at her High School, volunteer work at Autumn Care, and teaching Sunday School to children at Grace Community Church. She has been recognized by the Marion Rotary Club as a student of the Week;

And Whereas, Abbey Taylor has chosen to respect her family's long-standing heritage of military service and has been-selected to the high and prestigious honor of attending the United States Naval Academy at Annapolis, Maryland;

And Whereas, Abbey Taylor at age 17 has demonstrated by her choices and achievements honorable attitude and lifestyle that serve as an inspiring example to children, youth and adults;

And Whereas, the Mayor and City Council of Marion, North Carolina deem it appropriate to recognize the significant achievements of Abbey Taylor;

Now, Therefore, I Stephen R. Little, Mayor of the City of Marion, North Carolina, do issue this Proclamation to recognize and honor Abbey Taylor. Accordingly, as Mayor, I do hereby proclaim Wednesday, June 18, 2014 to be Abbey Taylor Day in the City of Marion, North Carolina. I urge all citizens of Marion to take note of this fine young lady's accomplishments and to support her as she enters a new level of challenge and service.

So Proclaimed this the 17th day of June, 2014.

Stephen R. Little, Mayor
Marion, North Carolina

Council Members and guests congratulated Abbey on her accomplishments and wished her the best of success in the future.

INTRODUCTION OF NEW EMPLOYEES: Scott Spratt, Police Investigative Lieutenant, introduced one of the City's new Police Officers, Daniel Moraz. Officer Moraz is currently completing his field training and is off to a good start. Lt. Spratt stated that Officer Moraz is a great asset to Marion for many reasons, one being that he is bilingual. Officer Moraz has worked as a Reserve Officer with the Town of Old Fort and has also worked for Laughridge Furniture Company.

AA.000000407 (24)

Council Member welcomed Officer Moraz to the City of Marion and wished him the best of success in the future.

PUBLIC HEARING – ADOPTION OF 2014-15 BUDGET ORDINANCE: Mayor Pro Tem Cuthbertson opened the Public Hearing.

The City Manager advised that a public hearing is required on the proposed 2014-15 City Budget. The proposed budget totals $9,878,643, which represents an increase of 3.38 percent, or $323,232, over the original 2013-14 budget and an increase of 1.58 percent, or $153,564, over the amended 2013-14 budget. No tax rate change is proposed, for the 47th year in a row. The budget does propose a three percent increase in water and sewer rates each year for the next five years, with 2014-15 being the first year of such an increase. Some minor adjustments are also proposed in inspection and permit fees and commercial garbage rates for multi-family properties. At the May 27 Budget Workshop, Council directed no changes to the proposed budget.

The City Manager expressed appreciation to Finance Director Harriett Thomas for her hard work in preparing the budget document and to City department heads for submitting reasonable budget requests.

Mayor Pro Tem Cuthbertson closed the Public Hearing.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to adopt the following 2014-15 City of Marion Budget Ordinance as presented:

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, 2014 and ending June 30, 2015 in accordance with the chart of accounts heretofore established by the City:

Administration	$	438,871
Planning and Development		238,243
Police		1,989,156
Fire		488,916
Public Works Administration		107,110
Fleet Maintenance		77,630
Street		898,894
Powell Bill		261,740
Sanitation		629,080
Recreation		97,093
Cemetery		30,650
Non-Departmental		465,191
Total		**$ 5,722,574**

Section 2. It is estimated that the following revenues will be available in the General Fund for the fiscal year beginning July 1, 2014 and ending June 30, 2015:

Prior Year's Taxes	$	45,000
Vehicle Tax-Collected by County		190,000
City Vehicle License		27,000
Current Taxes		2,036,153
Tax Penalties & Interest		20,000
Privilege License Sales		60,000
Peddler's Permit		100
Interest Earned		6,700
Powell Bill Interest Earned		460
Rents and Concessions		38,500
Misc. Revenues		1,000
Donations – Restricted		2,000
P/D Copies/Fingerprints		600
Refunds/ Reimbursements		9,000
Utilities Franchise Tax		500,000
Beer/Wine Revenue		35,000
Powell Bill Allocation		225,000
Sales Tax Distribution		1,200,000
ABC Revenues		80,000
ABC Officer Revenues		1,600
Court Costs, Fees & Charges		3,000
Parking Violations		5,000
County Fire Protection		320,000
National Night Out Contributions		2,600
State Fire Protection Reimbursement		1,824
Cemetery		9,000
DOT Reimbursement Grass Mowing		2,500
Garbage Fees		158,000
Recycling Bin Deposits		200
Zoning Income - Inspection Fees		27,000
Sale of Garbage/Leaf/Recycling Bags		200
Cable TV Revenues		68,000
Sales of Surplus Equipment		3,000
Sale of Real Estate		2,000
McDowell County Schools		65,500
Bulletproof Vest Grant		2,000
Mountain Glory Revenues		22,000
County Recycling Contribution		4,500
Cardboard Recycling Revenue		5,000

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Solid Waste Disposal Tax	5,000
Dispatching Fees – Water and Sewer	1,800
GIS Mapping Fees – Water and Sewer	1,000
Farmer's Market – KBR Grant	16,635
Powell Bill Fund Balance	50,000
Fund Balance	393,702
	5,647,574
Transfer from Water and Sewer Fund	75,000
Total	**$ 5,722,574**

Section 3. The following amounts are hereby appropriated in the Capital Reserve Fund – General for the fiscal year beginning July 1, 2014 and ending June 30, 2015:

Reserve for Future Appropriations	$ 153,909
Total	**$ 153,909**

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, 2014 and ending June 30, 2015:

Fund Balance Appropriated	$ 153,109
Interest on Investments	800
Total	**$ 153,909**

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, 2014 and ending on June 30, 2015 in accordance with the accounts heretofore approved for the City:

Utility Line Operation	$ 1,422,310
Water Filter Plant	590,768
Waste Treatment Plant	1,079,563
Non-Departmental	299,991
	3,392,632
Transfer to General Fund	75,000
Total	**3,467,632**

Section 6. It is estimated that the following revenues will be available in the Water / Sewer Fund for the fiscal year beginning July 1, 2014 and ending June 30, 2015:

Fund Balance	$ 270,720
Interest Earned	3,500
Time Payment Interest	1,000
Miscellaneous Income	1,800
Bad Check Fees	1,100
Reconnect / Transfer Fee	11,000
Reimbursement – Septic	7,500
Reimbursement - Pump Stations	1,400
Reimbursement – Pretreatment	2,394
Owner Temporary Sales	750
Water Sales	957,000
Late Payment Penalties	85,000
Sewer Service	635,000
Water Taps	50,000
Sewer Taps	20,000
Fire Protection Taps	1,000
Water Service Charge	891,000
Sewer Service Charge	473,000
County Reimbursement – Sugar Hill Road	51,968
Gain (Loss) on Sale of Assets	2,500
Total	**$ 3,467,632**

Section 7. The following amounts are hereby appropriated in the Capital Reserve Fund – Water/Sewer for the fiscal year beginning July 1, 2014 and ending June 30, 2015:

Reserve for Future Appropriations:	$ 253,726
Total	**$ 253,726**

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, 2014 and ending June 30, 2015:

Fund Balance Appropriated	$ 252,426
Interest on Investments	1,300
Total	**$ 253,726**

Section 9. The following amounts are hereby appropriated in the Internal Service Fund for the fiscal year beginning July 1, 2014 and ending June 30, 2015:

Inventory (Supplies)	$ 300,000
Warehouse and Purchasing Operations	55,802
Total	**$ 355,802**

Section 10. It is estimated that the following revenues will be available in the Internal Service Fund for the fiscal year beginning July 1, 2014 and ending June 30, 2015:

Purchase by Other Funds	$ 355,000
Fund Balance Appropriated	802

AA.000000409 (24)

Total	**$ 355,802**

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, 2014 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 $413,109,646 and estimated rate of collection of 97%.

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

A. He may transfer amounts between objects of expenditure within a department without limitation and without a report being required.

B. He may transfer amounts up to $1,000.00 between departments of the same fund with an official report on such transfers at the next regular meeting of the City Council.

C. He may not transfer any amounts between funds nor from any contingency appropriation within any fund.

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

ADOPTED this the 17th day of June, 2014

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–14–06–17–2

CIVIL CITATION APPEAL: The City Manager advised that he had received a written civil citation appeal from Mr. Michael Buff of 75 Sixth Street, East Marion. Mr. Buff is appealing the $50.00 civil citation issued to him on May 20 for his dog not having food or water.

The City Manager stated that he and Police Chief Allen Lawrence had reviewed this citation and would recommend that the $50.00 penalty be waived, since the standard for cruel treatment of animals, as defined in the City Code, had not been met.

Upon a motion by Council Member Clark, second by Council Member Martin, Council voted unanimously to waive the $50.00 penalty for the civil citation issued to Mr. Michael Buff of 75 Sixth Street, East Marion on May 20. Mr. Buff is appealing the $50.00 civil citation issued to him on May 20 for his dog not having food or water.

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

CONSIDER APPROVAL OF PLANNING AND DEVELOPMENT DEPARTMENT FEE ORDIANNCE: The City Manager presented the following Ordinance for consideration regarding the proposed adjustments of the Planning and Development Department Fee Ordinance.

A. Building, electrical, HVAC, plumbing and insulation permit fees are proposed to increase by 10 percent.
B. Minimum permit fees for residential properties are recommended to increase from $60 to $80 and for commercial properties from $100 to $120.

C. The fee for temporary event permits for non-profit organizations is proposed to be reduced from $60 to $20. The fee for temporary event permits for businesses would remain at $60.

D. The fee for Historic Commission requests requiring advertising is recommended to be set at $100. There is currently no charge for such requests, but Council stated its approval at the May 27 Planning Session for this change, to make sure that the City receives payment for advertising costs.

E. Sign permits are proposed to increase by an average of 20 percent.

The City Manager stated that he would recommend approval of the revised Planning and Development Department Fee Ordinance to make the changes listed above. All changes would take effect on July 1, 2014.

Upon a motion by Council Member Clark, seconded by Council Member Doggett, Council voted unanimously to adopt the following Ordinance establishing fees for the Planning and Development Department, effective July 1, 2014:

AN ORDINANCE
ESTABLISHING FEES FOR THE
PLANNING AND DEVELOPMENT DEPARTMENT 2014-2015

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

SECTION 1. CERTIFICATE OF OCCUPANCY/COMPLIANCE.
A certificate of occupancy (C.O.) for a change of use for a building, land, or structure in the City of Marion is inclusive of a building permit. This fee includes Zoning and Building Code review as well as all initial and final inspections.

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 $40.00 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 $70.00 plus $1.00 for each additional square foot over 24 square feet. The fee for a temporary one (1) week directional event sign permit and all other thirty (30) day temporary sign permits shall be $25.00. 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. TEMORARY EVENT/USE PERMITS.
A fee of $60.00 shall apply for any for-profit temporary event or use permit. A fee of $20.00 shall apply for any temporary non-profit event or use permit. A permit fee shall not apply to a residential yard sale permit.

SECTION 4. APPLICATIONS 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, subdivision review applications, and Historic Preservation Commission applications. This fee includes administrative processing, staff analysis, advertising, and public notice.

SECTION 5. CELL TOWERS.
A Cell tower permit application fee shall be $2,500.

SECTION 6. 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 7. HISTORIC PRESERVATION COMMISSION.
A fee of $100.00 shall apply to applications requiring public notice and approval from the Historic Preservation Commission.

SECTION 8. DOCUMENT AND MAP REPRODUCTION.

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	----------

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 9. 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 $120.00 per trade for commercial and $80.00 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 10. 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 11. 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 12. ELECTRICAL INSPECTIONS. Fees for electrical inspections shall be determined by the Permit Chart.

SECTION 13. PLUMBING INSPECTIONS. Fees for plumbing inspections shall be determined by the Permit Chart.

SECTION 14. MECHANICAL INSPECTIONS. Fees for mechanical inspections shall be determined by the Permit Chart.

SECTION 15. BUILDING PERMIT FEE SCHEDULE.

Size	Building	Electrical	Plumbing	Heating	A/C	Insulation	Total
Assembly							
0-10,000 sq ft	0.154275	0.08349	0.070785	0.012705	0.0363	0.0363	0.393855
10,001-50,000 sq ft	0.136125	0.059895	0.004719	0.027225	0.027225	0.027225	0.282414
50,000+ sq ft	0.117975	0.04719	0.0363	0.01815	0.01815	0.01815	0.255915
Business							
0-10,000 sq ft	0.154275	0.08349	0.063525	0.05445	0.05445	0.0363	0.44649
10,000-50,000 sq ft	0.14157	0.0726	0.05445	0.04719	0.03993	0.027225	0.382965
50,000+ sq ft	0.128865	0.05445	0.05082	0.041745	0.041745	0.01815	0.335775
Educational							
0-10,000 sq ft	0.154275	0.070785	0.070785	0.027225	0.027225	0.0363	0.386595
10,000-50,000 sq ft	0.117975	0.04719	0.04719	0.01815	0.01815	0.027225	0.27588
50,000+ sq ft	0.107085	0.041745	0.041745	0.012705	0.012705	0.01815	0.234135
Factory/Industrial							
0-10,000 sq ft	0.14157	0.05445	0.0363	0.0363	0.0363	0.027225	0.332145
10,000-50,000 sq ft	0.117975	0.0363	0.027225	0.01815	0.01815	0.023595	0.241395
50,000+ sq ft	0.1089	0.023595	0.01815	0.012705	0.012705	0.01815	0.194205
Hazardous							
0-5,000 sq ft	0.09075	0.045375	0.01815	0.01815	0.01815	0.0363	0.226875
5,001+ sq ft	0.070785	0.0363	0.01452	0.01452	0.01452	0.023595	0.17424
Institution							
0-10,000 sq ft	0.31944	0.1089	0.13068	0.070785	0.070785	0.0363	0.73689
10,000-50,000 sq ft	0.248655	0.081675	0.078045	0.04719	0.04719	0.023595	0.52635
50,000+ sq ft	0.201465	0.070785	0.04719	0.0363	0.0363	0.01815	0.41019
Mercantile							
0-10,000 sq ft	0.16698	0.04719	0.04719	0.05445	0.05445	0.0363	0.40656
10,000-50,000 sq ft	0.157905	0.041745	0.0363	0.0363	0.0363	0.027225	0.335775
50,000+ sq ft	0.136125	0.03993	0.030855	0.030855	0.030855	0.01815	0.28677
Storage							
0-10,000 sq ft	0.107085	0.0363	0.027225	0.027225	0.027225	0.01815	0.24321
10,000-50,000 sq ft	0.096195	0.01815	0.01815	0.01815	0.01815	0.009075	0.17787
50,000+ sq ft	0.08349	0.009075	0.009075	0.009075	0.009075	0.00726	0.12705
Residential							
	0.111034	0.05544	0.05544	0.035574	0.035574	0.014168	0.307384

SECTION 16. 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 17. 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

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Return Inspection	$60.00
Portable Toilet Site Inspection	$20.00

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 18. 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 19. FIRE INSPECTION FEES.
Fees for fire inspections will be as follows:

FIRE INSPECTION FEES	
Inspection Type	**Fee**
Fire Inspection	$0.00
First Re-Inspection	$0.00
Second Re-Inspection	$25.00
Third Re-Inspection	$50.00
Fourth Re-Inspection	$75.00
Five Re-Inspection	$100.00

SECTION 20. This ordinance shall become effective upon on July 1, 2014.

Adopted this the 17th day of June 2014.

Stephen R. Little
Mayor

ATTEST:

J. Robert Boyette
City Manager/ Clerk

Ordinance Number: O-14-06-17-3

CONSIDER APPROVAL OF WATER AND SEWER RATE ORDINANCE: Finance Director Harriett Thomas advised that, as indicated in the information presented to Council and as discussed at the April 29 Pre-Budget Workshop/Planning Session, staff is proposing to increase water and sewer rates by three percent. Water and sewer service charges and connection fees do not change under this recommendation.

Under this proposal, inside water and sewer rates increase from $2.13 per 1,000 gallons to $2.20 per 1,000 gallons. The average inside water and sewer customer using 5,000 gallons of water per month would see their water and sewer bill increase by $0.70 per month. Council adoption of the attached Water and Sewer Rate Ordinance is recommended to make this change, effective July 1, 2014.

Council Member Clark asked if the rate increase was proposed for five years, as previously discussed by Council. The City Manager advised that a three percent rate increase per year is proposed for five years, to build up Water and Sewer Fund reserves and to prepare for Water and Sewer Fund capital needs; however, the actual rate ordinance would be approved each year by Council.

Council Member Clark suggested that it was important for Council to state its intention and to let the public know that the water and sewer rates will be increased by three percent per year for five years.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted to adopt the following Water and Sewer Rate Ordinance and to state Council's intention to increase water and sewer rates by three percent per year for five years:

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:	**$2.20 per 1,000 Gallons, plus $12.06 Service Charge per month**	**$5.50 per 1,000 Gallons, plus $30.13 Service Charge per month**
Minimum Rate for 2,000 gallons or less	**$13.41**	**$33.54**

AA.00000413 (24)

Master Meter Rate	$2.20 per 1,000 Gallons, plus $9.62 Service Charge per month	$5.50 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:	$2.20 per 1,000 Gallons, plus $12.06 Service Charge per month	$5.50 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	$2.20 per 1,000 Gallons, plus $9.62 Service Charge per month	$5.50 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	$3.17 per 1,000 Gallons, plus $12.06 Service Charge per month	$7.93 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.

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

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

AA.00000414 (24)

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	INSIDE CITY		OUTSIDE CITY	
SIZE	TAP FEE	CRC CHARGE	TAP FEE	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	
DIFFERENCE IN	
TAP FEE AND COST RECOVERY CHARGES FOR WATER/SEWER	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			

AA.00000415 (24)

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
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
FIRST LATE PENALTY	$ 5.00	$ 5.00
SECOND LATE PENALTY:		
1 - 3 OCCURANCES	$ 15.00	$ 15.00
4 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
RETURNED CHECK SERVICE CHARGE	$ $25.00 OR 10% OF CHECK, WHICHEVER IS GREATER	$ 25.00 OR 10% OF CHECK, WHICHEVER IS GREATER

AA.00000416 (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 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, 2014.

ADOPTED this the17th day of June 2014.

Stephen R. Little, Mayor

ATTEST:
J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-14-06-17-4

CONSIDER APPROVAL OF COMERCIAL GARBAGE ORDINANCE: Finance Director Harriett Thomas stated that, as discussed at the April 29 Pre-Budget Workshop/Planning Session, staff is proposing to increase commercial garbage fees for multi-family residential developments from $9 to $12 per month. Council adoption of the attached Commercial Garbage Rate Ordinance is recommended to make this change, effective July 1, 2014.

Upon a motion by Council Member Clark, seconded by Council Member Doggett, Council voted unanimously to adopt the following ordinance, establishing Commercial Garbage and Recycling Collection 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

Pick-ups per Week	Monthly Charge
1	$ 125
2	302
3	482
4	660
5	840

Pick-ups per Month	Monthly Charge
1	$ 35
2	60
3	88

Plan "B"
Apartment Complexes

Pick-ups per Week	Monthly Charge
1	$ 12 (minimum charge)
2	70
3	131
4	191
5	255

Plan "C"
Commercial Can Services (3 – 35 gallon cans)

Pick-ups per Week	Monthly Charge
1	$ 16 (minimum charge)

AA.00000417 (24)

Plan "D"
Commercial Recycling Services (2 - 14 gallon bins)

Pick-ups per Week	Monthly Charge
1	$ 16 (minimum charge)

Plan "E"
Commercial Recycling Services – Restaurants & Bars (5 - 15 to 28 gallon cans; additional charge of $5 per month for each excess container)

Pick-ups per Week	Monthly Charge
1	$ 25
2	40
3	55
4	70
5	85

Other Miscellaneous Charges

First Late Penalty	$ 5.00
Second Late Penalty:	
1-3 Occurrences	15.00
4 or More Occurrences	25.00

Termination of Service
Service to Commercial Garbage/Recycling Collection Only customers will be terminated for nonpayment on or around the 5th day of the month following the due date. Customers will be notified by letter of termination of service. Should the account remain unpaid for ten (10) days after the date of the letter, the receptacle will be removed.

Deposits for new Commercial Garbage/Recycling Collection Only customers (does not apply when premises also has water and/or water and sewer service):

Refundable Deposit equal to one month's service fee.

Although, this deposit is for new customers, should an existing customer become delinquent to the point of having service terminated and the receptacle removed, the customer will be treated as a new customer and the deposit will be required.

Section 2. The Ordinance adopted on March 5th 2013 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, 2014.

Adopted this 17th day of June 2014.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-14-06-17-5

CONSIDER ADOPTION OF PRIVILEGE LICENSE ORDINANCE:
The City Manager advised that the following ordinance repeals the action taken by Council at the May 20 Council meeting to increase the privilege license tax for merchants with employment of 11 or more. The privilege license tax for 2014-15 will therefore be at the same amount as the City charged in 2013-14. Under the new State law passed in late May, cities may not charge more for privilege licenses in 2014-15 than they charged in 2013-14. The City Manager stated that he would recommend Council approval of this ordinance in order to comply with State law.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to adopt the following Ordinance:

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

AA.000000418 (24)

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.

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.

AA.000000419 (24)

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.

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.

AA.00000420 (24)

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.

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, 2014.

Adopted this the 17th day of June, 2014.

Stephen R. Little

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-14-06-17-7

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)

AA.000000422 (24)

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:
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:

AA.0000000423 (24)

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 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:
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

AA.00000424 (24)

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:

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:

AA.000000425 (24)

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:
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.

AA.00000426 (24)

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

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:

AA.000000427 (24)

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

AA.000000428 (24)

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.

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.

AA.000000429 (24)

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:

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:

AA.000000430 (24)

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;

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
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 $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

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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:

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

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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:

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:

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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 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

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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.

DISCUSS REQUEST FOR CROSSWALK ON EAST COURT STREET: The City Manager advised that Pastor Tony Shirley and Butch Hogan sent a letter, on behalf of New Manna Baptist Church, requesting a crosswalk with warning signs and a flashing caution light on East Court Street to allow people attending New Manna to cross the street in a safer fashion. The City Manager stated that he had spoken with Mr. Hogan about this request in mid-May and advised him that the Church could make a direct request to DOT for the crosswalk and caution light and/or could ask that the City Council endorse such a request. Mr. Hogan decided to first ask City Council for help with making the request. The City Manager reported that he explained to Mr. Hogan that East Court Street is a US highway maintained by DOT, so all the City could do is make or forward the request. The City Manager stated that he also related to Mr. Hogan that a caution light is likely a stretch, but DOT might be willing to install a crosswalk and warning signs.
Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to forward and endorse the request of New Manna Baptist Church to the North Carolina Department of Transportation, asking for a crosswalk with warning signs and a flashing caution light to be placed on East Court Street to allow people attending New Manna Baptist Church to cross the street in a safer fashion.

CONSIDER APPROVAL OF REVISED CONTRACT FOR LAW ENFORCEMENT SERVICES WITH MARION ABC BOARD: Finance Director Harriett Thomas advised that, in 1984, when the Marion ABC Board was formed, the City entered into a contract with the ABC Board to provide law enforcement services. The N.C. ABC Commission has requested that this contract be updated, since it is 30 years old.

Ms. Thomas stated that the amount of funding the City receives for law enforcement services from the ABC Board is set by State law and the City receives all ABC profits, except for those that must be kept in reserve and spent on alcohol education under State law.

Ms. Thomas stated that she would recommend that the contract for law enforcement services between the City and the Marion ABC Board be approved.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to approve the revised contract for Law Enforcement Services with the Marion ABC Board as follows:

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Contract for ABC Law Enforcement

State of North Carolina

ABC Board of Marion, North Carolina

THIS CONTRACT is entered into on this the 17TH day of June. 2014 by and between the City of Marion ABC Board (hereinafter "ABC Board") and the City of Marion (hereinafter "Agency") for the purposes set forth below:

WHEREAS, North Carolina General Statute Chapter 18B requires that the ABC Board either hire an ABC law enforcement officer or contract for ABC law enforcement with a local law enforcement agency; and

WHEREAS, the ABC Board is required by law to expend at least 5% of profits for ABC law enforcement; and

WHEREAS, the ABC Board is of the opinion that contracting with the Agency for ABC law enforcement would constitute the most efficient use of its ABC law enforcement funds; and

WHEREAS, the Agency agrees to provide ABC law enforcement in the City of Marion in return for the agreed funding;

NOW, THEREFORE, IT IS AGREED that:

1. The Agency shall provide ABC law enforcement in the City of Marion in return for the sum of 5% of profits annually, to be paid in quarterly installments. The amount shall be adjusted as need to equal the amount required by North Carolina General Statute 18B-805(c) (2) to be expended on ABC law enforcement.

2. The Agency shall provide ABC law enforcement within the boundaries of the City of Marion, and it shall report at least quarterly to the ABC Board on its ABC law enforcement activities.

3. The Agency shall be solely responsible for hiring, equipping and supervising the officer or officers who are charged with the duty of enforcing the ABC laws, and the Agency agrees to indemnify, and hold harmless, the ABC Board for any liability arising from the activities of said officers.

4. The Agency shall give priority to specific requests from the ABC Board for assistance in such matters as ABC store security, protection of ABC store deposits, and the investigation of internal and external theft.

5. The Agency shall report to the ABC Board by the 5th business day of each month on a form developed by the Commission the following:

    a. The number of arrests made for ABC law, Controlled Substance Act, or other violations, by category, at ABC permitted outlets.
    b. The number of arrests made for ABC law, Controlled Substance Act, or other violations, by category, at other locations.
    c. The number of agencies assisted with ABC law or controlled substance related matters.
    d. The number of alcohol education and responsible server programs presented.

6. This contract shall continue in effect until such time as either party desires to cancel the contract and gives notice of cancellation as follows:

7. This contract may be cancelled by either party upon 30-day notice to the other party, which notice shall be given in writing.

Effective the 17th day of June, 2014.

City of Marion ABC Board

Robert Ayers, Chairman

City of Marion

Stephen R. Little, Mayor

DISCUSS STREET REQUEST: The City Manager advised that he had recently received a complaint from a property owner and resident of Crescent Drive about on-street parking on Viewpoint Drive between James Drive and Crescent Drive creating a problem. The Traffic Schedule shows a parking prohibition only in place on the west side (the left side of the street as you drive from Main Street toward Crescent Drive) of Viewpoint Drive between Main Street and James Drive. The City Manager presented Council with a copy of a map showing the current area of no parking and the approximate area of concern.

The City Manager suggested that City staff has looked at this matter, but Council may wish to refer this issue to the Street Committee for review and a recommendation.

It was the consensus of Council Members to refer this parking complaint to the Street Committee for further review and a recommendation back to Council.

REVIEW OFFER TO PURCHASE CITY PROPERTY AT EAST COURT STREET AND NORTH MCDOWELL AVENUE: The City Manager advised that Mr. Ronnie Burgin had recently submitted an unsolicited offer to purchase approximately 0.25 acres of City property at the intersection of East Court Street and North McDowell Avenue for $1,250. The City Manager presented a copy of a map and tax information

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concerning this property. The City Manager noted that McDowell County had incorrectly listed this property as being owned by NCDOT. City Tax Collector Brett Moore has advised the County of this error and asked them to correct the tax listing.

The City Manager reported that this property is left over from the completion of the North McDowell Avenue project. The property was purchased about ten years ago by the City from Dr. James Peppers. The property which Mr. Burgin is proposing to buy does not coincide perfectly with the City sidewalk and trees that are planted. If Council was to consider the sale of this property, the boundaries of the property to be sold would need to be established to be a certain number of feet (at least five to ten feet) behind the trees planted behind the sidewalk. This would likely reduce the size of property to be sold to 0.15 to 0.20 acres.

The City Manager stated that the County lists a tax value of $5,000 for this property, so the City Manager stated that he would not consider Mr. Burgin's bid of $1,250 to be reasonable and would recommend that Council reject this offer.

Council Member Clark stated that he would like to see this property remain as a green space would hope that the City would retain this property and not consider selling it.

Upon a motion by Council Member Clark, seconded by Council Member Doggett, Council voted unanimously to reject the offer of Mr. Ronnie Burgin to purchase approximately 0.25 acres of City property at the intersection of East Court Street and North McDowell Avenue for $1,250 and to put on record Council's intention not to sell this property. The City Manager advised that he would tell people inquiring about the property in the future that it is not for sale.

DISCUSS JULY AND AUGUST CITY COUNCIL MEETING SCHEDULE: The City Manager advised that, each year, the first City Council meeting in August conflicts with the National Night Out Event, which begins at 6:00 p.m. The City Manager stated that he wanted to see if Council wished to reschedule the August 5 Council meeting to another night or cancel the meeting, to allow Council to attend National Night Out. It may be easier to cancel the meeting, since Council will meet on July 15 and August 19.

The City Manager stated that, while the August 5 Regular Council Meeting may be cancelled, Council will likely need to schedule a Special Council Meeting to award the construction contract for Phase 2 of the Catawba River Greenway. The bid opening for Phase 2 will be held in mid-July. A tentative date for such a Special Council Meeting could be Tuesday, July 22.

Upon a motion by Council Member Clark, seconded by Council Member Doggett, Council voted to cancel the August 5 Council meeting. Council agreed by consensus to consider at the July 15 Council meeting scheduling a Special Council Meetings for late July to consider the award of the construction contract for Phase 2 of the Catawba River Greenway.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager reported that, as stated in the information presented to Council, Isothermal Rural Transportation Planning Organization (RPO) Planner Karyl Fuller prepared a map showing the location of the 73 highway projects to be funded in the 2016-25 Statewide Transportation Improvement Program (STIP). Only two of the 73 projects are located in RPOs and those two projects are both in Watauga County. A total of 34 percent of the funding will be spent in Wake County.

The City Manager stated that he had suggested that the Isothermal RPO adopt a resolution, asking for changes in the DOT scoring system to ensure a fairer distribution of projects throughout North Carolina. Jim Edwards of Isothermal said that the RPO Planner would work on such a resolution, which could be adopted by the RPO Board and by member cities and counties. Isothermal can also suggest that other RPOs do the same thing.

The City Manager advised that, as shown in the information presented to Council, the Kate B. Reynolds Charitable Trust has planned a Policymakers Luncheon for Wednesday, July 23, from 11:30 a.m. to 1:30 p.m. at McDowell Tech to discuss the Healthy Places Initiative in McDowell County. The Mayor and City Council Members, McDowell County Board of Commissioners, Old Fort Board of Aldermen, School Board, Chamber Board, MBA Board and others, along with key staff, are being invited. The City Manager noted that Mayor Little and all Council Members had indicated their intention to attend this meeting.

The City Manager advised that as authorized by Council, Planning and Development Director Heather Cotton had submitted an application for a DOT Pedestrian and Bicycle Planning Grant to complete a Bicycle Plan for the City. She also applied for Kate B. Reynolds (KBR) Charitable Trust funds to cover the 20 percent local match of the Plan. On May 22, Heather received word that the DOT grant was approved in the full amount of $32,000. The KBR grant was also approved in the amount of $8,000 (the full requested matching amount), so this project can begin in the near future.

The City Manager stated that, with the Peavine Trail not being scored initially in the DOT Statewide Transportation Improvement Program (STIP) rankings, due to it never appearing in any type of plan, it is important that the Bicycle Plan be completed, if for no other reason than to get the Peavine Trail in an adopted plan, so that it can be scored for the STIP in the future.

Public Works Director Brant Sikes reported that the annual flushing of the City's water distribution system will take place on June 23-27, from 11:00 p.m. to 5:00 a.m. each night. If customers observe discolored water, they can run their faucet for a few minutes, which will usually clear up the discoloration. Notice of the water system flushing was sent by City staff to the McDowell News and WBRM Radio and listed on the City website and City channel.

The City Manager advised that, as was discussed at the May 27 Council Planning Session, Public Works Director Brant Sikes is working on some ideas and costs for a possible restroom structure that could be constructed on the exterior of the Community Building. Plans and cost will be presented to Council Members in the near future.

The City Manager said that Council discussed at the May 27 Council Planning Session the idea of a new staff position to focus on park maintenance. The City Manager said that he and Mr. Sikes have discussed this matter and would recommend that we assess this matter more once the City has a new Street Superintendent in place, upon the retirement of the current Street Superintendent. By this time, Phase 2 of the Catawba River Greenway will be completed or close to completion. Therefore, the City Manager asked that Council allow staff to make it through the summer and fall and reassess the staffing level in early 2015. If any staffing adjustments are recommended, perhaps they can be included in the 2015-16 budget or be implemented late in the 2014-15 Fiscal Year, to minimize the budget impact.

Mr. Sikes presented highlights of current projects. In mid-May, our Street crew completed the drainage project on Richard and Oakwood Drives, except for the final portion between the homes of Sharon Parker and Jim Segars. This last section will be contracted and completed by a contractor, hopefully prior to June 30. By having City crews complete most of the project, the project should come well under the original project budget.

Mr. Sikes stated that, on June 9, the Utility Maintenance Division crew began work on the replacement of the water line on Crescent Drive. After work on the water line is completed, hopefully by late June, the Street Division crew will remove the asphalt and base on the street. The City will complete as much of the curb replacement as possible and a contractor will then resurface the street.

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Mr. Sikes reported that, as authorized by Council at the May 6 Council meeting, by the end of June, the sidewalk extension on State Street from the East Junior High property line to Baldwin Avenue should be completed. This work began in late May.

The City Manager stated that he appreciates Mr. Sikes juggling so many projects and day to day responsibilities and that he is doing a great job.

The City Manager advised that Mr. Lee Freeman had made a request in early June for speed humps to be placed along High Street, Oak Avenue, Ridley Street and Woodlawn Street in the West Marion neighborhood to slow down traffic. The City Manager stated that he advised Mr. Freeman that the Police Department could do some traffic enforcement in this neighborhood, something he subsequently asked Chief Lawrence to do, and that Council was not planning to approve future speed humps. Mr. Freeman asked that Council consider some speed humps in this area, since there are quite a few children in the neighborhood, and in the interest of fairness, since speed humps were previously placed on other streets. The City Manager told Mr. Freeman that he would pass on his request to Council.

Council Member Martin stated that Mr. Freeman had previously made the same request to him, but that he had told Mr. Freeman that Council did not plan to place additional speed humps, based on past discussion. Council Members agreed by consensus that no speed humps will be approved at the current time.

The City Manager advised that the Livermush Festival was held on Main Street on June 6. The Marion Business Association (MBA) added some events and activities this year, Hunter's Livermush provided free livermush sandwiches and a local band played. The MBA had by far the best turnout ever for the Livermush Festival, with a very large crowd coming out to enjoy the festivities. The City Manager thanked the MBA Board and Staff and the Police and Public Works Department for their hard work in making the Livermush Festival a success.

The City Manager advised that the July 4th Celebration would take place on Friday, July 4. The event will kick off with a parade on Main Street at 6:00 p.m. The City will have the van decorated for the Mayor and Council to ride in during the parade. The van will be at City Hall until 5:30 p.m., at which time it will be moved to the Bank of America parking lot for the parade line-up. The City Manager asked that anyone planning to ride to come to City Hall by 5:30 p.m. or to the Bank of America parking lot between 5:30 p.m. and 6:00 p.m. to ride in the parade.

The City Manager noted that, after the parade, there will be a street dance and vendors on Main Street beginning at 6:30 p.m. The fireworks performance will take place, as usual, at 9:45 p.m.

The City Manager thanked Finance Director Harriett Thomas for all of her hard work with the 2014-15 Budget and numerous other projects and Police Investigative Lieutenant Scott Spratt for the great work done by the Police Department in making an arrest in a recent embezzlement from the Marion Firefighter's Association.

COUNCIL MEMBER COMMENTS:

Council Member Doggett stated that the flowers on Main Street look beautiful, but the heat seems to be hurting them. She suggested that the flowers may need more water on hot days. Public Works Director Brant Sikes advised that he would discuss this matter with the City's contracted arborist, Lawrence Moore.

Council Member Ramsey asked for everyone to remember Mayor Little as he had neck surgery.

Mayor Pro Tem Cuthbertson stated that the tree planted in memory of former Tree Board Member Pat Brown on South Main Street really looks good, after a nice rock border was added around the tree. The City Manager advised that Administrative Assistant Debi Sherlin deserved the thanks for making sure the tree looked good.

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

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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, July 15, 2014 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; Harriett Thomas, CPA, Finance Director; Heather Cotton, AICP, Planning and Development Director; Brant Sikes, Public Works Director; Scott Spratt; Interim Police Chief; Jim Neal, Fire Chief; Matthew Crawford, Firefighter; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Karin Conley 128 Hankins Road, Marion, NC; Wade and Kaye Stott, 55 Crescent Drive, Marion, NC; Elizabeth Engelke, 9 Crescent Drive, Marion, NC; James and Jenny Tarpley, 75 Viewpoint Drive, Marion, NC; Charles and Jane Brown, 212 Viewpoint Drive, Marion, NC; Jack Shafer, 47 Viewpoint Drive, Marion, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

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

A. Approval of Minutes – June 17, 2014 Regular City Council Meeting Minutes

B. Approval of 2013-14 Fiscal Year Property Tax Adjustments

Council approved property tax adjustments for the 2013-14 Fiscal Year. Tax adjustments presented to Council were done in accordance with State law, which authorizes such adjustments only for certain reasons. Some of the adjustments release taxes more than 10 years old, which can no longer be collected. Other reasons for adjustments include property owners being deceased, properties being included on the City tax scroll incorrectly by the County, bills paid twice, personal property being moved outside the City, property outside the City being billed, balances of less than $1.00 and excessive interest being paid by certain property owners.

INTRODUCTION OF NEW EMPLOYEE: Scott Spratt, who is serving as Interim Police Chief while Police Chief Allen Lawrence is attending an extended training session at the FBI National Academy, introduced one of the City's new Police Officers, Austin Brooks. Officer Brooks is currently completing his field training and is off to a good start.

Mayor Little and Council Members welcomed Officer Brooks to the City of Marion and wished him the best of success in the future.

PUBLIC APPEARANCE – MS. KARIN CONLEY: Ms. Karin Conley thanked Council Members for letting her speak on short notice.

Ms. Conley stated that she comes before Council representing the Pilot Club. The Pilot Club is working to start what they feel to be a worthwhile program for McDowell County, called the Vial of Life Program. The Pilot Club borrowed this idea from a sister club in South Carolina.

Ms. Conley advised that the Vial of Life Program purchases vials with medical information that can be placed in the refrigerator and accessed by emergency personnel. The Pilot Club initially intends to target senior adults, but the program could be expanded in the future. The Pilot Club is working closely with McDowell County EMS on this program.

Ms. Conley reported that there is a cost to starting the Vial of Life program, so the Pilot Club would respectfully request that Council provide $300 in funding for the program. Ms. Conley stated that the Pilot Club intends to ask the Kate B. Reynolds Charitable Trust for grant assistance; however, in the meantime, the Club is asking other organizations for assistance.

Council Member Doggett stated that she felt this was a worthwhile program. Council Member Martin advised that he also felt that this was a good program.

Mayor Little advised that Council typically does not approve outside funding requests at the same meeting at which the request is made. He said that Council could take this request under advisement and get back to the Pilot Club in the near future with a decision. Mayor Little thanked Ms. Conley for her excellent presentation and for sharing this program with Council.

Mayor little stated that consideration would be given to this request and that she will be notified at a later date.

PUBLIC HEARING – ZONING TEXT AMENDMENT: Planning and Development Director Heather Cotton stated that, as indicated in the information presented to Council, a request was submitted by the Marion Firefighter's Association for a Zoning Text Amendment to increase the maximum number of circuses or carnivals allowed on non-residential properties in the City from one to four times per year, provided that the property is no greater than 2,000 linear feet from Interstate 40. Approval of this request will allow the Marion Firefighter's Association to hold additional carnivals later this summer or fall or next spring on the Rutherford Electric property on Sugar Hill Road near I-40.

Ms. Cotton advised that the Planning Board met on July 9 and unanimously voted to recommend approval of this request.

Mayor Little opened the Public Hearing.

Council Member Clark asked if there was any significance in the 2000 foot distance from I-40 that is included in the recommended ordinance.

Ms. Cotton advised that the Planning Board felt that areas in close proximity to I-40 could support the traffic associated with circuses and carnivals and wanted to come up with a distance that was reasonable, to provide options for locations for such events.

There were no citizens present to discuss this request.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to approve the following ordinance amending the Zoning Ordinance:

ORDINANCE

AA.000000439 (24)

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 7, Temporary Uses and Structures, Section 21-171 (3) Duration, frequency and permitted zoning districts is amended to the following:

(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	Four (4) per calendar year	Any non-residential zoning district within a distance no greater than two thousand feet from Interstate 40
Circuses and/or carnivals.	Seven (7) days	One (1) per calendar year	All other non-residential zoning district locations
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	Four (4) 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.

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

Adopted this the 15th day of July 2014.

Stephen R. Little
Mayor

ATTEST:

J. Robert Boyette
City Manager/ Clerk

Ordinance Number: O-14-07-15-01

PUBLIC COMMENT PERIOD: Ms. Jane Brown advised that she was a City resident and was very proud of how many trails had been added in recent years across the City and County. Ms. Brown stated that she believed that more sidewalks are needed in the City. She said that she walks approximately five miles a day and that there are not enough sidewalks in the City. Ms. Brown advised that she does not feel that it is safe to walk in areas that have no sidewalks, like Broad and Glenview Streets as well as other areas off of South Main Street.

AA.000000440 (24)

Ms. Brown stated that she was almost hit by a car on one of these streets and would like for Council Members to be aware of the need for sidewalks in the City.

Mayor Little thanked Ms. Brown for her comments. He advised that the City was working to request additional sidewalks on high traveled corridors within the City, such as North Main Street and Highway 70 West and Sugar Hill Road. Mayor Little stated that he and City Council shared Ms. Brown's interest in having more sidewalks throughout the City.

DISCUSS VIEWPOINT DRIVE PARKING: The City Manager advised that, as discussed at the June 17 Council meeting, he had recently received a complaint from a property owner and resident of Crescent Drive about on-street parking on Viewpoint Drive between James Drive and Crescent Drive creating a problem. The Traffic Schedule shows a parking prohibition only in place on the west side (the left side of the street as you drive from Main Street toward Crescent Drive) of Viewpoint Drive between Main Street and James Drive. The City Manager presented Council with a map showing the current area of no parking and the approximate area of concern.

The City Manager advised that the complainant had advised that two to three vehicles often park on the west side of Viewpoint Drive between James Drive and the new guardrail near Crescent. These vehicles, according to the complainant, narrow the street down to about one lane, in an area where the road curves.

The City Manager advised that the Street Committee and staff had looked at the parking situation on Viewpoint Drive on June 24. The Street Committee and staff, after looking at the location, did not immediately feel that further no parking areas should be proposed. However, to determine if the surrounding area views the parking on Viewpoint as a problem, a notice was sent to residents in the surrounding area, letting them know that City Council would be discussing the parking situation at this meeting.

The City Manager reported that he had heard back from several neighborhood residents, as a result of the notice, and no one, other than the original complainant, viewed parking on Viewpoint Drive as a problem.

Unless there are many residents in the area who consider parking on Viewpoint Drive to be a major safety issue, the City Manager stated that he would recommend that Council not consider further parking restrictions. There are many streets in the City that are narrower than Viewpoint Drive, as far as traffic flow is concerned.

Mayor Little stated that there were several neighborhood residents present and invited anyone interested in this issue to address Council.

Mr. Jack Shafer of 47 Viewpoint Drive advised that parking along Viewpoint Drive was not a concern, except during winter months when it could be hazardous for snow plows to plow around vehicles. The City Manager noted that City snow plows had to work around vehicles on numerous streets in the City during snow events.

Ms. Jane Brown of 212 Viewpoint Drive advised that she feels that the curve and hill on Viewpoint Drive is not a safe place to allow parking. She does not like to drive in that area as a result and instead drives on North Garden Street to her residence. Ms. Brown said that she believes the residents along Viewpoint Drive need to park in their driveway and would like to see Council resolve this issue by restricting parking.

Mr. Jim Neal of 40 Hillside Drive stated that he was in attendance as a neighborhood resident, not as Fire Chief. Mr. Neal said that he had lived on Hillside Drive since 1999 and he does not have a problem with the vehicles being parked along Viewpoint Drive. He advised that he uses Viewpoint Drive night and day, has had no problems and sees no need for change in the parking.

Ms. Kay Stott of 55 Crescent Drive stated that she had lived there on Crescent Drive for many years and had never experienced a problem with vehicles parked along Viewpoint Drive. Ms. Stott stated that sometimes you just have to go a little slower, as you do on many other streets with on street parking. She added that she and her husband must park on Crescent Drive during bad weather because they could not get in and out of their driveway otherwise.

Mr. James Tarpley of 75 Viewpoint Drive advised that the complaint involved his property and vehicles. Mr. Tarpley stated that he was sorry that this had been brought to City Council and that he would have handled it personally had he been aware of the concerns. He said that he has lived on Viewpoint for nine years with no problems or issues. Mr. Tarpley stated that visitors coming to his house use the street for parking, as do he and his wife at times.

Mr. Tarpley advised that on street parking is often a means of calming traffic and slows down vehicles in neighborhoods. Mr. Tarpley added that, if parking is restricted in front of his residence, it should also be prohibited in the entire neighborhood.

Mr. Jack Shafer stated that when trees were cut last year along Viewpoint Drive, a large truck had hit a rock wall at the top of Viewpoint Drive and the wall had never been fixed. Jim Neal advised that this wall was privately owned and not the City's responsibility to maintain.

Ms. Elizabeth Engelke of 9 Crescent Drive advised that several vehicles had been parked at times along Viewpoint Drive, effectively narrowing the street to one lane and posing a traffic hazard. She noted that fewer cars were parking along the street now. Ms. Engelke said that she did not necessarily want parking completely prohibited along Viewpoint Drive, just parking in certain locations and certain times.

Council Member Doggett stated that she walks in this neighborhood almost every day and that it is not a high traffic area. She suggested that no parking changes were needed.

Mr. Shafer stated that he had never seen an accident along Viewpoint Drive in the 23 years that he has lived there.

A brief discussion followed.

Council Member Clark advised that he felt that concerns had been raised and would be addressed by residents of Viewpoint Drive. He said that he saw no reason for Council to enact further parking restrictions at this time.

Council Member Clark made a motion that no changes be made regarding parking on Viewpoint Drive at the current time, that the City will monitor parking along the street and consider parking changes in the future if necessary. Council Member Ramsey seconded the motion and the motion carried unanimously.

APPROVAL OF 2013-14 FISCAL YEAR PROPERTY TAX SETTLEMENT: Finance Director Harriett Thomas advised that, under State Law, at the end of each Fiscal Year, Council must review and approve the year end Property Tax Settlement.

Council Members were presented with the 2013-14 Tax Settlement prepared by Tax Collector Brett Moore for review.

Ms. Thomas stated that the tax shows that charges and credits for taxes balance, as required by law. The City ended up collecting 98.17 percent of 2013-14 property taxes by June 30, a record collection percentage and considerably higher than the 2012-13 property tax collection percentage of

AA.00000441 (24)

97.65 percent. The 2013-14 property tax collection percentage was the best the City has achieved in the past 15 years and likely ever. Ms. Thomas advised that this document must be approved before the current year property tax bills can be mailed.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to approve the 2013 Property Tax Settlement as follows:

2013 Tax Settlement
as of June 30, 2014

CHARGES		CREDITS		
Real Property	$ 1,749,308.01	Tax Revenue (10-311-2013 less late listing)		$ 2,079,646.88
Less: Exemptions	(67,342.95)	Less: 1% Discount (10-311-1000)		(7,796.82)
Personal Property	303,869.92	Refunds - Principle		(593.69)
				(79.37)
Late Listings	1,748.60	Late Listing		1,552.87
Utilities	71,777.16	Interest & Penalties		7,074.80
Split Parcels	57,949.29	Total Revenue		$ 2,079,804.67
Discoveries	4,923.52			
Discovery Late Listing		ADJUSTMENTS		
Total Tax	$ 2,122,233.55	1% Discount		7,796.82
Interest & Penalties	$ 7,695.71	Tax Releases:	Principal	2,435.45
			Late Listing	10.78
Total Charges	$ 2,129,929.26		Interest	44.73
		Tax Adjustments:	Principal	445.97
			Late Listing	7.57
			Interest	588.62
		Under/Over Payment System Adjustments		16.14
		Uncollected Late Listing		177.38
		Uncollected Tax :	Real	36,678.06
			Personal	1,925.07
			Total(10-110-2013)	38,780.51
		Total Credits & Adjustments		$ 2,129,929.26

APPROVAL OF ORDER OF COLLECTION FOR 2014 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.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to approve the Order of Collection for 2014 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 2014 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 15th day of July, 2014.

_____ (Seal)
Stephen R. Little
Mayor
City of Marion

ATTEST: _____
J. Robert Boyette
City Manager/Clerk
City of Marion

CONSIDER APPROVAL OF HOUSE BURNNG: Firefighter Matthew Crawford appeared before Council, requesting permission to burn a dilapidated house owned by Ford Miller at 208 Morehead Road. Photos of the house were presented to Council Members, which indicate that the house is not in good condition. Mr. Crawford stated that Mr. Miller has authorized the house burning to take place, which will provide training for the Fire Department. This property is contiguous to the Marion Manufacturing property owned by Mr. Miller. The house burning would be scheduled for Saturday, August 9 if approved.

AA.00000442 (24)

As is normally the case, the City Manager mentioned to Mr. Crawford that the Fire Department would need to deliver notices regarding the planned house burning to the surrounding neighborhood. Mr. Crawford said that the Fire Department would definitely notify the surrounding area prior to the house burning.

The City Manager stated that, since the house burning would rid Morehead Road of a dilapidated house, he would recommend approval of the Fire Department request to burn the dilapidated house owned by Ford Miller at 208 Morehead Road.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to approve the house burning of the dilapidated house at 208 Morehead Road for training purposes by the Marion Fire Department.

CONSIDER APPROVAL OF CONTRACT EXTENSION WITH MARION BUSINESS ASSOCIATION: The City Manager presented Council members with a document that would extend the contract between the City and Marion Business Association (MBA) for three years, retroactive to July 1, 2014, for the MBA to perform economic development, downtown development and special events/promotions functions for the City. The City Manager advised that the contract amount begins at $69,000 per year, the amount included in the 2014-15 Budget, and can be adjusted each year, as deemed appropriate by Council. The contract will run until June 30, 2017.

Council Member Clark stated that in the future he would like to see budgets from this and other organizations seeking funding from the City of Marion.

Upon a motion by Council Member Doggett, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to approve the following Contract extension with the Marion Business Association:

CITY OF MARION
FUNDING AGREEMENT FOR DOWNTOWN DEVELOPMENT, ECONOMIC DEVELOPMENT AND PROMOTIONS/SPECIAL EVENTS SERVICES

STATE OF NORTH CAROLINA
CITY OF MARION

This Agreement made and entered into the 1st day of July, 2014 by and between the **City of Marion, North Carolina**, hereinafter referred to as the "CITY", and the **Marion Business Association**, hereinafter referred to as the "AGENCY."

WHEREAS, the CITY has requested services from the AGENCY to carry out its programs and activities; and

WHEREAS, the City Council has agreed to appropriate the sum of **$69,000.00** in funding for the three fiscal years ending June 30, 2016 and June 30, 2017 to support this purpose; and

WHEREAS, it is desirable and necessary to enter into this Agreement in order to set forth the terms and conditions for receiving said funds from the CITY.

NOW, THEREFORE, in consideration of the following the parties hereto do mutually agree as follows:

1. The AGENCY agrees to use the funds appropriated by the CITY in a manner and for the purposes specified in Attachment A, a copy of which is attached hereto and incorporated by reference as if to set forth fully herein.
2. In consideration for the performance by the AGENCY of the services outlined in its application, the CITY agrees to pay the AGENCY up to the amount of money authorized in the City of Marion budget for the fiscal year and as specified above. Payment of such amount shall be made in quarterly allotments requested by the AGENCY.
3. If the AGENCY fails to perform its obligation under this Agreement, or if the AGENCY shall violate any of the provisions of this Agreement, the CITY shall have the right to terminate this Agreement by giving written notice to the AGENCY of such termination at least thirty (30) days before the effective date of such termination. In such event, all unexpended funds at the time of such termination shall remain with the CITY.
4. The AGENCY shall not assign any interest in this Agreement and shall not transfer any interest in the Agreement without prior written approval of the CITY.
5. In connection with the performance of this Agreement, the AGENCY shall not discriminate against any employee, applicant for employment, or program participant because of race, religion, color, sex, age, handicap, or national origin.
6. The AGENCY shall maintain all accounts, books, ledgers, journals, and records in accordance with generally accepted accounting principles, practices and procedures.
7. The AGENCY shall submit to the CITY an annual status report of all program activities including a summary of the accomplishment of stated goals and objectives.
8. The AGENCY shall provide an accounting of CITY funds to the CITY to demonstrate that funds allocated to the AGENCY have been used for the purpose(s) specified herein. The accounting report shall be submitted to the CITY within 75 days of the end of each Fiscal Year. Further, the CITY shall be entitled to audit the financial records and operations of the AGENCY at the CITY's discretion. Any excess funds or funds not used for the expressed purpose(s) stated herein must be returned to the CITY within thirty (30) days of the CITY's request for said funds.
9. The CITY shall be entitled to conduct an evaluation of the AGENCY's programs and activities particularly as it relates to the accomplishments of established goals and objectives and the measurement of services being delivered.
10. All books and records shall be maintained by the AGENCY for a period of at least three years from the date of the final payment under this Agreement and shall be made available for audit or evaluation upon request during regular business hours of the AGENCY.
11. The AGENCY must adopt a Drug-Free Workplace Policy in accordance with the Drug-Free Workplace Policy of 1988 (41 U.S.C. 701).
12. As a condition of receiving funds from City of Marion, the AGENCY agrees to fully indemnify and hold harmless City of Marion, its officers, agents, and employees from and against any and all claims, demands, payments, suits, actions, costs, recoveries, and judgments of every kind and description brought out of or occurring in connection with, directly or indirectly, activities funded in part or in whole with funds made available under this Agreement.
13. The CITY is in no way responsible for the administration and supervision of the AGENCY's officers, employees, and agents, which persons it is agreed are not officers, employees, or agents of the CITY.
14. The Agreement may only be amended by written amendments mutually agreed upon by and between the CITY and the AGENCY.
15. The City Manager is designated as a non-voting ex-officio member on the Governing Board of the AGENCY and will receive regular written updates, on at least a monthly basis, of activities related to this agreement.
16. Pursuant to the CITY Budget Ordinance, the CITY will release approved non-profit allotments in quarterly installments.

AA.00000443 (24)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their name by their duly authorized officers, their seals to be hereto affixed the day and year first above written.

ATTEST:

City Manager/Clerk Date

CITY OF MARION

BY: Mayor Date

ATTEST:

Executive Director, Date
Marion Business Association

BY: President, Date
Marion Business Association

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

City Finance Director Date

ATTACHMENT A

DUTIES AND RESPONSIBILITIES OF THE MARION BUSINESS ASSOCIATION UNDER THE FUNDING AGREEMENT FOR DOWNTOWN DEVELOPMENT, ECONOMIC DEVELOPMENT AND PROMOTIONS/SPECIAL EVENTS SERVICES

Duties and Responsibilities

1. Serve as the designated economic development agency of the City of Marion in relation to all commercial, retail, service, tourism and governmental facility related development (not to include industrial development).

2. Maintain up-to-date files on all available properties within the Marion City Limits or in areas considered for annexation by the City of Marion.

3. Assist prospective new businesses with providing information about the community and local requirements such as permits, licenses, ordinances and other pertinent information.

4. Maintain current information of available financial assistance and sources of capital for small businesses and seek opportunities for new programs.

5. Actively recruit new businesses in the areas listed under Item 1 above with primary focus in Downtown Marion and then throughout the existing or prospective City Limits.

6. Pursue grant writing opportunities in the areas of downtown and economic development and beautification for the City of Marion.

7. Report quarterly to Marion City Council regarding economic activities and developments.

8. Coordinate the City's Main Street Program and downtown development activities.

9. Coordinate all downtown and assigned events including, but not limited to, Mountain Glory Festival, Christmas Parade, July 4th Celebration, First Friday Concerts and Melodies on Main. Other events may be added or events deleted as agreed by the MBA and City.

10. Conduct business visits and provide small business outreach services.

11. Participate in the City's Certified Retirement Community Program.

12. Any related duties requested or assigned by the City Council or City Manager.

CONSIDER APPROVAL OF EXTENSION OF LEASE AGREEMENT WITH MARION BUSINESS ASSOCIATION FOR DEPOT: The City Manager advised that the lease agreement with the Marion Business Association (MBA) for the Depot has expired. The proposed agreement would run for three years, retroactive to July 1, 2014.

The City Manager stated that, under the proposed lease, there would continue to be no rent charged to the MBA and the City will continue to pay electric and water and sewer bills. The MBA remains responsible for phone and internet bills.

Upon a motion by Council Member Doggett, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to approve the following Commercial Lease Agreement with the Marion Business Association for the Marion Depot:

COMMERCIAL LEASE AGREEMENT

THIS LEASE is made as of July 15, 2014 with an effective date of July 1, 2014, between the City of Marion, NC, a North Carolina Municipal Corporation ("Landlord") with an address of PO Drawer 700, Marion, NC 28752, and the Marion Business Association, Inc., a North Carolina nonprofit Corporation ("Tenant"), with an address of PO Drawer 700, Marion, NC 28752 who hereby agree as follows:

AA.000000444 (24)

1. PREMISES: Subject to the covenants and conditions of this Lease, Landlord leases to Tenant, and Tenant leases from Landlord, that certain real property described as the 1952 addition to the Marion Depot located at 58 Depot Street containing 935 square feet more or less and the parking area to service said area (all together being referred to herein as the "Premises"), together with the right of ingress and egress.

2. USE OF PREMISES: The Premises will be used for the operation of Tenant's business of promoting the revitalization and economy of downtown Marion pursuant to the economic development contract between the City of Marion and the Marion Business Association, Inc. Director or such other uses as are pre-approved in writing by the Landlord (collectively, the "Permitted Use"). There is an expectation that the Tenant shall allow public entry to the premises in order to further promote the downtown Marion area.

3. TERM. The term of this Lease (the "Term") is for one year and shall automatically renew each successive year, but shall terminate on June 30, 2017.

4. RENT PAYMENTS. During the Term, Tenant shall pay to Landlord the monthly sum of $0 as Rent in monthly installments, each due and payable in advance without notice or demand at Landlord's above stated address, or at any other place Landlord designates in writing.

5. SECURITY DEPOSIT. Tenant shall not be required to deliver to Landlord a security deposit.

6. PROPERTY INSURANCE. Tenant shall comply with all insurance regulations so the lowest property damage insurance and liability insurance rates may be obtained and nothing shall be done or kept in or on the Premises by Tenant which will cause an increase in the premium for any such insurance on the Premises or on any building of which the Premises are a part or on any contents located therein, over the rate usually obtained for the proper use of the Premises permitted by this Lease or which will cause cancellation or make void any such insurance. Tenant shall maintain, at all times during the Term, adequate insurance on its personal property used, stored or kept in the Premises.

7. INDEMNITY AND LIABILITY INSURANCE. Tenant shall at all times indemnify, defend and hold Landlord harmless from all loss, liability, costs, damages and expenses that may occur or be claimed with respect to any person or persons, or property on or about the Premises or to the Premises resulting from any act done or omission by or through Tenant, its agents, employees, invites or any person on the Premises by reason of Tenant's use or occupancy or resulting from Tenant's non-use or possession of said property and any and all loss, cost, liability or expense resulting therefrom. Tenant shall maintain, at all times during the Term, at Tenant's expense comprehensive general liability insurance in a responsible insurance company, licensed to do business in the state in which the Premises are located and satisfactory to Landlord, properly protecting and indemnifying Landlord with single limit coverage of not less than $1,000,000 for injury to or death of persons and for property damage. During the Term, Tenant shall furnish Landlord with a certificate or certificates of insurance covering such insurance so maintained by Tenant and naming Landlord and Landlord's mortgagees, if any, as additional insures.

8. ASSIGNMENT AND SUBLETTING. Tenant shall not assign, transfer or encumber this Lease and shall not sublease the Premises, or any part thereof, or allow any other person or entity to be in possession thereof without the prior written consent of Landlord, in each and every instance. For the purpose of this provision, any transfer of at least ten percent or such other amount to result in a change in controlling interest in Tenant (whether in one or more related or unrelated transactions) measured against the date of this Agreement, whether by transfer of stock, consolidation, merger, transfer of a partnership interest, transfer of a limited liability company ownership interest or unit or transfer of any or all of Tenant's assets (outside the ordinary course of business) or otherwise, or by operation of law, shall be deemed an assignment of this lease. Notwithstanding any permitted assignment or subletting, Tenant shall at all times remain directly, primarily and fully responsible and liable for compliance with all of its other obligations under the terms and provisions of this Lease.

9. CONDITION OF PREMISES AT BEGINNING AND END OF TERM. Tenant acknowledges Tenant has inspected the Premises and, except as may be provided otherwise in this Lease and without abrogating Landlord's obligations under Paragraph 12 hereof, Tenant accepts the Premises "AS IS" in their present condition. At the end of the Term, Tenant, at Tenant's expense, will (a) surrender the Premises in as good a condition as the Permitted Use will have reasonably permitted, subject to Tenant's obligations stated in Paragraphs herein; (b) have removed all of Tenant's property from the Premises; (c) have promptly repaired any damage to the Premises caused by the removal of Tenant's Property; and (d) leave the Premises free of trash and debris and the building in "broom clean" condition.

10. MAINTENANCE AND REPAIR BY TENANT. Except for the obligations imposed upon Landlord in Paragraph 12 hereof and except for damage resulting from an Insurable Loss, during the Term and at Tenant's sole cost and expense, Tenant will maintain and keep in good order, repair and condition and, when necessary, will replace all parts of the Premises (except those for which Landlord is expressly responsible under the terms of this Lease), including, but not limited to: utility service lines from the point where they enter the building(s) of which the Premises are apart, interior walls, inside surfaces of exterior walls, fixtures, floor coverings, lighting fixtures, glass, windows, doors, electrical and other mechanical equipment, appliances and systems, improvements made by and at the expense of Tenant and Tenant's property, including, but not limited to, Tenant's signs and advertisements. Any repair or expense not expressly required by the Landlord in Paragraph 12 herein shall be the obligation of Tenant at Tenant's sole expense.

11. LANDLORD'S RIGHT OF ENTRY. Landlord or Landlord's agent may enter the Premises at reasonable hours to examine the same, to show the same to prospective lenders and purchasers, and to do anything Landlord may be required to do hereunder or which Landlord may deem necessary for the good of the Premises or any building of which they are a part; and during the last 90 days of this Lease, Landlord may display a "For Rent" sign on and show the Premises.

12. MAINTENANCE AND REPAIR BY LANDLORD. Landlord, during the Term and at Landlord's sole cost and expense, absent Tenant's negligence, will maintain and keep in good repair all underground plumbing and sewer lines, and water, gas and electric service lines to the point where such service lines enter the building(s) of which the Premises are a part, heating, ventilating, air conditioning, sprinkler systems, the roof, the exterior walls, gutters, down spouts, foundations and all structural components of the building(s). Landlord will be under no obligation, and will not be liable for any failure, to make any repairs until and unless Tenant notifies Landlord in writing they are necessary, in which event Landlord will have a reasonable time after notice to begin to make such repairs. Tenant agrees to notify the Landlord promptly of the need for replacement of or repairs to the fire and smoke

detector on the premises. By signing below, the Tenant acknowledges that the property was furnished with an operational fire and smoke detector upon commencement of this Lease.

13. DAMAGE BY CASUALTY. In case, during the Term or previous thereto, the Premises, or building(s) thereon, shall be destroyed or shall be so damaged by fire or other casualty as to become untenantable, then in such event, at the option of Landlord, the Term shall cease and this Lease shall become null and void from the date of such damage or destruction and Tenant shall immediately surrender said Premises and all interest therein to Landlord.; provided, however, that Landlord shall exercise such option to so terminate this Lease by notice in writing delivered to Tenant within thirty days after such damage or destruction. In case Landlord shall not so elect to terminate this Lease, this Lease shall continue in full force and effect and Landlord shall repair the Premises with all reasonable promptitude, placing the same in as good a condition as they were at the time of the damage or destruction, and for that purpose may enter said Premises. In either event, Tenant shall remove all rubbish, debris, merchandise, furniture, equipment and other of its personal property, within five days after the request of Landlord. If the Premises shall be but slightly injured by fire or other casualty, as the Landlord shall determine, so as not to render the same untenantable and unfit for occupancy, then Landlord shall repair the same with reasonable promptitude. Except as provided herein, no compensation or claim shall be made by or allowed to Tenant by reason of any inconvenience or annoyance arising from the necessity of repairing any portion of the building or the Premises, however the necessity may occur.

14. PERSONAL PROPERTY. Landlord shall not be liable for any loss or damage to any merchandise, inventory, goods, fixtures, improvements or personal property of Tenant in or about the Premises, regardless of the cause of such loss or damage.

15. ALTERATIONS. Tenant is authorized to make any alterations or additions in or to the Premises with the prior consent of Landlord.

16. UTILITIES AND SERVICES. Tenant shall pay for all utilities consumed in Tenant's use of the premises with the exception of the power bill and water bill, which Landlord shall pay.

17. LEGAL REQUIREMENTS. Tenant shall comply with all laws, orders, ordinances and other public requirements now or hereafter affecting the Premises or the use thereof, including without limitation ADA, OSHA and like requirements, and indemnify defend and hold Landlord harmless from any and all expense, fine or damage (including reasonable attorney's fees and associated costs) resulting from failure to do so.

18. FIXTURES. Except for Tenant's property and business fixtures, all buildings, repairs, alterations, additions, improvements, installations and other non-business fixtures installed or erected on the Premises will belong to the Landlord.

19. EMINENT DOMAIN. If the Premises or any substantial part (as determined by the Landlord) thereof shall be taken under the power of eminent domain or be acquired for any public or quasi-public use or purpose, the Term shall cease and terminate upon the date when the possession of said Premises or the part thereof so taken shall be required for such use or purpose and without apportionment of the award, and Tenant shall have no claim against Landlord for the value of any unexpired Term. If any condemnation proceeding shall be instituted in which it is sought to take or damage any part of the Premises or the building of which the Premises are a part or the land under it, or if the grade of any street or alley adjacent to the Premises is changed by any legal authority and such change of grade makes it necessary or desirable to remodel the Premises to conform to the changed grade, Landlord shall have the right to cancel this Lease after having given written notice of cancellation to Tenant not less than ninety (90) days prior to the date of cancellation designated in the notice. No money or other consideration shall be payable by Landlord to Tenant for the right of cancellation and Tenant shall have no right to share in the condemnation award or in any judgment for damages caused by the taking or the change of grade. Nothing in this paragraph shall preclude an independent award being made to Tenant for loss of business or depreciation to and cost of removal of equipment or fixtures.

20. WAIVER OF SUBROGATION. As part of the consideration for this Lease, Tenant hereby releases Landlord from all liability for damage due to any act or neglect of Landlord (except as hereinafter provided) occasioned to property owned by said Tenant which is or :right be incident to or the result of a fire or any other casualty against loss for which either of the parties is now carrying or hereafter may carry insurance; provided, however, that the release herein contained shall not apply to any loss or damage occasioned by intentional acts of Landlord, and the Tenant hereto further covenants that any insurance Tenant obtains on its respective property shall contain an appropriate provision whereby the insurance company, or companies, consent to the release of liability contained in this paragraph.

21. DEFAULT AND REMEDIES. In the event: (a) Tenant fails to comply with any term, provision, condition or covenant of this Lease; (b) Tenant deserts or vacates the Premises; (c) any petition is filed by or against Tenant under any section or chapter of the Federal Bankruptcy Act, as amended, or under any similar law or statute of the United States or any state thereof; (d) Tenant becomes insolvent or makes a transfer in fraud of creditors; (e) Tenant makes an assignment for benefit of creditors; or (f) a receiver is appointed for Tenant or any of the assets of Tenant, then in any of such events, Tenant shall be in default and Landlord shall have the option to do any one or more of the following: upon ten (10) days prior written notice, excepting the payment of rent or additional rent for which no demand or notice shall be necessary, in addition to and not in limitation of any other remedy permitted by law, to enter upon the Premises either with or without process of law, and to expel, remove and put out Tenant or any other persons who might be thereon, together with all personal property found therein; and, Landlord may terminate this Lease or it may from time to time, without terminating this Lease, rent said Premises or any part thereof for such term or terms (which may be for a term extending beyond the Term) and at such rental or rentals and upon such other terms and conditions as Landlord in its sole discretion may deem advisable, with the right to repair, renovate, remodel, redecorate, alter and change said Premises. No such re-entry or taking possession of said Premises shall be construed as an election of Landlord's part to terminate this Lease unless a written notice of such intention be given to Tenant. Notwithstanding any such resetting without termination, Landlord may at any time thereafter elect to terminate this Lease for such previous breach and default.

22. WAIVER. The rights and remedies of Landlord under this Lease, as well as those provided or accorded by law, shall be cumulative, and none shall be exclusive of any other rights or remedies hereunder or allowed by law. A waiver by Landlord of any breach or breaches, default or defaults of Tenant hereunder shall not be deemed or construed to be a continuing waiver of such breach or default nor as a waiver of or permission, expressed or implied, for any subsequent breach or default.

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23. TOXIC OR HAZARDOUS MATERIALS. Tenant shall not store, use or dispose of any toxic or hazardous materials (as defined or recognized under any federal, state or local laws or regulations) in, on or about the Premises without the prior consent of Landlord. Tenant, at its sole cost, will comply with all laws relating to Tenant's storage, use and disposal of hazardous or toxic materials (as defined or recognized under any federal, state or local laws or regulations). Tenant shall be solely responsible for and will defend, indemnify and hold Landlord, its agents and employees, harmless from and against all claims, costs, fines, remediation and liabilities, including attorney's fees and costs, arising out of or in connection with the removal, clean-up and restoration work and materials necessary to return the Premises, and any other property of whatever nature located on the Premises, to their condition existing prior to the appearance of toxic or hazardous materials (as defined or recognized under any federal, state or local laws or regulations) on the Premises. All of Tenant's obligations under this paragraph will survive the termination of this Lease.

24. NOTICES. Any notice hereunder shall be sufficient if sent by certified mail, postage prepaid and addressed to Tenant at the Premises, and to Landlord.

25. SUCCESSORS. The provisions, covenants and conditions of this Lease shall bind and inure to the benefit of the legal representatives, heirs, successors and assigns of each of the parties hereto, except that no assignment or subletting by Tenant without the written consent of Landlord shall vest any rights in the assignee or subtenant of Tenant.

26. QUIET POSSESSION. Landlord agrees, so long as Tenant fully complies with all of the terms, covenants and conditions herein contained on Tenant's part to be kept and performed, Tenant shall and may peaceably and quietly have, hold and enjoy the Premises for the Term aforesaid, it being expressly understood and agreed that the aforesaid covenant of quiet enjoyment shall be binding upon Landlord, its heirs, successors or assigns, but only during such party's ownership of the Premises. Landlord and Tenant further covenant and represent that each has full right, title, power and authority to make, execute and deliver this Lease.

27. BANKRUPTCY. Neither this Lease nor any interest therein nor any estate hereby created shall pass to any trustee or receiver in bankruptcy or to any other receiver or assignee for the benefit of creditors by operation of law or otherwise during the Term or any renewal thereof.

28. ENTIRE AGREEMENT. This Lease contains the entire agreement between the parties as to the herein subject matter, and no modification of this Lease shall be binding upon the parties unless evidenced by an agreement in writing signed by Landlord and Tenant after the date hereof. If there be more than one Tenant named herein, the provisions of this Lease shall be applicable to and binding upon such Tenants, jointly and severally.

IN WITNESS WHEREOF, said parties hereunto subscribed their names the first date written above.

TENANT:

Marion Business Association, Inc.

By:_____
President, Marion Business Association, Inc.

LANDLORD:

The City of Marion, NC

By:_____
Stephen R. Little, Mayor

ATTEST:

_____
J. Robert Boyette, City Manager/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:_____
Harriett Thomas
Finance Director
City of Marion

SCHEDULING OF ADVISORY BOARD/VOLUNTEER DINNER: The City Manager advised that Council has typically held an Advisory Board/Volunteer Dinner for many years. For the past two years, the dinner was held on the second Tuesday of October. The City Manager asked for direction on the desired date for the dinner.

It was the consensus of Council Members to hold the Advisory Board/Volunteer Dinner on Tuesday, October 14 at 6:30 P.M. at the Marion Depot.

SCHEDULING OF SPECIAL COUNCIL MEETING: The City Manager advised that a bid opening had been scheduled earlier that day for Phase 2 of the Joseph McDowell Historical Catawba Greenway. Only two bids were received. The City Manager reported that, under State law, three bids were required, so the bid opening had been rescheduled for July 24. The City Manager advised that, given that the next Regular Council meeting would be on August 19, he would propose that Council schedule a Special Meeting to award the construction contract for Phase 2 of the Greenway.

It was the consensus of Council Members to schedule the Special Council Meeting for Tuesday, July 29, 2014 at 1:30 P.M. in the Conference Room at City Hall for the purpose of awarding the construction contract for Phase 2 of the Joseph McDowell Historical Catawba Greenway.

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CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that, as previously reported, the City recently won a State award again for excellent performance in turbidity removal at the Water Plant. Turbidity is essentially a measure of how clean the water is, so this is an important achievement. The City was one of 38 water systems in North Carolina to receive this award for 2013. The City Manager stated that the City has received this award all 12 years it has been given by the State, one of two water plants to have done so, according to former State Water Plant consultant Ray McCall.

The City Manager reported that, as shown in a recent news release presented to Council Members, Marion recently received reaccreditation as a National Main Street Program. The City has been nationally accredited for many years. This year, Marion was one of only 20 North Carolina Main Street Programs to receive national accreditation.

The City Manager advised that the City recently had consulting engineer Randy Hintz evaluate the causes of and needed repairs for the flooding event experienced in mid-June at Gene Padgett's apartment building at North Garden Street and James Drive. The City Manager presented Council with Randy's report. On the positive side, Randy saw no evidence of sinkholes or damage to the apartment building. However, Randy did recommend immediate repairs to the drainage around this intersection and longer term improvements to drainage along North Garden Street. The City Manager stated that he and the Public Works Director have reviewed the report and will, without objection, pursue the completion of drainage repairs around the intersection. The longer term drainage improvements may eventually be needed, but are likely cost prohibitive at this point. Mayor Little and Council Members expressed no objections to the City Manager's recommendations.

The City Manager advised that DOT Division 13 held a meeting at the Community Building earlier that day to review the projects that Division 13 proposes to give its points for the new North Carolina Strategic Transportation Investments (STI) Program. The City Manager presented Council with information on the methodology used by Division 13 to rank projects. He stated that Division 13 unveiled its list of recommended projects to receive points and that McDowell County, as well as Rutherford County, fared very poorly. The City Manager noted that there was not much the City could do to affect the Division 13 scoring, other than ask for changes in the rating criteria moving forward.

The City Manager advised that the Isothermal Rural Transportation Planning Organization (RPO) has recommended assigning local input scores to highway projects dropping down to the regional and divisional levels and to pedestrian and bicycle projects, which are all scored at the division level. On the regional level, several projects are in line to receive local input points, including the improvement of the Norfolk Southern rail line between Salisbury and Asheville, the multi-laning of Highway 226 from the US 221 Bypass to I-40, the proposed US 70 Bypass of Marion and the widening of several segments of US 221, including R-204D between the US 221 Bypass and I-40 and R-204E between I-40 and Goose Creek Road.

The City Manager stated that, on the divisional level, the top rated project from McDowell, Rutherford and Polk Counties is a sidewalk on North Main Street and Highway 70 West from Logan Street to McDowell High School Road. Other projects in line to receive local input points are a sidewalk along Sugar Hill Road from Shady Lane to I-40, the improvement of the Norfolk Southern rail line between Salisbury and Asheville, the renovation of train stations along the Norfolk Southern rail line between Salisbury and Asheville, the widening and three laning of Sugar Hill Road from the north side of I-40 across the overpass bridge to a point just south of Marion Travel Plaza and the addition of curb and gutter and a third lane on Rutherford Road from Georgia Avenue to the US 221 Bypass.

The City Manager stated that he wanted to see if Council wished for he and Mayor Pro Tem Cuthbertson, the City's RPO representatives, to support all of the McDowell County regional and division projects for RPO local input points. He suggested that it may be advisable not to support putting local input points toward the train station improvements, which are not needed in McDowell County, so that other projects in the region could receive points.

Council Member Clark advised that the US 221 widening project needs to be stressed and promoted to the greatest possible extent, since its construction will provide the City and County with economic development benefits.

Mayor Little said that he would agree with dropping the rail station renovations and the widening of Highway 226 between the US 221 Bypass and I-40 from the RPO scoring.

After discussion, Mayor Little and Council Members agreed by consensus to direct Mayor Pro Tem Cuthbertson and the City Manager to support all listed McDowell County projects for Isothermal RPO input points, with the exception of train station renovations and the widening of Highway 226 between the US 221 Bypass and I-40, which are not needed in Council's opinion.

The City Manager reported that, through the first 11 months of the 2013-14 Fiscal Year, the taxable retail sales for McDowell County have increased by 7.37 percent over the same time period in 2012-13. Taxable retail sales for North Carolina as a whole for the first 11 months of 2013-14 have increased by 3.89 percent over the same time period in 2012-13. Therefore, right now, McDowell County is on target to outpace the State growth in retail sales for the 6th time in the past 8 years.

The City Manager advised that the sidewalk extension on State Street between the East McDowell Middle School property and Baldwin Avenue was completed in late June. City personnel will soon paint a line to mark the edge of the street.

Public Works Director Brant Sikes reported that the Oakwood Drive drainage project has been completed, except for a small amount of remaining repair work at the end of the street. The Street Division and an outside contractor completed this project.

Mr. Sikes stated that the Utility Maintenance Division worked in June to replace the water line on Crescent Drive between North Garden Street and Fleming Avenue. The Street Division and a contractor will begin work by late July on the removal of the existing asphalt surface and installation of new curb and gutter, to be followed by the resurfacing of the street. The project can hopefully be completed by early Fall.

The City Manager reminded Council that, pursuant to prior Council direction, there will be no Council meeting on Tuesday, August 5. Instead, Council can attend the National Night Out event on Main Street that evening beginning at 6:00 p.m. The Police Department, led by Sergeant Kellie Mann has been planning another great event for the entire family. Interim Police Chief Scott Spratt gave a brief report on the plans for National Night Out.

The City Manager thanked Interim Police Chief Spratt for filling in while Police Chief Allen Lawrence is attending an extended training session at the FBI National Academy.

The City Manager advised that the Kate B. Reynolds Charitable Trust Policymakers Luncheon is scheduled for Wednesday, July 23, from 11:30 a.m. to 1:30 p.m. at McDowell Tech to discuss the Healthy Places Initiative in McDowell County. The City Manager stated that the Mayor and all Council Members had indicated that they planned to attend this event.

The City Manager reported that the City recently acquired a property on Grayson Street Extension in the West Marion neighborhood. This property contains a dilapidated house, which in the opinion of Building Inspector Jay Suttles, needs to be demolished. The City Manager asked Council for permission to demolish this dilapidated house, while it is owned by the City. Mayor Little and Council Members agreed by consensus to authorize

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City staff to demolish the dilapidated house owned by the City on Grayson Street Extension, pursuant to following all applicable laws and regulations concerning the demolition of a structure.

COUNCIL MEMBER COMMENTS: Council Member Martin thanked Council for allowing the City to take over maintenance of the Morehead Cemetery, effective July 1, 2014. He said that there was a lady who had recently died, whose family wished for her to be buried there. Council Member Martin asked if Council had any objection to what may be the last burial in this Cemetery.

Mayor Little noted that Council had agreed for the City to assume maintenance of the Morehead Cemetery and to leave jurisdiction over burials with the McDowell Cemetery Association. Mayor Little and Council Members agreed by consensus that they had no objection to additional burials at the Morehead Cemetery, with oversight over such burials left to the McDowell Cemetery Association.

Council Member Doggett stated that the July 4th Parade, music, street dance and fireworks were all great. She thanked the Marion Business Association and the Public Works, Police and Fire Departments for their hard work on this event.

Mayor Little thanked Council Members and City staff for their thoughts, prayers and expressions of kindness during and after his recent neck surgery. He stated that he was no longer in pain and would be making a full recovery.

The City Manager thanked Finance Director Harriett Thomas, Public Works Director Brant Sikes, Planning and Development Director Heather Cotton, Interim Police Chief Scott Spratt, Administrative Assistant Debi Sherlin and all City staff for all they do on a day to day basis.

Mayor Little stated that, while he had been recuperating, he had watched the City's web cam on Main Street. Mayor Little said that he would like to see at least one additional web cam looking south on Main Street.

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

STATE OF NORTH CAROLINA
COUNTY OF McDOWELL
CITY OF MARION

The City Council for the City of Marion held a Special Meeting on Tuesday, July 29, 2014 at 1:30 P.M. in the Conference Room located at 194 North Main Street for the purpose of awarding the construction contract for Phase 2 of the Joseph McDowell Historical Catawba Greenway.

BOARD MEMBERS PRESENT: Mayor Steve Little, Mayor Pro Tem Lloyd Cuthbertson, Council Members Juanita Doggett, Billy Martin and Don Ramsey.

Council Member Everette Clark was not present due to being out of town.

OTHERS PRESENT: Bob Boyette, City Manager; Heather Cotton, AICP, Planning and Development Director; Harriett Thomas, CPA, Finance Director.

GUESTS PRESENT: Van McKinney, News Reporter, WBRM Radio.

AWARD OF CONSTRUCTION CONTRACT FOR PHASE 2 OF JOSEPH MCDOWELL HISTORICAL CATAWBA GREENWAY:
The City Manager reported that bids were recently solicited by the City for the construction of Phase 2 of the Joseph McDowell Historical Catawba Greenway. The City Manager stated that four bids were received. The low bidder was Baker Grading & Landscaping of Old Fort in the amount of $396,489. The City Manager advised that the City's consulting engineer, McGill Associates, reviewed the bid and checked references on Baker, which were positive. In particular, references from McDowell County were positive for the YMCA Greenway project. The City Manager stated that he also recently spoke to McDowell County Schools Superintendent Mark Garrett, who advised that Baker Grading and Landscaping worked on the High School project and did an excellent job.

The City Manager reported that the low bid of $396,489 price would put the Greenway Phase 2 Project about $23,000 over budget. In addition, to satisfy grant requirements, the City will also need to purchase and install 10 fitness stations for Phase 2, which will cost an additional $8,300. Therefore, the City is now approximately $31,000 over budget for the total $481,500 Greenway Phase 2 project budget.

The City Manager reported that Planning and Development Director Heather Cotton had identified some options for cutting the project budget, such as reducing the size of the amphitheater or making the canoe launch approach gravel instead of asphalt. However, the City Manager stated that it will be difficult to save much money, without sacrificing the core project, since most items have to be included in order to satisfy North Carolina Parks and Recreation Trust Fund grant requirements.

The City Manager suggested that, if Council wishes to accept the low bid and construct the project as designed, the City could take money from one of three sources, as follows:

1. From the General Fund Balance
2. From the General Capital Reserve Fund
3. From the General Fund Capital Projects account, using part of the nearly $84,000 in leftover funds from the Downtown Streetscape Project. These funds had previously been designated for the Mt. Ida road access project, but it is unlikely that this project will take place in the next few months.

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The City Manager stated that he would recommend using part of the $84,000 in remaining funds from the Downtown Streetscape Project and then identifying funding sources for the Mt. Ida road access project at a later date.

The City Manager expressed his appreciation to Planning and Development Director Heather Cotton for her continued hard work with every aspect of the Greenway project and to Finance Director Harriett Thomas for managing the grants, outside funding and the finances of the Greenway project.

Upon a motion by Council Member Martin, seconded by Council Member Ramsey, the Council Members present voted unanimously to award the construction contract for Phase 2 of the Joseph McDowell Historical Catawba Greenway to Baker Grading & Landscaping of Old Fort in the amount of $396,489 and to use part of the $84,000 in remaining funds from the Downtown Streetscape Project to cover anticipated cost overruns for Phase 2 Greenway Project.

ADJOURNMENT: Upon a motion by Council Member Doggett, seconded by Mayor Pro Tem Cuthbertson, 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 19, 2014 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; Harriett Thomas, CPA, Finance Director; Brant Sikes, Public Works Director; Scott Spratt; Interim Police Chief; Freddie Killough, Executive Director, Marion Business Association; Ric Luther, President, Marion Business Association; Larry Carver, Water and Wastewater Treatment Superintendent; Ben Worley, Water Plant Operator; Jim Neal, Fire Chief; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Mark Hoskins, 111 Crawford Street, Apartment #34 Marion, NC.

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 Ramsey, Council voted unanimously to approve the consent agenda as follows:

A. **Approval of Minutes** – July 15, 2014 Regular City Council Meeting Minutes and July 29, 2014 Special City Council Meeting Minutes

B. **Approve Waiver of Civil Citation** – Council approved the waiver of the $10.00 penalty issued to Mr. Kyle Bragg resulting from a citation for overtime parking on South Main Street on July 21 while he was serving as a juror. Certification was received from the Clerk of Court's Office that Mr. Bragg served as a juror on July 21.

PRESENTATION OF WATER PLANT AWARD FROM STATE: The City Manager advised that the City had recently won a State Area Wide Optimization Program (AWOP) award again for excellent performance in turbidity removal at the Water Plant. Turbidity is essentially a measure of how clean the water is, so this is an important achievement. Marion was one of 38 water systems in North Carolina to receive this award for 2013. The City Manager reported that the City has received this award all 12 years it has been given by the State, one of two water plants to have done so, according to former State Water Plant Consultant Ray McCall.

The City Manager introduced Water and Wastewater Treatment Superintendent Larry Carver and Water Plant Operator Ben Worley.

Mayor Little presented Mr. Carver and Mr. Worley with the AWOP award for excellent performance at the Water Plant. Mayor Little and Council Members congratulated Mr. Carver and Mr. Worley and all the Water Plant staff for receiving this award and thanked them for their continuing hard work.

PUBLIC APPEARANCE – MARION BUSINESS ASSOCIATION:
Mr. Ric Luther, President of the Marion Business Association (MBA), appeared before Council and gave the following annual report for the MBA for the 2013-14 Fiscal Year:
July, 2013 - June 2014

Annual Report of Marion Business Association
Economic Development Report
27- New Businesses Opened

19 - Businesses Closed
14 -Business Opportunity Inquiries
8 - Business Loan Inquiries
3 - Business Grant Inquiries
869 - Business Visits
14- Property Referral Inquiries
5 - Property Owner Contacts w/ available buildings
2 - Contacts with interested Commercial Developers
0- New Businesses Breaking Ground
21- Façade Grant Inquires
12- Façade Grant Awarded (MBA & MEDA Historic Marion Façade Grant Program and MBA Sign Grant)
3 - Properties sold

Other Economic Activity:

- *Historic Marion Façade Grants* – Awarded 12 grants to downtown businesses located in City. Funded from MBA and MEDA. One MBA Sign Grant.
- Partnered with MTCC Small Biz Center for two *REAL* class series. Had 8 participants finish the entrepreneur class with a completed business plan.
- The MBA continues an intake office for Rural Center Micro Loans.
- *Historic Marion Tailgate Market* (HMTM) opened May 6, 2014. Market Manager Lou Godfrey continues marketing the EBT and other cards programs. MBA continues to meet with the *WNC Rail Committee* to promote passenger rail service to WNC. No funding is designated for WNC.
- MBA maintains an *Available Commercial Properties* listing of properties in the City of Marion.
- **Certified Retirement Community -** The CRC project is a joint effort of the City of Marion, Marion Business Association, McDowell Chamber Commerce, McDowell County and McDowell Tourism.
- The MBA Economic Development Committee has been very active in 2013-2014. They met will all agencies in McDowell County to share marketing and promotions for the county. The Economic Development Committee is pursuing a stronger marketing campaign for Marion and McDowell County.
- Supported Chamber of Commerce in numerous Ribbon Cutting/Open House events.

Committee Reports –

MBA Board of Directors met monthly & on June 10 celebrated 30 Year Anniversary Breakfast Meeting with 40 +/- attending. Awarded Biz of the Year - Premier Insurance
MBA Economic Development Committee is working on city/county marketing strategies
Mountain Glory Festival Committee - Meets regularly to oversee event.
Events & Promotions Committee - Meets monthly. Has greatly increased sponsorships.
Historic Marion Tailgate Market Committee continues to oversee Tailgate Market.
Other Committees MBA Supports -
MEDA; McDowell House; McDowell Non-profit Organizations (NPO); Get Not Out/Joblink

Special Events Report

July 4 Celebration – Event hampered by rain. Marion fireworks display continues to get rave reviews.
August 9, Shagging in the Street Concert – Good attendance. Under Shelter due to weather.
August 3, Sidewalk Yard Sale – Good participation.
September 3, Labor Day Concert with Terry McKinney. Due to rain, held concert inside depot.
October 12 – Mountain Glory Festival - Largest number of vendors. Most vendors reported strong sales. Downtown business had very good day.
October 29 – Historic Marion Tailgate Market Fall Festival = Trick or Treating for the kids. Very good attendance.
November 24 – Marion Christmas Parade. Very cold and low attendance.
December 5 – Melodies on Main – Live Santa for the children, ornament-making Christmas for kids (provided by New York Life Insurance), extended shopping hours. Largest Melodies on Main ever. Under Shelter /weather.
December 31 – Rotary of Marion's New Year's Eve Celebration – 4th annual event! Went very well and they are planning for 2014.
February 14, Valentine Dancing and Desert Fundraiser with Ric Luther and Friends - very popular. Planning for larger venue 2015.
April 12 – Easter Egg Hunt with YMCA.
May 3 – Sidewalk Yard Sale – Very good day, good participation.
June 7 – 8th Liver Mush Festival – It was a great event!! "It's a Squeal!" t-shirts sold out!
Volunteer Hours Committed – 1015
Mission Statement……The mission of the Marion Business Association is to broaden the economic base of the community while preserving the historic character of the downtown and promoting Marion as a desirable place to visit, work, shop, play and live.
Vision Statement: Marion will continue its role as the heart of the community. It will offer a unique experience with inviting outdoor cafes, galleries and boutiques framed by distinctive historic architecture. Marion will be a walkable downtown with adjoining greenways. It will be enhanced by the civic, cultural, and economic diversity of its citizens. Marion will be a thriving center for business and entertainment.

Active Committees

MBA Board of Directors
MBA Executive Committee
Events & Promotion Committee
Economic Development Committee
Mountain Glory Festival Committee
Historic Marion Tailgate Market
Other Committees MBA Supports -
MEDA
McDowell House
McDowell Non-profit Organizations
Get Not Out - Job training for under and unemployed in McDowell County
Healthy Eating, McDowell Health Coalition

Mayor Little thanked Mr. Luther for the continuing great work of the MBA to make Marion a better place to live, work, shop and play.

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

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REVIEW DRAINAGE REQUEST – LEACH STREET: Public Works Director Brant Sikes advised that, as shown in information presented to Council Members, Mr. Donald Randolph of 780 Baldwin Avenue has requested that the City replace an open drainage ditch on Leach Street next to his property with a buried drainage (piped) system. The piping would extend for approximately 150 feet along Leach Street from Baldwin Avenue eastward. Mr. Randolph acknowledges that this request is being made to improve the looks of the right-of-way.

Mr. Sikes estimated the cost of this project to be approximately $7,800, including about $5,000 in materials and $2,800 in labor. Mr. Sikes stated that City crews worked in early August to clean and regrade the ditch line, which did improve the appearance of the ditch. He added that staff does not recommend replacing the open ditch with piping for simply aesthetic reasons.

Mayor Little stated that he thought that this was too much money to spend on a cosmetic project. He noted that no Council action was needed, unless Council wished to pursue the project.

No action was taken by Council to approve this project.

CONSIDER APPROVAL OF REQUEST TO OPERATE A PLACE OF AMUSEMENT – NORTH MAIN STREET: The City Manager advised that the City had recently received an application from Mr. Mark Erwin to operate a place of amusements, The Southern Ground, at 417-B North Main Street (the former Swamp Fox location). The business will include a restaurant with 87 seats, bar and two pool tables. The pool tables trigger the place of amusements application. The Police Department completed a State and local criminal history check on the business owner, Mark Erwin, and determined that he has no criminal history.

The City Manager presented Council with a copy of the City Code provisions for places of amusement. Under Section 10-94 of the City Code, "the City Council shall not issue a permit required by this article to any person who:

(1) Has been convicted of unlawfully selling intoxicating liquors or narcotic drugs; or

(2) Is not a citizen and 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, according to the criminal history check, Mr. Erwin has not been convicted of unlawfully selling intoxicating liquors or narcotic drugs and Mr. Erwin, who lives in Old Fort, is a resident of North Carolina. The City has no knowledge that Mr. Erwin is an excessive user of intoxicating liquor or narcotic drugs. The City Manager advised that, based on the information in the criminal history check, he does not see any reason listed under the City Code to justify Council from denying a permit to Mr. Mark Erwin to operate a place of amusements called The Southern Ground, with two pool tables, at 417-B North Main Street.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Ramsey, Council voted unanimously to approve the request by Mr. Mark Erwin to operate a place of amusements called The Southern Ground, with two pool tables, at 417-B North Main Street.

APPROVE ORDINANCE AUTHORIZING DEMOLITION OF DILAPIDATED HOUSE ON EAST HIGH STREET: The City Manager advised that, in July 2013, Council granted a 90 day extension to John and Lucreta Porter for the demolition of their dilapidated house at 110 West High Street. In the 13 months since this action, City Building Inspector Jay Suttles has had some conversations with the Porters, but no progress has been made on the house. Since the City has already gone through the condemnation process for this house and has given the Porters over one year to take action, the City Manager presented an ordinance to authorize demolition of this house by the City and recommended approval of the ordinance.

Upon a motion by Council Member Martin, seconded by Council Member Doggett, Council voted unanimously to adopt the following Ordinance to authorize the demolition of the dilapidated house owned by John and Lucreta Porter at 110 West High Street:

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;

WHEREAS, pursuant to and in compliance with the said Ordinance a certain dwelling(s)/structures(s) located on property described at 110 West High Street, having Parcel Identification Number 1701.18-21-8933 and as more fully described in Exhibit A was found to be unfit for human habitation or hazardous;

WHEREAS, the owners(s) of the above-described property is as follows: John R. and Lucreta Porter;

WHEREAS, on the 19th day of June, 2013, 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 July 19, 2013 (a copy of the order is attached hereto as Exhibit B); and

WHEREAS, the owners have so far 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 19th day of August, 2014.

AA.000000452 (24)

Stephen R. Little
Mayor

ATTEST:

J. Robert Boyette
City Manager/Clerk

CONSIDER APPROVAL OF FINANCING FOR PURCHASE OF FIRE PUMPER/TANKER TRUCK: Finance Director Harriett Thomas advised that, as previously discussed and as shown on in the memo presented to Council Members, staff recently sought proposals for the financing of $491,571 for the new Fire Department pumper/tanker truck and associated equipment. Proposals were received from six financial institutions: U.S. Bancorp Governmental Leasing and Finance, BB&T, PNC, Asheville Savings Bank, Sun Trust Bank and the Local Government Employees Federal Credit Union. Several other banks, including Fifth Third, Wells Fargo and First Citizens, did not submit proposals.

Ms. Thomas stated that, to meet City budget constraints, the request for proposals called for a 10 year financing. The low bid came in from U.S. Bancorp at 2.236 percent. Annual payments would be $55,130. The City would have one half year payment due in February, in the amount of $27,565. In the 2014-15 budget, the City included $28,000 funding for this half year payment, so the City has adequate funds for this first payment. The U.S. Bancorp proposal does include a three percent pre-payment penalty, but the City almost never pre-pays, especially for fire trucks, so staff does not view the pre-payment penalty as a major issue.

The City Manager added that the City had never sent a request for proposals to U.S. Bancorp before, but they were recently recommended by the City of Morganton. Information on U.S. Bancorp was presented to Council Members. Ms. Thomas reported that U.S. Bancorp has provided financing to numerous cities and counties in North Carolina.

Ms. Thomas stated that she would recommend Council approval of a resolution to accept the financing proposal from U.S. Bancorp Governmental Leasing and Finance to finance the new Fire Department pumper/tanker truck for 10 years at 2.236 percent.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Ramsey, Council voted unanimously to approve the following Resolution approving financing terms as recommended:

RESOLUTION APPPROVING FINANCING TERMS FOR A LOAN TO PURCHASE FIRE TRUCK AND RELATED EQUIPMENT

WHEREAS, the City of Marion (City) has previously determined to undertake a project for a Pumper/Tanker and related equipment, and the Finance Officer has now presented a proposal for the financing of such Project.

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

1. The City hereby determines to finance the Project through U.S. Bancorp Government Leasing and Finance, Inc. (USBGLF), in accordance with Option 1 of the proposal dated August 8, 2014. The amount financed shall not exceed $491,571, the annual interest rate (in the absence of default or change in tax status) shall not exceed 2.236% and the financing term shall not exceed ten (10) years from closing.

2. All financing contracts and all related documents for the closing of the financing (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.

3. The Finance Officer is hereby authorized and directed 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 which 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 designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue code Section 265(b)(3).

5. All prior actions of City officers in furtherance of the purposes of this resolution are hereby ratified, approved and 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 upon its passage.

ADOPTED this the 19th day of August 2014.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

R-14-08-19-1

CONSIDER DONATION OF 1975 FIRE PUMPER TRUCK: Fire Chief Jim Neal appeared before Council and proposed that the City donate the recently decommissioned 1975 Fire truck to the High School for use in their new Firefighter/EMT program. The City Manager advised that N.C. General Statute 160A-274 authorizes cities to sell to, purchase from, exchange with, lease to or lease from any other governmental unit any interest in real or personal property. A governmental unit is defined as a city, county, the State, school units and other state and local agencies. Bids or published notices are not required. A sale could be a transfer without monetary consideration, per the School of Government's publication County and Municipal Government in North Carolina.

Council Member Clark suggested that this donation be subject to a reversion clause, whereby McDowell County Schools would return the truck to the City at such time in the future it was no longer needed.

AA.000000453 (24)

Chief Neal reported that he had checked with a scrap dealer and received an estimated $1,800 to $2,100 scrap value for this truck.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to approve the donation of the City's recently decommissioned 1975 Fire truck to the High School for use in their new Firefighter/EMT program, with an agreement entered into between the City and McDowell County Schools, providing for the truck to revert back to the City at such time in the future as the truck is not used or needed by the School System.

REVIEW 2014-15 STREET ASSESSMENTS/RESURFACING PRIORITIES: Public Works Director Brant Sikes advised that he had recently completed a comprehensive evaluation of all City Streets. Mr. Sikes made the following Power Point presentation:

STREET SURFACE CONDITION
EVALUATION SYSTEM

STREET SURFACE CONDITION EVALUATION SYSTEM

PURPOSE:

PURPOSE

1. Establish formalized surface evaluation techniques that allow us to present factual & accurate information regarding the surface condition of each street.

2. Knowing the cause of current conditions helps us to select the most appropriate & cost effective maintenance/repair techniques.

DEVELOPMENT OF OUR EVALUATION SYSTEM

- Researched several proven evaluation systems
  - Various state DOT's
  - Other Municipalities in NC
- Researched guidance documents:
  - FHA
  - NAPA
  - International Asphalt Institute

STREET SURFACE CONDITION EVALUATION SYSTEM

DEVELOPMENT OF OUR EVALUATION SYSTEM

- System we implemented is based on 2 proven systems:
  1. PASER (Pavement Surface Evaluation & Rating) Manual
     - Developed by Wisconsin Transportation Information Center
     - Used by many state DOT's
  2. NC DOT Pavement Condition Survey Manual
- Our system uses aspects of both & is scaled to best suit our needs.

STREET SURFACE CONDITION EVALUATION SYSTEM

HOW IT WORKS

HOW IT WORKS

- As different types of surface distresses are discovered we try to link them to a cause.
  - Most surface distresses indicate what's happening on or under the surface.
  - Example: Crescent shaped cracks in the direction of traffic flow indicate slippage & loss of bond.

HOW IT WORKS

4 MAJOR CATEGORIES OF ASPHALT SURFACE DISTRESS:

1. Surface defects
   - Raveling
   - Flushing
   - Polished Aggregate
2. Surface Deformation
   - Rutting
   - Rippling, shoving, settling
3. Cracks
   - Transverse, longitudinal, reflection, slippage, block, alligator
4. Potholes & patches

- Each street is evaluated & assigned a rating, based on presence & severity of each type of surface distress.

STREET SURFACE CONDITION EVALUATION SYSTEM

SURFACE DEFECTS

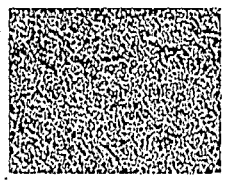
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RAVELING

Raveling: Progressive loss of pavement from the surface downward. Slight to moderate raveling has loss of fines. Severe raveling has loss of coarse aggregate.

Caused by:
- Stripping of bituminous film from aggregate
- Hardening due to age
- Poor compaction
- Insufficient asphalt content

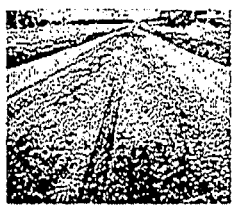
Slight raveling



FLUSHING

Flushing: Excess asphalt on the surface.

Caused by:
- Poor asphalt mix
- Paving or sealcoating over a flushed surface



POLISHED AGGREGATE

Smooth, slippery surface caused by traffic wearing off the sharp edges of large aggregates.



STREET SURFACE CONDITION EVALUATION SYSTEM

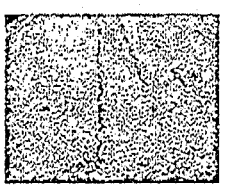
CRACKS

LONGITUDINAL CRACKS

Longitudinal Cracks: Cracks that run in the direction of traffic. Usually begin as hairline and then widen & erode with age.

Causes:
- Center line longitudinals: Inadequate bonding
- Fatigue from heavy loads
- Insufficient shoulder support
- Poor drainage
- Frost action

First stage of wheel path cracking.



TRANSVERSE CRACKS

Transverse Cracks: Cracks at approx. right angles to center line of street. Often regularly spaced. Widen with age and get closer together.

Causes: Movement due to temperature changes & hardening of the asphalt.



REFLECTION CRACKS

Reflection Cracks: Cracks in overlays reflect the same crack pattern as the pavement underneath.

Almost always prevalent when concrete base is used.

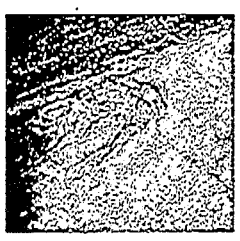
Concrete joints reflected through asphalt overlay.



SLIPPAGE CRACKS

Slippage Cracks: Crescent or rounded cracks in the direction of traffic. Most likely to occur at intersections.

Cause: Slippage between overlay and an underlying pavement. Once bond is completely lost, chunks of the surface start breaking out.

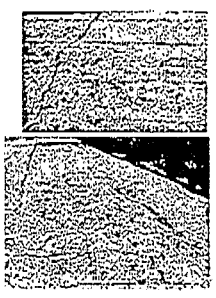


BLOCK CRACKS

Block Cracks: Interconnected cracks forming large blocks. Blocks may range from 1' – 10' across, or larger.

Closer spacing of blocks indicates more damage.

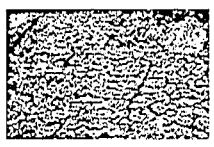
Causes: Aging, shrinking, hardening.



ALLIGATOR CRACKS

Alligator Cracks: Interconnected cracks forming small pieces ranging in size from 1" to 6" across.

Causes:
- Surface failure due to fatigue
- Inadequate base or subgrade



RUTTING

Rutting: Channels in wheel paths caused by displacement of material.

Causes:
- Traffic compaction
- Unstable material
- Severe rutting (over 2") may be caused by base & subgrade consolidation.

Slight rutting is very evident after a rain



STREET SURFACE CONDITION EVALUATION SYSTEM

SURFACE DEFORMATION

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RIPPLING

Rippling & Shoving: Surface material is displaced crossways to the direction of traffic resulting in ripples or bumps. Severe cases resemble a washboard.



Causes:
- Poor quality aggregate
- Improper mix

SETTLING

Settling: Distortion caused by settling of subgrade.



Causes:
- Improperly installed subgrade and/or base
- Utility trench

POTHOLES & PATCHES

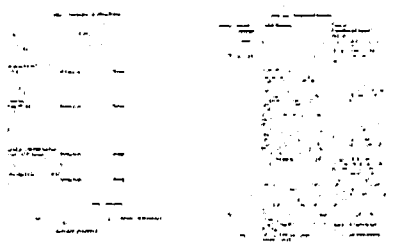
Pothole: Loss of pavement material resembling a "hole".



Causes:
- Inadequate pavement strength
- Age & fatigue
- Traffic loading
- Poor drainage
- Failed base
- Poor subgrade

POTHOLES & PATCHES

RATING SHEET



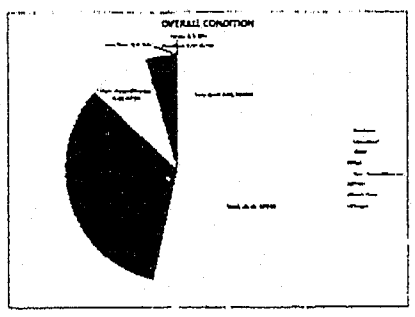
RATING

EVALUATION RESULTS SUMMARY

EVALUATION RESULTS SUMMARY

- Every paved city street evaluated & rated.
- 35.8 miles
- Where portions of a street varied significantly, each portion was rated separately.
- Evaluation of the entire street system took approx. 136 man-hours.

EVALUATION RESULTS SUMMARY



EVALUATION RESULTS SUMMARY

- Of the 35.8 miles that were rated, 53.2% scored "Good" or better.
- Miles of street that scored "Fair needing repair & overlay" comprised only 8.7% of the total miles rated.
- Miles of street that scored "Poor" comprised only 4.5% of the total miles rated.
- No streets received rating of "Very Poor" or "Failed".

EVALUATION RESULTS SUMMARY

Please keep in mind that a rating of "Poor" does not necessarily mean that a pavement is going to fail soon. Pavement deterioration rates will vary greatly from street to street.

Pavement deterioration rates depend on all of the following:
- Traffic loading (traffic count & avg. vehicle weight)
- Environment
- Quality of original construction
- Amount & type of interim maintenance procedures

STAFF'S RECOMMENDATION REGARDING RESURFACING FOR FY 14-15

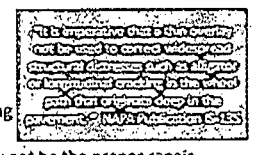
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STAFF'S RECOMMENDATION

- Streets w/rating of "Fair" and "Fair Needing Repair & Overlay":
  - Resurface as many linear feet as $100,000 budget will allow, of streets prioritized by Council.
  - FYI: Currently, asphalt overlay is approx. $0.74/sq.ft. (material only)

STAFF'S RECOMMENDATION

- Some streets that should be considered for resurfacing* during FY 14/15:
  - Morehead Rd.
  - Fern Ave.
  - Any street with rating of "Fair R/O" may be a candidate for resurfacing



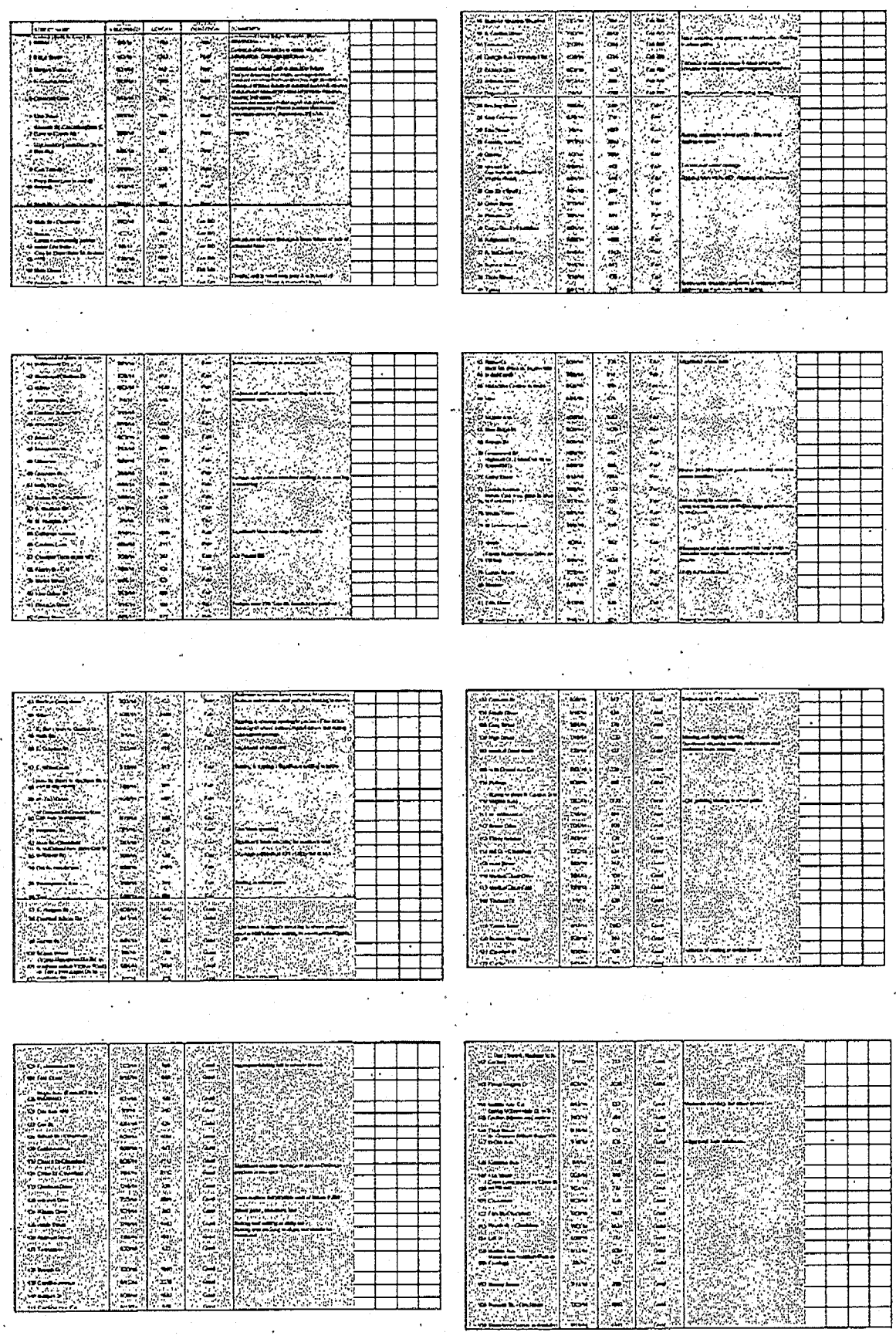
*Please note: A thin overlay may not be the proper repair method for the entire length of each street. Overlays should only be used to correct distresses that originate at the pavement surface.

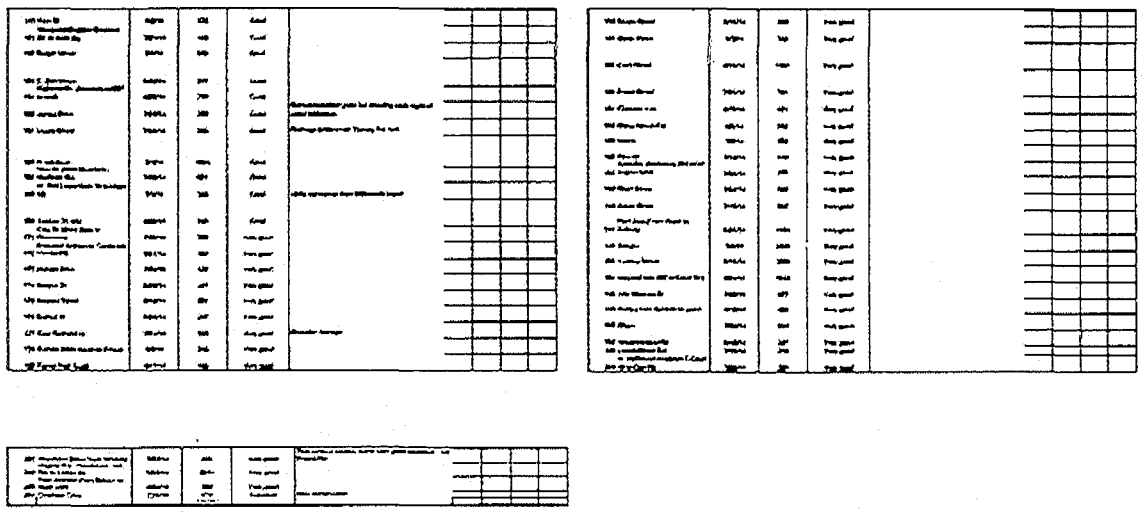
STAFF'S RECOMMENDATION

- Some streets that should be considered for repair & major overlay or rebuild when funding becomes available:
  - N. Garden St.
  - Ridge St.
  - Carson St.
  - Oakwood Dr.

ELEMENTS STAFF CONSIDERED

- Staff considered all of the following prior to forming its recommendation:
  - Surface Condition Ratings
  - Traffic Loading
  - Primary use of the street (i.e., cut-through, residential, etc.)
  - Budgeted amount for resurfacing
  - Drivability





The City Manager advised that Council's adopted Street and Sidewalk Priority List calls for the City spending about $100,000 on street resurfacing in 2014-15. This figure could probably be increased to around $110,000 if necessary. He suggested that the key was determining which streets Council wished to resurface first. The City Manager noted that Council may wish to focus on streets with the highest traffic counts first and added that some streets may need to be delayed for a few years, while additional repairs are undertaken.

Mayor Little and Council Members commended Mr. Sikes for an exceptionally through evaluation and report.

Council Member Clark stated that the City had undertaken some large street and drainage projects in recent years, which put the City behind with resurfacing. He suggested that the City now needed to make resurfacing a top priority. Council Member Clark said that he would like to look at the traffic counts and that traffic counts would be a determining factor for him in choosing the streets to be resurfaced. Council Member Doggett and Mayor Little said that they agreed with asking staff to compile traffic count numbers.

The City Manager advised that, if Council Members did not object, staff could focus on getting traffic count numbers and developing resurfacing recommendations for the 24 streets rated as poor or fair needing repair and overlay.

Mayor Pro Tem Cuthbertson asked if this information might be ready prior to the next Planning Session. The City Manager said that such information could likely be ready by the next Planning Session, especially if the Planning Session was held in late September or later.

Upon a motion by Council Member Clark, seconded by Council Member Doggettt, Council voted unanimously to direct the City Manager to obtain estimated traffic counts and develop a street resurfacing priority lists by the time of the next Planning Session, focusing on the 24 streets rated as poor or fair needing repair and overlay.

SCHEDULE CITY COUNCIL PLANNING SESSION: The City Manager advised that Council may wish to schedule the next Planning Session for September, at any date or time desired by them. The City Manager stated that he has a few important items that need to be discussed at the Planning Session.

Mayor Little suggested that Council look at going out of town for the Planning Session, as the City often did in the past. Mayor Little stated that he recently visited Big Lynn Lodge in Little Switzerland and suggested that as the location for the next Planning Session.

After discussion, Council settled on Friday, October 3 as the date for the Council Planning Session. Council Member Clark made a motion to schedule the Council Planning Session for Friday, October 3 at 9:00 A.M. at Big Lynn Lodge in Little Switzerland. The motion was seconded by Council Member Doggett and carried unanimously.

The City Manager stated that he would check on the availability of Big Lynn Lodge for October 3 and would advise the Mayor and Council Members accordingly.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that taxable retail sales for McDowell County for the entire 2013-14 Fiscal Year increased by 7.40 percent over the 2012-13 Fiscal Year. Taxable retail sales in the County grew from $271,353,329 in 2012-13 to $291,446,731in 2013-14. Taxable retail sales for North Carolina for 2013-14 increased by 4.73 percent over the 2012-13 amount. Therefore, McDowell County outpaced the State growth in retail sales for the 6th time in the past 8 years. The City Manager added that, between 2005 and 2014, McDowell County's taxable retail sales have grown by 34.56 percent, while North Carolina's taxable retail sales only increased by 8.66 percent. McDowell County's taxable retail sales have grown four times faster than the State since 2005.

The City Manager advised that the N.C. League of Municipalities is accepting policy proposals from member cities until August 31. The League asks that City Councils vote to approve any policies that are submitted. The City Manager reported that Council Member Clark suggested to him in mid-August that Council support a policy submitted by other cities to ask for more notice to be provided to cities prior to sales tax distribution changes being made by a County. Currently, State law allows counties to change the method of sales tax distribution as late as April 30, by which time most cities are close to having their budgets finalized. A sales tax distribution change does not include agreements entered into by cities and counties, as long as the actual method of distribution is not changed. The City Manager stated that Council direction on the City submitting and/or endorsing this policy proposal would be welcomed.

A discussion followed.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to approve the City submitting and supporting a policy proposal to the N.C. League of Municipalities to ask for more notice to be provided to cities prior to sales tax distribution changes being made by a County, with a six month notice preferred.

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The City Manager advised that the Tree Board met this morning and discussed possible planting locations for future Arbor Day Celebrations. Planting locations included the Broad Street/Railroad Street right of way, the Community Building Park, Phase 2 of the Catawba Greenway, City property at North McDowell Avenue and East Court Street and the Morehead Cemetery.

Council Member Clark said that he and the City Manager recently met with School Superintendent Mark Garrett to show him some ideas and concerns that have been brought to the City's attention around Marion Elementary and other areas that need improvement around the school. These concerns included addressing appearance issues, a bank washing mud onto the City sidewalk and parking and traffic flow issues. Council Member Clark said that Mr. Garrett was very receptive and would hopefully address these matters over time.

The City Manager stated that Tree Board Members had suggested sending principals of schools in the City and School Maintenance Director Garvin Trinks a letter to advise them that the City and Tree Board were available as a resource and source of advice regarding tree issues on school property in the City. The City Manager said that he would send such a letter, without objection, after checking with School Superintendent Mark Garrett on his preference regarding to whom the letter is sent. Mayor Little and Council Members expressed no objection to this letter being sent to school officials.

The City Manager stated that the N.C. Forest Service had lined up the new Forestry Club at the High School to complete the tree identification project at the Catawba River Greenway. He added that Tree Board Member Dr. Beverly Watts had also gotten agreement from McDowell Tech to make the tree identification signs, if the City paid for materials. Mayor Little said that he would like to review the plant names prior to the signs being made. The City Manager stated that he would give the proposed names to the Mayor for review, once the High School Forestry Club compiled the names.

The City Manager advised that he had worked with representatives of Job Link, Employment Security, McDowell Tech, the McDowell Chamber of Commerce and others on plans for the next Job Fair, which will take place at McDowell High School on Thursday, August 21 from 9:00 a.m. until 4:00 p.m. As authorized by Council, the City is providing a $250 sponsorship for the Job Fair. Several other organizations and a couple of businesses are also providing sponsorships.

The City Manager advised that the auditors were here from August 11-13, working on the 2013-14 City Audit. The auditors completed some preliminary work in June, such as checking inventory at the Warehouse. Finance Director Harriett Thomas advised that the audit seemed to go well and she was not aware of any issues found by the auditors. The City Manager commended Ms. Thomas on her hard work to maintain a great finance and accounting system that appeared to have, once again, led to a great audit.

The City Manager advised that the City property tax bills were mailed on August 8, a little earlier than usual. The preliminary property tax values for real and personal property look good and appear to be more than the 2014-15 Budget estimate.

The City Manager advised that, as directed by Council at the July 15 Council meeting, he and Mayor Pro Tem Cuthbertson will support McDowell County projects up for Isothermal Rural Transportation Planning Organization (RPO) funding at the August 20 RPO meeting, with the exception of the widening of Highway 226 between the US 221 Bypass and I-40 and the renovation of train stations, which Council did not wish to support. The City Manager stated that he would advise the Mayor and Council Members of the final project scoring approved by the RPO after this meeting.

The City Manager advised that, as previously discussed, McDowell Hospital has offered to assist the City with Wellness activities and programs at virtually no cost, except for a small charge for Lunch and Learn events. Even with this small charge, the City will still save money over what was normally paid to Subway in the past to cater such events. The Hospital will greatly increase their services to the City and presence at the annual Health Fair, offer one on one counseling with employees on health related matters, develop topics and provide speakers for City Lunch and Learn events based on the results of the last health screening, offer special classes such as smoking cessation and work with the City to develop a Wellness Plan. Given that the City will actually save money and receive additional services, the City Manager reported that he gave the go-ahead to the Hospital to start this program.

The City Manager advised that another exciting opportunity the Hospital may be able to offer the City and County, and potentially other employers as well, is Telehealth. He reported that Hospital representatives will meet with County Manager Chuck Abernathy and he in September to discuss the idea of the Hospital applying for a Facebook grant to implement Telehealth for City and County employees. The City Manager said that he would report back to the Mayor and Council Members, once more information was learned about this idea.

The City Manager advised that the City hopes to have Baker Grading and Landscaping start work on the construction of Phase 2 of the Catawba River Greenway by the end of August or early September. The completion date will depend on weather, but the City would like the paving to take place before asphalt plants shut down for the winter, if at all possible.

The City Manager stated that, without objection, the McDowell Trails Association would like to schedule a groundbreaking ceremony in the near future for Phase 2 of the Greenway. Mayor Little and Council Members agreed that it would be a great idea to hold a groundbreaking ceremony for Phase 2.

The City Manager reported that, as discussed at the July 15 Council meeting, Building Inspector Jay Suttles has looked closely at the City owned dilapidated house on Grayson Street Extension and recommended that the house be demolished. The City will proceed with the demolition while the property is owned by the City. Fortunately, an asbestos inspection did not reveal asbestos that needs to be removed. The demolition work will hopefully begin by the end of August. The vacant property can then potentially be sold.

The City Manager stated that the City also recently acquired property on Woodlawn Street behind the House of James Barber Shop. This property contains a dilapidated single wide mobile home. The City Manager advised that Mr. Suttles looked at this structure and agreed that it would be best to remove the structure. The City Manager stated that he agrees with removing the mobile home, while the City owns the property. There should be some scrap value for the metal. The City Manager reported that City staff are trying to determine ownership of the mobile home, which is technically personal property. If the mobile home is demolished, the vacant property can then potentially be sold.

The City Manager advised that the annual National Night Out Event took place on Main Street on August 5. Despite some initial threats of showers, the skies cleared and everyone had a wonderful evening. By 7:00 p.m., there was an excellent crowd. Sgt. Kellie Mann and the entire Police Department did a great job putting on National Night Out. The band was excellent and there was a wide array of fun, food and activities for the entire family. The City Manager stated that he sent thank you notes to the Police, Public Works and Fire Department in recognition of their help in putting on this great event.

The City Manager advised that the Oakwood Drive drainage project was completed in July. The City has some landscaping that will have to be planted in the fall, per the easement agreement with Sharon Parker.

Public Works Director Brant Sikes reported that the Utility Maintenance crew worked in June to replace the water line on Crescent Drive between North Garden Street and Fleming Avenue. In June and July, the Street crew worked to remove the existing asphalt surface and curbing. The Street

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crew began work on the curb and gutter replacement in late July. At the same time, a contractor started work on the street base. After the base and new curb and gutter are installed, the street will be resurfaced, hopefully around September.

Mr. Sikes stated that he had a company use ground penetrating radar to determine if there were any voids or sinkholes under James Drive. This survey did not reveal any apparent sinkholes, which is great news. Therefore, the City had planned to follow the recommendations of Randy Hintz's engineering evaluation and install a new drainage box at the intersection of James Drive and North Garden Street. The cost of this installation would have been minimal, compared to having to dig up the street to deal with sinkholes.

Mr. Sikes said that, when City staff looked closer at the project, they discovered that the foundation for the Smith apartment building (Evelyn Apartments) goes out to the road. Removing the old drain box would require jackhammering that could damage the foundation of the Smith apartment building. The solution might therefore end up being worse than the problem, especially since the ground penetrating radar did not reveal underground voids. The City Manager stated that he and Mr. Sikes agreed that it would be best to leave the existing, recently repaired drainage box in place, since the repairs that were made were holding well.

COUNCIL MEMBER COMMENTS: There were no Council Member comments.

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, September 2, 2014 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; Harriett Thomas, CPA, Finance Director; Brant Sikes, Public Works Director; Scott Spratt, Interim Police Chief; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Janice McNeil, 108 Sunshine Lane, Marion, NC; Vicki Baily, 132 Ladson Spring Trail, Mills River, NC; David and Rita Wooten, 420 Montevista Avenue, Marion, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

CITIZEN OF THE MONTH – SELECTED BY COUNCIL MEMBER EVERETTE CLARK: Council Member Everette Clark selected the Citizen of the September for May 2014.

DAVID WOOTEN

Council Member Everette Clark advised that he was pleased to recognize David Wooten as Citizen of the Month for September.

David grew up in the small town of Union Grove, N.C., located in Iredell County, and had three older brothers.

David graduated from Iredell High School in 1979 with honors and was Senior Class President. He then attended Appalachian State University in Boone, graduating with a double major, Marketing and Management, and being selected to "Who's Who among American Universities and Colleges."

David is married to Rita Wooten and is a member of First Baptist Church.

David's career in banking began in 1983 with BB&T. David subsequently worked with First Union National Bank, Mountain Bank/Carolina First Bank, Mountain 1st Bank and is currently Vice-President for Asheville Savings Bank in Marion and Black Mountain.

David also serves the Community as a Rotarian, having been a Past President of the Marion Rotary Club, an Assistant District Governor, the Rotarian of the Year for 2013-14 and a past recipient of the Service Above Self Award. David has also been a Trustee of the Corpening Memorial Foundation, on the board of the Good Samaritan Health Clinic, on the board of the McDowell Trails Association, a Deacon and Day Care Board Member at First Baptist Church, and much more.

Mayor Little and Council Members all shared kind words regarding Mr. David Wooten and thanked him for the difference he had made in the City of Marion and our community.

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

A. Approval of Minutes – August 19, 2014 Regular City Council Meeting Minutes

B. Approve Resolution – Fire Truck Financing Reimbursement

RESOLUTION FOR REIMBURSEMENT FROM THE PROCEEDS OF TAX-EXEMPT FINANCINGS FOR CERTAIN EXPENDITURES MADE AND/OR TO BE MADE IN CONNECTION WITH THE ACQUISITION OF A FIRE TRUCK AND RELATED EQUIPMENT

WHEREAS, the City of Marion (the "City") is a political subdivision organized and existing under the laws of the State of North Carolina; and

WHEREAS, the City has paid, beginning no earlier than August 27, 2014 and will pay, on and after the date hereof, certain expenditures (the "Expenditures") in connection with the purchase of a fire truck and related equipment; and

WHEREAS, the City Council (the "Council") has determined that the money to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period and it is necessaryto reimburse the City for the Expenditures from the proceeds of one or more issues of tax-exempt obligations (the "Obligations");

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

Section 1. The Coucil hereby declares the City's intent to reimburse the City with the proceeds of the Obligations for the Expenditures with respect to the purchase of the fire truck and related equipment made on and after August 27, 2014. The City reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Obligations.

Section 2. Each Expenditure will be (a) of a type properly chargeable to the capital outlay account under general federal income tax principles (determined in each case as of the date of the Expenditure) and (b) complies with all applicable General Fund regulations.

Section 3. The maximum cost of the Project is expected to be $491,571.

Section 4. The City will make a reimbursement requisition, which is a written requisition by the City that evidences the City's use of proceeds of the Obligations to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the fire truck and related equipment is placed in service, but in no event more than three years after the date on which the Expenditure is paid.

Section 5. This resolution shall take effect immediately upon its passage.

ADOPTED this 2nd day of September, 2014

Stephen R. Little, Mayor

Attest:

J. Robert Boyette, City Manager/Clerk

R-14-09-02-2

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

APPROVE USE OF WEST MARION COMMUNITY PARK FOR MADE IN MARION EVENT ON SATURDAY, SEPTEMBER 20: The City Manager advised that, as shown in information presented to Council Members, Mr. Daresse Henry has requested to hold a Made in Marion Event at the West Marion Community Park on Saturday, September 20. Mr. Henry has held this event in the past and it has been open to the entire community and a great day of fun and fellowship. He will have inflatables, a PA system and generators to power the equipment. The Police Department, Fire Department and EMS are lined up to be at this event.

The City Manager reported that, under the City Parks Policy adopted by Council in 2012, no person or group may have exclusive use of a City Park without approval by Council. In addition, no large toys such as inflatables, sound amplification or stages may be used without my permission. The City Manager stated that he had granted Mr. Henry approval for the use of the PA system, inflatables and generator. To formalize the approval, the City Manager recommended Council approval of the request by Mr. Daresse Henry to hold the Made in Marion Event at the West Marion Community Park on Saturday, September 20. There is no charge for such use of the Park.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to approve the request by Mr. Daresse Henry to hold the Made in Marion Event at the West Marion Community Park on Saturday, September 20, to include the use of inflatable toys, a PA system and generators.

DISCUSS POSSIBLE USDA GRANT/LOAN APPLICATION FOR SEWER EXTENSION: The City Manager advised that as previously reported, the Flatiron Group, LLC, received approval for N.C. Housing Finance Agency (NCHFA) tax credits for a 60 unit family apartment

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development, Harrison Trace Apartments, to be located on Airport Road near Jackson Road. The developer, Paul Fitch, is working on a potential USDA grant or loan application, for which the City will likely need to be the applicant, since the sewer work will be off-site. He has an engineer working on the design and cost estimates, which he preliminarily thought might run $350,000 to $400,000. The City Manager stated that Mr. Fitch understands that the property will need to be annexed to receive City services and has already talked about submitting the annexation petition as soon as he closes on the property. He advised that he would like to break ground on the project in March and be completed by early 2016.

Mr. Dennie Martin of Martin-McGill advised that USDA funding for this type of project was almost certain to be in the form of a loan. He suggested that the City enter into an agreement with the developer, providing for any grant or loan proceeds that are spent to be reimbursed by the developer if the project does not occur. Mr. Martin said that he believes that such an agreement would provide reasonable protection for the City. Mr. Martin added that the City Council would need to decide if this type of project was worth it to enter into such an agreement. He suggested that a development agreement is good, as long as both parties honor it.

Council Member Clark noted that, if the City seeks USDA funding, it will most likely be in the form of a loan. The City would be responsible for paying it and that the Local Government Commission would have to approve the loan.

Mayor Little asked what the security would be for this type of loan.

Mr. Martin stated that the collateral would be the actual sewer line in the ground. It would be impossible to default on this type of loan. Mr. Martin said that the key would be to draw up a binding contract between the City and developer. He noted that impact fees could also be used to cover a portion of the cost.

Mayor Pro Tem Cuthbertson asked about the specifics of the loan term.

Mr. Martin advised USDA allowed for a loan term of up to 40 years, although the City would likely wish to pursue a much shorter term.

Council Member Doggett asked if the City could pay off the loan early without penalty. Mr. Martin said that USDA would allow for loans to be paid off early, generally without much of a penalty.

The City Manager stated that an added protection for the City would be not to award the construction contract and start spending money on the project until the developer starts work on construction of the apartment development. He noted that the developer said he had an engineer selected, so the City should not to spend money up front on the project design.

Council Member Clark Make a motion to authorize the City Manager and Mr. Dennie Martin to move forward with exploring the possible USDA grant/loan application for the Airport Road apartment development sewer extension and bringing information back to Council at a future meeting for review. The motion was seconded by Council Member Martin and approved unanimously.

CONSIDER APPROVAL OF RESOLUTION OF INTENT TO CLOSE AN UNOPENED ALLEYWAY OFF OF OLD WEST HENDERSON STREET: The City Manager advised that, as shown in information presented to Council, McDowell County Farm Bureau has submitted an application to close an unnamed and unopened alleyway located off of Old West Henderson Street between Buncombe Street and Catawba Street. The request is also supported by William and Fay Wright, who own property on the other side of the alley from Farm Bureau. Farm Bureau and the Wrights are only proposing to close the alley next to their properties. The alley would remain in place off of East Hudgins Street. Farm Bureau wishes to address drainage problems and to install a fence, which is why they are requesting to close the alley.

The City Manager stated that the first step in the street closing process is the adoption of the attached 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. A public hearing will be held on the request at the October 7 meeting, after which time Council may take action to close the street and alley. The City Manager advised that no properties will be deprived of access as a result of this street closing.

Upon a motion by Council Member Martin, seconded by Council Member Doggett, Council voted unanimously to approve the Resolution of Intent as follows.

RESOLUTION OF MARION CITY COUNCIL
INTENT TO CLOSE A PORTION OF UNNAMED ALLEY

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 an unnamed alley off of Old West Henderson Street adjoining properties belonging to McDowell County Farm Bureau, Amber M. Clark, and William B. and Fay B. Wright as shown on a survey prepared by Mitchell Effler dated July 10, 2014, and as shown in Map Book 1, Page 149 on the Mount Mitchell Park Subdivision dated December 3, 1926.

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 October 7, 2014, 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 McDowell County Farm Bureau, 21 Buncombe Street, Marion, N.C. 28752, Amber Clark, PO Box 2881, Marion, NC 28752, and William B. and Fay B. Wright, PO Box 1688, Marion, NC 28752 who are the owners 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 at a regular meeting held on September 2, 2014.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Resolution Number: R-14-09-02-1

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SCHEDULE CITY COUNCIL PLANNING SESSION: The City Manager advised that, at the August 19 Council meeting, Council agreed to schedule the next Council Planning Session for Friday, October 3 at Big Lynn Lodge in Little Switzerland. The Big Lynn Lodge is not available on this date. The City Manager reported that Mayor Little had offered the use of his cabin at 107 Dogwood Court in Ridgecrest for the October 3 Planning Session.

The City Manager stated that a Planning Session could be explored for Spring 2015 at Big Lynn Lodge or another nearby location.

Upon a motion by Council Member Martin, seconded by Council Member Ramsey, Council voted unanimously to schedule the next Council Planning Session for Friday, October 3 at 9:00 a.m. at 107 Dogwood Court in Ridgecrest. Council will gather at Countryside Barbeque on Rutherford Road at 7:30 a.m. that morning for breakfast.

APPROVE VOTING DELEGATE AND ALTERNATE FOR N.C. LEAGUE OF MUNICIPALITIES CONFERENCE: The City Manager advised that Council action is needed to approve the voting delegate and alternate for the N.C. League of Municipalities conference in Greensboro from October 12-14. Council Member Clark, Council Member Doggett, Council Member Ramsey and the City Manager are attending this conference. The City Manager stated that, as usual, the City will send the League names of employees who have retired or passed away in the past year, so that retirement and memorial resolutions can be prepared.

Mayor Little said that he was sorry he could not attend the League Conference.

Council Member Doggett stated that she would not be able to attend the business meeting at the Conference.

Upon a motion by Council Member Ramsey, seconded by Council Member Doggett, Council voted unanimously to select Council Member Clark as the City's voting delegate and Council Member Ramsey as the City's alternate voting delegate for the N.C. League of Municipalities conference in Greensboro from October 12-14.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that, at the RPO meeting on August 20, the RPO Board assigned points for projects at the regional and division level. He stated that Mayor Pro Tem Cuthbertson and he supported the City and County projects, as previously authorized by Council. The City Manager noted that the RPO Board did not choose to assign points to rail line and train station improvements, which they did not consider to be feasible, stand-alone projects.

The City Manager reported that, at the regional level, the US 70 Bypass of Marion, the addition of a third lane and curb and gutter on Rutherford Road between Georgia Avenue and the US 221 Bypass, the widening of US 221 between the Bypass and I-40, the widening of US 221 between I-40 and Goose Creek Road, the widening of US 221 between Goose Creek Road and Polly Spout Road, the widening of US 221 North between North Cove Road and English Road and the widening of US 221 North between English Road and NC 194 in Avery County all received RPO points. In total, McDowell County received RPO points for 7 of the 13 regional projects.

The City Manager stated that, at the division level, the sidewalk extension on Sugar Hill Road between Shady Lane and I-40, the sidewalk extension on Baldwin Avenue, the sidewalk extension on the Five Lane and US 70, the addition of a third lane and curb and gutter on Rutherford Road between Georgia Avenue and the US 221 Bypass and the widening of Sugar Hill Road and the bridge over I-40 from just north of I-40 to south of Marion Travel Plaza all received RPO points. In total, McDowell County received RPO points for 5 of the 13 divisional projects.

The City Manager noted that the RPO Planner advised that, since McDowell and Rutherford County projects must compete with other projects in Division 13, which includes Asheville, the prospects for getting any of our highway projects included in 2016-25 Statewide Transportation Improvement Program (STIP) are slim. There is more of a chance that one or more of the City's three sidewalk projects could receive funding, although there is certainly no guarantee.

The City Manager reported that the RPO Board had previously discussed adopting a resolution opposing the new DOT funding formula and its effect on rural counties. The RPO Board decided to review the draft STIP project list when it is released in October and then adopt a resolution; with numbers that reflect what everyone expects will be a poor showing for rural counties. This resolution can then be distributed to individual cities and counties for adoption, with the resolution sent to the legislature.

The City Manager advised that the City worked with representatives of Job Link, Employment Security, McDowell Tech, the McDowell Chamber of Commerce and others on plans for the Job Fair that took place at McDowell High School on Thursday, August 21. As authorized by Council, the City provided a $250 sponsorship for the Job Fair. Several other organizations and a couple of businesses also provided sponsorships. The City Manager stated that there were approximately 550 people and more than 50 employers who attended the job fair. Last year, there were over 700 people and around 40 employers at the Job Fair held at the National Guard Armory. The City Manager reported that around 25-30 percent of the attendees came from outside the County. He suggested that the lower attendance at the Job Fair perhaps indicates that a smaller number of local people are seeking work.

The City Manager advised that he had received requests from Mr. Perry Smith requesting a turn around at the end of East Hudgins Street and a sidewalk on Catawba Street. It was the consensus of Council Members to refer these requests to the Street Committee for review and a recommendation back to Council at a future meeting.

The City Manager stated that the City hopes to have Baker Grading and Landscaping start work on the construction of Phase 2 of the Catawba River Greenway in early September. A preconstruction meeting will be held prior to construction work taking place. The completion date will depend on weather, but the City would like the paving to take place before asphalt plants shut down for the winter, if at all possible.

The City Manager reported that the McDowell Trails Association had asked Council to schedule the date for the groundbreaking for Phase 2 of the Greenway. Mayor Little and Council Members agreed by consensus to schedule the Greenway Phase 2 groundbreaking for Wednesday, October 1 at 12:00 Noon.

The City Manager advised that Public Works Director Brant Sikes had scheduled the Community Building new sound system installation and ceiling replacement for the week of September 22-26. This week was selected because there was only one scheduled rental of the Community Building Main Level during this time, the Marion Rotary Club. The Rotary meeting will be relocated to either the Depot or Community Building Basement.

Mr. Sikes stated that the Crescent Drive project is making good progress, with approximately 70 percent of the new curb installed and 90 percent of the grading work finished. The project is about a week behind schedule due to rain. Mr. Sikes added that the residents of Crescent Drive have been very patient and excellent to work with during this project.

The City Manager advised that funding commitments had been received from Council, the County the TDA, the Chamber and MEDA to pay for the entire $4,292 up front cost for the website portal/community calendar project. The City and County will provide 25 percent funding each, the TDA

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and Chamber 20 percent each and MEDA 10 percent. As previously reported, the project will provide a website portal for the community with links to local government, tourism, recreation, retirement, relocation, business, economic development and health care websites, among others, as well as a search engine component. The City Manager reported that there will be an additional cost for organizations that wish to participate in the search engine. He noted that the estimated cost for the City, County, Chamber and TDA should be around $2,000 each. The web portal will most likely link to the 30 or so local governmental and non-profit organizations that have been identified, at no charge, but there would be a cost of around a few hundred dollars for organizations to be part of the search engine.

The City Manager said that, with funding commitments now in place, this project may able to start within the next 30-60 days.

COUNCIL MEMBER COMMENTS: Council Member Clark asked the City Manager to discuss the proposed cell tower mentioned in his written report.

The City Manager stated that the City had talked to a company that apparently intends to submit an application to construct a cell tower on the McDowell County Rescue Squad property on State Street. The City Manager advised that the company would need to comply with the City's Communications Ordinance, but would most likely be seeking a variance from the fall zone requirements, since the Rescue Squad buildings would be located within the fall zone.

Council Member Clark advised that cell towers often generate controversy in other communities. He said that he hoped there would be an opportunity for a public hearing on this request, so that the public could state its opinion regarding the matter. The City Manager stated that he would forward the Mayor and Council Members information on the approval process and noted that no application had been submitted as of yet.

Council Member Clark stated that he had noticed more empty buildings in the downtown area and asked if there were factors contributing to businesses closing. The City Manager advised that the business closings were for a variety of reasons, ranging from retirements to not enough business being generated. The City Manager noted that there were many positive indicators concerning the local economy, including retail sales being up, a net gain in businesses in the City over the past three years and an unemployment rate that was now lower than all surrounding counties except Buncombe.

Council Member Martin said that he had heard that some property owners downtown charge rents that are too high, which has contributed to the number of empty buildings.

Mayor Pro Tem Cuthbertson stated that he had received a request from a citizen that, when employees clean the Catawba River Greenway, they blow the leaves off the trail.

Council Member Ramsey stated that he had noticed that some of the name plates on benches on Main Street are coming off. The City Manager asked Public Works Director Brant Sikes to make sure that the name plates are reattached.

ADJOURNMENT: Upon a motion by Council Member Doggett, seconded by Council Member Ramsey, Council Members 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 16, 2014 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; Scott Spratt, Interim Police Chief; Brant Sikes, Public Works Director; 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 Ramsey seconded by Mayor Pro Tem Lloyd Cuthbertson, Council voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – September 2, 2014 Regular City Council Meeting Minutes.

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

RECEIVE STREET COMMITTEE RECOMMENDATIONS: The City Manager advised that the Street Committee met on September 12 and reviewed the requests from Mr. Perry Smith for a turnaround at the end of East Hudgins Street and for a sidewalk extension on Catawba Street off of Old West Henderson Street. The Street Committee felt that the turnaround would only be feasible if property was donated by an adjacent property owner, since the City right of way is narrow in that location. City Council agreed by consensus to authorize staff to talk to the adjacent property to see if there is any interest in donating necessary property to allow for the turnaround to be constructed. Staff will report back to Council at a future meeting once contact is made with the adjacent property owner.

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The City Manager reported that the Street Committee felt that construction of a sidewalk is not feasible in the near future, due to many other identified street and sidewalk priorities and the need for the City to focus on street resurfacing. Council Member Ramsey said that he saw no need to put this project on the bottom of the list, knowing that it would take many years for the City to complete the project. Council took no action to approve the sidewalk extension at this time, but noted that the project could be considered in the future if there is significant interest from the neighborhood.

MARKETING WEB PORTAL PROJECT UPDATE: The City Manager advised that, as previously discussed, funding commitments are in place from Council, the County the TDA, the Chamber and MEDA to pay for the entire $4,292 up front cost for the website portal/community calendar project to be completed by VanNoppen and Allison. The City Manager presented Council with a copy of the proposal from VanNoppen and Allison.

The City Manager reported that the City and County will provide 25 percent funding each, the TDA and Chamber 20 percent each and MEDA 10 percent. The project will provide a website portal for the community with links to local government, tourism, recreation, retirement, relocation, business, economic development and health care websites, among others, as well as a search engine component.

The City Manager stated that the estimated cost for the City, County, Chamber and TDA should be around $2,000 each. The web portal could link to the 30 or so organizations that have been identified for free, but there will be a need to charge around a few hundred dollars for organizations to be part of the search engine.

The City Manager advised that he, along with Freddie Killough, Steve Bush and Carol Price, met with Allen VanNoppen on September 8 to discuss kicking off this project. Now that funding commitments are in place, this project may be able to start within the next 30-60 days. The City Manager reported that Mr. VanNoppen anticipates that the web portal would be completed around the first of the year, along with the initial search engine to include the City, County, TDA, MBA, Chamber and MEDA. Once there is a test run of the search engine, it could then be presented to other non-profit organizations and governmental entities to see if they wish to pay to be included in the search engine. The goal would be to have the search engine include all of the initial organizations that wish to participate by Spring 2015. The City Manager suggested that additional organizations could be added in the future and the web portal could be updated or changed as necessary.

Mayor Little stated that this is a wonderful idea. No action was needed by Council on this item, since Council previously approved City funding for this project.

WELLNESS PROGRAM UPDATE: The City Manager advised that, as previously discussed, McDowell Hospital has offered to assist the City with Wellness activities and programs at virtually no cost, except for a small charge for Lunch and Learn events. Even with this small charge, the City will still save money over what it normally paid restaurants to cater such events. The Hospital will greatly increase their services to the City and presence at the City's annual Health Fair, offer one on one counseling with employees on health related matters, develop topics and provide speakers for City Lunch and Learn events based on the results of the last health screening, offer special classes such as smoking cessation and work with the City to develop a Wellness Plan. Given that the City will actually save money and receive additional services, the City Manager stated that he gave the go-ahead to the Hospital to start this program.

The City Manager reported that one exciting opportunity the Hospital may be able to offer the City and County, and potentially other employers as well, is Telehealth. This program is being introduced into the School System this year and allows employees (or students, in the case of McDowell County Schools) to see a physician's assistant or physician remotely. If necessary, the employee or patient can be referred to go see a physician in person, but in many cases, the problem can be handled remotely. The City Manager stated that the main benefits of Telehealth are saving time and money for City and County employees and reducing insurance claims charged against the City and County.

The City Manager suggested that this is a lower cost version of the medical clinic idea. He noted that he and Finance Director Harriett Thomas, along with a County representative, met with McDowell Hospital representatives on September 10 to discuss the Telehealth idea and the Hospital potentially applying for a Facebook grant to implement it. City and County staff thought that it would be good for the Hospital to pursue the grant. If the grant is approved, the City and County could then discuss program details with the Hospital. The City Manager noted that the ideal situation would be Mission Health Care offering a deal to the City and County like it provided to Mission employees, with a $15 co-pay being charged for Telehealth visits and no insurance claim being filed.

Mayor Little and Council Members agreed by consensus that it would be worthwhile to have Mission apply for the Facebook grant and then discuss details on a possible Telehealth program if the grant is awarded. The City Manager said that he would provide an update of this potential project and grant application as soon as information became available.

APARTMENT DEVELOPMENT UPDATE: The City Manager advised that, as previously reported, the Flatiron Group, LLC, received approval for N.C. Housing Finance Agency (NCHFA) tax credits for a 60 unit family apartment development, Harrison Trace Apartments, to be located on Airport Road near Jackson Road. The developer, Paul Fitch, is working on a potential USDA loan/grant application, for which the City would likely need to be the applicant. Mr. Fitch understands that the property will need to be annexed to receive City services, something that he wants. He advised that he would like to break ground on the project in March and be completed by early 2016.

Council Members had discussed this project and the potential USDA application at the September 2 Council meeting, directing the City Manager to work with Dennie Martin of Martin-McGill, Mr. Fitch and USDA to learn more specifics.

The City Manager stated that he and Dennie met with Mr. Fitch and spoke further with USDA about the project. The City will almost certainly not qualify for a grant and will instead be looking at a loan, with a potential term of up to 40 years. The City Manager advised that Mr. Fitch is willing to enter into an agreement with the City, providing for the off-site sewer extension costs to be funded by the USDA loan to be paid back to the City over time.

The City Manager noted that Council Member Clark had suggested that the City look at a gravity sewer option past the apartment site and Autumn Care Nursing Home, down Airport Road and Holly Street to Garden Creek Road as an alternative to Mr. Fitch pumping wastewater flow from the apartment development to a City manhole on Fleming Avenue near Bakersville Road. Council Member Clark stated that he thought that the gravity sewer option should be explored, to see how much it would cost and how much Mr. Fitch and Autumn Care would pay toward the project. Council Member Clark suggested that the gravity sewer route would open up a great deal of potential City service territory and future annexation opportunities. He stated that he thought the project would be worth the City putting in $300,000 or more, if necessary, particularly if the City could pay for the extension through a loan.

Public Works Director Brant Sikes said that gravity sewer should definitely be possible along the described route.

A discussion was held by Council concerning the gravity sewer idea. After discussion, Mayor Little and Council Members directed the City Manager to explore the idea of a gravity sewer extension past the apartment site and Autumn Care Nursing Home, down Airport Road and Holly Street to Garden Creek Road, as an alternative to Mr. Fitch pumping wastewater flow from the apartment development to a City manhole on Fleming Avenue near Bakersville Road. The City Manager stated that he and Mr. Sikes would obtain a cost estimate for this project, determine

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how much money Mr. Fitch and Autumn Care would pay toward the project, calculate how much City funding would be needed and then report back to Council concerning this project at a future meeting.

Mayor Little stated that the performance agreement with the developer and/or Autumn Care would need to provide for security for the City to the greatest degree possible, to ensure that the City would be paid back for the cost share of the project agreed to by Mr. Fitch and Autumn Care.

Council Member Doggett suggested that Autumn Care may be willing to contribute money, to enable them to eliminate their private wastewater pump station and associated maintenance costs.

DISCUSSION OF CATAWBA RIVER GREENWAY PHASE 2 PROJECT: The City Manager advised that Baker Grading and Landscaping is underway with construction on Phase 2 of the Catawba River Greenway. With the Phase 2 project, the City will be encountering pumps that Benfield Nursery has in place to irrigate his nursery stock on land he leases from Great Meadows (the Phillips family) behind the old Wal Mart building and McDowell Square Shopping Center. The City Manager said that City staff originally thought that the pumps would simply be relocated off City property to the property Mr. Benfield leases. However, Mr. Benfield says that the pumps need to be located within 30 feet of the Catawba River. In order to have access granted to the contractor by Mr. Benfield, the City had to agree to put his pumps underneath a small shelter, with fencing surrounding the shelter. The City Manager reported that Planning and Development Director Heather Cotton worked with Mr. Benfield on a design for the smallest shelter and the lowest cost that was possible. Staff did not consider the fence to be an issue, since the City would definitely want a fence surrounding the pumps, for safety reasons.

The City Manager advised that, since Mr. Benfield's pumps will continue to be on City property, the City needs to enter into a lease with Mr. Benfield. Under State law, Council may lease City property for up to one year with no notice. Council may lease City property for one to ten years by a resolution adopted at a regular meeting, after ten days' published notice. Leases of ten years or more must be handled in the same manner as a sale of property.

The City Manager reported that Great Meadows leases Mr. Benfield 58 acres at $300 per acre per year, for a total lease payment of $17,400 per year. The City Manager said that the City cannot give away property in a lease to a private company, so the lease probably needs to have some value. Based on the lease rate that Great Meadows charges Mr. Benfield, The City Manager stated that Mayor Little suggested a lease rate of $20 per year. The McDowell Trails Association will cover this lease cost.

The City Manager advised that the proposed lease needed to be advertised first and that he was simply seeking Council agreement on the general terms of the lease, which could be advertised, with a resolution considered for adoption to approve the lease at the October 7 Council meeting.

Upon a motion by Council Member Martin, seconded by Council Member Ramsey, Council voted unanimously authorize staff to proceed with advertising notice of the intent of Council to enter into a lease of part of the City's Catawba River Greenway Phase 2 property with Benfield Nursery for up to 10 years, at an amount not to exceed $20 per year. Council will consider adoption of a resolution to approve the lease terms at the October 7 Council meeting.

ADD ON – DONATION OF PROPERTY – VALE STREET: The City Manager advised Mr. Joseph Eckerd and Mr. John Eckerd wish to donate a 0.32 acre parcel on Vale Street to the City of Marion, McDowell County Tax Identification Number 1701.12-85-4380. The City Manager stated that this property has several City utility lines located on it, which will make development very difficult. He suggested that, if Council accepts the donation, the City could then likely sell the property to a neighboring property owner, reserving easements for the City utility lines.

Council Member Clark stated that he hopes there are no environmental issues with this property. Public Works Director Brant Sikes said that he had been on the property and did not observe any environmental issues.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to accept a donation from Mr. Joseph Eckerd and Mr. John Eckerd of a 0.32 acre parcel on Vale Street, McDowell County Tax Identification Number 1701.12-85-4380.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that, as previously reported, City property tax bills were mailed on August 8, a little earlier than usual. He noted that the City's total tax base ended up being a little more than $2 million over what was estimated in the 2014-15 budget, which should result in additional revenue for the City.

The City Manager advised that the Community Building new sound system installation and ceiling replacement will take place the week of September 22-26. During the week of September 22-26, only the Marion Rotary Club will be impacted. The Rotary Club will utilize the Depot for their September 25 meeting.

The City Manager reported than final landscaping work was taking place on the Oakwood Drive drainage project.

Public Works Director Brant Sikes gave an update on the Crescent Drive curb and gutter project, advising that the last driveway approaches were being poured that week and that the street resurfacing should take place by early October, finishing the project.

The City Manager advised that the City has not yet received an application for a cell tower to be located behind the Rescue Squad on State Street. The proposed tower may be as tall as 300 feet. The request will go before the Planning Board/Board of Adjustment for review. A variance will likely have to be issued from the fall zone requirement, since the Rescue Squad buildings would be within the fall zone. The request, if received, would be advertised. The Planning Board would make a recommendation to City Council and public notice would be provided of the public hearing before City Council.

Mr. Sikes gave an update regarding the wastewater collection system inflow and infiltration (I & I) evaluation and repairs and manhole inspections. Through August, City staff have identified 109 sources of I & I and repaired or had property owners repair 64 percent of the sources. In addition, many manholes have been inspected and some repaired. The evaluation work is running ahead of schedule and the N.C. Department of Environment and Natural Resources has been very pleased with the City's progress.

COUNCIL MEMBER COMMENTS: Council Member Clark asked that the sidewalk on Fleming Avenue by Marion Elementary School be cleaned because of mud and runoff. He noted that McDowell County Schools had been asked to plant ground cover on the bank next to Marion Elementary School, but had not yet done so. The City Manager asked if Council would authorize City staff to have the bank planted, to stop the erosion and to prevent City staff from having to continually clean the bank. Mayor Little and Council Members agreed by consensus to authorize the City Manager to have this bank planted by the City to prevent erosion.

Council Member Martin asked that City staff look at the condition of the sidewalk on East Court Street between City Tire and Big Daddy's Convenience Store. The City Manager stated that City staff would assess this section of sidewalk and take appropriate action.

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Mayor Pro Tem Cuthbertson advised that the recent series of articles in the McDowell News on Marion's downtown compared Marion to Morganton, which he said was not a fair comparison. He noted that Morganton has an electric and cable utilities and resources the City of Marion does not have. Mayor Pro Tem Cuthbertson advised that Downtown Morganton also has numerous vacant buildings, like Marion. Council Member Clark added that Morganton also receives a sizable direct appropriation of Community Development Block Grant funds each year, while smaller cities like Marion must compete for such funds.

Council Member Doggett asked if traffic counts were being taken on North Garden Street. The City Manager reported that traffic counts were being taken on this and other streets, as part of the development of street resurfacing recommendations for 2014-15 and future years.

Council Member Ramsey asked that NCDOT be contacted to look at the traffic signal at West Court and Logan Streets, since the signal was only letting a few school buses through each afternoon that were lined up to turn left from Logan Street onto West Court Street. The City Manager said that he would contact NCDOT and ask that they assess this location during the afternoon school rush and make needed changes to the programming of the traffic signal.

Mayor Little reminded Council Members of the Planning Session scheduled for Friday, October 3, beginning at 9:00 a.m. at his cabin located at 107 Dogwood Court in Ridgecrest.

ADJOURNMENT: Upon a motion by Council Member Ramsey, seconded by Council Member Doggett, Council Members 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 Friday, October 3, 2014 at 9:00 A.M. at 107 Dogwood Court in Ridgecrest, North Carolina.

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; Harriett Thomas, CPA, Finance Director; Heather Cotton, AICP, Planning and Development Director; Brant Sikes, Public Works Director; Jennifer Jackson, City Attorney; Dennie Martin, Martin-McGill; Mike Dowd, McGill Associates.

OPENING OF MEETING: Mayor Little opened the meeting.

FINANCIAL OVERVIEW: The City Manager provided a financial overview for the City in the following areas:

1. 2013-14 Revenue and Expenditure Report/Fund Balance
2. Current Debt
3. 2014-15 Budget Outlook
4. 2015-16 and Future Years Outlook

No action was taken on these items. Items requiring City Council action will be included in 2014-15 Budget Ordinance Amendments, included in future budgets or placed on future City Council meeting agendas for consideration.

PRESENTATION OF OLD FORT-MARION WATER AND SEWER STUDY: Mike Dowd of McGill Associates and Dennie Martin of Martin-McGill gave a report to Council of the recently completed Old Fort-Marion Water and Sewer Study, which was paid for by a former North Carolina Rural Center Grant, City funding and funding from the Town of Old Fort.

Mr. Dowd discussed options studied for interconnection and/or consolidation of the water and wastewater systems of the City and Town. Mr. Martin discussed financing options for the costs of the interconnections, which exceed $6 million for wastewater and would cost close to that amount for a fully connected and upgraded water system. Mr. Martin noted that an initial water connection that would simply fill the gap between the two systems would cost an estimated $2.3 million. Mr. Martin stated that grant funds are much more limited now than in year's past and suggested that the project would probably only occur if the City borrowed money and took payment from Old Fort in the form of water.

Mr. Martin proposed that the City keep the idea of the water connection alive until such time as grant funds become available to fund a significant part of this project, the Town of Old Fort shows interest in the idea and the City needs additional water supply.

The City Manager advised that the City is fortunate not to need additional water supply at the current time and has the option of a lower cost, emergency water intake on the Catawba River, if absolutely necessary.

Mayor Little thanked Mr. Martin and Mr. Dowd for their work on this project and for their presentation.

No action was taken by Council on this matter.

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CLOSED SESSION TO CONSULT WITH CITY ATTORNEY: Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Doggett, Council voted unanimously to go into Closed Session in accordance with N.C.G.S. 143-318.11(a)(3) to consult with the City Attorney to preserve the attorney-client privilege between the City Attorney and the City Council.

REGULAR SESSION: Upon a motion by Council Member Martin, seconded by Council Member Doggett, Council voted unanimously to go back into Regular Session. Mayor Little announced that no action was taken during the Closed Session.

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

1. Street Resurfacing - Public Works Director Brant Sikes and the City Manager presented information on street resurfacing recommendations for 2014-15. Given that it is October, it was agreed that the City will likely bid out street resurfacing in the Spring. The final street resurfacing list will be developed at that time.

2. Automated Water System Replacement - Finance Director Harriett Thomas and the City Manager discussed the planned replacement of the City's automated water meter reading (AMR) system, to take advantage of new technology and low interest rates. The AMR system is currently being bid out and bids that are received will be reviewed by Council at an upcoming meeting. The City will finance part of this expense, since interest rates are at historical lows. Council agreed with using the City's Water and Sewer Capital Reserve Fund, which currently contains over $254,000, and then financing the remaining amount. Ms. Thomas noted that the City will also be required to obtain approval from the North Carolina Local Government Commission.

3. Morehead Cemetery - A discussion was held on Morehead Cemetery off of Morehead Road. The City took over maintenance of this Cemetery on July 1. The City is looking at improving the access road, installing a sign for the Cemetery and ideally acquiring property for access and a parking lot from the U.S. Department of Justice. The USDOJ acquired a residence on Morehead Road next to the Cemetery several years ago and has indicated interest in giving the property to the City. Council agreed with pursuing the acceptance of the USDOJ property, if it can be provided to the City.

4. Oak Grove Cemetery Mausoleum – The City Manager advised that the Oak Grove Cemetery Dove of Peace Mausoleum has 18 of 64 crypts available. The City has a Cemetery Fund that builds up money for the construction of additional mausoleum units. The construction of a new mausoleum, funded mainly by Cemetery Fund proceeds, will likely be pursued in the 2015-16 budget. Council agreed that the new mausoleum unit should be constructed on the Rutherford Road side of the current mausoleums.

5. Community Building Exterior Restrooms - Public Works Director Brant Sikes presented options for constructing a small exterior block restroom structure at the Community Building. Mayor Little and Council thought that the structure should be pursued, at the contracted price of $20,000. A Budget Ordinance Amendment will be prepared to allow Council to consider the approval of this expenditure at an upcoming meeting.

6. Mt. Ida Property – Public Works Director and the City Manager discussed plans for completing the access road and parking lot for the City's Mt. Ida property, which was purchased with grant funds several years ago. The City will also construct trails and eventually a small picnic shelter.

7. South Main Street Gazebo Park – The City Manager advised that a formal request had been submitted to NCDOT for the City to be given the South Main Street Gazebo Park property at South Main Street and Morgan Street. NCDOT owns this property, but the City has maintained it for decades. Council Member discussed an interest in some minor improvements to the park, but only at such time as the City is given the property by NCDOT.

8. Use of Foreclosed Property - Council held a discussion regarding several foreclosed properties the City owns. Planning and Development Director Heather Cotton proposed that the City hold on to these properties, until such time a non-profit group could be found to accept such properties and to construct new housing. This would be a way to begin replenishing the City's housing stock. In the past, the City has sold such properties, usually to neighbors, but the City Manager noted that such sales almost never resulted in any development. Mayor Little and Council Members expressed general agreement with the City pursuing the idea of working with a non-profit organization or organizations that could construct housing in the City and asked staff to explore this idea further.

9. Sidewalk Cafes – The City Manager stated that requests had been made indirectly from downtown food and drink establishments for allowances to be created for sidewalk cafes, where alcohol could be served at tables in defined areas on the sidewalk. The City Manager reported that many cities in Western North Carolina provided such allowances. Mayor Little and Council Members expressed their general agreement with the concept, provided that adequate protections are put in place. City staff will research ordinances from other communities and make recommendations to Council for consideration. The recommended ordinance will also be reviewed by the City Attorney and the City's insurance agent.

10. Farmer's Market - Council discussed the idea of allowing more commercial events at the Farmer's Market. Council will consider such events if requests are made, but did not wish to provide for blanket approval, especially if alcohol was served.

11. Health Insurance – The City Manager discussed health insurance options for future fiscal years with Council. He stated that some cities and counties have received General Assembly approval to join the State Health Plan, which apparently provides for more stability with premiums. The City will see what the premiums will be with the next health insurance renewal next Spring and then determine whether health insurance should be bid out again or other options, such as asking local legislators for permission for the City to join the State Health Plan, should be pursued. Any such decisions will be made by Council.

12. Supplemental Insurance – Finance Director Harriett Thomas reported that the City continued to receive requests from additional companies to offer supplemental insurance products through payroll deduction to City employees. The City currently has four companies offering supplemental insurance to City employees. A survey of other cities and counties showed that other communities cap the number of supplemental insurance providers, many of them only allowing in one company. Ms. Thomas and the City Manager suggested that the City grandfather in existing companies and not allow any others in, since very few policies were being sold anyway. No Council action was required, but Council agreed with the staff recommendation to grandfather in existing supplemental insurance companies and not to allow in any other companies.

13. Debit/Credit Card Payments – Finance Director Harriett Thomas presented options for the City to purchase equipment to accept debit and credit card payments. The City has adequate funds for the small amount of up front investment required, so no formal Council action was needed. Mayor Little and Council Members expressed their agreement with the City accepting debit and credit cards. This program will start at first with debit and credit cards accepted in person at City Hall. Any transaction fees will be passed on to the customer, as McDowell County and most other local governments do.

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14. Downtown Web Cams - Mayor Little suggested that the City obtain another web cam facing south on Main Street. It was agreed that City staff will talk to the City's information technology consultant and obtain an exact location for the camera, which most likely would be near the current web cam that faces north on Main Street.

15. Community Building Usage – The City Manager discussed with Council the free use of the Community Building Main Level allowed for one non-profit organization, the Red Cross. All other organizations must pay for the use of the building. Council agreed to consider changes to the Community Building Rules to make it clear that all non-profits using the Community Building Main Level must pay at least the civic club/non-profit rate, unless given a specific waiver by Council for a particular event.

16. Golf Cart Usage – The City Manager advised of a recent request by a citizen for the City to allow for street legal golf carts on streets in the City. State law allows for cities, by ordinance, to allow for street legal golf carts on streets 35 mph or less. The City Manager noted that Police Chief Allen Lawrence did not think that such an allowance was advisable. Mayor Little and Council Members expressed their opinions that allowing golf carts on streets in the City would not be safe and should not be pursued, given the traffic volume on many streets.

17. Electronic Cigarettes – The City Manager reported that other cities and counties were beginning to discuss the adoption of ordinances to prohibit electronic cigarettes and vapor products in local government buildings. It was agreed that the City Manager would research ordinances and bring recommendations for prohibiting electronic cigarettes and vapor products in local government buildings and facilities back to Council.

18. North Carolina Rural Center - Council Member Everette Clark gave an update on the North Carolina Rural Center, where he serves as a Board Member.

No action was taken on these items. Items requiring City Council action will be included in 2014-15 Budget Ordinance Amendments, included in future budgets or placed on future City Council meeting agendas for consideration.

Council Members and City staff thanked Mayor Little for providing his cabin for the Planning Session at no charge to the City.

ADJOURNMENT: Upon a motion by Council Member Clark, seconded by Council Member Ramsey, 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, October 7, 2014 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, Billy Martin and Don Ramsey.

Council Member Doggett was not present for this meeting due to being out of town on a Church trip.

OTHERS PRESENT: Bob Boyette, City Manager; Tammy Rose, Personnel and Payroll Technician; Allen Lawrence, Police Chief; Brant Sikes, Public Works Director; Heather Cotton, AICP, Planning and Development Director; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Sandra Queen, K-2 Teacher at Pleasant Gardens Elementary School, Teaching Assistant Alisha Painter and their K-2 students; Mark Garrett, Superintendent, McDowell County Schools; Susan Westall, Principal, Pleasant Gardens Elementary School; David and Tiffany Elliott, 175 Deep Woods Drive, Marion NC; Heath Helms, 1826 Toms Creek Road, Marion NC; Marlean Duncan, 652 Deep Woods Drive, Marion NC; Ashley Thornton, 1840 Toms Creek Road, Marion NC; Jeremy and Amanda Staton, 224 Walnut Street, Marion NC; Julie and Judy Padgett, 40 Climbing View Drive, Marion NC; Pat and Gwen Gowan, 6621 Buck Creek Road, Marion NC; Ricky and Heather Buchanan, 618 Forest Hill Drive, Marion NC; Kedron Hendley, 194 Deep Woods Drive, Marion NC; Garvin and Louanne Trinks, 2334 Lytle Mountain Road, Marion NC; Kevin and Kim Owenby, 1761 Nix Creek Road, Marion NC; Iris Lawing, 676 Deep Woods Drive, Marion NC; Jason Allison, 1464 Stacy Hill Drive, Marion NC; Melinda McKinney, 26 Palmer Drive, Marion NC; Kendall Waugh, 25 Alma Morgan Drive, Marion NC; Thomas and Catriona Young, 208 Wren Brook Drive, Nebo NC; John Whittemore, 181 Crescent Drive, Marion NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

PUBLIC APPEARANCE – PLEASANT GARDENS ELEMENTARY SCHOOL – POETRY PRESENTATION: Mayor Little recognized Pleasant Gardens Elementary School K-2 teacher Sandra Queen and her K-2 class to make a special presentation to the City Council.

Ms. Queen advised that, several months ago, she learned of a program taking place in Charlotte and other communities where students write poems and then work with an artist to create a mural based on the poem. Ms. Queen said that she met over the summer with City Manager Bob Boyette, Planning and Development Director Heather Cotton and Marion Business Association Executive Director Freddie Killough to develop this idea.

Ms. Queen said that her students have been working on a poem and wanted to share information about the program and their plans with Council. The poem will be about birds and hopes and dreams. Ms. Queen stated that McDowell Arts Council Executive Director Susan Pyatt Baker is working with her to find and fund an artist to paint a mural based on the class poem. The mural will most likely be painted on a downtown building.

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Ms. Queen stated that Pleasant Gardens Elementary Literacy Coordinator, Iris Lawing, and School Principal Susan Westall have been extremely supportive of this project.

Ms. Queen's students spoke to Council about the poetry project, the plans for the mural and their desire to help make Downtown Marion a more beautiful place. After the presentation, Mayor Little and Council Members gave the students a standing ovation and thanked Ms. Queen, Ms. Painter, Ms. Lawing, Ms. Westall and the students for their efforts. The students had photographs taken with the Mayor and Council Members and shook hands with the Mayor and all Council Members.

McDowell County Schools Superintendent Mark Garrett thanked Mayor Little and Council Members for their support of this project and for all of the support and encouragement provided by the City to the School System.

Ms. Queen said that the students would come back in the Spring and present the finished poem to Council.

CONSENT AGENDA: Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, those members of Council present voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – September 16, 2014 Regular City Council Meeting Minutes.

B. Adoption of Resolution Directing the Clerk to Investigate a Petition for Annexation

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-58.1 – AIRPORT ROAD/HARRISON TERRACE - 2014

WHEREAS, a petition requesting annexation of an area described in said petition was received on September 15, 2014 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 7th day of October, 2014.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-14-10-07-1

C. Approval of Budget Ordinance Amendments

CITY OF MARION, NORTH CAROLINA
2014-2015 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 2014-15 as adopted by the Marion City Council on the 17th day of June, 2014 is hereby amended as follows:

GENERAL FUND

a. General Fund Expenditures, Fire, Account Number 10-530-7400, Capital Outlay is increased from $20,050 to $511,621.

b. General Fund Expenditures, Non-Departmental, Account Number 10-660-9600, Insurance, Bond, Workers Comp is increased from $138,000 to $148,000.

c. General Fund Revenues, Account Number 10-334-1700, State Controlled Substance Revenue is increased from $-0- to $3,073.

d. General Fund Revenues, Account Number 10-365-0500, Fire Truck Loan Proceeds is increased from $-0- to $491,571.

e. General Fund Revenues, Account Number 10-399-0000, Fund Balance Appropriated is decreased from $393,702 to $400,629

WATER AND SEWER FUND

a. Water and Sewer Fund Expenses, Water Filter Plant, Account Number 30-812-7400, Capital Outlay, is increased from $67,400 to $94,400.

b. Water and Sewer Fund Revenues, Account Number 30-299-0000, Fund Balance Appropriated is increased from $270,720 to $297,720.

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 October 2014.

Stephen R. Little, Mayor

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ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–10–14–07–2

PUBLIC HEARING – ADOPTION OF ORDINANCE APPROVING CLOSURE OF UNOPENED ALLEYWAY OFF OF OLD WEST HENDERSON STREET: Mayor Little opened the public hearing.

Planning and Development Director Heather Cotton advised that, at the September 2 Council meeting, Council approved a request by McDowell County Farm Bureau to adopt a Resolution of Intent to close an unopened alleyway off of Old West Henderson Street between Buncombe Street and Catawba Street.

Ms. Cotton reported that, pursuant to State law, notice of the proposed street closing was published in the McDowell News once per week for four consecutive weeks, notice was posted on the alleyway proposed for closing and notice was sent to the affected property owners. She stated that the alleyway to be closed totaled 0.08 acres and that no property would be deprived of access by the street closing.

Ms. Cotton advised that, after the public hearing, Council action would be needed to adopt an ordinance to authorize the closing of the alleyway.

The City Manager added that the property owners on either side of the alleyway in question, McDowell County Farm Bureau and William and Fay Wright, are in support of the street closing.

No one was present wishing to speak to Council concerning this matter.

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 unanimously to adopt the following ordinance authorizing the closing of an unopened alleyway off of Old West Henderson Street between Buncombe Street and Catawba Street, as requested by McDowell County Farm Bureau:

AN ORDINANCE
PERMANENTLY CLOSING
A PORTION OF UNNAMED ALLEY

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 September 2, 2014 adopted a resolution declaring its intent to permanently close a portion of an unnamed alley 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 unnamed alley 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 October 7, 2014, at which no owner of property adjoining the unnamed alley intended to be closed appeared to express opposition to the closing; and

WHEREAS, After the hearing, it appears to the satisfaction of the City Council that closing the described unnamed alley 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 the unnamed alley as shown, for identification and location purposes only, on a survey of property prepared by Mitchell E. Effler, P.L.S., dated July 10, 2014 referenced herein as Exhibit A, and as in Map Book 1, Page 149 on the Mount Mitchell Park Subdivision dated December 3, 1926 recorded in the Office of the McDowell County Register of Deeds, be, and it is hereby, permanently closed.

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 7th day of October 2014.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-14-10-07-1

AA.000000471 (24)

PUBLIC COMMENT PERIOD: Mr. John Whittemore of 181 Crescent Drive advised that he understood that the City recently needed to terminate the paving contractor completing the Crescent Drive street resurfacing project, due to noncompliance with City specifications. Mr. Whittemore said that he understood that the City had no choice with this matter, but asked if the City had a backup plan, in the event that the project could not be completed before asphalt plants shut down production for the season.

Public Works Director Brant Sikes stated that he was currently taking informal bids, as required by State law, for the completion of this project. Mr. Sikes said that contractor bids for this project will be thoroughly reviewed to ensure compliance with City specifications and the ability to mobilize immediately. He added that he believes that the project can be completed within 30 days or less, which should provide sufficient time for Crescent Drive to be paved before asphalt plants shut down for the season.

The City Manager thanked Mr. Whittemore and all residents of Crescent Drive for their patience and cooperation with the water line replacement, curb and gutter replacement and street resurfacing work over the past few weeks.

Mr. Whittemore thanked City Council and City staff for their efforts to make sure that the project was done correctly.

Mr. Whittemore noted recent McDowell News articles focusing on vacant buildings in and around the downtown area. He stated that he knows the City does what it can to fill the buildings and understands that property owners are often unwilling to rent their buildings or cannot be contacted. Mr. Whittemore asked what might cause a property owner to prefer having a vacant building over having buildings rented.

The City Manager stated that almost all of the vacant buildings in and around the downtown area were owned by out of town property owners, with most of these buildings owned by out of state property owners. These property owners do not appear to be fully invested in Marion and many of them could not be reached and/or had stated that their buildings were not available for rent.

Mayor Little advised that many property owners also choose not to charge an appropriate rent for their building, leading to vacancies. He suggested that property owners could fill their buildings if they were willing to drop their rent to a fair level.

Mr. Whittemore advised that he wondered if some of the out of town property owners were using their vacant buildings as a tax write-off. The City Manager stated that he had heard many people say the same thing.

APPROVE RESOLUTION AUTHORIZING LEASE OFPART OF CITY'S JOSEPH MCDOWELL HISTORICAL CATAWBA GREENWAY PROPERTY TO JEFF BENFIELD NURSERY, INC.: The City Manager advised that, as directed by Council at the September 16 Council meeting, notice was published in the McDowell News on Thursday, September 25, stating Council's intent to lease a small section of the City's Catawba River Greenway Phase 2 property to Jeff Benfield Nursery, Inc. to allow Mr. Benfield to keep his pumps and related equipment in their current location near the Catawba River.

The City Manager reported that the attached proposed lease was drafted to include the City, Benfield and the McDowell Trails Association as signatories. Under the proposed lease, the City leases Benfield a small area of the Greenway Phase 2 property, well under one-tenth of an acre, for $20 per year. The McDowell Trails Association will pay the $20 per year rent to the City. The initial term of the lease is for approximately three years, from October 1, 2014 to December 31, 2017, the same term that Benfield has on his lease of 58 acres behind Lowe's and the McDowell Square Shopping Center from Great Meadows. The lease will automatically extend for an additional seven years, until December 31, 2024, if Benfield extends his lease with Great Meadows until December 31, 2024 or later or if Benfield purchases the property from Great Meadows.

The City Manager stated that Council action is needed to adopt a resolution approving the lease agreement between the City, Jeff Benfield Nursery, Inc. and the McDowell Trails Association.

Council Member Clark asked if Mr. Benfield would agree to the lease. The City Manager stated that he had gone over the language in the lease with Mr. Benfield and there seems to be no issue, except with the term of the lease, since Mr. Benfield wants a longer term lease. The City Manager said that he told Mr. Benfield that he would need to submit an offer to the City to lease the property for a longer period of time, since State law requires cities to go through the same process used to sell property in order to lease property for longer than ten years.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, those members of Council present voted unanimously to approve the following resolution authorizing the City to lease a small section of the City's Catawba River Greenway Phase 2 property to Jeff Benfield Nursery, Inc.:

Resolution Authorizing the Lease of Certain Property Owned by the City of Marion to Jeff Benfield Nursery, Inc.

WHEREAS, N.C.G.S. 160A-272 authorizes City Councils to lease municipally 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 municipally 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 along the Catawba River that is used for the Joseph McDowell Historical Catawba Greenway; and

WHEREAS, irrigation equipment owned by Jeff Benfield Nursery, Inc. is located on a portion of said property; and

WHEREAS, Jeff Benfield Nursery, Inc. desires to enter into a lease with the City of Marion to allow said irrigation equipment to remain; and

WHEREAS, the City of Marion has set an annual lease payment of $20 for the property used by Jeff Benfield Nursery, Inc., based on the $300 per acre annual lease payment made by Benfield to Great Meadows, Inc. for property adjacent to the City's Greenway; and

WHEREAS, the lease term will initially extend from October 1, 2014 until December 31, 2017, the same term as the lease agreement between Jeff Benfield Nursery, Inc. and Great Meadows, Inc. for property adjacent to the City's Greenway, and will automatically extend until December 31, 2024, if Jeff Benfield Nursery, Inc. and Great Meadows, Inc. extend their lease agreement until December 31, 2024 or any date thereafter.

WHEREAS, in accordance with N.C.G.S. 160A-272, the City of Marion, on September 23, 2014, caused notice of the proposed lease of the property, as described above, to Jeff Benfield Nursery, Inc. 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 term of this lease.

NOW THEREFORE THE CITY COUNCIL OF THE CITY OF MARION RESOLVES:

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Section 1. The City Council of the City of Marion does hereby agree to lease the property described on the attached lease agreement to Jeff Benfield Nursery, Inc. for use as the location of irrigation equipment for the business on said property for a period from October 1, 2014 to December 31, 2017, the same term as the lease agreement between Jeff Benfield Nursery, Inc. and Great Meadows, Inc. for property adjacent to the City's Greenway.

Section 2. The lease term will automatically extend until December 31, 2024, if Jeff Benfield Nursery, Inc. and Great Meadows, Inc. extend their lease agreement until December 31, 2024 or any date thereafter.

Section 3. The lease payments will be $20 per year for the entire term of the lease.

Section 4. This resolution shall be effective upon its adoption and the execution of the attached lease by all involved parties.

Adopted this the 7th day of October, 2014.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

RESOLUTION NUMBER: R-14-10-07-2

The proposed lease between the City, Jeff Benfield Nursery, Inc. and the McDowell Trails Association reads as follows:

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL

MUTUAL LEASE AGREEMENT

THIS MUTUAL LEASE AGREEMENT, made and entered into, this the ____ day of October, 2014, by and between **CITY OF MARION, NC,** (hereinafter called CITY), **JEFF BENFIELD NURSERY, INC.,** (hereinafter called BENFIELD) and the **MCDOWELL TRAILS ASSOCIATION** (hereinafter called ASSOCIATION);

WITNESSETH:

A. BENFIELD leases a tract of real property from Great Meadows, Inc. (part of McDowell Deed Book 184 Page 355) upon which BENFIELD raises trees and shrubs. The tract leased by BENFIELD adjoins property owned by CITY (McDowell Deed Book 1018 Page 504 and Deed Book 1038 Page 454, both of which were conveyed to CITY by Great Meadows, Inc.) that CITY uses for the Joseph McDowell Historical Catawba Greenway, a pedestrian greenway available for use by the public. BENFIELD has maintained irrigation equipment for many years on a small portion of the CITY's land (McDowell Deed Book 1038 Page 454), next to the Catawba River. The irrigation equipment is used to use transmit water from the Catawba River onto BENFIELD's leased property to provide water for the plants he is raising on the leased property adjacent to the City's Greenway.

B. CITY and BENFIELD desire to continue this arrangement under a Lease Agreement and to provide an easement for access for BENFIELD and an easement for access for CITY.

NOW THEREFORE, in consideration of the mutual promises and undertakings of CITY and BENFIELD set forth in this Mutual Lease and for other good and valuable consideration, it is agreed as follows:

1. PREMISES. CITY does hereby rent and lease to BENFIELD that certain tract of land located in Marion Township, McDowell County, and more particularly described on the Attachment A.

2. EASEMENTS. CITY grants to BENFIELD a right-of-way and easement for a crossing over the Premises of reasonable width at a marked location directly across the City's Greenway for his access between the Catawba River and BENFIELD's leased property. The City will place signs on each side of the crossing indicating "Farm Equipment Crossing."

BENFIELD grants to the CITY a right-of-way and easement of reasonable width across the property BENFIELD leases from Great Meadows, Inc., in order for the City to access its Greenway for the purposes of construction, maintenance and repairs of said Greenway, during the period of construction on Phase 2 of the CITY's Greenway.

3. TERM. The term of this Lease shall be for an initial period of thirty-nine (39) months beginning on October 1, 2014, and ending on December 31,.2017, unless sooner terminated in accordance with this Agreement. The lease shall automatically extend for an additional seven (7) years, until December 31, 2024, provided BENFIELD extends his existing lease with Great Meadows, Inc. until December 31, 2024 or any date thereafter.

4. RENT. BENFIELD shall owe to CITY annual rental in the amount of TWENTY and NO/100 DOLLARS ($20.00) per year for the entire life of the term. The ASSOCIATION agrees to pay to CITY the annual rental amount as an accommodation to BENFIELD and to CITY. The initial rent payment for the first fifteen (15) months shall be made by December 31, 2014. Subsequent rent payments shall be made annually in advance no later than December 31 of each year, beginning December 31, 2015.

5. ACCESS.

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a. BENFIELD's employees, agents, and service representatives are granted free access, ingress, egress, and regress to and through the premises, as described in Section 2 above, for the purpose of accessing, installing, constructing, operating, inspecting, repairing, removing, replacing, and maintaining the equipment of BENFIELD.

b. BENFIELD 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.

c. The CITY's employees, agents, and service representatives are granted free access, ingress, egress, and regress to and through the premises leased by BENFIELD from Great Meadows, Inc., as described in Section 2 above, for the purpose of construction, maintenance and repairs of the CITY's Greenway, during the period of construction of Phase 2 of the Greenway.

d. The CITY shall have sole responsibility for its own personnel and CITY agents and service representatives shall have sole responsibility for its own personnel at all times while such persons are on the premises and while traveling to and from the premises.

6. LIABILITY. BENFIELD shall be liable and agree to hold CITY harmless for the negligence of, or damage to the Greenway caused by, its employees, agents, and representatives in connection with the exercise of the rights and privileges herein granted.

7. INSURANCE AND TAXES. BENFIELD will be responsible for all insurance and taxes, if any, relating to BENFIELD's equipment, personal property and real property.

8. TERMINATION AND EQUIPMENT REMOVAL. BENFIELD has the right to remove any of its property from the premises at any time. At the termination of this Agreement, BENFIELD shall have six (6) months to remove its property from the premises. Any of BENFIELD's 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: City of Marion, NC
P.O. Drawer 700, Marion, NC 28752
Telephone: (828)652-3551

TO BENFIELD: Benfield Nursery, Inc.
43 Old Linville Road, Marion, NC 28752
Telephone: (828)756-2262

TO ASSOCIATION: McDowell Trails Association
P.O. Box 1325, Marion, NC 28752

10. BINDING ON ASSIGNS. This Agreement is binding upon the parties, 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 BENFIELD 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 McDowell County, North Carolina.

14. SUBLEASES. BENFIELD may sublease the property described above with thirty (30) days written notice provided to the CITY.

IN TESTIMONY WHEREOF, this Mutual Lease Agreement has been executed by the parties hereto, in duplicate originals, as of the date first above written.

CITY OF MARION, NC

By: _____ (SEAL)
STEPHEN R. LITTLE, Mayor

JEFF BENFIELD NURSERY, INC.

By: _____ (SEAL)
JEFF BENFIELD, President

MCDOWELL TRAILS ASSOCIATION

By: _____ (SEAL)
FRANK DEAN, President

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL

I, _____ a notary public for the County and State aforesaid, certify that **JEFF BENFIELD**, President of **JEFF BENFIELD NURSERY, INC.**, who is personally known to me or who has/have presented sufficient evidence of identification in the form

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of _____, 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 October, 2014.

_____
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 October, 2014.

_____
Notary Public

My Commission Expires: _____

STATE OF NORTH CAROLINA
COUNTY OF MCDOWELL

I, _____ a notary public for the County and State aforesaid, certify that **FRANK DEAN,** President of the **MCDOWELL TRAILS ASSOCIATION**, 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 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 October, 2014.

_____
Notary Public

My Commission Expires: _____

ATTACHMENT A
To the Mutual Lease Agreement between
Jeff Benfield Nursery, Inc. and City of Marion, NC

The "Premises" is a parcel of real property located in Marion Township, McDowell County, North Carolina, adjoining the southern margin of the Catawba River which contains approximately 0.08 acre, more particularly described as follows:

BEGINNING at a calculated but unmarked point at the southern edge of the Catawba River, said point being identified as the 2nd corner of the property described in the deed recorded in McDowell County Deed Book 1038 Page 454 ("the Greenway Phase II Property"), said point also being located South 74 degrees 48 minutes 29 seconds East 45.94 feet from the Beginning Corner of said property, **AND FROM SAID BEGINNING** running with the northern line of the Greenway Phase II Property South 88 degrees 40 minutes 19 seconds East 44.24 feet to a calculated but unmarked point at the southern edge of the Catawba River, said point being identified as the 3rd corner of the Greenway Phase II Property; then running a new line South 6 degrees 46 minutes 59 seconds East 65.66 feet to a 5/8 inch rebar set that is identified as marking the 73rd corner of the Greenway Phase II Property; then with the property of Great Meadows, Inc. (McDowell Deed Book 184 Page 355, in the area presently leased to Benfield Nursery, Inc.) and running North 88 degrees 19 minutes 35 seconds West 60.65 feet to a 5/8 inch rebar set that marks the 74th corner of the Greenway Phase II Property, said rebar being located South 78 degrees 24 minutes 04 seconds East 52.62 feet from the 5/8 inch rebar that marks the southeastern corner of the property of the City of Marion (McDowell Deed Book 1018 Pager 504, which contains Phase I of the Joseph McDowell Historical Catawba Greenway); then running a new line North 07 degrees 38 minutes 11 seconds East 65.03 feet **to the BEGINNING**, containing approximately **0.08 acre**. All the calls from the above description were taken from a survey by R.L. Greene Surveying and Engineering, PA dated 06/29/07 and platted 9/22/2014.

CONSIDER APPROVAL OF RESOLUTION OF INTENT TO CLOSE AN UNOPENED ALLEYWAY OFF OF STATE STREET:
Planning and Development Director Heather Cotton advised that First Free Will Baptist Church has submitted an application to close an unnamed and unopened alleyway located off of State Street. The Church is only proposing to close the alleyway as it runs across their property, in order to allow for an addition to be constructed across the current alley.

Ms. Cotton advised that the alleyway technically continues to a point just north of Morehead Road and that another access to the alleyway exists just south of the Church property, so it does not appear that any property would be deprived of access as a result of the street closing.

Ms. Cotton reported that the first step in the street closing process is the adoption of the enclosed 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. A public hearing will be held on the request at the November 4 meeting, after which time Council may take action to close the alley.

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Upon a motion by Council Member Clark, seconded by Council Member Martin, those members of Council present voted unanimously to approve the following resolution stating the intent of Council to close a portion of an unopened and unnamed alleyway located off of State Street, as requested by the First Free Will Baptist Church:

RESOLUTION OF MARION CITY COUNCIL
INTENT TO CLOSE A PORTION OF UNNAMED ALLEY

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 an unnamed alley off of State Street adjoining properties belonging to First Freewill Baptist Church, 951 Baldwin Avenue, Marion, N.C. 28752, Melissa D. Costner, 143 Revonda Drive, Nebo, N.C. 28761, and McDowell County Board of Education, 334 S. Main Street, Marion N.C. 28752 as shown on a survey prepared by Robert B. Salsbury Associates, P.A. dated July 28, 2014, and as shown in Map Book 1, Pages 98 and 99 on the Mattie E. Perry Addition To East Marion Subdivision dated December 22, 1925.

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 November 4, 2014, 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 Freewill Baptist Church 951 Baldwin Avenue, Marion N.C. 28752, Melissa D. Costner, 143 Revonda Drive, Nebo, N.C. 28761, and McDowell County Board of Education, 334 S. Main Street, Marion N.C. 28752 who are the owners of property adjoining said portion of said alley 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 at a regular meeting held on October 7, 2014.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Resolution Number: R-14-10-07-3

CONSIDER AWARD OF BUDGETED SEWER CAMERA: The City Manager advised that the City recently took bids for the purchase of a budgeted sewer camera. With the on-going wastewater collection system inflow and infiltration and manhole evaluation, the City Manager stated it would be helpful for the City to have a better, more modern sewer camera than we currently have in place, so he is recommending that Council consider authorizing this capital outlay purchase a little earlier than normal this Fiscal Year.

The City Manager stated that three bids were received for the sewer camera. The low bid came in from Rodders and Jet Supply of Sumter, South Carolina in the amount of $53,340. This amount is well below the $61,500 amount included in the 2014-15 budget for this purchase. The City Manager advised that he would recommend that Council award a contract for the purchase of a budgeted sewer camera to Rodders and Jet Supply of Sumter, South Carolina in the amount of $53,340.

Public Works Director Brant Sikes gave some details about the sewer camera to Council and added that it would definitely help City staff with the on-going wastewater collection system inflow and infiltration and manhole evaluation.

Council Member Clark advised that the City's current sewer camera is approximately 20 years old.

Mayor Pro Tem Cuthbertson said that the current camera was state of the art at the time it was purchased.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Martin, those members of Council present voted unanimously to award a contract for the purchase of a budgeted sewer camera to Rodders and Jet Supply of Sumter, South Carolina in the amount of $53,340.

CONSIDER ADOPTION OF RESOLUTION AUTHORIZING THE SALE OF CITY PROPERTY ON MILLER AVENUE BY NEGOTIATED OFFER AND UPSET BID: The City Manager advised that Ms. Geneva Lou Ledwell submitted an offer presented to Council to purchase to purchase 0.17 acres of City property on Miller Avenue for $1,200. This property, along with an adjacent property of equal size, was acquired by the City earlier this year through tax foreclosure. Both City parcels are currently vacant. The City Manager presented Council with a map of the property and reported that each parcel has a tax value of $8,400.

The City Manager said that Ms. Ledwell is only proposing to purchase one of the parcels, because she wants to survey the property, at her expense, prior to closing to make sure that the City parcel on which she is bidding actually adjoins her property. He noted that, on her bid, Ms. Ledwell wrote in that the offer is contingent on the City parcel adjoining her property. The City Manager advised that his subdivision plat and deed research did not leave him any doubt that the City property adjoins Ms. Ledwell, but she is insistent on completing the survey.

The City Manager advised that, although small, each of the two parcels could be building lots. The $1,200 offer from Ms. Ledwell is higher than sale prices approved in recent years for lots of similar size on Morehead Road and Yancey Street, West Marion.

The City Manager stated that, to accept the offer of Ms. Ledwell, action is needed to adopt the enclosed resolution, in which case the City will publish notice of Council's acceptance of the offer and allow the public ten days to submit an upset bid. Council could also reject the offer, make a counter-offer or table this item to obtain more information.

Council Member Clark suggested that the City should sell both parcels and stated that the City could tell Ms. Ledwell that the parcels would not be sold individually.

Council Member Ramsey stated that Council discussed at the October 3 Planning Session the idea of banking properties owned by the City until such time as a non-profit organization could be found or created to receive such properties and to construct housing to begin to replenish the City's housing stock. He suggested that Council pursue this idea and not sell this property.

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Council Member Martin asked if the City should offer Ms. Ledwell an opportunity to purchase both parcels, since she submitted her offer prior to Council's recent discussion on foreclosed properties.

Council Member Ramsey stated that he did not see that Council had any obligation to Ms. Ledwell, since Council had every right to reject the offer.

After discussion, Council agreed to pursue the idea of identifying or encouraging the formation of a non-profit organization to receive properties owned by the City and to construct housing to begin to replenish the City's housing stock.

The City Manager advised that Planning and Development Director Heather Cotton had already placed a call that day to the Asheville Habitat for Humanity chapter to see if there was interest in building houses in Marion and that Ms. Cotton also planned to contact the Morganton chapter of Habitat for Humanity to ask the same thing.

Upon a motion by Council Member Ramsey, seconded by Council Member Clark, those members of Council present voted unanimously to reject the offer of Ms. Geneva Lou Ledwell to purchase to purchase 0.17 acres of City property on Miller Avenue for $1,200.

DISCUSSION OF STREET ISSUE – FRANCIS STREET: The City Manager advised that Ms. Vernice Francis of Francis Street spoke to him several weeks ago about vehicles blocking the intersection of Old West Henderson Street/Catawba Street/Francis Street when they are stopped at the red light at Old West Henderson Street and West Henderson Street behind and beside McDonald's. The City Manager reported that, in response to this matter, City staff recently installed a "Do Not Block Intersection" sign just before the intersection of Old West Henderson Street and Catawba Street.

The City Manager reported that Ms. Francis advised him on October 1 that she appreciated the sign and what the City tried to do to help, but the situation has not improved. The City Manager stated that Public Works Director Brant Sikes and he previously looked at the location and thought that the only other option, in addition to the sign, would be pavement markings stating "Do Not Block Intersection."

The City Manager showed Council a sheet from the Manual of Uniform Traffic Control Devices, showing options for Do Not Block Intersection pavement markings. The City Manager suggested that the City could try one of the listed options, probably the text "Do Not Block Intersection" painted on the street.

Council Member Clark stated that he thought it would be reasonable to paint some pavement markings on the street.

Mayor Little said that this situation appears to be a problem and that the City should try to help if possible.

Council Member Martin stated that the intersection in question is unique since it is located very close to the stoplight at West Henderson Street and Old West Henderson Street, which would justify the recommended approach.

Upon a motion by Council Member Clark, seconded by Council Member Martin, those members of Council present voted unanimously to authorize City staff to paint pavement markings indicating "Do Not Block Intersection" at the intersection of Old West Henderson Street and Catawba Street.

APPROVE RESOLUTION ACCEPTING GOVERNOR'S HIGHWAY SAFETY PROGRAM GRANT: Police Chief Allen Lawrence reported that he is a Regional Coordinator for the Governor's Highway Safety Program (GHSP), which allows for his agency to receive $20,000 in grant funding per year. Chief Lawrence stated that the City used the grant money in 2013 to offset the costs of equipment, including the purchase of several in-car cameras, computers and printers.

Chief Lawrence gave a brief overview of the GHSP program. He asked for Council's consideration of approving a resolution accepting the $20,000 Governor's Highway Safety Program grant.

Upon a motion by Council Member Martin, seconded by Council Member Ramsey, those members of Council present voted unanimously to adopt the following resolution accepting a $20,000 grant from the Governor's Highway Safety Program:

North Carolina Governor's Highway Safety Program
LOCAL GOVERNMENT RESOLUTION
Form GHSP-02-A

(To be completed, attached to and become part of Form GHSP-02, Traffic Safety Project Contract.)

WHEREAS, the Marion Police Department (herein called the "Agency")
(The Applicant Agency)

has completed an application contract for traffic safety funding; and that Marion City Council (herein called the "Governing Body") has thoroughly considered the problem identified and has reviewed the project as described in the contract;

THEREFORE, NOW BE IT RESOLVED BY THE Marion City Council IN OPEN MEETING ASSEMBLED IN THE CITY OF Marion, NORTH CAROLINA, THIS 7th DAY OF October, 20 14, AS FOLLOWS:

1. That the project referenced above is in the best interest of the Governing Body and the general public; and
2. That Chief Allen Lawrence is authorized to file, on behalf of the Governing Body, an application contract in the form prescribed by the Governor's Highway Safety Program for federal funding in the amount of $ 20,000.00 to be made to the Governing Body to assist in defraying the cost of the project described in the contract application; and
3. That the Governing Body has formally appropriated the cash contribution of $0 as required by the project contract; and

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4. That the Project Director designated in the application contract shall furnish or make arrangement for other appropriate persons to furnish such information, data, documents and reports as required by the contract, if approved, or as may be required by the Governor's Highway Safety Program; and
5. That certified copies of this resolution be included as part of the contract referenced above; and
6. That this resolution shall take effect immediately upon its adoption.

DONE AND ORDERED in open meeting by _____
(Chairperson/Mayor)

ATTESTED BY _____ SEAL
(Clerk)

DATE _____

RESOLUTION NUMBER: R-14-10-07-5

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects, as follows:

The City Manager advised that, as was discussed at the September 16 Council meeting, Van Noppen and Allison should begin work within the next 30 days on the website portal/community calendar project. The project should be completed and ready to present to non-profit organizations in the community around the beginning of 2015.

The City Manager reported that Public Works Director Brant Sikes developed an estimate of $755,998 for the extension of gravity sewer service on Airport Road to Holly Street to Garden Creek Road, as discussed at the September 16 Council meeting. The City Manager stated that he had discussed the idea of this gravity sewer extension with the apartment developer, Paul Fitch, and Autumn Care to determine how much they are willing to contribute to the project. City staff can then identify the estimated funding gap and whether Council wishes to pursue a USDA loan for the entire gravity sewer project.

The City Manager stated that taxable retail sales in McDowell County for July increased by 11.27 percent over the same time period in 2013, an outstanding increase. Taxable retail sales across North Carolina increased by 10.21 percent in July over July 2013. The City Manager said that increased retail sales in McDowell County and especially across North Carolina lead to higher sales tax revenues for the City.

The City Manager reminded Council of the City's annual Advisory Board/Volunteer Dinner, to be held at the Depot the following Tuesday, October 14 at 6:30 p.m.

The City Manager reported that Mr. Sikes was working with the City's contracted arborist, Lawrence Moore, to plant the bank next to Marion Elementary School and Fleming Avenue to prevent erosion onto the City's sidewalk, as had been authorized by Council.

The City Manager advised that City crews had completed repairs to a section of sidewalk on East Court Street between City Tire and Big Daddy's Convenience Store, as requested at the September 16 Council meeting by Council Member Martin.

The City Manager stated that DOT had adjusted the traffic signal programming at the West Court Street/Logan Street traffic signal, as requested by Council Member Ramsey at the September 16 Council meeting, to allow for school bus traffic to clear the intersection faster in the afternoon. The City Manager noted that Fire Chief Jim Neal is watching the intersection and may make further recommendations to DOT and to the McDowell County Schools Transportation Department.

The City Manager reported that the new sound system and ceiling had been installed at the Community Building in late September. He added that the ceiling looks good and the sound in the building is much better.

Council Member Clark noted that the new ceiling tiles make the Community Building meeting room noisier, but that the sound system works great.

The City Manager stated that Baker Grading and Landscaping was underway with work on Phase 2 of the Joseph McDowell Historical Catawba Greenway. He reported that the City hopes that the paving work on the Greenway can be completed before winter.

The City Manager advised that the Marion Business Association (MBA) and Mountain Glory Festival Committee have worked hard planning for the 31st Annual Mountain Glory Festival to take place on Saturday, October 11. MBA Executive Director Freddie Killough has sponsor commitments for over $9,500 this year, which is up considerably from the $6,925 in sponsor money received last year. The City Manager reported that there will be more music and entertainment than ever at Mountain Glory. He added that there will be close to 140 vendors and around 80 craft vendors at Mountain Glory, matching last year's record number of vendors.

COUNCIL MEMBER COMMENTS: Council Member Clark reported that he had suggested to the City Manager and would also recommend to McDowell County Schools Superintendent Mark Garrett that the School System work with NCDOT to plan and construct a road from the High School Road to Roby Conley Road, to provide further traffic relief now that the High School has expanded and traffic on the High School/West McDowell Middle School hill has greatly increased.

Mr. Garrett said that the School System had looked at such a road before he arrived in 2012 and could look at the information that was compiled.

The City Manager advised that City staff, School System staff and DOT representatives would be meeting on October 15 to discuss traffic issues around schools in order to identify projects to include in the City's Comprehensive Transportation Plan. The City Manager suggested that the City and School System may also wish to suggest on and off ramps from the High School Road onto the US 221 Bypass.

Council Member Ramsey suggested that the City pursue taking back property on Park Avenue donated to Habitat for Humanity several years ago, since the local Habitat chapter was no longer active. Mayor Little said that the City Manager had given him the deed for this property to review and that he would determine the steps the City needs to reclaim the property, since Habitat very clearly did not meet the specific time frames included in the deed for constructing a house on the property.

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Mayor Little asked Council for their preference regarding holding the annual Council Christmas Dinner. After discussion, Mayor Little and Council Members agreed to hold the December 2 Council meeting at 6:00 p.m., to be followed by the Council Christmas Dinner at the Fire Department. The menu and caterer for the dinner will be determined later.

Mayor Little thanked McDowell County Schools Superintendent Mark Garrett for staying during the entire meeting. Mr. Garrett thanked Mayor Little and Council Members again for their support of the Pleasant Gardens Elementary students and for all of the help the City provides to the School System.

ADJOURNMENT: Upon a motion by Council Member Martin, seconded by Council Member Ramsey, those members of Council present 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 21, 2014 at 7:00 P.M. in the City Council Chamber located at 194 North Main Street.

BOARD MEMBERS PRESENT: Council Members A. Everette Clark, Juanita Doggett, Billy Martin and Don Ramsey.

Mayor Stephen R. Little was not present for meeting due to being out of state at a speaking engagement.

Mayor Pro Tem Cuthbertson was not present for this meeting due to having eye surgery.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Harriett Thomas, CPA, Finance Director; Brant Sikes, Public Works Director; Allen Lawrence, Police Chief; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Margie Smith, Marion, NC; Patty Hollifield, 79 Bluebird Lane, Marion, NC; Betty and Terry Childers, Fern Avenue, Marion, NC; Hilda Dean, Marion, NC; Ellen Brown, 108 Carriage Station Drive, Marion NC; Jan Ramsey, 188 Hillcrest Drive, Marion NC; Josie Seagle, Marion, NC; Carey Gibson Ridgecrest, NC; Linda Hamrick, Marion NC; Virginia Laney, Nebo, NC; Carolyn Elliott, Marion, NC; Lee Hughes, Marion, NC; Nora and Richard Worth, Nebo, NC; Richard Wood, Marion, NC; Don and Mary Fox, Marion, NC; Fay Wilson, Marion, NC; Joann Hensley, Marion, NC; Dr. David Ricketts, Marion, NC; Nancy Clark, 330 Fleming Avenue, Marion, NC; Sharon Parker, 75 Oakwood Drive, Marion, NC; Lenora Parker, Marion, NC; Sherron Crawford, Marion, NC.

ELECTION OF TEMPORARY CHAIRPERSON FOR MEETING: Council Member Ramsey made a motion that Council Member Clark be elected as temporary Chairperson to preside at this meeting in the absence of Mayor Little and Mayor Pro Tem Cuthbertson. The motion was seconded by Council Member Doggett. Those members of Council present voted unanimously in favor of the motion and the motion was passed.

OPENING OF MEETING: Council Member Clark 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 October 2014.

Hilda Dean

Council Member Juanita Doggett advised that she was pleased to recognize Ms. Hilda Dean as Citizen of the Month for October.

Ms. Dean grew up in Walkertown, North Carolina. She attended college at Mars Hill and received a Teaching Degree. She taught English for two years at Mineral Springs Junior High in Winston Salem for two years, before leaving the classroom to move to Louisville, Kentucky to pursue a Masters Degree in Religious Education at the Southern Baptist Theological Seminary. Ms. Dean supported herself by substitute teaching. Ms. Dean soon learned that she would not be able to get a teaching job in Louisville and thought about a different career.

Ms. Dean had often thought about becoming a nurse and considered this to be a sign that she was needed. She graduated from Nursing School in 1974. Ms. Dean was an RN for 30 years with Baptist Hospital East in Louisville. During those 30 years, most of her time was spent in the psychiatric and med-surge area. The psychiatric area, particularly the geriatric psychiatric and medical area, ended up being the largest part of Ms. Dean's career.

Ms. Dean retired in 2004 and moved to Marion. She rotated her time between Marion and her mother's home in King, North Carolina.

In April, Ms. Dean was nominated for and received an award for McDowell County Volunteer of the year for Outstanding Personal Involvement and significant contributions to the well-being and development of McDowell County. As a recipient of this award, she also received a letter and certificate of recognition from the Governor.

Ms. Dean was nominated for this award by Hospice of McDowell County, where she had volunteered 151 hours for Hospice in 2013. She was a

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caregiver respite at patient's homes. This allows caregivers a few hours to leave the house.

Ms. Dean visits Rose Hill Retirement Home every day. She provides companionship and socialization for those who are not able to get out and interact with others.

Ms. Dean does all of her service on foot. She has had sight problems for as long as she can remember and hearing loss for about 15 years. Ms. Dean walks everywhere. She did have to get a ride to the Hospice assignments, but everywhere else she goes is on foot. Ms. Dean has worn out the concrete on the sidewalks of North and South Garden Street making her daily trips to Rose Hill.

Ms. Dean also serves on several committees at her church and sings in the Saints Alive Choir at church, walking to all of those commitments.

Ms. Dean's hobbies include crocheting, reading everything and, of course, walking.

William Arthur Ward, a writer, wrote "Lose yourself in generous service and every day can be a most unusual day, a triumphant day, an abundantly rewarding day." Hilda Dean exemplifies this statement every day.

Council Member Doggett advised that, if you break down the word Thanks, it would sound like this:

T for thoughtful
H for helpful
A for always there
N for Nice
K for kindhearted
S for supportive.

All of these words describe Hilda Dean.

Council Members, dozens of friends who came out to support Ms. Dean and family members all shared kind words about Ms. Dean and congratulated her on being selected Citizen of the Month for October.

CONSENT AGENDA: Upon a motion by Council Member Ramsey, seconded by Council Member Martin, Council voted to approve the consent agenda as follows:

A. Approval of Minutes – October 3, 2014 Planning Session Minutes and October 7, 2014 City Council Meeting Minutes.

B. Receive Certificate of Sufficiency – Airport Road/Harrison Terrace Annexation Request:

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 8th day of October, 2014.

(Seal)

J. Robert Boyette, City Clerk

C. Approve Resolution Fixing the Date of Public Hearing on the Question of Annexation – Airport Road/Harrison Terrace Annexation Request:

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-58.1 – AIRPORT ROAD/HARRISON TERRACE - 2014

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 6:00 P.M. on Tuesday, November 18, 2014.

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

BEGINNING on a concrete monument found in the edge of the right-of-way of State Road No. 1500 (Airport Road), said monument being the beginning corner of that certain tract of land described in deed dated October 12, 1957, from Richard R. Cook to Lois C. Cook, and which deed is recorded in the Office of the Register of Deeds for McDowell County in McDowell County Deed Book 145 at Page 20, and runs thence with the edge of the right-of-way of Airport Road, North 25 degrees 31 minutes 08 seconds West 333.79 feet to a ¾ inch iron road set in the edge of said right-of-way, a common corner of the property now or formerly owned by Richard Corpening as described in McDowell County Deed Book 15 at Page 448; thence running with the property now or formerly belonging to Richard Corpening, North 64 degrees 27 minutes 25 seconds East 250.22 feet to a ¾ inch iron pipe found; thence continuing with the Corpening line, North 10 degrees 32 minutes 35 seconds West 297.43 feet to an iron pipe found, said iron pipe being located North 83 degrees 32 minutes 28 seconds East 347.23 feet from an NC DOT right-of-way monument; thence running with the Clerodendron Group, Inc. property (see Deed Book 658, Page 354), South 62 degrees 41 minutes 32 seconds East 343.38 feet to an iron pipe found; thence running with the Richard Evans line (see Deed Book 658, Page 366), South 62 degrees 41 minutes 52 seconds East 525.47 feet to a ½ inch iron pipe found; thence South 68 degrees 42 minutes 39 seconds East 25.62 feet to an iron pipe found in the center of the creek; thence running with the center of the creek, and with the Frank Richard Ollis property (see Deed Book 407, Page 708), the following courses and distances: South 36 degrees 39 minutes 44 seconds West 39.87 feet, South 06 degrees 22 minutes 09 seconds East 56.77 feet, South 09 degrees 22 minutes 15 seconds West 77.05 feet, and South 12 degrees 10 minutes 19 seconds East 36.33 feet to a point in the center of said creek;

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thence leaving said creek and running with the line of James M. Smith (see Deed Book 504, Page 631), South 87 degrees 02 minutes 01 seconds West, passing an iron rod found at 6.43 feet, a total distance of 510.06 feet to a concrete monument found, common corner with James M. Smith and Kenneth Arthur Presnell (see Deed Book 402, Page 939); thence running with the Presnell line and a chain link fence, South 77 degrees 00 minutes 00 seconds West 299.35 feet to the **BEGINNING**, and containing 8.40 acres, according to a recorded plat prepared by James S. Ballinger, Professional Land Surveyor, Ellenboro, North Carolina, dated July 23, 2004, entitled "Survey for Robert A. Yancey", Map File No. 145-020m.dgn, recorded in the Office of the Register of Deeds in Map Book 10 at Page 17, from which plat of survey all calls used in this description were taken.

AND BEING the same property as conveyed by that certain deed dated October 12, 1957, from Richard R. Cook to Lois C. Cook, and which is recorded in McDowell County Deed Book 145 at Page 20.

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 21st day of October, 2014.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-14-10-21-1

PUBLIC APPEARANCE – COMMUNITY ACTION OPORTUNITIES: Finance Director Harriett Thomas introduced Ms. Carey Gibson and Linda Hamrick from Community Action Opportunities (CAO). Ms. Thomas said that she serves on the CAO Board and thought that information about CAO's efforts in McDowell County would be interesting for Council. Ms. Gibson gave the following presentation about the CAO McDowell County Lifeworks Program operated out of the Job Link building on Baldwin Avenue.

[redacted]

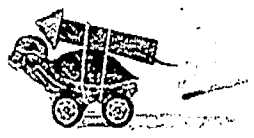
Community Services Block Grant Program for Community Action Opportunities-

McDowell County

October 21, 2014

Community Action Opportunities is a catalyst for individual, family and community change.

- We are a Community Action Agency, founded in 1964 by the Economic Opportunity Act.
- We work with citizens of Buncombe, Madison, and McDowell county who live on limited incomes, elected public officials, and private sector representatives to confront and solve the problems that cause poverty.



[redacted]

History of Expansion

- Began process to expand CSBG services to McDowell County in October 2011
- Received formal designation in April 2012
- Conducted Needs Assessment and held Public Hearing in August 2012
- Established partnership with Job Link for Space
- Hired Life Coach Linda Hamrick in January 2013

Community Action Opportunities Programs

- Head Start
- Life Works
- Weatherization
- 21st Century Parenting
- Accountable Results for Community Action – a statewide database that supports Life Works and Weatherization

[redacted]

Expected Outcomes

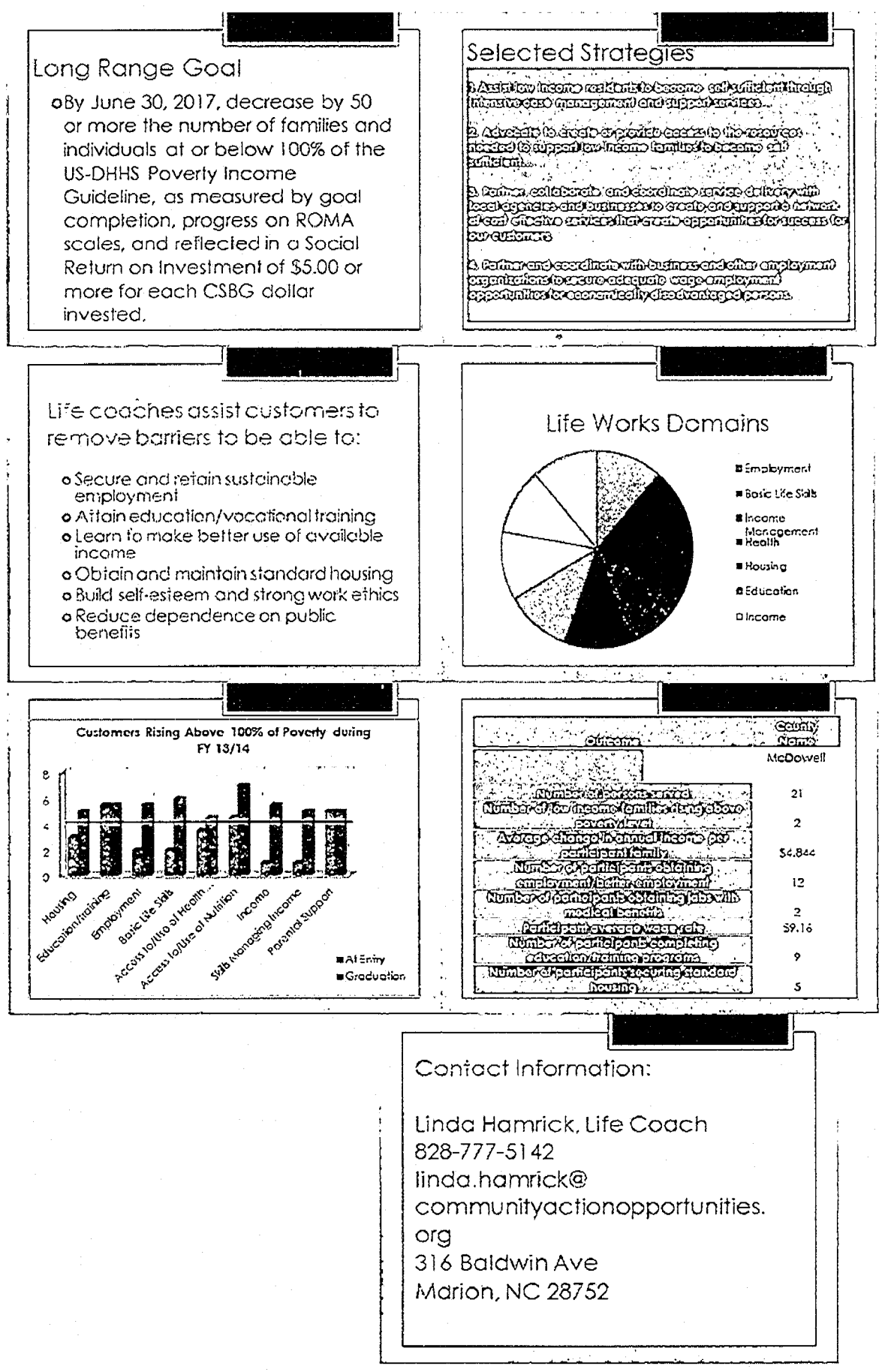
- Low income people become more self sufficient
- The conditions in which low income people live are improved
- Low income people own a stake in their community
- Partnerships among supporters and providers to low income people are achieved
- Agencies increase their capacity to achieve results
- Low income people, especially vulnerable populations, achieve their potential by strengthening family and other support systems

[redacted]

Poverty Causes Identified

- Reduction of Employers
- Living wage employment opportunities
- Lack of employment skills
- Limited educational and vocational training
- Lack of affordable standard housing
- Limited access to transportation and childcare
- Criminal history
- Increased cost of basic expenses
- Unmet mental health/physical health needs

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Council Member Ramsey stated that housing is a major problem in McDowell County, as is transportation.

Ms. Hamrick advised that many of her clients have issues with housing and transportation. She said that she does what she can, using resources from outside agencies such as the Isothermal Planning and Development Commission's Weatherization Program.

Council Member Clark asked Ms. Gibson how CAO is funded. Ms. Gibson stated that CAO is funded solely through a Federal Community Services Block Grant, but that most of the oversight and regulations concerning CAO programs comes from the State.

Council Members expressed appreciation to Ms. Gibson and Ms. Hamrick for their efforts and made suggestions on marketing the program locally.

Council Member Clark thanked Ms. Gibson and Ms. Hamrick for sharing information about this program with Council.

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

APPROVAL OF CITY PARTICIPATION IN NORTH CAROLINA RURAL CENTER BUSINESS DEVELOPMENT INITIATIVE: The City Manager advised that, as previously reported and as shown in the information presented to Council Members, the N.C. Rural Center has invited the City to join a new business initiative. The Rural Center is applying for USDA funding. If the Rural Center is funded, the City would have to commit to 30 months of participation and training. The "prize" at the end of this training would be a $100,000 loan fund dedicated for Marion businesses. There is no financial commitment required from the City.

The City Manager stated that he had spoken to Chilton Rogers with the Rural Center about this program last week. She told him that the Rural Center will handle the loans, so the City would not have to deal with that part of the program, which would be a welcome relief. The City would form a local advisory committee, which would make recommendations for loans to the Rural Center. The City Manager stated that he told Chilton Rogers that he was very excited about this program and that the City very much appreciated being selected to participate. Ms. Rogers said that a few select towns were being chosen, based on their past performance with the NC STEP Program and their capacity to have success with this new program.

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The City Manager reported that the Rural Center must submit the USDA application by November 12. Ms. Rogers said that approval would likely be given next spring and the program could hopefully begin next summer.

The City Manager advised that, in order to participate, the City would need to submit a formal Letter of Support and complete some USDA forms. The City Manager stated that, from everything he has seen and heard, it looks like this would be a great program and a wonderful opportunity for the City to access $100,000 in capital for new and expanding businesses.

Upon a motion by Council Member Ramsey, seconded by Council Member Martin, those members of Council present voted to approve the City's participation in the N.C. Rural Center Business Development Initiative.

CONSIDER AWARD OF CONTRACT FOR WATER METER REPLACEMENT: Public Works Director Brant Sikes advised that, as authorized by Council several months ago, staff developed specifications and sought bids for the replacement of the City's automated water meter reading (AMR) system. Bids were due on October 7. A total of five bids were received. After review of the bids, staff recommends that the contract be awarded to Carolina Meter & Supply, Inc. of Hampstead, North Carolina for Badger Orion ME meters in the amount of $724,672. There were two lower bids, but the City's specifications were not met by either of the two companies submitting the lower bids.

Mr. Sikes stated that the second low bidder, Miller Supply Co., Inc., did not include a Project Manager in their bid, as required by the City's specifications, resulting in their bid being artificially low. The low bidder, Zenner USA, bid a mesh network rather than a true AMR system, as required by the City's specifications.

Mr. Sikes reported that the Badger Orion ME system meets all City specifications and has been successfully used by many other systems, which is why it is the recommended option.

The City Manager advised that City Attorney Jennifer Jackson reviewed the bids and agreed with the staff recommendation. The City Manager stated that, upon approval of a contract, staff would seek bids for the financing of approximately $470,000 of the expenses related to this project, after $254,719 of remaining Water and Sewer Capital Reserve Fund money is used. Once the financing bids are in hand, the City can seek financing approval from the North Carolina Local Government Commission.

Council Member Martin made a motion to reject the bid for the purchase of the Automated Water Meter Reading System from Zenner USA in the amount of $624,950 and from Miller Supply Co., Inc. in the amount of $713,631 for noncompliance with the City's bid specifications and to award a contract for the purchase of the Automated Water Meter Reading System to Carolina Meter and Supply Co., Inc. of Hampstead, North Carolina in the amount of $724,672. The motion was seconded by Council Member Ramsey and carried unanimously by a vote of those members of Council present.

APPROVE STREET CLOSURE FOR NEW YEAR'S EVE CELEBRATION: The City Manager advised that the City, County, Marion Business Assoication and Marion Rotary Club will soon begin planning this year's New Year's Eve Celebration, to be held on Wednesday evening, December 31. He said that all of the organizations hope to build on the events held the past five 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, if necessary, to drop the gold nugget, without objection.

The City Manager stated that, as in past years, Main Street will need to be closed between New and Henderson Streets, between 7:00 p.m. and 1:00 a.m. for this event. The event will take place between 9:00 p.m. and 12:30 p.m.

Upon a motion by Council Member Doggett, seconded by Council Member Martin, those members of Council present voted unanimously to approve the closure of Main Street between Fort and Henderson Streets between 7:00 p.m. and 1:00 a.m. on Wednesday evening, December 31 for the New Year's Eve Celebration.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that the N.C. League of Municipalities Advocacy Goals Conference is scheduled for Thursday, December 11, 2014 at the Raleigh Convention Center. He said that he would be happy to register those Council Members wishing to attend.

The City Manager stated that he had received guidance from another City that the N.C. Department of Health and Human Services (NCDHHS), as shown in the information presented to Council, had stated its interpretation that local ordinances prohibiting all tobacco products include prohibitions on e-cigarettes and vapor products, which contain nicotine. The City Manager stated that he had asked Rutherford-Polk-McDowell Health District Director Jimmy Hines for his thoughts on this interpretation and had received confirmation that this is the position of NCDHHS.

The City Manager advised that City ordinances may be sufficient as they are or, to be clearer, City ordinances could be amended to specifically state that electronic cigarettes and vapor products are prohibited. The City Manager said that Council guidance on this matter would be appreciated.

Council agreed by consensus that the City ordinances are sufficient and that the City's position would be that electronic cigarettes and vapor products would be prohibited from City buildings, facilities, vehicles and parks in the same manner as tobacco is prohibited.

The City Manager stated that Public Works staff will be distributing notices to City residents, stating that recycling no longer needs to be co-mingled and that any type of recycling the City collects can either be placed in a green bin or a blue bin. A news release was sent to the local media and placed a notice on the City website and City channel, advising people of this positive change.

The City Manager stated that Police Chief Allen Lawrence is working to submit a formal request for the U.S. Department of Justice to donate to the City the former Hunter property on Morehead Road. As was discussed at the October 3 Planning Session, this property could potentially be a parking area for the Morehead Cemetery.

The City Manager reported that Public Works Director Brant Sikes is working with England Builders to confirm a construction schedule for the Community Building exterior restrooms, the construction of which was authorized by Council at the October 3 Planning Session. The restrooms should be constructed and opened by Spring.

The City Manager advised that Planning and Development Director Heather Cotton is seeking proposals for a consultant to complete the grant funded City Bicycle Plan. Staff will present the proposals and recommendations to Council for consideration in November.

The City Manager advised that Mr. Sikes and the Public Works staff continue to make good progress on the wastewater collection system inflow and infiltration (I & I) evaluation and manhole inspections.

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The City Manager advised that the City had received the deed for the 0.32 acre Eckerd property on Vale Street that was donated to the City. The City Manager stated that, without objection, since this property has limited development potential, due to the presence of two City sewer lines on the property, he would proposed notifying the adjoining property owner and see if he wishes to submit an offer to purchase the property by negotiated offer and upset bid.

After a brief discussion, Council agreed by consensus to direct the City Manager to notify the property owners on either side of the City property on Vale Street that the City would accept offers to sell the property by negotiated offer and upset bid.

The City Manager stated that the City's contracted landscaper, Lawrence Moore, will soon plant the bank on the Fleming Avenue sidewalk next to Marion Elementary, to prevent further erosion onto the sidewalk, as previously authorized by Council.

The City Manager stated Mayor Little, Mayor Pro Tem Cuthbertson, Council Member Clark and Council Member Doggett had all completed State mandated ethics training, well in advance of the deadline of October 31.

The City Manager advised that he continued to be in discussions with the Airport Road apartment developer, Flatiron Development, and Autumn Care concerning the possible extension of City gravity sewer service on Airport Road to Holly Street to Garden Creek Road, as was discussed at the September 16 Council meeting. As soon as possible, he hopes to be able to report how much Flatiron Development and Autumn Care would be willing to contribute to the project. The City Manager suggested that the City can then identify the estimated funding gap and whether Council wishes to pursue a USDA loan for the entire gravity sewer project.

The City Manager advised that the 31st Annual Mountain Glory Festival took place on Saturday, October 11. The Festival ended up having great weather during the day, excellent crowds and a record number of vendors. The City Manager said that most vendors said they had a great day, as did several downtown businesses.

The City Manager thanked the Marion Business Association volunteers, Board and staff, as well as the Public Works, Police and Fire Departments in putting on another great Mountain Glory Festival.

COUNCIL MEMBER COMMENTS: Council Member Martin stated that he would like to see what Council Members think about doing something to recognize Kansas City Royals star pitcher Greg Holland, who is a graduate of McDowell High School, in light of his participation in the World Series starting that evening.

The City Manager advised that County Manager Chuck Abernathy, McDowell Chamber of Commerce Director Steve Bush and he had talked earlier that day about a joint City/County/Chamber recognition of Mr. Holland, perhaps with a charitable component. After a brief discussion, Council agreed that such a joint recognition would be good during the baseball off-season and asked that more details be set, for further review. In the meantime, Council directed the City Manager to send a letter of congratulations from the City to Mr. Holland for his great season and for his team making it to the World Series.

Council Member Doggett stated that there may be a need for additional street lighting on Fort Street between Main and Logan Streets. The City Manager stated that Public Works Director Brant Sikes and he would look at this location to see if additional street lighting was needed to be consistent with City policy.

Council Member Doggett also stated that she had received a phone call from the Fraternal Order of Police (FOP), asking for donations for Christmas baskets for the needy. Police Chief Allen Lawrence said that this is a legitimate fundraiser undertaken by the local FOP chapter that has been ongoing for many years.

Council Member Clark advised that there are some organizations that claim to be police related, but which actually donate little of money raised to charitable causes.

Council Member Ramsey reported that he learned a lot at the N.C. League of Municipalities Conference in Greensboro the past three days and stated that there was a lot of uncertainty for local governments, due to actions of the North Carolina General Assembly.

Council Member Ramsey noted that the Corner Tavern at West Henderson and South Main Streets had placed tables and chairs on the sidewalk. The City Manager advised that the business owners put the tables and chairs out to show their desired location for the tables and chairs. The City Manager reported that he hoped to present a sidewalk café ordinance to Council for review at the November 18 Council meeting.

ADJOURNMENT: Upon a motion by Council Member Ramsey, seconded by Council Member Martin, those members of Council present voted 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, November 4, 2014 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; Harriett Thomas, CPA, Finance Director; Heather Cotton, AICP, Planning and Development Director; Brant Sikes, Public Works Director; Allen Lawrence; Police Chief; Ric Luther, President, Marion Business Association; Freddie Killough, Executive Director, Marion Business Association; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: John Lewis, Marion First Free Will Baptist Church; Hank Taylor, Marion First Free Will Baptist Church; Reverend Brian Bird, Marion First Free Will Baptist Church.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

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

A. **Approval of Minutes** – October 21, 2014 Regular City Council Meeting Minutes

B. **Approval of Longevity Pay**

Council approved the payment of longevity pay for City employees, as included in the 2014-15 City budget, as well as the purchase of a turkey for City employees and contract employees. The following is a summary of longevity pay by department:

DEPARTMENTAL SUMMARY - LONGEVITY 2014

DEPARTMENT		GROSS AMOUNT
ADMIN	420	$6,941.92
PURCHASING	445	1,282.40
INSPECTIONS	500	2,856.60
POLICE	510	14,329.65
FIRE	530	4,195.24
PUBLIC WORKS/ADMIN	545	685.01
FLEET MAINTENANCE	555	1,091.41
STREET	560	5,300.22
SANITATION	580	3,594.41
WATER UTILITIES	810	3,404.68
WATER FILTER PLANT	812	2,450.21
WASTE TREATMENT PL	816	6,132.88
	GRAND TOTAL	**$52,264.63**

C. Approval of Resolution – Automated Water Meter Reading System Financing Reimbursement

RESOLUTION FOR REIMBURSEMENT FROM THE PROCEEDS OF TAX-EXEMPT FINANCINGS FOR CERTAIN EXPENDITURES MADE AND/OR TO BE MADE IN CONNECTION WITH THE ACQUISITION OF POSITIVE DISPLACEMENT WATER METERS, RADIO FREQUENCY AMR SYSTEM AND RELATED APPURTENANCES

WHEREAS, the City of Marion (the "City") is a political subdivision organized and existing under the laws of the State of North Carolina; and

WHEREAS, the City will pay, beginning no earlier than November 4, 2014 and after the date hereof, certain expenditures (the "Expenditures") in connection with the purchase of positive displacement water meters, radio frequency AMR system and related appurtenances (the "equipment"); and

WHEREAS, the City Council (the "Council") has determined that the money to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period and it is necessary to reimburse the City for the Expenditures from the proceeds of one or more issues of tax-exempt obligations (the "Obligations");

AA.0000000485 (24)

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

Section 1. The Council hereby declares the City's intent to reimburse the City with the proceeds of the Obligations for the Expenditures with respect to the purchase of the equipment made on and after November 4, 2014. The City reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Obligations.

Section 2. Each Expenditure will be (a) of a type properly chargeable to the capital outlay account under general federal income tax principles (determined in each case as of the date of the Expenditure) and (b) complies with all applicable regulations.

Section 3. The maximum cost of the Project is expected to be $724,672.

Section 4. The City will make a reimbursement requisition, which is a written requisition by the City that evidences the City's use of proceeds of the Obligations to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the equipment is placed in service, but in no event more than three years after the date on which the Expenditure is paid.

Section 5. This resolution shall take effect immediately upon its passage.

ADOPTED this 4th day of November, 2014

Stephen R. Little, Mayor

Attest:

J. Robert Boyette, City Manager/Clerk

R-14-11-04-1

PUBLIC HEARING – ADOPTION OF ORDINANCE APPROVING CLOSURE OF UNOPENED ALLEYWAY OFF OF STATE STREET:
Planning and Development Director Heather Cotton advised that a request had been received by the First Free Will Baptist Church to permanently close an unopened portion of an unnamed alley located off of State Street, in order for the Church to construct a new fellowship hall over said alley. A Resolution of Intent to close the street was adopted by City Council on October 7, 2014, a 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 alley was recorded in the Mattie E. Perry Addition to East Marion Subdivision in Map Book 1 Page 98-99 copied from the original map on Page 601, Deed Book 49, and on J.H. Tate Annex Subdivision copied from an original map on Page 602, Deed Book 49. Both of which are referenced in the Applicant's deeds and is identified on a survey prepared by John K. Causby NCPLS #3188 dated October 24, 2014. The unopened potion of the unnamed alley is ten feet in width and the portion being requested for closure is approximately 0.11 acres.

Ms. Cotton reported that property adjoining the unopened alley is owned by the Applicant as well as two other adjoining property owners. According to the survey there is only one small land-locked parcel, approximately 0.024 acres in size, owned by McDowell County Board of Education. On Monday, October 20, 2014, the Applicant made a request to the McDowell County Board of Education to purchase said property, and the Board approved a resolution to authorize the sale of said property pursuant to State Statute.

Ms. Cotton stated that the City does not maintain any portion of the unnamed alley, and there is no indication that closing the street would be detrimental to public interest or limit access to any other property.

A copy of a survey prepared by Causby Surveying dated October 25, 2014 and a location map where presented to Council Members for their review.

Mayor Little opened the public hearing.

No one spoke during the public hearing.

Council Member Clark commended Church members on their endeavors and what they are trying to accomplish with the new construction.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to adopt the following Ordinance permanently closing the unnamed alley off State Street, as requested:

AN ORDINANCE PERMANENTLY CLOSING
A PORTION OF UNNAMED ALLEY OFF STATE STREET

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 October 7, 2014 adopted a resolution declaring its intent to permanently close a portion of an unnamed alley 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 unnamed alley 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 November 4, 2014, at which no owner of property adjoining the unnamed alley intended to be closed appeared to express opposition to the closing; and

WHEREAS, After the hearing, it appears to the satisfaction of the City Council that closing the described unnamed alley 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.

AA.000000486 (24)

Section II. IT IS, THEREFORE, ORDAINED AND ORDERED that the unnamed alley as shown, for identification and location purposes only, on a survey of property prepared by John K Causby NCPLS #3188 dated October 25, 2014 referenced herein as Exhibit A, and as in Map Book 1, Page 98-99 on the Mattie E. Perry Addition Subdivision dated December 22, 1925 recorded in the Office of the McDowell County Register of Deeds, be, and it is hereby, permanently closed.

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 4th day of November 2014.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-14-11-04-1

Reverend Brian Bird of First Free Will Baptist Church thanked the City, especially Planning and Development Director Heather Cotton, for their assistance and guidance with the street closing process. Rev. Bird said that the City has a jewel in Ms. Cotton.

The City Manager thanked Rev. Bird and Church members for their patience with the street closing process, which he noted was a complicated procedure under North Carolina law.

PUBLIC APPEARANCE – MARION BUSINESS ASSOCIATION:

Mr. Ric Luther, President of the Marion Business Association (MBA), appeared before Council and gave the following quarterly report for the MBA for the quarter of July 1 – September 30, 2014.

July – September 2014
Quarterly Report of Marion Business Association

Economic Development Report

7 - New Businesses Opened
Car Wash - Railroad Street
Laundromat - Morgan Street
Avada Hearing Aids – S. Main Street
Possibilities - Railroad Street
Corner Clothing – N. Main Street
Cell Phone Connections - East Court Street
Freedom Life Ministries - Logan Street
5 - New Business Owners or New Locations
Jasmines' Consignments - Relocated to 1471 N. Main Street
Vintage Owl - Relocated to 49 South Main Street
Community Thrift - Relocated to 221 N. Business
Catawba Properties - David Patneaude, New owner
LA Beauty Bar - Relocated to East Court Street
256 - Business Visits
4 - Businesses Closed – The Train Shop, Elizabeth's Closet, Diamond Thieves & Texas Pizza
5 -Business Opportunity Inquiries
3 - Business Loan Inquiries
2 - Business Grant Inquiries
5 - Property Referral Inquiries
1 - Property Owner Contacts w/ available buildings
0 - Contacts with interested Commercial Developers
0 - New Businesses Breaking Ground
5- Façade Grant Inquires
6 - Façade Grants Completed (MBA & MEDA Historic Marion Façade Grant Program and MBA Sign Grant)
0- Properties sold

Other Economic Activity:

- *Historic Marion Façade Grants* – Several grants have been paid. There are still grant funds available.
- *Historic Marion Tailgate Market* transformed into the Fall Craft Market after Labor Day. The Market will continue through December 16, Tuesdays and Saturdays with locally made crafts added to in season produce.
- MBA maintains an *Available Commercial Properties* listing of properties in the City of Marion. Staff is adding photos to the listings, available on the MBA website, www.hometownmarion.com.
- *The Certified Retirement Community Committee* continues to market and promote Marion and McDowell County. The CRC project is a joint effort of the City of Marion, Marion Business Association, McDowell Chamber of Commerce, McDowell County and McDowell Tourism. The Committee plans to have a booth at the Southern Spring Show in Charlotte to promote Marion/McDowell County as retirement community.
- *Ribbon Cuttings*- Supported & attended 3 Ribbon Cuttings in partnership with Chamber of Commerce.

Committee Meeting Reports

MBA Board of Directors met August 12 and September 9, New Board Orientation on July 8
MBA Economic Development Committee continues to review and discuss a marketing proposal. Representatives from local agencies meet with a marketing agency about creating a marketing web site for all county agencies to use to promote to the local community and to visitors.

AA.000000487 (24)

Mountain Glory Festival Committee met August 8 and September 26 to plan for the October 11 event. This committee is very active and hands on in planning the festival.
Events & Promotions Committee met July 17, August 21 and September 18. The Committee is planning fall and Christmas events and promotions. See the upcoming schedule below.
Historic Marion Tailgate Market Committee will meet in January to plan for 2014.
Other Committees MBA Supports -
WNC Rail Committee
MEDA
McDowell House
McDowell Non-profit Organizations (NPO)
McDowell Get Not Out - Workforce Development

Special Events Report

July 4 Celebration – Great attendance, spectacular fireworks.
August 2 Sidewalk Yard Sale – Good participation.
August 8 Shagging in the Streets Concert – Very popular event.
September 2 Labor Day Concert with Terry McKinney.

Volunteer Hours Committed – 148
Mountain Glory Festival - Saturday, October 11, 9:30 AM - 5:00 PM
Market Fall Festival - Tuesday, October 28
Trick or Treating for the Kids with Downtown Merchants!!! 3:30 PM - 5:00 PM
Christmas Parade - Sunday, November 23 - @ 3:00 PM
Appalachian Potter's Market - Saturday, December 6- @ McDowell High
10:00 AM - 4:00 PM - Info 828-652-8610
Blue Ridge Artisans Craft Show, December - @ MACA Info 828-652-8610
Melodies on Main Street - Thursday, December 4 - 5:30 PM - 7:00 PM
New Year's Eve Celebration - Wednesday, December 31 - 9:00 PM - Midnight
Every Thursday Night, 7:00 PM - Free Music @ Depot

Mr. Luther and MBA Executive Director Freddie Killough also highlighted the October 11 Mountain Glory Festival and October 28 Fall Festival, thanking City staff for their help with both events.

Mayor Little, Council Members and the City Manager thanked the MBA for their great work with the Mountain Glory Festival and for all of their continued efforts.

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

ADOPTION OF RESOLUTION AUTHORIZING SUBMISSION OF APPLICATION FOR FINANCING APPROVAL TO LOCAL GOVERNMENT COMMISSION: Finance Director Harriett Thomas advised that she had prepared an application to the North Carolina Local Government Commission (LGC), requesting approval of the City financing approximately $470,000 of expenses related to the purchase of a new Automated Water Meter Reading (AMR) system is ready. At the October 21 Council meeting, Council awarded a contract to Carolina Meter and Supply Co., Inc. in the amount of $724,672 for the purchase of the AMR system.

Based on discussion at the October 3 Council Planning Session, the City will use remaining Water and Sewer Capital Reserve Fund money, currently $254,719, to partially fund the AMR system and finance the remaining $470,000 over ten years. LGC approval of the financing is required before the City may enter into a loan of this amount and term to purchase equipment.

Ms. Thomas stated that she would recommend Council adoption of the resolution presented authorizing staff to submit the application to the Local Government Commission requesting approval of the City financing approximately $470,000 of expenses related to the purchase of a new Automated Water Meter Reading (AMR) system.

Ms. Thomas further advised that the City had received financing bids for the purchase of the Automated Water Meter Reading (AMR) system, as follows:

BANK	RATE(S)	PRE-PAYMENT PENALTY	LOAN FEES
Asheville Savings Bank	2.830%	0	$500
BB&T	2.390%	1%	Not Stated
PNC BANK	3.250%	3%	$250 Escrow Set-Up
Sun Trust Opt. 1	2.250%	0%	$100 + UCC $250 Escrow Set-Up
U.S. Banccorp Opt. 1	2.170%	3%	0
U.S Banccorp Opt. 2	2.347%	0	0

AA.000000488 (24)

Ms. Thomas reported that the low bid was Option 1 from U.S. Banccorp at 2.17% for 10 years. Ms. Thomas said that there is a 3% prepayment penalty in the U.S. Banccorp bid, but this should not be an issue, since the City does not typically pay off a loan early. She added that this is an excellent interest rate and even a little lower than the 2.23% interest rate from U.S. Banccorp approved by Council in August for 10 year financing of the new fire pumper/tanker truck. The annual payment on the loan at the 2.17% interest rate is $52,537.32.

Upon a motion by Council Member Martin, seconded by Council Member Ramsey, Council voted unanimously to approve the City entering into a loan from U.S. Banccorp at 2.17 percent for 10 years to finance approximately $470,000 in expenses related to the purchase of a new Automated Water Meter Reading system, subject to approval of the financing by the North Carolina Local Government Commission.

Upon a motion by Council Member Doggett, seconded by Council Member Martin, Council voted unanimously to adopt the following Resolution authorizing City staff to submit an application to the North Carolina Local Government Commission for financing of approximately $470,000 in expenses related to the purchase of a new Automated Water Meter Reading system:

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 replace its current failing automated meter reading system with a new, more accurate automated meter reading system (the "Project") to better serve the citizens of the City of Marion; and

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/special] session on the 4th day of November, 2014, make the following findings of fact:

1. The proposed contract is necessary or expedient in order to finance $470,000 of the $724,672 total cost of the automated meter reading system.

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 in its entirety 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 automated meter reading system is ten years, thereby making bonds a less desirable alternative.

3. The sums to fall due under the contract are adequate and not excessive for the proposed purpose because billed water and sewer revenues are expected to increase upon replacement of the failing automated meter reading system with a new, more accurate system.

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 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.

6. The City of Marion is not in default in any of its debt service obligations.

7. 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.

8. 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 _____ day of _____, 20___.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

R-14-11-04-2

CONSIDER APPROVAL OF AMENDMENTS TO COMMUNITY BUILDING RULES AND REGULATIONS: The City Manager advised that Finance Director Harriett Thomas had worked on proposed amendments to the Community Building Rules and Regulations. Ms. Thomas presented the proposed amendments, which include the following changes:

A. Adding the Red Cross to the list of organizations receiving the $30 discounted rental rate. Staff proposes that the Red Cross must have a minimum of six rentals per year and provide a minimum notice of seven days to qualify for the discounted rate.

B. Adding Rule #4, already authorized in the City Fee Schedule, that people or groups may rent the Main Level for one-half day the day prior to a scheduled rental at a reduced rate, as set by the Fee Schedule (currently $75), provided that such a one-half day rental may not be made earlier than two weeks prior to the scheduled event.

AA.000000489 (24)

C. In Rule #9, removing language stating that people should call if the pilot light on the stove is out, since the City no longer keeps the stove lit. Rule #9 is revised to read that renters wishing to use the stove should call the Public Works Department or Police Department. The City now has few groups using the stove.

D. In Rule #13, adding language that transaction fees will be added if a credit card is used.

E. In Rule #16, removing language that the microphone may be checked out from the Police Department and adding provisions for the remote controls for the projector and screen to be checked out from City Hall.

F. In Rule #17, adding language that hookups are in place next to the cabinet on the podium to allow computers to be connected for audio/visual presentations. Language is also proposed to state that the microphone is fixed to the podium and that damage to the microphone will result in charges being made against the renter's credit card.

G. In Rule #22, changing references from "Seeing Eye Dogs" to "Service Dogs" to reflect the correct term that is now used.

Council Member Clark stated that he thought that the one-half day time period listed in Rule #4 should be better defined. After discussion, Council agreed to change the one-half time period to 3:00 p.m. to 12:00 Midnight.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Doggett, Council voted unanimously to approve the following Community Building Rules and Regulations:

CITY OF MARION, NORTH CAROLINA

RULES AND REGULATIONS
FOR THE
MARION COMMUNITY BUILDING MAIN LEVEL

REVISED NOVEMBER 4, 2014

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
Newcomers and Friends	2nd Tuesday 7:00am to 3:00pm
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
American Red Cross	Minimum 6 rentals per year and at least 7 days notice required prior to rental

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 and paying the required deposit and payment for the use of the building. The payment for the deposit and rental fee may be made by cash, check or credit cards. A $25.00 insufficient funds/closed account charge shall be made on any returned check. Transaction fees will apply to all credit card charges.

2. A 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 2015, the earliest you can schedule the building is September 1, 2014). 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.

AA.00000490 (24)

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 from 3:00 p.m. until 12:00 Midnight 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 who needs use of the range, should call the Public Works Department 828-652-4224 during normal business hours, Monday through Friday 8:00 a.m. – 5:00 p.m. or the Marion Police Department after hours and week-ends 828-652-3231.

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.

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, even if payment is made by a method other than credit card. This credit card will only be used if damages are incurred that exceed the security deposit. If damages occur and the card is charged, a transaction fee will also be charged; however if the card charged is deemed to be invalid and prompt payment for damages 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 828-652-3231, 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 remote controls for the projector and screen may be checked out at City Hall between 8:00 a.m. and 5:00 p.m. Monday through Friday. When use of the remote controls has been completed, they are to be returned to City Hall immediately or if after hours, no later than the next business day. Failure to return the remote controls will result in a substantial charge to the renter's credit card.

17. The volume for the speaker system is preset. A switch located on the backside of the podium will turn on the equipment. Hookups are in place next to the cabinet to allow computers to be connected for audio/visual presentations. The microphone is fixed to the podium, removal of or damage to will result in a substantial charge to the renter's credit card.

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: 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 (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.

AA.000000491 (24)

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 Service Dogs.

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 4th day of November 2014.

Stephen R. Little, Mayor

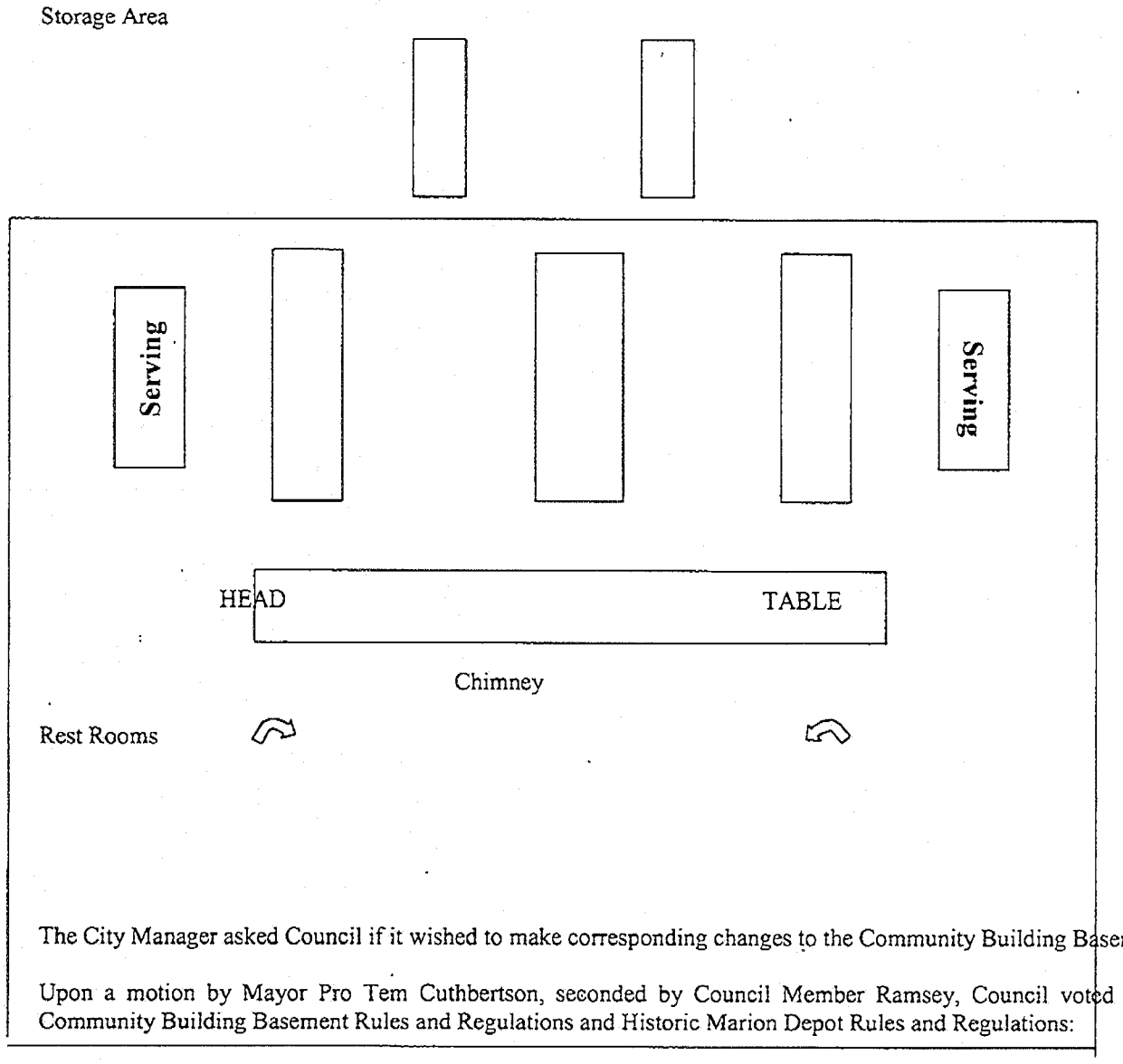
ATTEST:

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**



The City Manager asked Council if it wished to make corresponding changes to the Community Building Basement and Depot Rules and Regulations.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Ramsey, Council voted unanimously to approve the following Community Building Basement Rules and Regulations and Historic Marion Depot Rules and Regulations:

CITY OF MARION, NORTH CAROLINA

RULES AND REGULATIONS
FOR THE
MARION COMMUNITY BUILDING BASEMENT

REVISED NOVEMBER 4, 2014

AA.0000000492 (24)

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 payment for the deposit and rental fee may be made by cash, check or credit card. 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 2015, the earliest you can schedule the building is September 1, 2014). 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.

3. 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 from 3:00 p.m. until 12/00 midnight 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, even if payment is made by method other than credit card. 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.

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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 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 Service Dogs.

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 4th day of November 2014.

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 4, 2014

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.

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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 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. Payment may be made by cash, check or credit card. 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 2015, the earliest you can schedule the building is September 1, 2014). 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 from 3:00 p.m. until 12:00 midnight 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.

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, even if payment is made by a method other than credit card. 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 Service Dogs.

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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 4th day of November 2014.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

SELECTION OF VOTING DELEGATE AND ALTERNATE FOR NC LEAGUE OF MUNICIPALITIES ADVOCACY GOALS CONFERENCE: The City Manager advised that, as previously reported, the N.C. League of Municipalities will hold its Advocacy Goals Conference in Raleigh on Thursday, December 11, from 9:30 a.m. until 4:00 p.m. Information on this Conference was presented to Council Members. At the Conference, the League's legislative and regulatory goals for the next two years will be set.

The City Manager stated that if Council Members wish to attend, to please let him know and he would register them. The City Manager stated that he plans to attend this Conference.

The City Manager reported that Council action is needed to select a voting delegate and alternate for the Advocacy Goals Conference. The City Manager stated that, without objection, he would send information on the proposed legislative and regulatory goals and request input as to which should be the City's priorities.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to appoint City Manager Bob Boyette to serve as voting delegate for the December 11 N.C. League of Municipalities Advocacy Goals Conference in Raleigh.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Doggett, Council voted unanimously to appoint any other Council Member who attends the Advocacy Goals Conference as the City's alternate voting delegate.

ADD ON – WAIVER OF CIVIL CITATION: The City Manager presented Council with a letter from Ms. Karen McEntire advising that she had received a $10.00 parking ticket for overtime parking in the North Main Street Gazebo Parking Lot on Monday, October 27. The City Manager stated that Ms. McEntire indicated that she was serving on the Grand Jury on this day and, due to a motor vehicle accident on Main Street, could not get to designated parking lots in time for court. The City Manager presented documentation from the McDowell County Clerk of Court's Office, confirming that Ms. McEntire served on the grand jury on October 27, 2014.

The City Manager stated that Council had traditionally waived the penalty for parking tickets written to jurors. In this case, Ms. McEntire has already paid the ticket, but a refund of the ticket amount could be made to her.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to waive the $10.00 penalty for the parking ticket written to Ms. Karen McEntire on Monday, October 27 for overtime parking in the North Main Street Gazebo Parking Lot while she was serving on the grand jury and to refund Ms. McEntire the $10.00 she had already paid for this ticket.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager stated that the McDowell Health Coalition sent an invitation to the Mayor and Council Members for the Health Coalition's annual meeting on Friday, November 14 from 2:00 p.m. until 4:00 p.m. at McDowell Tech.

The City Manager advised that Public Works Director Brant Sikes had recently met with England Builders to finalize details and to determine a construction schedule for the Community Building exterior restrooms, the construction of which was authorized by Council at the October 3 Planning Session. The construction should definitely take place by Spring.

The City Manager advised that, at the November 18 Council meeting, he would present an ordinance for Council to review to allow for sidewalk cafes (bars/restaurants serving alcohol in defined areas on sidewalks). The City Manager stated that he had reviewed the ordinance with Jennifer Jackson and Marsh Dark and had also given the ordinance to the owners of Low Country (Mike Cantey), After 5 (Bob McKinnon) and Corner Tavern (Jarrod Hughes) for review.

Council Member Ramsey noted that the table and chairs at the Corner Tavern do not provide much clearance for pedestrians. The City Manager advised that the draft ordinance calls for a five foot wide pedestrian clearance.

Council Member Clark stated that he had heard from citizens expressing concerns about this idea. He urged Council to be cautious.

After a brief discussion, it was agreed by Mayor Little and Council Members that the draft Sidewalk Café Ordinance should contain language that requires the sidewalk café area to be clearly defined and to be separated from the public sidewalk by some kind of barricade.

The City Manager stated that, in late October, Johnson Paving completed the Crescent Drive street resurfacing work, after the original contractor was terminated. The City ended up coming in more than $13,000 under the estimated cost for this project, despite the troubles with the original contractor.

The City Manager advised that he had recently had discussions with Autumn Care and with the Airport Road apartment developer, the Flatiron Group, concerning the proposed gravity sewer service on Airport Road to Holly Street to Garden Creek Road, as was discussed at the September 16 Council meeting. The City Manager stated that he hopes to have commitments from both parties by the end of the calendar year regarding how much each are willing to contribute to the project. Staff can then identify the estimated funding gap and Council can determine how much the City can put into the project and if it wishes the City to pursue a USDA loan for the entire gravity sewer project.

The City Manager advised that before DOT completed the draft City Comprehensive Transportation Plan (CTP), he had scheduled a meeting on October 15 with DOT and School System representatives, to identify any potential transportation projects around schools in the City's planning area, particularly around McDowell High School and West McDowell Middle School. As previously reported, several projects were identified, including a

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connector road between the High School Road and Roby Conley Road and ramps from the High School Road onto the US 221 Bypass. These projects will be included in the draft CTP. DOT is now working to finalize the draft CTP, which can hopefully be presented to Council for review and consideration in the near future.

The City Manager stated that the City had finalized the donation of the 1975 fire pumper truck to McDowell High School, as previously authorized by Council. The document provides for the truck to revert back to the City at such time in the future as it is no longer needed or used. The truck has now officially been given to the High School.

The City Manager advised that the Public Works Director plans to have City crews begin work before winter on the access road and parking lot for the City's Mt. Ida property.

Planning and Development Director Heather Cotton gave a brief update on Phase II of The Joseph McDowell Historical Catawba Greenway. Construction is progressing nicely and paving work on the Greenway should start before the end of November.

The City Manager stated that the City had recently located Alvin Kincaid, the former owner of the mobile home on City property on Woodlawn Street, and was sending Mr. Kincaid a letter giving him 30 days to remove the mobile home. If Mr. Kincaid does not remove the mobile home within 30 days, the City will demolish the home.

COUNCIL MEMBER COMMENTS: Council Member Clark asked the City Manager about his 2014-15 budget projections and whether there were any significant issues at the current time. The City Manager stated that revenue and expenditure projections, based on data from the first quarter of the Fiscal Year, were extremely conservative and that he saw no significant problems that needed action.

Council Member Clark suggested that Council consider starting Council meetings at 6:00 p.m., at least during the time between the end of Daylight Savings Time and the beginning of Daylight Savings Time. The City Manager advised that the Council Meeting starting time of 7:00 p.m. was set by the City Code and that Council action was needed to make any changes to the meeting time. Mayor Little and Council Members agreed to consider such a change at the November 18 Council meeting.

Mayor Pro Tem Cuthbertson reported that he had received an inquiry from a business on Railroad Street, asking if they could have A-frame signs on the sidewalk, like business have on Main Street.

Planning and Development Director Heather Cotton said that such signs are permitted on Railroad Street, which is in the Downtown Overlay District and that she would have Zoning Administrator/Code Enforcement Officer Joshua Williams advise the business accordingly.

The City Manager stated that they do.

Council Member Doggett thanked staff for checking on whether additional street lights were needed on Fort Street.

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

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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 18, 2014 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 and Don Ramsey.

Council Member Juanita Doggett was not present for this meeting, due to a scheduled trip out of state.

Council Member Billy Martin was not present for this meeting, due to illness.

OTHERS PRESENT: Bob Boyette, City Manager; Tammy Rose, Personnel Technician; Harriett Thomas, CPA, Finance Director; Heather Cotton, AICP, Planning and Development Director; Brant Sikes, Public Works Director; Allen Lawrence; Police Chief; Dawn Penland, Accounting Assistant; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Marsh Dark, Morrow Insurance; Chris Costner, CPA, Martin Starnes & Associates; Steve Bush, Executive Director, McDowell Chamber of Commerce; Jarrod Hughes, 84 South Main Street, Marion, NC; Trevor Sisk, 84 South Main Street, Marion, NC; Cecil Owenby, 62 Vine Street, Marion, NC; Hoppi Robertson, P.O. Box 927, Old Fort, NC; Rev. Timothy and Lee Ann Sigmon, 2311 Bethel Church Road, Marion, NC; Anwer and Nasim Gillani, P.O.Box1536, Marion, NC; Samir Gillani, 901 Lennox NE, Atlanta, GA; Beverly Morris, 228 Hilltop Drive, Marion, NC; Jamie Burnette, P.O. Box 1801, Old Fort, NC; Harold and Jo Shuman, P.O. Box 189, Old Fort, NC; Lisa Whitesides, 6064 Bat Cave Road, Old Fort, NC; Ashleigh Lamb, 175 Hoppy Tom Hollow Road, Marion, NC; Iris Hall, 536 Twin Lakes Road, Old Fort, NC; Leisa Huffman, 44 Stroud Street, Marion, NC; Kansas Johnson, 44 Stroud Street, Marion, NC; Emerson Barksdale, 35 Apache Trail, Marion, NC; Donna McElreath, 326 South McDowell Avenue, Marion, NC; Jan Ramsey, 188 Hillcrest Drive, Marion, NC; Greg, Gail, Alexis and Sarah Barksdale, 19 Woodland Drive, Marion, NC; Tom Rockett, 20 Woodland Drive, Marion, NC; Jon Hartman, 5439 Mt. Olive Church Road, Marion, NC; Jim Gantney, 5 Camille Drive, Nebo, NC; Dwight Hussey, 250 Woodland Drive, Marion, NC; Jim and Gerry Gorst, 46 Woodland Drive, Marion, NC; Millard and Patricia Hollifield, 100 Woodland Drive, Marion, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

CITIZEN OF THE MONTH PRESENTATION: Council Member Don Ramsey presented the Citizen of the Month for November 2014:

ANWER GILLANI

Council Member Ramsey advised that that it was his honor and privilege to recognize Mr. Anwer Gillani as Citizen of the Month for November for his dedicated service to the community.

Mr. Gillani, a native of Bangladesh, has been an active member of the community since he moved to North Carolina in 1982, when he opened the Jean People on Main Street. His first act of charity began there when he gave away free jeans to the homeless at the request of the Department of Social Services. In 1991, Mr. Gillani went into the convenience store business and he now owns 17 stores around North Carolina.

Anwer Gillani and other volunteers of McDowell County started the GVA, Gillani Volunteer Association, starting with 150 Thanksgiving meals the first year and last year delivered over 2400 meals, delivering 25,000 meals over the years. This charitable organization is in honor of his late brother, Noordin Gillani, who served meals to the homeless and less fortunate on the Muslim holiday of Eid back in his native country of Bangladesh. This is a religious festival celebrating giving and sharing with others.

Mr. Gillani's generosity and support is year round. He donates fruit baskets and other items to the prisoners on holidays. This is the only gift many of the inmates receive during the holidays. He supports the McDowell County School System in times of need as well as supporting scholarship funds.

The receipt of this month's Citizen of the Month is not the first time that Mr. Gillani has been recognized in the community. He has often received the support and accolades of government officials, including Congressmen, Senators and the Governor of North Carolina. Anwer Gillani prides himself on the fact that the community often turns to him when they need assistance and he is always happy to help. As a result of his reputation in the community, Mr. Gillani and his family have become true ambassadors of Islam leading by example and accepting invitations within the community to talk about their faith. Mr. Gillani's proclaimed priorities in order are his faith, his family and then his business. Mr. Gillani's role model, his brother, inspired him to be active in making a good life for his family and the greater community. Mr. Gillani firmly believes in guidance regarding the distribution of wealth and feels that "if my son goes to a good college, so should someone else." To that end, Mr. Gillani has made sure that all the younger members of his family are educated and he has sponsored families of children who could not afford the cost of education on their own.

Mayor Little, Council Members, dozens of friends who came out to support Mr. Gillani and family members all shared kind words about Mr. Gillani and congratulated him on being selected Citizen of the Month for November.

CONSENT AGENDA: Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, those members of Council present voted unanimously to approve the consent agenda as follows:

A. **Approval of Minutes** – November 4, 2014 Regular City Council Meeting Minutes

DISCUSSION OF SOUTH MCDOWELL AVENUE DRAINAGE ISSUES:
The City Manager advised that Mr. Greg Barksdale of Woodland Drive in the Foxfire neighborhood had asked to address Council about drainage issues on South McDowell Avenue.

Mr. Barksdale outlined issues he and his neighbors have been experiencing for several months with water coming up in his yard and now affecting people downhill of his property. Mr. Barksdale said that he is before Council asking for relief and a solution to the continued problems.

Ms. Donna McElreath of South McDowell Avenue discussed issues with water running along the curb line in front of her property and the need to replace curbs along South McDowell Avenue.

Ms. Gerry Gorst of Woodland Drive also advised of her concerns with water running along the street and whether such water could be harmful.

Millard and Pat Hollifield stated that they had lived in the Foxfire neighborhood for over 30 years and never seen this type of problem occur. Mr. Hollifield described issues with overflow water coming from the East McDowell Middle School property.

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Mrs. Gail Barksdale said that the water had made her yard quite muddy, creating concerns regarding her daughters and pets playing in the yard.

The City Manager stated that City personnel, under the supervision of Public Works Director Brant Sikes, had looked at the drainage situation numerous times and had eliminated a City water leak and a problem with the City maintained drainage system as the cause of the problem. The City Manager advised that, at the request of McDowell County Schools, the City deepened and widened the ditch line along South McDowell Avenue. He stated that the City had exhausted what it could do with its own personnel and equipment.

Council Member Clark suggested that the City should try to get to the bottom of the problem. He asked residents if they felt that the problem came from East McDowell Middle School. Many of the neighborhood residents advised by a show of hands that they believed the drainage issues came from East McDowell Middle School. Mr. Hollifield and Mr. Barksdale said that they believe that water from East McDowell Middle School is finding a way under South McDowell Avenue and surfacing in Mr. Barksdale's yard.

The City Manager reported that McDowell County Schools does not believe that it is the source of the problem and that several people have advised of past problems with underground wet weather springs in the Foxfire neighborhood.

The City Manager asked Mr. Sikes what the best way would be to investigate the source of the drainage issues. Mr. Sikes stated that the City would need to hire a geotechnical engineer to investigate this issue and estimated that such a study could cost $3,000-$4,000 or possibly more

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, those members of Council present voted unanimously to authorize the City Manager to contract with a geotechnical engineer to try to determine the cause of the drainage issues along South McDowell Avenue. The City Manager stated that Mr. Sikes would get started contacting a geotechnical engineer the next day.

Mr. Hollifield thanked the City for their efforts so far to address this matter.

PUBLIC HEARING – ZONING TEXT AMENDMENT: Mayor Little opened the public hearing.

Planning and Development Director Heather Cotton advised that L & T Associates had submitted a request for a Zoning Text Amendment to remove the Zoning Ordinance language limiting electronic message signs to one monochrome color displayed on a solid black background at any one time.

Ms. Cotton reported that the Planning Board met on November 6 and recommended approval of an ordinance to continue the requirement that electronic message signs be limited to one color, with allowances for full color displays provided such signs have pixel line spacing of 10 mm or less, meaning a very high resolution picture. Ms. Cotton stated that the applicant was satisfied with this recommendation.

No one was present wishing to speak during the public hearing.

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 unanimously to approve the following ordinance amending the Zoning Ordinance:

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 4. *Sign Regulations*, Section 21-4.5(3) Electronic Messages Signs is amended by deleting subsections 6 and 7, and replacing it with new language.

Sec. 21-4.5 Signs Requiring a Permit.

The following signs are allowed subject to the issuance of a permit.

(3) Electronic Message Signs.

Electronic message signs are permitted as a component of otherwise permitted signage subject to the following regulations.

1. No sign shall be placed within 300 feet of a residential district or 100 feet of a residential property, unless otherwise expressly permitted within this chapter.

2. The message and/or graphic image must be complete during the duration of the display, without continuation in content to the next image, message, and/or to any other sign. Transitions from one static message and/or image to the next shall appear instantaneous without the appearance of movement of any kind, and take no longer than two (2) seconds to complete.

3. With the exception of regulatory warning signs, all moving text, graphics, lights creating the appearance of animation, flashing, scrolling, fading, streaming video, and other forms of motion are prohibited.

4. The message display shall remain static for a minimum of one (1) minute before transitioning to another static image.

5. With the exception of time, date, temperature, and petroleum price signs, all other electronic message center (EMC) signs larger than twenty-four square feet but no greater than one hundred square feet shall be approved as a Special Exception by the Board of Adjustment. Double-sided display shall not be calculated individually if the sign is manufactured in one enclosed sign cabinet or by means of installation gives the appearance of being one sign.

6. Each static message display shall be limited to one monochrome color displayed on a solid black background at any one given time and have pixel line spacing no greater than 20 mm in width. Full color display is permitted provided such signs have pixel line spacing of 10 mm or less.

7. There shall be no more than one (1) electronic message sign per property, and shall be wall-mounted, co-located with a larger existing pole-mounted sign and affixed no greater than ten (10) feet from adjacent grade, or as an individual monument sign.

8. Such signs which are illuminated or which use electronic lighting to display message shall be subject to the restrictions and limitation applicable to illumination in this chapter.

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9. **Limited Exceptions.**

a. **Time, Date, and Temperature (TDT) Signs.** Time, date, temperature digital display areas shall not exceed 32 square feet per face, and shall not be included in the allowable sign area, provided, that it is co-located on an existing ground-mounted sign and all other requirements for electronic message signs are met.

b. **Petroleum Digital Price Signs.**

1. The total digital display area on one sign shall not exceed 32 square feet, and illuminated numerals shall not exceed twelve (12) inches in height.

2. Such signs may contain single-faced or double-faced display areas.

3. Such signs shall be co-located on an approved ground-mounted or pole-mounted sign.

4. The digital display area shall not be calculated as part of the total allowable display area for an approved sign.

c. **Non-Commercial Message Signs.**

1. The total digital display area on such sign shall not exceed 12 square feet, and shall be installed consistent with the requirements of the chapter for single-tenant monument signs, and shall not be calculated as part of the total allowable display area for an approved sign.

2. No sign shall be placed within 300 feet of a residential district or 100 feet of a residential property, except signs that can be automatically programmed to be turned off between the hours of 10:00 p.m. and 6:00 a.m.

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

Adopted this the 18th day of November 2014.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette
City Manager/ Clerk

Ordinance Number: O-14-11-18-4

PRESENTATION OF 2013-14 CITY AUDIT REPORT: Mr. Chris Costner of Martin Starnes & Associates, the contracted City Auditor, appeared before City Council and gave a presentation of the 2012-13 City Audit as follows:

MARTIN·STARNES
& ASSOCIATES, CPAs, P.A.

City of Marion
2014 AUDITED FINANCIAL STATEMENTS

AA.000000500 (24)

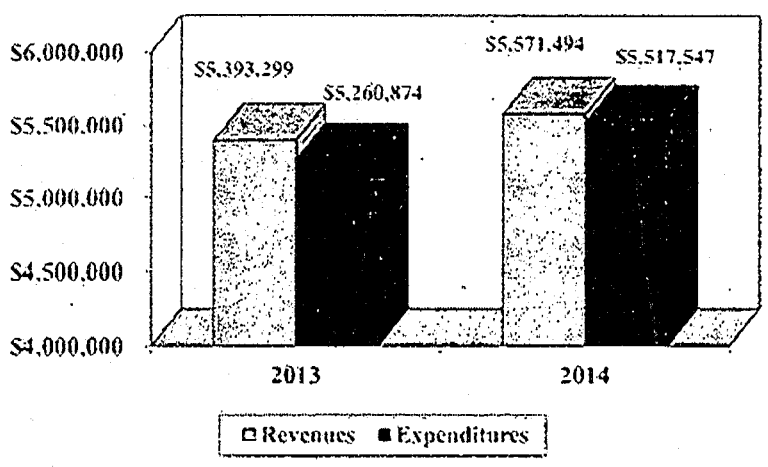
Audit Highlights

- Unmodified Opinion
- Cooperative Staff
- General Fund Cash $ 2,983,836
- General Fund Revenues $ 5,571,494
- General Fund Expenditures $ 5,517,547

Audit Process

- Planning and risk assessment
- Interim procedures
- Final procedures
- Year-round process

General Fund Summary



Fund Balance

- Serves as a measure of the City's financial resources available.
  - (Assets + Deferred outflows) - (Liabilities + Deferred inflows) = 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

Fund Balance

Available fund balance as defined by the Local Government Commission (LGC) is calculated as follows:

Total Fund Balance

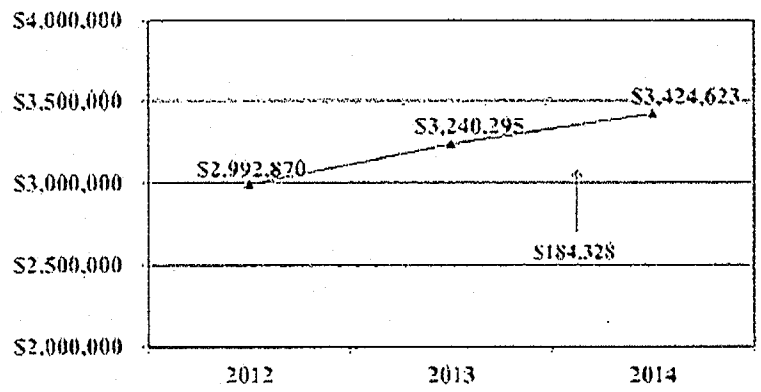
Less: Non spendable (not in cash form, not available)

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

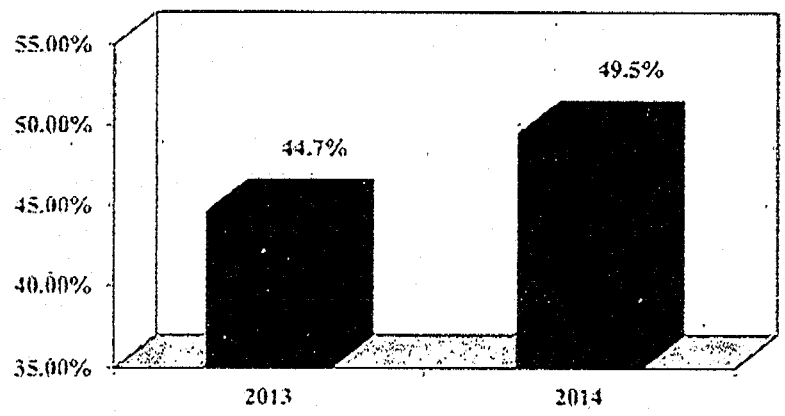


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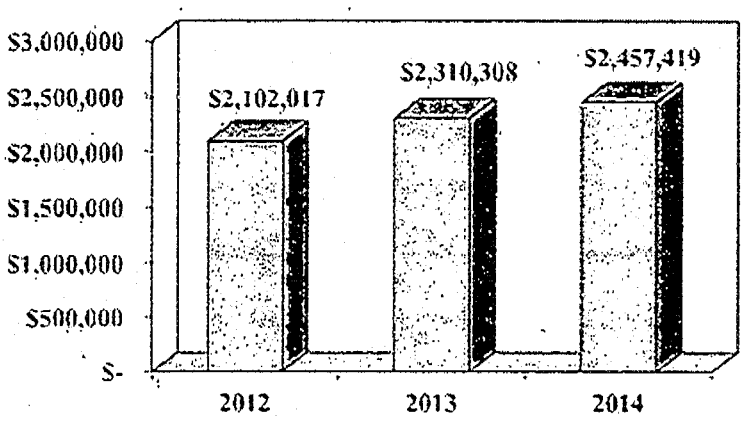
Fund Balance Position-General Fund

Total Fund Balance	$ 3,424,623
Non spendable	- 38,760
Stabilization by State Statute	- 652.216
Available Fund Balance	$ 2,733,647
Available Fund Balance 2013	$ 2,388,736
Increase in Available FB	$344,911

Available Fund Balance as a Percent of Expenditures and Transfers to Other Funds-General Fund

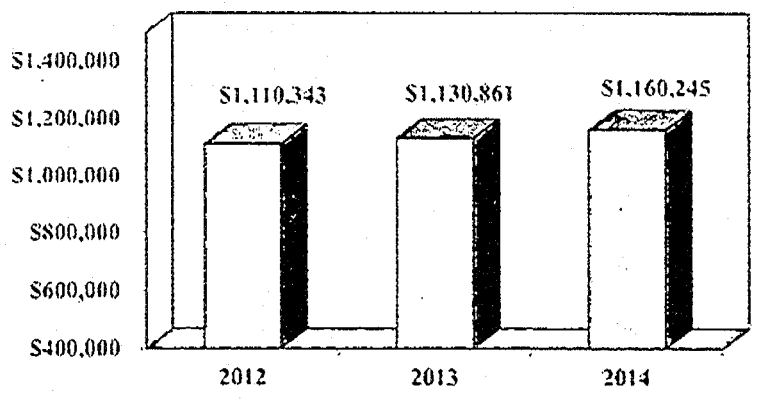


Ad Valorem Taxes

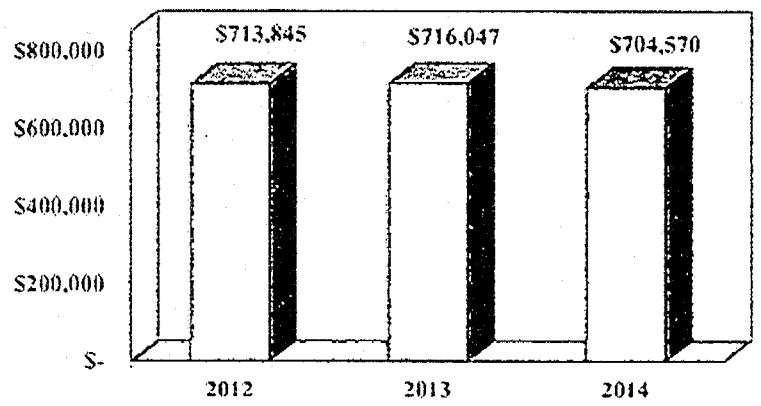


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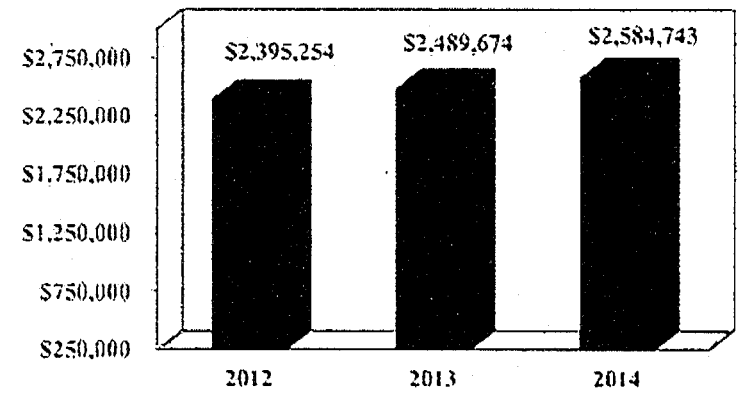
Sales Tax



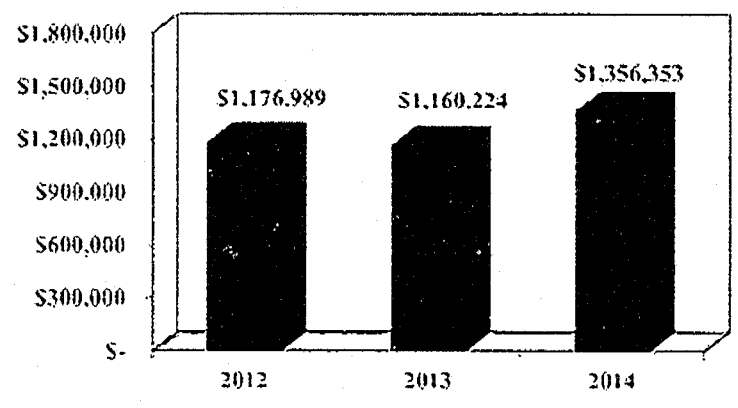
Restricted Intergovernmental



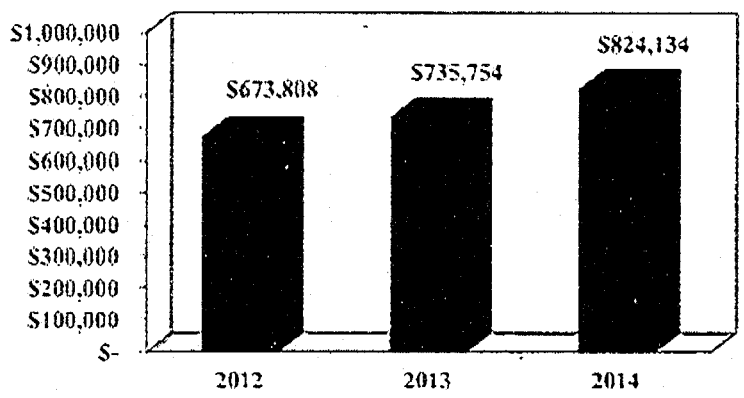
Public Safety



Transportation



General Government



Enterprise Funds

☐ Cash Flow from Operations	$	351,689
☐ Total Net Position	$	21,260,403
☐ Unrestricted Net Position	$	1,888,051
☐ Operating income (loss)	$	(507,401)
☐ Change in net position	$	(589,334)

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Discussion & Questions

Mr. Costner noted that the audit went extremely well and the City was given a clean audit opinion, indicative of the City's finances being in extremely good shape. He thanked Finance Director Harriett Thomas and City staff for their assistance with the audit.

Mayor Little thanked Mr. Costner for giving a thorough but concise presentation.

Finance Director Harriett Thomas introduced Accounting Assistant Dawn Penland, who prepared the 2013-14 Marion ABC Board financial statements. Ms. Penland reported that the 2013-14 Marion ABC Board audit was also conducted by Martin Starnes & Associates. The ABC Board also received a clean opinion on its audit. Ms. Penland stated that the ABC Board has worked hard to make the City's two ABC stores more profitable, as shown by sales increasing at both stores and the City's ABC revenue distribution increasing during the 2013-14 Fiscal Year.

The City Manager commended Ms. Thomas and Ms. Penland for all their hard work with both audits, for preparing almost all of the two audit reports and for all they do every day to keep the City and ABC Board finances in order. He also thanked all City departments for their daily efforts to be good stewards of the public's money.

Mayor Little thanked Ms. Thomas and Ms. Penland as well for all they do for the City of Marion.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Ramsey, those members of Council presented voted unanimously to accept the 2013-14 City audit report and the 2013-14 Marion ABC Board audit report.

PUBLIC HEARING – ADOPTION OF ANNEXATION ORDINANCE – AIRPORT ROAD/HARRISON TERRACE PROPERTY: Mayor Little opened the public hearing.

The City Manager advised that the City has completed the annexation process for the 8.40 acre Airport Road/Harrison Terrace Property, for which a 60 unit multi-family development is proposed. This property is located between Hospice of McDowell County and Autumn Care, approximately 1,300 feet or one quarter mile from the primary City Limits. The property totals 8.40 acres, is currently vacant and has a tax value of $48,300.

The City Manager stated that, after the public hearing, Council may adopt the enclosed ordinance to annex this property immediately.

No one was present to speak to Council during the public hearing.

Mayor Little closed the public hearing.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, those members of Council present voted unanimously to approve the following ordinance annexing the Airport Road/Harrison Terrace property immediately:

AN ORDINANCE TO EXTEND
THE CORPORATE LIMITS OF THE
CITY OF MARION, NORTH CAROLINA –
AIRPORT ROAD/HARRISON TERRACE - 2014

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 6:00 P.M. on Tuesday, November 18, 2014, after due notice by publication on Wednesday, November 5, 2014; 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 November 18, 2014:

BEGINNING on a concrete monument found in the edge of the right-of-way of State Road No. 1500 (Airport Road), said monument being the beginning corner of that certain tract of land described in deed dated October 12, 1957, from Richard R. Cook to Lois C. Cook, and which deed is

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recorded in the Office of the Register of Deeds for McDowell County in McDowell County Deed Book 145 at Page 20, and runs thence with the edge of the right-of-way of Airport Road, North 25 degrees 31 minutes 08 seconds West 333.79 feet to a ¾ inch iron road set in the edge of said right-of-way, a common corner of the property now or formerly owned by Richard Corpening as described in McDowell County Deed Book 15 at Page 448; thence running with the property now or formerly belonging to Richard Corpening, North 64 degrees 27 minutes 25 seconds East 250.22 feet to a ¾ inch iron pipe found; thence continuing with the Corpening line, North 10 degrees 32 minutes 35 seconds West 297.43 feet to an iron pipe found, said iron pipe being located North 83 degrees 32 minutes 28 seconds East 347.23 feet from an NC DOT right-of-way monument; thence running with the Clerodendron Group, Inc. property (see Deed Book 658, Page 354), South 62 degrees 41 minutes 32 seconds East 343.38 feet to an iron pipe found; thence running with the Richard Evans line (see Deed Book 658, Page 366), South 62 degrees 41 minutes 52 seconds East 525.47 feet to a ½ inch iron pipe found; thence South 68 degrees 42 minutes 39 seconds East 25.62 feet to an iron pipe found in the center of the creek; thence running with the center of the creek, and with the Frank Richard Ollis property (see Deed Book 407, Page 708), the following courses and distances: South 36 degrees 39 minutes 44 seconds West 39.87 feet, South 06 degrees 22 minutes 09 seconds East 56.77 feet, South 09 degrees 22 minutes 15 seconds West 77.05 feet, and South 12 degrees 10 minutes 19 seconds East 36.33 feet to a point in the center of said creek; thence leaving said creek and running with the line of James M. Smith (see Deed Book 504, Page 631), South 87 degrees 02 minutes 01 seconds West, passing an iron rod found at 6.43 feet, a total distance of 510.06 feet to a concrete monument found, common corner with James M. Smith and Kenneth Arthur Presnell (see Deed Book 402, Page 939); thence running with the Presnell line and a chain link fence, South 77 degrees 00 minutes 00 seconds West 299.35 feet to the BEGINNING, and containing 8.40 acres, according to a recorded plat prepared by James S. Ballinger, Professional Land Surveyor, Ellenboro, North Carolina, dated July 23, 2004, entitled "Survey for Robert A. Yancey", Map File No. 145-020m.dgn, recorded in the Office of the Register of Deeds in Map Book 10 at Page 17, from which plat of survey all calls used in this description were taken.

AND BEING the same property as conveyed by that certain deed dated October 12, 1957, from Richard R. Cook to Lois C. Cook, and which is recorded in McDowell County Deed Book 145 at Page 20.

Section 2. Upon and after November 18, 2014, 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 November, 2014.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Approved As To Form:

City Attorney

Ordinance Number: O-14-11-18-1

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

CONSIDER ADOPTION OF SIDEWALK CAFÉ ORDINANCE: The City Manager stated that, as authorized by Council at the October 3 Planning Session, Planning Director Heather Cotton and he worked to prepare amendments to Chapter 11, Offenses, and Chapter 15, Street, Sidewalks and Other Public Places, of the City Code to allow for sidewalk cafes serving alcohol in approved, defined areas of the sidewalk in the Central Business District.

The City Manager presented a draft ordinance is in underline/strike through format, with proposed additions underlined and proposed deletions struck through. The City Manager stated that the proposed amendments to Chapter 11 remove prohibitions for alcohol to be served on private property of restaurants with an on premises ABC permit and within the area of a permitted sidewalk café. A provision is also suggested to allow Council the option to allow, by resolution, alcohol to be served at special events.

The City Manager said that, under Section 15-134 of the draft ordinance, specific language related to tables and chairs on sidewalks would be expanded to include provisions for restaurants and coffee shops serving food and non-alcoholic beverages on the sidewalk and those serving food and alcoholic beverages (sidewalk cafes). Beginning with Section 15-141, the ordinance creates allowances for sidewalk cafes along public sidewalks within the Central Business District. The language for the sidewalk café section is based on ordinances from Shelby, Hendersonville and Asheville, which are included after the draft ordinance.

The City Manager advised that, in Section 15-144, the ordinance sets criteria for the application, including submission of a site plan, insurance being in place, copies of applicable Health Department and N.C. ABC permits, execution of a hold harmless agreement and a sworn statement that the restaurant operator has not been convicted of alcohol or drug violations in the last three years. In the site plan, the applicant must clearly indicate the defined area of the sidewalk café and barriers to be used to separate the sidewalk from the sidewalk café area.

The City Manager reported that Section 15-145 provides operational requirements, which most notably includes maintaining a five foot clear walkway for the public. This section also states that the premises of the sidewalk café must be clearly defined, with an approved means of separation between the sidewalk and the area of the sidewalk café. Section 15-146 defines standards for serving alcoholic beverages in sidewalk cafes. This section states that signs must be posted advising people that it is unlawful to remove alcoholic beverages from the premises. In Section 15-148, the ordinance requires restaurant operators to keep the sidewalk café area free of trash, glass, debris, etc.

The City Manager stated that, if a restaurant operator successfully completes an application and meets the listed requirements, City staff could issue a permit under Section 15-149. The three ordinances staff used as models all had sidewalk cafes approved at the staff level. Sections 15-150 and 15-151 provide criteria for permit denial and revocation, respectively, with opportunities for the applicant to appeal denial or revocation to the City Council.

The City Manager advised that he reviewed the draft ordinance with City Attorney Jennifer Jackson and the City's insurance agent, Marsh Dark. The City Manager said that he incorporated all of Ms. Jackson's comments into the recommended ordinance and much of what Mr. Dark suggested. The City Manager reported that he also shared the draft ordinance with Jarrod Hughes of Corner Tavern, Mike Cantey of Low Country Dining and Bob McKinnon of After 5. All three appeared to like the ordinance.

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The City Manager stated that this ordinance was presented to Council as a draft and could hopefully serve as a starting point for discussion about sidewalk cafes.

Mayor Little stated that he did not have a vote, but if he did, he would vote in favor of the proposed ordinance.

Mayor Pro Tem Cuthbertson stated that he felt that the entire Council should be present, before action is taken on the proposed ordinance. He said that he also supported the concept but suggested some minor modifications, some of which were found in the Shelby ordinance, as follows:

1. Making the Sidewalk Café permit good for one year. The City Manager noted that Shelby and Hendersonville also charged fees for such permits, something that staff was not proposing. The City Manager advised that Council could make permits good for one year, which would require business owners to re-apply on an annual basis.

2. Not allowing any more people to be in the Sidewalk Café area than there are seats in that area, to avoid people congregating.

3. Requiring someone to purchase a meal in order to be served alcohol in a Sidewalk Café area.

Mr. Jarrod Hughes of Corner Tavern said the meal requirement was a gray area and subject to a great deal of interpretation, so he would prefer it not be included in the ordinance.

Cecil Owenby spoke in opposition to the proposal. He expressed concerns about intoxicated people causing problems in the downtown area and stated that sidewalks were in place for walking, not conducting business.

Jarrod Hughes and Trevor Sisk, owners of Corner Tavern, spoke in favor of the ordinance. Both said that they would like a chance to prove themselves and bring in additional business.

McDowell Chamber of Commerce Executive Director Steve Bush also spoke in favor of the ordinance.

Rhonda Silver, former owner of After 5 Tavern and still the owner of the property, also spoke in favor of the ordinance.

Council Member Clark said that he had gone through the proposed ordinance in detail and felt that several changes were needed, before he could support it. He suggested that Council closely examined the ordinance and make some revisions. Council Member Clark said that he also agreed that the entire Council should be present when a vote is taken on the proposed ordinance.

Mayor Little stated that, since two of the three Council Members present had suggested that no action be taken on the ordinance until all Council Members could be present, he would suggest that consideration of the ordinance be tabled until January.

The City Manager suggested that Council could hold a Planning Session in December to review the ordinance.

After discussion, Council agreed to defer review of the proposed Sidewalk Café Ordinance until January and to consider, at the December 2 Council meeting, scheduling a Planning Session to review the draft ordinance in detail.

DISCUSS CYBER LIABILITY INSURANCE COVERAGE: The City Manager advised that, as was discussed at the October 3 Planning Session, the City's property and liability insurance agent, Marsh Dark of Morrow Insurance, recently sought proposal for cyber liability insurance coverage for the City to address potential data breaches and other cyber related issues. Information was presented to Council on the cyber liability insurance proposals.

Mr. Dark stated that cyber liability coverage was a growing trend for public sector agencies. He advised that he looked at options for coverage and received three formal proposals. Mr. Dark said that he recommended that the City purchase a cyber liability insurance policy from Great American Insurance in the amount of $5,378 for a one year policy. He advised that he recommended the Great American policy, since it provides a wider array of coverage and an additional $1 million in coverage for essentially the same price.

Mr. Dark noted that the actual premium may be lower than the quote, since he may be able to roll computer fraud coverage into the City's property and liability insurance policy for a lower price than Great American Insurance will charge.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, those members of Council present voted unanimously to authorize the City to purchase a cyber liability insurance policy from Great American Insurance for a cost not to exceed $5,378.

Mayor Little thanked Mr. Dark for his help with this matter. The City Manager stated that he would also commend Finance Director Harriett Thomas for her efforts in completing the necessary applications for the cyber liability insurance coverage.

CONSIDER ADOPTION OF ORDINANCE TO CHANGE CITY COUNCIL MEETING TIME: The City Manager advised that, at the November 4 Council meeting, Council Member Clark proposed changing the time of City Council meetings to 6:00 p.m., at least during the time between the end and beginning of Daylight Savings Time. After further polling, Mayor Little and Council Members agreed with the start time for Council meetings being changed to 6:00 p.m. year-round.

The City Manager presented Council with an ordinance to change the starting time for all Regular City Council meetings to 6:00 p.m. Since Council previously agreed to schedule the December 2 Council meeting for 6:00 p.m., the City Manager said that he proposed that the ordinance and new schedule take effect on December 1, 2014.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, those members of Council present voted unanimously to adopt the following ordinance to change the starting time for Regular City Council Meetings to 6:00 p.m.:

ORDINANCE
AMENDING CHAPTER 2
ADMINISTRATION
MARION CITY CODE

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

Section 1. That Chapter 2, Administration, of the Code of Ordinances, City of Marion, North Carolina, is amended as follows:

Section 2. Chapter 2 is amended by repealing Section 2-26 and replacing it with the following:

Sec. 2-26. Council meetings.

(a) *Regular meetings.* There shall be regular meetings of the city council members at city hall or at such other place as may be designated, on the first and third Tuesdays of each month at 6:00 p.m., unless otherwise specified in which case each member of the council shall be so notified. No regular meetings of city council shall be held on the first Tuesday of July or the third Tuesday in December.

(b) *Special meetings.* Special meetings may be held according to the applicable provisions of the general statutes.

(c) *Adjourned meetings.* If a quorum shall fail to attend any regular or special meeting of the council or if for any reason such meeting shall fail to complete transaction of the business before the meeting, such meeting may be adjourned to any date prior to the next regular meeting agreed upon by a majority of the members present.
(Code 1982, §§ 2-1011, 2-1012, 2-1013; Ord. No. O-02-10-22-1, § 2, 10-22-02)

Section 3. This ordinance shall become effective on December 1, 2014.

Adopted this the 18th day of November, 2014.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-14-11-18-3

DISCUSS MOVIE THEATER RECRUITMENT: The City Manager reported that, several months ago, the City of Marion, McDowell County, the McDowell Chamber of Commerce, Marion Business Association and McDowell Tourism Development Authority jointly funded the initial feasibility study for a movie theater by David Beauregard of Creative Entertainment Concepts, in the amount of $7,500. Mr. Beauregard is the Principal of Creative Entertainment Concepts and has been involved in theater projects all over the country. He completed the feasibility study and now believes that Marion is a viable market for a modern, multi-screen theater.

The City Manager reported that Mr. Beauregard is now exploring serving as the project developer. The City Manager advised that Mr. Beauregard is now asking for an agreement whereby the community would pay him the remainder of the original $15,000 fee, which had originally been discounted to $7,500, to allow him to fund up-front legal, architectural and EB5 Program related expenses as he explores the movie theater development. The City Manager suggested that the City donate $2,500 toward the development phase of the project, the same amount the City contributed to the first phase.

Upon a motion by Council Member Ramsey, seconded by Mayor Pro Tem Cuthbertson, those members of Council present voted unanimously to authorize the City to fund $2,500 toward the development phase of the movie theater project to be completed by Creative Entertainment Concepts, with other local agencies funding the remaining $5,000.

The City Manager noted that he is hopeful that a movie theater project can be announced in the near future and take place sometime in 2015, although there is no guarantee at this point.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager stated that Public Works Director Brant Sikes had recently submitted a status report to the State regarding the City's wastewater system inflow and infiltration and manhole inspections. The report stated that the City would undertake several small wastewater line repairs, as well as repairing 52 manholes. The City Manager noted that the evaluations have revealed many small problems and nothing, so far, that is a major problem. However, the cumulative effect of repairing numerous small problems has resulted in wastewater flow being greatly reduced during rainfall events, improving the Wastewater Plant's compliance tremendously.

The City Manager advised that retail sales in McDowell County increased by 12.53 percent for the first three months of 2014-15, as compared to the prior year. Mayor Little said that this was a tremendous increase.

The City Manager reported that the City's contracted arborist, Lawrence Moore, under the supervision of Public Works Director Brant Sikes, recently mulched and planted the bank above the Fleming Avenue sidewalk next to the Marion Elementary, in order to address an erosion problem. Mayor Pro Tem Cuthbertson and Council Member Clark said that they had received compliments concerning this work.

The City Manager asked the Mayor and Council Members to turn in their N.C. League of Municipalities (NCLM) regulatory and legislative goals to him as soon as possible, so that Council's desires can be followed at the NCLM Advocacy Goals Conference on December 11.

The City Manager stated that City crews were starting to work again on the access road and parking lot for the City's Mt. Ida property.

The City Manager advised that he hoped by the first of the year to receive funding commitments from Autumn Care and the Harrison Terrace apartment developer concerning the possible gravity sewer extension on Airport Road.

Planning and Development Director Heather Cotton advised that construction was progressing on Phase 2 of the Catawba River Greenway. The Greenway paving can hopefully soon take place, as soon as the weather warms up a bit.

The City Manager reminded Council of the Christmas Parade the following Sunday at 3:00 p.m.

The City Manager stated that Council Member Ramsey had expressed concerns about a history of traffic crashes in the Rutherford Road curve near Vale Street and Silver Dollar Pawn Shop. There was a crash in this curve last week caused by a drunk driver. The City Manager advised that he asked Police Chief Allen Lawrence to pull the crash history for this curve over the past five years. Chief Lawrence reported that, in the last five years, there have been six crashes at this intersection. Three crashes involved personal injury and there was one fatality. Chief Lawrence that there were additional crashes that occurred more than five years ago.

Council Member Ramsey said that this was apparently a dangerous location and warranted attention. The City Manager stated that the Police Department could focus some traffic enforcement efforts on the location. After discussion, Mayor Little and Council Members agreed by consensus to direct the City Manager to alert DOT of problems at this curve, to provide DOT with crash data and to ask DOT to identify solutions. The City Manager noted, that since Rutherford Road is a DOT highway, the City cannot put up signs or change the speed limit on its own.

AA.000000509 (24)

COUNCIL MEMBER COMMENTS: Mayor Pro Tem Cuthbertson advised that a sewer odor near the intersection of Railroad and Willow Streets had been reported to him recently. Public Works Director Brant Sikes stated that he would look into this matter.

ADJOURNMENT: Upon a motion by Council Member Ramsey, 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, December 2, 2014 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 Lloyd Cuthbertson, Council Members A. Everette Clark, Juanita Doggett, Billy Martin and Don Ramsey.

OTHERS PRESENT: Bob Boyette, City Manager; Tammy Rose, Personnel Technician; Brant Sikes, Public Works Director; Allen Lawrence; Police Chief; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Dan and Barbara Davis, 371 Forest Heights Drive, Marion, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

CITIZEN OF THE MONTH PRESENTATION: Mayor Pro Tem Lloyd Cuthbertson presented the Citizen of the Month for December 2014:

DAN DAVIS

Mayor Pro Tem Cuthbertson advised that that it was his honor and privilege to recognize Mr. Dan Davis as Citizen of the Month for December for his dedicated service to the community.

Mr. Davis is a native of McDowell County and is the son of the late Pat and Edith Davis. His father once served as a member of the Marion City Council. Mr. Davis is a 1962 graduate of Marion High School and a 1966 graduate of Clemson University with a degree in Industrial Management.

After graduating from college, Mr. Davis taught math at Marion High School for one semester before accepting a job with Square D in Asheville. He later moved to Charlotte, where he worked as a sales rep for three years.

While in Charlotte, Mr. Davis met his future wife, Barbara Moore of Valdese, whom he married in 1974. Mr. and Mrs. Davis attend the First United Methodist Church in Marion.

Mr. and Mrs. Davis have two children. Their daughter, Lindsay, is a practicing attorney in Charlotte and is the mother of their only grandchild. Their son, Daniel Patrick Davis, IV, better known as Patrick, is employed with Bank of America in Charlotte.

In 1974, after the untimely death of his uncle, Phillip Laughridge, Mr. Davis returned to Marion to help his father manage the family business.

Mr. Davis has been very active in local civic affairs. He served as President of the Marion Rotary Club and he started the Annual Rotary Auction as well as the annual auction at the Marion Lake Club. Mr. Davis was a charter member of the Committee of 100, the predecessor of McDowell Economic Development Association, and once served on the City of Marion Planning Board. He chaired the Tourism Committee for Marion's N.C. STEP planning process.

Mayor Pro Tem Cuthbertson advised that he appreciates Mr. Davis' commitment to Laughridge Furniture Company and the citizens of McDowell County and his ability to provide exceptional customer service to his many loyal customers.

Mayor Little, Council Members and City staff all shared kind words about Mr. Davis and congratulated him on being selected Citizen of the Month for December.

CONSENT AGENDA: Upon a motion by Council Member Doggett, seconded by Mayor Pro Tem Cuthbertson, those members of Council present voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – November 18, 2014 Regular City Council Meeting Minutes

B. Approval of Fire Department Roster/Annual Certification of Firefighters – Council approved the Fire Department Roster and the Annual Certification of Firefighters. A copy of the certification and roster is available at the Marion Fire Department.

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

AA.00000510 (24)

CONSIDER APPROVAL OF REQUEST TO OPERATE A PLACE OF AMUSEMENT – SOUTH MAIN STREET: The City Manager advised that the City had recently received an application from Mr. Mr. Jarrod Hughes to operate a place of amusement, Corner Tavern, at 84 South Main Street. Mr. Hughes is requesting approval to have two pool tables and two video games, which trigger the place of amusement application. The City Manager stated that the Police Department completed a State and local criminal history check on Mr. Hughes and determined that he has no criminal history.

The City Manager presented Council with a copy of the City Code provisions for places of amusement. Under Section 10-94 of the City Code, "the City Council shall not issue a permit required by this article to any person who:

(1) Has been convicted of unlawfully selling intoxicating liquors or narcotic drugs; or

(2) Is not a citizen and 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, according to the criminal history check, Mr. Hughes has not been convicted of unlawfully selling intoxicating liquors or narcotic drugs and Mr. Hughes, who lives in Airport Road just outside of Marion, is a resident of North Carolina. The City has no knowledge that Mr. Hughes is an excessive user of intoxicating liquor or narcotic drugs. The City Manager advised that, based on the information in the criminal history check, he does not see any reason listed under the City Code to justify Council from denying a permit to Mr. Jarrod Hughes to operate a place of amusements called Corner Tavern, with two pool tables and two video games, at 84 South Main Street.

Council Member Clark stated that there used to be a provision in the City Code requiring pool rooms and game rooms to keep the inside of the establishment visible through a window. The City Manager advised such a requirement was not in the Pool Room/Game Room section of Chapter 10 of the City Code, but that he would check to see if this language was listed elsewhere in the City Code and would notify Council.

It was also noted that, pursuant to the City Code, minors under 18 year of age are not permitted in pool rooms.

Council Member Martin asked if approval of the request should be held, pending the answer to Council Member Clark's question. Council Member Clark stated, and Council agreed by consensus, that an approval would be subject to the applicant meeting all requirements of the City Code.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Ramsey, Council voted unanimously to approve the request by Mr. Jarrod Hughes to operate a place of amusement called Corner Tavern, with two pool tables and two video games, at 84 South Main Street, subject to all of the applicable requirements of the City Code being met.

SPECIAL PRESENTATION BY MAYOR LITTLE: Mayor Little presented Council Member Juanita Doggett with a five year pin for completing five years of service as a Council Member with the City of Marion.

Mayor Little and Council Members congratulated Council Member Doggett for her five years of dedicated service to the City of Marion.

CONSIDER APPROVAL OF HOUSE BURNING: The City Manager reported that the Fire Department has requested permission to burn a house owned by Mr. Dennis Whitson at 2001 Sugar Hill Road next to the Country Market and Pizza Joint. The City Manager stated that Mr. Whitson wishes to clear the site for possible future commercial development and the Fire Department can utilize the house for training.

The City Manager advised that the house burning is scheduled to take place on a Saturday in early to mid-January. Prior to the house burning, as is normal practice, the Fire Department will obtain necessary approvals and notify the surrounding neighborhood of the scheduled live burn exercise.

The City Manager stated that he would recommend Council approval of the request by the Fire Department to burn a house owned by Mr. Dennis Whitson at 2001 Sugar Hill Road as a training exercise.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to approve the request by the Fire Department to burn a house owned by Mr. Dennis Whitson at 2001 Sugar Hill Road as a training exercise.

CONSIDER AWARD OF CONTRACT FOR PURCHASE OF BUDGETED VEHICLE: The City Manager advised that, as indicated in information presented to Council, staff recently took bids for the purchase of a replacement utility truck in the Street Division. The City Manager reported that $41,000 was included in the City's 2014-15 budget for the purchase of this vehicle. The City Manager said that this vehicle was bid a little earlier than usual, because of the lead time involved in getting delivery of specialty type vehicles such as this one.

The City Manager stated that bids were received from three dealerships. The low bid came was submitted by Jim Cook Chevrolet, in the amount of $42,322, which is $1,322 over the budgeted amount for this truck. The low bid met all City specifications and is recommended.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to award a contract for the purchase of a replacement utility truck in the Street Division to Jim Cook Chevrolet in the amount of $42,322.

DISCUSS TOWN MEETING AND CITY COUNCIL PLANNING SESSION: The City Manager reported that, for the past two years, Council held the annual Town Meeting in April. The City Manager asked if Council wished to hold the Town Meeting in April again. If so, the exact date can be scheduled at a future meeting. It was the consensus of Mayor Little and Council Members to hold the annual Town Meeting in April and to schedule the exact date for the Town Meeting at a future Council meeting.

The City Manager advised that, in advance of the next major Planning Session, Council discussed at the November 18 Council meeting the idea of holding a Planning Session in December to focus on the Sidewalk Café Ordinance and any other issues of importance.

After a brief discussion, Mayor Little and Council Members agreed by consensus to schedule the next Council Planning Session for Tuesday, December 16 at 6:00 P.M. at City Hall.

The City Manager stated that, in past years, when the Town Meeting was held in late January, Council held a Planning Session in early February, to begin setting budget priorities for the coming year and to address current and future priorities. The City Manager said that he was compiling a list of Planning Session items and would recommend that Council schedule a Planning Session for late January or early February. Council agreed to consider a date for a future Planning Session at the December 16 Planning Session.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

AA.000000511 (24)

The City Manager stated that, despite poor weather, the City held the Christmas Parade on Sunday, November 23. The City Manager thanked the Marion Business Association Board, staff and volunteers and the Police Department and the Public Works Department for their hard work in putting on this year's Parade.

The City Manager advised that, as requested by Council Member Ramsey and authorized by Council at the November 18 Council meeting, he contacted DOT and Police Chief Allen Lawrence provided accident statistics regarding the sharp curve on Rutherford Road near Vale Street, where numerous accidents have occurred in recent years. The City Manager reported that DOT District Engineer Tim Anderson stated that DOT would look at this location and ideas for enhancing safety in this curve. The City Manager advised that Mr. Anderson said that he would let him know once DOT developed possible solutions.

The City Manager advised that construction was progressing on Phase 2 of the Catawba River Greenway. The Greenway paving can hopefully soon take place, as soon as the weather allows.

Public Works Director Brant Sikes reported that, as authorized by Council at the November 18 Council meeting, he spoke to ECS, a geotechnical engineering firm the City has previously used, in late November about determining the source of the water on Mr. Barksdale's property at South McDowell Avenue and Woodland Street in the Foxfire neighborhood. ECS indicated that they could start the work in early December. Mr. Sikes stated that he is attempting to work out a reasonable scope of work to address the identified problem. The City Manager stated that Mr. Sikes notified Mr. Barksdale of the City's plans and will have ECS contact Mr. Barksdale directly to inform him of the work that will take place, once ECS is authorized to begin the study. The City Manager said that he would advise Council when ECS makes a determination regarding the source of the water on Mr. Barksdale's property.

The City Manager advised that he has $7,000 committed toward the $7,500 development phase expense for the movie theater project. This amount includes $2,500 approved by Council, $500 from the Marion Business Association, $3,500 from the County and McDowell Economic Development Association and $500 from the McDowell Tourism Development Authority. The City Manager reported that he has requested $500 from the Chamber to complete the $7,500 amount. The City Manager stated that he hopes that the City's movie theater consultant/developer Dave Beauregard can continue to make progress with this project and that an announcement can be made in the near future.

The City Manager said that DOT is finishing the construction of the sidewalk extension on East Court Street between Branch Street and Church Street. The City Manager noted that the City is funding one-half of the cost of this project, based on prior direction from Council.

Mike Conley invited the Mayor and Council Members to attend the Pilot Club's annual tree lighting ceremony on the Courthouse Lawn on Sunday, December 7 at 3:00 p.m. Mayor Little will speak during the event, along with McDowell County Commission Chairman David Walker.

COUNCIL MEMBER COMMENTS: There were no additional comments by Mayor Little or Council Members.

ADJOURNMENT: Upon a motion by Council Member Ramsey, 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 on Tuesday, December 16, 2014 at 6:00 P.M. in the Conference Room at City Hall 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 Don Ramsey.

OTHERS PRESENT: Bob Boyette, City Manager.

OPENING OF MEETING: Mayor Little opened the meeting.

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

1. Sidewalk Café Ordinance – The City Manager presented a draft Sidewalk Café Ordinance, which would allow permitted restaurants and bars to serve alcoholic beverages in designated areas of the public sidewalk, subject to a sidewalk café permit being issued by the City and the business meeting listed standards. The draft ordinance was based on similar ordinances from Shelby, Hendersonville and Asheville. Mayor Little and Council Members reviewed the proposed ordinance in detail. Some changes were suggested to the ordinance by Mayor Little and Council Members, including limiting the area of the sidewalk café to the business or property frontage along the sidewalk, allowing alcohol only to be served to customers consuming a meal from the restaurant, setting limits in the permit process on the number of tables and chairs allowed in a sidewalk café area at each business and providing for a permit suspension and revocation process.

   The City Manager was directed to make the changes noted above to the draft ordinance, which will be presented to Council for review and consideration at the January 6 Council meeting.

AA.000000512 (24)

2. Auto Repair Shop Ordinance – The City Manager gave an overview of the City's Auto Repair Shop Ordinance. Mayor Little and Council Members reviewed the current ordinance and stated that they may wish to consider some minor modifications to the ordinance, to clarify City requirements.

   Any ordinance changes will be reviewed by the Planning Board and Council at upcoming Regular Meetings in January or February.

3. Proposed Changes to North Carolina's Planning and Zoning Enabling Legislation – The City Manager reported that the North Carolina Bar Association had proposed changes to North Carolina's planning and zoning enabling statutes. The changes are supposed to involve technical corrections and modernizing the statutes and not address controversial issues. The City Manager highlighted some of the major proposed changes. If the North Carolina General Assembly approves legislation revising the statutes, then all local governments will likely need to make changes to their zoning and subdivision ordinances later in 2015.

Council discussed the scheduling of the next Council Planning Session. Council decided to set a date for the next Council Planning Session at the January 6 Council meeting.

No action was taken on these items. Items requiring City Council action will be included in 2014-15 Budget Ordinance Amendments, included in future budgets or placed on future City Council meeting agendas for consideration.

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

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, 2015 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 Lloyd Cuthbertson, Council Members A. Everette Clark, Juanita Doggett, Billy Martin and Don Ramsey.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Harriett Thomas, CPA, Finance Director; Allen Lawrence, Police Chief; Gaye Noblitt, Police Administrative Lieutenant; Rusty Jenkins, Patrol Lieutenant; Jamie Harklerode, Patrol Lieutenant; Christian Wyatt, Police Officer; Brenda Bailey, Police Administrative Assistant; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Wayne & Louise Creson, 41 Scrubgrass Drive, Marion, NC; Bob & Nancy Hunter, 441 Forest Heights Drive, Marion, NC; Kathy Jenkins, 50 Pineview Street Apt. 3, Marion, NC; Jerrod Hughes, 22 State Street, Marion, NC; Barry Bailey, Marion, NC; Jack Wood, Marion, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

CITIZENS OF THE MONTH – SELECTED BY MAYOR STEPHEN R. LITTLE: Mayor Little selected the Citizens of the Month for January 2015.

JUDGE BOB HUNTER AND NANCY HUNTER

Mayor Little stated that Judge Bob Hunter is a product of the McDowell County School System.

Judge Hunter and wife Nancy have two children, Megan Hunter Entriken and Claire Hunter. They have two granddaughters.

Judge Hunter received his BA in Political Science at UNC-Chapel Hill in 1966 and his JD from UNC Law School in 1969. He also attended the National Judicial College for Appellate Judge Course in 1999.

Judge Hunter was a Senior Attorney and later President of the law firm Hunter & Evans, PA from 1970-1998. He also served as Representative for the 49th District in the North Carolina House of Representatives from 1980 until 1998. During his time as State Representative, there was significant legislation passed including the Highway Trust Fund, Natural Gas Expansion Fund, N.C. Victims Bill of Rights, N.C. Victims Compensation Fund, Date Rape Bill and the establishment of Lake James State Park. Judge Hunter was also instrumental in the approval and construction of the Marion US 221 Bypass, which is named in his honor.

Judge Hunter was appointed by Governor James B. Hunt, Jr. as a Justice on the North Carolina Court of Appeals in July 1998 and served with distinction until his retirement on December 31, 2014.

Judge Hunter was a Candidate for the N.C. Supreme Court in 2002 and 2010.

Judge Hunter has served in many capacities that benefited Marion and the citizens of McDowell County. He is a member of many prestigious organizations and serves on many boards and commission as well as involved with community activities.

AA.00000513 (24)

Mayor Little stated that he also had the pleasure a few months ago of signing a proclamation proclaiming September 21, 2014 as Judge Bob Hunter Day in Marion.

Mayor Little stated that Mrs. Nancy Hunter received her Bachelor of Arts from Meredith College, in Raleigh, NC in 1969 with Majors in Sociology and History. Mrs. Hunter also attended Wake Forest University in Winston Salem, NC from 1969 -1970 and completed graduate studies in Sociology.

Some of Mrs. Hunter's civic and community activities include the following:

Serving on the McDowell Hospital Board of Directors from 1988-1994 and then from 1997-2000.

Serving on the First Union/Wachovia Bank local Board of Directors from 1990-2005.

Serving on the North Carolina State Employee's Credit Union Advisory Board from 2005-2010.

Serving on the University of North Carolina at Chapel Hill Parents' Council from 2003-2007.

Serving on the McDowell Technical Community College Board of Trustees from 2008-present.

Serving on the McDowell Technical Community College Foundation from 2008-present.

Serving on the Historic Carson House Board of Directors from 2011-2013.

Serving on the Community Foundation of Western North Carolina, McDowell Affiliate from 2011-present.

Serving on the Hospice of McDowell County Board of Directors from 2013-present.

Mayor Little noted that Judge and Mrs. Hunter are also active members of the First Baptist Church of Marion.

Mrs. Hunter retired from the J. Iverson Riddle Developmental Center in Morganton in 2010 where she served as Director of Human Services. She worked there from 1993-2010. From 1987–1993, she worked as Director of Survey Services at A.K. Jackson and Associates in Hickory. Mrs. Hunter also worked as Director of Personnel at Grace Hospital from 1985-1987 and at the Western Carolina Center from 1979–1985.

Mayor Little stated that it was with great pleasure that he recognize both Judge Bob Hunter and Mrs. Nancy Hunter as his Citizens of Month for January 2015.

Mayor Little, Council Members and City staff all shared kind words regarding Judge and Mrs. Bob Hunter and congratulated them on their selection as Citizens of the Month.

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

A. **Approval of Minutes** – December 2, 2014 Regular City Council Meeting Minutes and December 16, 2014 City Council Planning Session Minutes.

B. **Consider Adoption of Capital Project Ordinance**

CITY OF MARION, NORTH CAROLINA
WATER & SEWER CAPITAL PROJECTS FUND ORDINANCE –
AUTOMATED METER READING SYSTEM

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 2014-15 as adopted by the Marion City Council on the 17th day of June 2014 is hereby amended as follows to include the expenditures associated with Water & Sewer Capital Projects by adopting the following Water & Sewer Capital Projects Fund Ordinance:

WATER & SEWER CAPITAL PROJECTS FUND

a. Water & Sewer Capital Projects Fund Expenditures, Automated Meter Reading System Project, Account Number 31-810-0400, is increased from $-0- to $724,672.

b. Water & Sewer Capital Projects Fund Revenues, Automated Meter Reading System Project – Transfer from Water and Sewer Capital Reserve Fund, Account Number 31-385-0600, is increased from $-0- to $254,672.

c. Water & Sewer Capital Projects Fund Revenues, Automated Meter Reading System Project, Loan Proceeds, Account Number 31-377-0100, is increased from $-0- to $470,000.

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

Adopted this the 6th day of January 2015.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O–15–01–06–1

AA.00000514 (24)

C. Consider Adoption of Budget Ordinance Amendments

CITY OF MARION, NORTH CAROLINA
2014-2015 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 2014-15 as adopted by the Marion City Council on the 17th day of June, 2014 is hereby amended as follows:

GENERAL FUND

a. General Fund Expenditures, Administration, Account Number 10-420-7400, Capital Outlay is increased from $3,500 to $15,900.

b. General Fund Expenditures, Recreation, Account Number 10-620-6000, Mountain Glory Expenses is increased from $20,000 to $21,019.

c. General Fund Expenditures, Recreation, Account Number 10-620-7400, Capital Outlay is increased from $27,293 to $52,293.

d. General Fund Expenditures, Non-departmental, Account Number 10-660-9600, Insurance, Bond, Workers Comp is increased from $148,000 to $151,100.

e. General Fund Expenditures, Non-departmental, Account Number 10-660-9600, Special Projects is increased from $10,000 to $20,000.

f. General Fund Revenues, Account Number 10-334-1200, Governors Highway Safety Program Grant Revenue is increased from $-0- to $9,806.

g. General Fund Revenues, Account Number 10-335-0300, Mountain Glory Revenue is increased from $22,000 to $25,680.

h. General Fund Revenues, Account Number 10-344-3300, Cardboard Recycling Grant Revenue is increased from $-0- to $3,564.

i. General Fund Revenues, Account Number 10-399-0000, Fund Balance Appropriated is increased from $400,629 to $435,098

WATER AND SEWER FUND

a. Water and Sewer Fund Expenses, Non-departmental, Account Number 30-660-5700, Miscellaneous, is increased from $10,000 to $28,750.

b. Water and Sewer Fund Expenses, Non-departmental, Account Number 30-660-9000, USBancorp - Principal, is increased from $-0- to $21,169.

c. Water and Sewer Fund Expenses, Non-departmental, Account Number 30-660-9100, USBancorp - Interest, is increased from $-0- to $5,100.

d. Water and Sewer Fund Expenses, Non-departmental, Account Number 30-660-9600, Insurance, Bond, Workers Comp, is increased from $90,000 to $92,000.

e. Water and Sewer Fund Expenses, Utility Line Maintenance, Account Number 30-810-7400, Capital Outlay, is increased from $180,200 to $187,800.

f. Water and Sewer Fund Revenues, Account Number 30-299-0000, Fund Balance Appropriated is increased from $297,720 to $352,339.

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

Adopted this the 6th day of January 2015.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-15-01-06-2

D. Approval of Waiver of Civil Citation

Council approved the waiver of the $50.00 penalty for a civil citation issued on November 13 to Derek's Muffler Shop at 1760 North Main Street for violations of the auto repair shop standards in the Zoning Ordinance, due to the owner, Mr. Derek Smith, correcting the violations in question and staying in compliance with the Zoning Ordinance since the issuance of the civil citation.

RETIREMENT RECOGNITION – JACK WOOD: Police Chief Allen Lawrence advised that Jack Wood recently retired as Community Policing Coordinator for the City, after more than seven years of service.

Chief Lawrence stated that Jack Wood has been a staple in Marion and at the Police Department. He started in law enforcement in 1967 with the state of N.C. and worked for them for 33 years. Mr. Wood has 41 years of service in law enforcement, including time with the McDowell County Sheriff's Department, State of North Carolina and the City of Marion.

Chief Lawrence reported that Mr. Wood had been instrumental in enhancing the Community Watch Program in the City, working community events, providing crime prevention education and assisting the Police Department in many ways.

Chief Lawrence advised that Mr. Wood's retirement closes a chapter of 134 years in law enforcement within his family, including his father's service as Police Chief of Marion.

AA.000000515 (24)

Chief Lawrence presented Mr. Wood with a plaque that read as follows:

Presented to

Jack A. Wood

For many years of dedicated Service to
The Marion Police Department
And the Citizens of Marion

Providing the highest level of service to our community
through excellence in performance
1967-1973 2007-2014

Mayor Little, Council Members, City staff, and friends all thanked Jack Wood for his dedicated service and congratulated him on his retirement.

PRESENTATION OF ADVANCED LAW ENFORCEMENT CERTIFICATE TO POLICE LIEUTENANT RUSTY JENKINS: Chief Lawrence advised that Police Patrol Lieutenant Rusty Jenkins had recently completed the requirements for his Advanced Law Enforcement from the State of North Carolina, the highest certification available to a law enforcement officer in North Carolina. Chief Lawrence presented the following Advanced Law Enforcement Certificate to Lieutenant Jenkins.

State of North Carolina
Department of Justice
North Carolina Criminal Justice Education and
Training Standards Commission
To all to whom these presents may come
Greeting

Be it know 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

Stefan Russell Jenkins
This
Advanced Law Enforcement Certificate

with all the rights and privileges thereunto belonging.

In Testimony Whereof we fix our hand this 14th day of November 2014, in Wake County in the State of North Carolina in the United States of America.

_____
Attorney General

_____
Commission Chairman

_____
Director, Criminal Justice Standards Division

Mayor Little, Council Members and the City Manager all congratulated Lieutenant Jenkins on the receipt of his Advanced Law Enforcement Certificate and for his dedicated service to the City.

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

CONSIDER ADOPTION OF SIDEWALK CAFÉ ORDINANCE: The City Manager advised that, as authorized by Council at the October 3 Planning Session, he and Planning and Development Director Heather Cotton worked to prepare amendments to Chapter 11, Offenses, and Chapter 15, Streets, Sidewalks and Other Public Places, of the City Code to allow for sidewalk cafes serving alcohol in approved, defined areas of the sidewalk in the downtown area.

The City Manager reported that, at the November 18 Council meeting, Council discussed the ordinance and agreed to defer consideration until January, at which time all Council Members could be present. Council held a Planning Session in December and made the following changes to the proposed ordinance:

A. Removing a provision to authorize Council to allow alcoholic beverages to be served on public property at special events on a case by case basis. Section 11-17(d) has been removed from the draft ordinance.

B. Adding language in Section 15-144(e) to require sidewalk café applicants to include the dimensions of tables and the numbers of tables and chairs in the application.

C. Revising Section 15-145(c) to state that "the number of tables and chairs and the seating capacity of the sidewalk café shall be set in the permit approval by the City Manager or his/her designee. At no time may the number of tables and chairs in the sidewalk café exceed the number approved in the sidewalk café permit."

D. Revising Section 15-145(f) to limit the extent of the sidewalk café to the actual pedestrian way property frontage of the associated restaurant. Language authorizing a sidewalk café to extend up to 8 feet onto an adjacent property frontage has been removed from the draft ordinance.

E. Adding Section 15-146(f) to state that "any alcoholic beverages served and consumed at an approved sidewalk cafe can only be served to and consumed by a customer while that customer is consuming a meal purchased from the business operating the approved sidewalk cafe. For purposes of this subsection, a meal is defined as an entrée on the restaurant's menu."

AA.00000516 (24)

F. Revising Section 15-151 by replacing the permit revocation language with a simpler section from Shelby, while still retaining a mechanism for businesses to appeal permit revocations or suspensions to the City Council.

The City Manager presented Council with an ordinance that incorporates the changes made at the Planning Session in December, as noted above.

Upon a motion by Mayor Pro Tem Lloyd Cuthbertson, seconded by Council Member Clark, Council voted to adopt the Ordinance shown below.

The vote was as follows:

Mayor Pro Tem Cuthbertson	Yes
Council Member Everette Clark	Yes
Council Member Juanita Doggett	Yes
Council Member Billy Martin	Yes
Council Member Don Ramsey	No

ORDINANCE
AMENDING CHAPTER 11 OFFENSES
AND 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:

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 11-17 in its entirety and replacing it with the following:

Sec. 11-17. Consumption of alcoholic beverages.

(a) It shall be unlawful for any person to consume any alcoholic beverage as defined by G.S. section 18B-101 on any property owned or controlled by the city or upon any public vehicular area; provided, that this section shall not apply to the premises of those establishments that have an "on-premises" ABC permit as prescribed under G.S. section 18B-1001.

(b) Such public vehicular area shall mean and include any drive, driveway, road, roadway, street, sidewalk, alley, parking area or other space open for the purpose of vehicular traffic or operation upon the grounds or premises of:

(1) Any public or private hospital, college, school or church or any institution maintained and supported by the State of North Carolina, McDowell County or the City of Marion.

(2) Any service station, car wash, supermarket, store, restaurant, amusement center, lounge, shopping center or office building or any other business or municipal establishment or groups of such establishments providing parking space for customers, patrons, employees or the public; provided, that this section shall not apply to the premises of those establishments that have an "on-premises" ABC permit as prescribed under G.S. section 18B-1001.

(c) Notwithstanding the foregoing, it shall not be unlawful for any person to consume any alcoholic beverage within the premises of a sidewalk cafe; permitted pursuant to the provisions of Chapter 15 of the City Code and for which a valid ABC permit exists.

Section 3. Chapter 15 is amended by deleting Article III, Sidewalks, in its entirety and replacing it with the following:

ARTICLE III.

SIDEWALKS*

* **Cross References:** Driving within a sidewalk area prohibited, § 18-61; riding bicycles on sidewalks, § 18-195.

DIVISION 1.

GENERALLY

Sec. 15-131. Improvements.

Petitions for street improvements may include requests for sidewalk improvements in accordance with city specifications or sidewalk improvements may be petitioned only. Such sidewalk improvements may be constructed as part of the street improvement project and in the same manner, except that one hundred (100) percent of the total cost of sidewalk improvements exclusive of the cost at intersections shall be assessed against the property owner.

(Code 1982, § 4-1006)

Charter References: Petition unnecessary for sidewalk improvements, § 5.1.

Sec. 15-132. Construction.

No sidewalk of any description shall be built by any person of any brick, wood, or other material without a written permit from the city. Nor shall any permanent structure be installed in a city sidewalk without permission from city council.

(Code 1982, § 4-1029; Ord. No. O-05-06-21-04, § 3, 6-21-05)

Sec. 15-133. Assembly on sidewalk.

All persons are forbidden from assembling or collecting and standing so as to obstruct any sidewalk or street, and all persons so collecting and standing shall disperse and move upon the demand of any police officer.

(Code 1982, § 6-2001)

State Law References: Standing, sitting or lying upon highways or streets prohibited, G.S. § 20-174.1; regulation of mass gatherings, G.S. § 130A-251 et seq.

Sec. 15-134. Sidewalk display of merchandise prohibited; exceptions.

(a) No person shall place for display or sale any goods, wares or merchandise of any kind upon any of the sidewalks of the city, except in the central business district, as defined in the zoning chapter for the city and then only upon the following conditions:

(1) Goods, wares or merchandise may only be placed directly in front of the businesses fronting on the street by the owners or occupants of such businesses.

(2) All materials, tables, racks or other items must be removed from the sidewalk at the close of each business day, with the following exceptions:

a. Tables and chairs used by a restaurant or coffee shop or other business establishment serving food or non-alcoholic beverages may remain on the sidewalk at all times, subject to the other provisions of this section, unless the business owner is instructed to remove said tables and chairs by the city. Such tables and chairs shall be for the exclusive use of patrons of the business providing the tables and chairs, and in no case shall alcoholic beverages be served to or consumed by any persons using said tables and chairs.

b. Tables and chairs used by a sidewalk café permitted pursuant to Division 2 of this Chapter.

(3) No goods, wares, merchandise, tables, racks, or other items for sale or containing items for sale may be placed within seven (7) feet of the face of curbline in front of the building, with the following exceptions:

a. Tables and chairs for use by a restaurant or other business for the purpose of seating customers and serving food or non-alcoholic beverages may be placed on the sidewalk within seven (7) feet of the face of the curbline in front of the building so long as the City Manager or his or her designee approves the location and placement of the tables and chairs. The City Manager or his or her designee shall, upon application, grant approval of table and chair placement for the purposes above described once it is determined and agreed upon that the tables and chairs do not pose a safety hazard or adversely impact parking areas. Furthermore, if parking patterns change or safety hazards emerge, the City Manager or his or her designee reserves the power to withdraw permission for certain or all table(s) or chair(s) placement.

b. Tables and chairs used by a sidewalk café permitted pursuant to Division 2 of this Chapter.

(4) Prior to placing any goods, wares, merchandise or any items on the sidewalk, the merchant owning or occupying the business shall provide 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 his or her business. The statement shall include the beginning and ending date of the time covered by the statement.

(b) This section shall not prohibit the city council from authorizing sidewalk sales in the central business district or street fairs and festivals which allow vendors and craftspeople to display wares in streets which are blocked off from vehicular traffic.

(Code 1982, § 6-2002; Ord. of 10-3-89, §§ 1, 2; Ord. of 5-8-01, § 2; Ord. of 5-22-01, § 2)

Cross References: Licenses, permits and business regulations, Ch. 10.

Sec. 15-135. Placing objects on streets and sidewalks.

No brick, stone or wood or other substance obstructing the free passage of persons and vehicles shall be placed or suffered to lie in any of the alley ways, streets or other routes of the city, nor shall any person place on or in any of the streets, sidewalks or alley ways of the city any boxes, crates, casks, or barrels of any description, or any other obstruction of any kind, provided that any person erecting a building may with permission place building material for immediate use on the streets in such a way as to not interfere with the usual traffic.

(Code 1982, § 6-2003)

State Law References: Placing glass or injurious obstruction upon highway prohibited, G.S. § 136-91; city's duty to keep public streets free from unnecessary obstructions, G.S. § 160A-296(a)(2); city's authority to prohibit placing trash on streets, G.S. § 160A-303.1.

Sec. 15-136. Construction near sidewalk.

Before building or remodeling at any place where such building or remodeling is in close proximity to the sidewalk, the sidewalk shall be blocked off or an overhead covered passage way shall be constructed so as to leave the sidewalk unobstructed and provide safe and easy passage.
(Code 1982, § 6-2004)

Sec. 15-137. Structures and appurtenances over sidewalks.

No person shall erect over any sidewalk or street any part of a building except marquees and signs which are approved by the building inspector. Awnings may be attached to buildings provided they are supported upon metallic frames and at least eight (8) feet above the level of the sidewalk. Reconstruction of porches and balconies of historic significance shall be permitted to extend ten (10) feet over the sidewalk and eight (8) feet above the sidewalk, provided that the structure is five (5) feet from the vehicular travel way. Reconstruction shall be permitted only if evidence of historic features exists in photos and when features are noted in the U.S. Department of Interior description of "Historic and Architectural Resources in Downtown Marion". Reconstruction of historic features shall be comparable to original construction.

(Code 1982, § 6-2005; Ord. No. O-05-06-21-04, § 2, 6-21-05)

Sec. 15-138. Salespeople to remain on sidewalk; motorists not to stop.

(a) Persons selling newspapers and other commodities shall be prohibited from selling such items within fifty (50) feet of any street intersection and all persons selling such items shall remain on the sidewalk while selling such items and not venture into the street.

(b) It shall be unlawful for any motorist to stop a vehicle in a traveled portion of any street for the purpose of purchasing newspapers and other commodities.

(Code 1982, § 6-2006)

Cross References: Licenses, permits and business regulations, Ch. 10.

Sec. 15-139. Signs and banners across street prohibited.

AA.0000005 18 (24)

It shall be unlawful for any person to hang, suspend or otherwise place any sign or banner over and across any of the streets of the city. This section shall not apply to Christmas decorations approved by the city manager.

(Code 1982, § 6-2007; Ord. of 10-7-86, § 1; Ord. of 8-18-98, § 1)

Sec. 15-140. Reserved.

Editors Note: Section 1, amendment 3 of Ord. No. O-08-01-15-3, adopted Jan. 15, 2008, deleted § 15-140, which pertained to penalties and derived from an ordinance adopted Oct. 7, 1986.

DIVISION 2.

SIDEWALK CAFES

Sec. 15-141. Definitions.

Sidewalk cafe means any group of tables and chairs, and its authorized decorative and accessory devices situated and maintained upon the public sidewalk for use in connection with the consumption of food and beverages sold to the public from or in an adjoining indoor restaurant which is located within the City of Marion Central Business District, as indicated on the Official Zoning Map of the City.

Sec. 15-142. General.

Notwithstanding any other provisions of this Code to the contrary, sidewalk cafes or sidewalk dining shall be permitted in the Central Business District as indicated on the Official Zoning Map of the City and shall be subject to such regulations as are set forth in this division.

Sec. 15-143. Permit required.

No restaurant owner may operate a sidewalk cafe without first obtaining a permit from the City Manager in accordance with the requirements of this division. As used in this section, the term City Manager includes his or her authorized representative(s).

Sec. 15-144. Application.

Any restaurant owner desiring to operate a sidewalk cafe shall prepare and file an application with the City Manager which shall contain the following information:

(a) The name, address, and telephone number of the restaurant desiring to operate a sidewalk cafe.

(b) The name, address, and telephone number of the restaurant operator.

(c) The name, address and telephone owner of the property owner.

(d) The hours of operation of the restaurant and the proposed hours of operation of the sidewalk cafe.

(e) A drawing or site plan clearly delineating the defined area of sidewalk or pedestrian way to be used for the sidewalk cafe, and the section to be kept clear for pedestrian and fire lane use, and depicting the proposed placement of tables, chairs, barricades, umbrellas, trash receptacles, and other furnishings on the sidewalk or pedestrian way. The dimensions of proposed tables and the number of tables and chairs proposed must be specified on the application.

(f) Documentation of comprehensive general liability and products and completed operations coverage in the amount of $1,000,000.00, insuring against personal injury, wrongful death and property damage and including the City as an additional party insured and insuring the City against any liability resulting from the uses permitted pursuant to this division. Such insurance policy shall provide that the policy shall not terminate or be canceled prior to the expiration date without 30 days' advance written notice to the City. The permit holder shall continuously maintain the insurance required by this section and shall continuously provide the City with evidence of the insurance required by this section.

(g) Copies of all permits and licenses showing all required approvals by the County Health Department and any other applicable regulatory agencies.

(h) Copies of all applicable State ABC permits pertaining to the location for which a sidewalk café is requested.

(i) Execution of a statement on the permit application wherein the applicant holds harmless and indemnifies the City from any claims or causes of action arising out of or related to the permitted activity, including, but not limited to, compliance with the Americans with Disabilities Act, the North Carolina State Building Code and all other health and safety laws and regulations.

(j) A sworn statement certifying that the restaurant operator has not violated any law, regulation or ordinance relating to the possession, sale, transportation or consumption of intoxicating beverages or controlled substances for the three years preceding the date of the application.

(k) Payment of an application fee, as set by the City Fee Schedule, to cover the cost of processing and investigating the application and issuing the permit shall be submitted with the application.

(l) Other information deemed necessary by the City Manager.

Sec. 15-145. Operational requirements.

Operation of a sidewalk café shall conform to the following requirements:

(a) There shall be a five-foot-wide unobstructed contiguous walkway within the public sidewalk area for use by pedestrians, and handicapped accessibility shall be provided as required by law. The outdoor activity shall not impede pedestrian or vehicle traffic.

(b) The sidewalk cafe must be associated with an operating restaurant such that it is under the same management and shares the same food preparation facilities, restroom facilities, and other customer convenience facilities as the restaurant. The sidewalk cafe must be operated under the same name as the restaurant and may not be open or operated at any time when the restaurant is not open for business.

AA.00000519 (24)

(c) The operation of the sidewalk cafe must be clearly incidental to the associated restaurant business. The number of tables and chairs and the seating capacity allowed for the sidewalk cafe shall be set in the permit approval by the City Manager or his/her designee. At no time may the number of tables and chairs in the sidewalk café exceed the number approved in the sidewalk café permit.

(d) The placement of tables, chairs and other furnishings as shown in the drawing submitted with the site plan must be done in such a manner that at least five (5) feet of unobstructed space remains on the sidewalk or pedestrian way for the passage of pedestrians. No fire exits or lanes may be blocked and such must remain clear at all times. The pedestrian passage may not be used for the display of merchandise or for portable signs otherwise authorized pursuant to Chapter 21 Zoning, Division 4 Sign Regulations, of the Marion City Code.

(e) The premises of the sidewalk café must be clearly defined at all times during the hours of business operation, using a means of separation between the sidewalk and the premises of the sidewalk café, as approved by the City Manager or his or her designee.

(f) The restaurant seeking to operate the sidewalk cafe must front on and open onto the sidewalk proposed for the sidewalk cafe, or be situated below sidewalk level with direct access to the sidewalk by means of an open-air stairwell. The placement of tables, chairs, and other furnishings may not extend beyond the sidewalk or pedestrian way property frontage of the associated restaurant.

(g) All outdoor dining furniture, including tables, chairs, umbrellas and planters, shall be movable and suitable for outdoor use. Umbrellas must be secured with a minimum base weight of not less than 60 pounds. At any time outdoor dining furniture is in disrepair, the restaurant operator shall repair or replace the furniture within 14 days after notice is provided by the City.

(h) Except as elsewhere permitted by the Code, the operation or furnishing of the sidewalk cafe shall involve no permanent alteration to or encroachment upon any street, sidewalk, or pedestrian way or to the exterior of the associated restaurant, unless approval is given by the City Manager or his or her designee.

(i) Amplified sound equipment shall not permitted within the area of the sidewalk café.

(j) At all times the permittee must comply with all other local, state or federal laws, ordinances and regulations, including but not limited to health, safety and welfare rules, laws and regulations and the City of Marion Noise Ordinance.

State law reference— Local regulation of places of amusement, G.S. 160A-181.
State law reference— Noise regulation, G.S. 160A-184.

Sec. 15-146. Alcoholic beverages.

Notwithstanding any other provisions of this Code, alcoholic beverages may be served in approved sidewalk cafes provided that the following requirements are met:

(a) The sidewalk cafe shall be part of a restaurant which shall otherwise be authorized, permitted or licensed under the state law and this Code to serve and sell alcoholic beverages for on-premises consumption.

(b) The sidewalk cafe must be included as part of the premises for which an ABC permit is issued pursuant to state law, for the purpose of applying and enforcing state laws regarding the sale or consumption of alcoholic beverages.

(c) Signs shall be posted, visible at all exit points from the sidewalk cafe, that it is unlawful to remove alcoholic beverages from the premises.

(d) The restaurant operator shall not have violated any law, regulation or ordinance relating to the possession, sale, transportation or consumption of intoxicating beverages or controlled substances for the three years preceding the commencement of the sale of alcoholic beverages at the sidewalk cafe.

(e) No outdoor bar is allowed within the sidewalk cafe, nor shall outdoor preparation of alcoholic beverages be permitted except that unfortified wine may be decanted or beer poured at a table as part of a meal.

(f) Any alcoholic beverages served and consumed at an approved sidewalk cafe can only be served to and consumed by a customer while that customer is consuming a meal purchased from the business operating the approved sidewalk cafe. For purposes of this subsection, a meal is defined as an entrée on the restaurant's menu.

Sec. 15-147. Days and hours of operation.

The hours of operation of a sidewalk cafe may be the particular restaurant's normal operating business hours Monday through Saturday and after 12:00 noon on Sundays.

Sec. 15-148. Trash.

(a) The sidewalk cafe permittee shall maintain in a clean and sanitary manner all areas where the furniture is located, including maintaining appropriate trash receptacles, sweeping on a daily basis the full right-of-way where the furniture is located and immediately cleaning and washing any liquid, food, debris, broken glass and other trash from the right-of-way.

(b) Overnight storage of trash and refuse for the sidewalk cafe shall not be permitted within the outdoor dining area or on adjacent sidewalk areas, and the permittee shall remove all trash and litter as it accumulates.

Sec. 15-149. Terms and transfer.

(a) Upon successfully completing an application, upon meeting all of the requirements in this Chapter and the City Code and upon the payment of any permit fees set in the City Fee Schedule, the City Manager or his/her designee shall issue permits and/or execute encroachment and hold harmless agreements to allow sidewalk cafes.

(b) If a permittee discontinues the restaurant operation or the sidewalk cafe, no refund of the permit fee shall be made. Permits issued pursuant to this section shall not be transferable or assignable. Permits may prohibit operation of sidewalk cafes during special events and contain other conditions and restrictions as may be necessary to protect the public health, safety and welfare.

Sec. 15-150. Denial.

Any applicant denied a permit under this division shall receive a statement, in writing, outlining the reasons for denial of the permit.

AA.00000520 (24)

Any applicant denied a permit to operate a sidewalk café shall receive a written statement outlining the grounds on which the denial was based. The applicant may appeal the denial of the permit to the City Council within 15 working days after the date of the written denial, and the City Council may take such action as it shall find necessary. The findings and determination of the City Council shall constitute final action by the city.

Sec. 15-151. Revocation/Suspension.

The City specifically retains the right to revoke or suspend a sidewalk cafe permit any time it deems such revocation to be in the best interest of the public health, safety or welfare, or where the permittee has failed to comply with applicable City requirements or is found to have provided false or misleading information in the permit application. Any such permit revocation or suspension shall be provided in writing to the business by the City Manager or his/her designee.

Such decision of the City Manager or his/her designee may be appealed to the City Council by written notice thereof filed with the City Clerk within 15 days of the date of receipt of the notice of suspension or revocation. The City Council may take action as it shall find necessary. The findings and determination of the City Council shall constitute final action by the City.

Sec. 15-152. Penalties.

It shall be unlawful for any person to violate any of the requirements of this division or of the permit issued under this division.

(a) Such violations shall be a misdemeanor and punishable as provided by N.C. General Statute Section 14-4.

(b) Unless otherwise provided within the Code of Ordinances of the City of Marion or in state law, persons violating the provisions of this division shall be assessed a civil penalty as provided in Chapter 1 of the Marion City Code of Ordinances.

Secs. 15-153 - 15-155. Reserved.

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 6th day of January, 2015.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-15-01-06-3

CONSIDER APPROAL OF ORDINANCE TO INITIATE CONDEMNATION PROCEDURES FOR DILAPIDATED STRUCTURE – 1002 EAST COURT STREET: The City Manager advised that staff had prepared an ordinance to begin condemnation procedures for a dilapidated structure at 1002 East Court Street (the former Budget Tire building at the corner of East Court Street and Baldwin Avenue).

Photos of the building in question, along with a map and copy of the property deed were presented to Council Members for review. The City Manager stated that, as shown in the photos, the roof and front wall part of the building has collapsed. The building is in need of immediate repair or demolition.

The City Manager reported that, upon approval of this ordinance, Building Inspector Jay Suttles would notify the property owner and schedule a hearing. After the hearing, Mr. Suttles would most likely issue orders requiring the demolition (or repair if possible) of the structure. If the owner does not take action within the designated time frame, we would then ask Council to adopt an ordinance authorizing the demolition of the dilapidated structure by the City.

Upon a motion by Council Member Martin, seconded by Council Member Doggett, Council voted unanimously to adopt the following ordinance initiating condemnation procedures for a dilapidated structure at 1002 East Court Street:

CITY OF MARION
ORDINANCE CONCERNING PARTICULAR ABANDONED STRUCTURES
1002 EAST COURT 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 1002 East Court Street, Marion, McDowell County, North Carolina, Tax ID 1711.05-09-9978 and as further described in the Warranty Deed recorded in Book 177, Page 92 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 6th day of January, 2015

AA.000000521 (24)

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-15-01-06-4

Mayor Little reported a house at 436 State Street needs to be examined as well, since the house has a chimney that looks like it could fall at any time. The City Manager stated that he would ask Mr. Suttles to look at the house and determine what action needs to be taken.

DISCUSSION OF STREET REQUEST: The City Manager stated that, as shown in information presented to Council Members from Public Works Director Brant Sikes, Mr. Donnie Suttles of Montevista Avenue has requested that the City replace the temporary barricades on Bakersville Road with guardrails. Mr. Suttles reports increased loitering activity recently, which led to this request. He also notes that the barricades are unsightly and detract from the neighborhood.

Mr. Sikes reported that the City could completely block off the Fleming Avenue end of Bakersville Road with a guardrail and most of the Montevista Avenue end as well, as long as a locked gate is in place to allow City staff to access the street periodically for cleaning and maintenance.

The City Manager stated that he wished that the City could repair and upgrade Bakersville Road; however, as Council has discussed, it probably is not advisable to use the City's limited Powell Bill funds on a street that has no structures on it.

The City Manager advised that he and Mr. Sikes believe that the request of Mr. Suttles is reasonable and would prevent access to Bakersville Road. The City Manager noted that, as Mr. Sikes pointed out in his e-mail, the gate and guardrail could easily be removed at such point in the future that the street is reopened.

The City Manager reported that Mr. Suttles also requested speed humps on Montevista Avenue. The City Manager stated that Council has not approved additional speed humps in recent years and that speed humps could not even be considered until asphalt is available in the Spring, but he wanted Council to be aware of the request.

A discussion followed.

Council Member Clark expressed concerns about property owners being deprived of access to their properties and getting the impression that the City was closing the street permanently. The City Manager advised that there were no structures located along Bakersville Road, but there were two property owners, the Cook family and Hospice of McDowell County, who might need access to the street in the future.

It was the consensus of Council to have the Street Committee examine this request and report back to Council at a future meeting.

SCHEDULING OF CITY COUNCIL PLANNING SESSION: The City Manager advised that, at the December 16 Council Planning Session, Council discussed scheduling the next Planning Session for some time around February. This Planning Session can include a discussion of various items, as well as some facility tours.

It was the consensus of Mayor Little and Council Members to schedule the next Planning Session for Friday, February 13, from 8:30 A.M. until about 1:00 P.M. The City Manager stated that he would identify locations for interior facility tours and develop discussion topics for the Planning Session.

JOSEPH MCDOWELL HISTORICAL CATAWBA GREENWAY PHASES 2 UPDATE/SCHEDULING OF GREENWAY DEDICATION: The City Manager advised that, at the December 16 Council Planning Session, Council discussed scheduling the dedication for Phase 2 of the Joseph McDowell Historical Greenway as soon as possible. The City Manager noted that the Greenway contractor had finished most of the Greenway project; however, some final punch list items remain as well as the installation of fitness stations, a pump shelter and signs by City personnel.

The City Manager reported that he and Planning and Development Director Heather Cotton would request that the entire project be completed before the dedication is held, which means that the dedication may not take place until March. The City Manager noted that Phase 2 of the Greenway is open for the public to use. Mayor Little and Council Members expressed no objections to scheduling the Greenway Phase 2 dedication for March or whenever the project is completed.

Ms. Cotton provided information on some of the remaining work that needs to be completed on Phase 2 of the Greenway. She also presented Council with information on benches that will be placed along Phase 2 of the Greenway and the Round Hill Loop. Ms. Cotton stated that locations for about 12 benches have been identified. The amount of a bench sponsorship will likely need to be about $600. Ms. Cotton advised that six people have already expressed interested in sponsoring a bench and additional sponsors can be sought.

Mayor Little and Council Members expressed agreement with the City seeking sponsors for approximately 12 benches along Phase 2 of the Joseph McDowell Historical Catawba Greenway and the Round Hill Loop, with sponsorships offered at around $600.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager advised that the taxable retail sales in McDowell County for the first four months of 2014-15 increased by 13.74 percent over the same time period in 2013-14. Taxable retail sales across North Carolina increased by 9.92 percent for the first four months of 2014-15, as compared to the same time period in 2013-14. Increases in retail sales locally and across North Carolina invariably lead to higher sales tax distributions for the City and County.

The City Manager advised that the new Community Building sound system has been excellent, but the new ceiling tiles have created an echo effect. Public Works Director Brant Sikes followed up with the company that installed the sound system and with Grayson England, who installed the ceiling tiles. The City Manager reported that the sound system recommended that the City install acoustical tiles in the Community Building. Mr. England's supplier took back the original tiles with no penalty, but the acoustical tiles cost more. However, to preserve sound quality in the Community Building, the City Manager said that he approved the installation of the acoustical tiles.

The City Manager said that the acoustical tiles were installed in late December and have made the room less noisy. Council Member Clark stated that he attended a Board of Realtors meeting in the Community Building earlier that day and the sound was excellent, with the installation of the new acoustical ceiling tiles.

AA.000000522 (24)

The City Manager advised that, in late November, DOT completed the resurfacing of West Henderson Street. The City Manager stated that DOT should soon be installing crosswalks and pedestrian crossing signals on all four sides of the West Henderson/Logan Street intersection.

The City Manager stated that Mayor Pro Tem Cuthbertson had reported before Christmas than the vehicle detection loops at traffic signals along West Henderson Street did not seem to be working, presumably as a result of the recent street resurfacing work by DOT. The City Manager advised that he had asked DOT Division Traffic Engineer Anna Henderson to have the loops checked and repaired as soon as possible. Ms. Henderson reported that DOT signal technicians identified 32 loops that need to be repaired and that the project contractor will complete the repair work as soon as possible.

Council Member Clark asked stated that he would like to see the lights burning under the railroad underpass bridge on West Henderson Street and to have the underpass cleaned of trash and debris. The City Manager advised that he and Mr. Sikes would look at the underpass and try to take care of this request as soon as possible.

The City Manager reported that, in early December, the N.C. Local Government Commission approved the City borrowing $470,000 for the purchase of a replacement automated water meter reading (AMR) system. The City closed on the loan before Christmas. The City Manager stated that the City will hopefully receive and start installation of the new AMR system in early 2015.

The City Manager advised that Van Noppen and Allison have begun work on the website portal/community calendar project. The City and County will provide 25 percent funding each, the TDA and Chamber 20 percent each and MEDA 10 percent. As previously reported, the project will provide a website portal for the community with links to local government, tourism, recreation, retirement, relocation, business, economic development and health care websites, among others, as well as a search engine component.

The City Manager said that Allen Van Noppen anticipates that the web portal would be completed around February 1, along with the initial search engine to include the City, County, TDA, MBA, Chamber and MEDA. Once the sponsoring organizations do a test run of the search engine, it could then be presented to other non-profit organizations and governmental entities to see if they wish to pay to be included in the search engine. The goal would be to have the search engine include all of the initial organizations that wish to participate by Spring 2015. Additional organizations could be added in the future, and the web portal could be updated or changed as necessary.

The City Manager advised that, at the last meeting, Mayor Pro Tem Cuthbertson mentioned a sewer odor around Morgan and Railroad Streets. City staff located a sewer line in need of repair off of Crawford Street. Repairs have been made to resolve this issue.

The City Manager thanked the Marion Police Department, the Marion Fire Department, the Marion Business Association and the Public Works Department for the great jobs they did during the New Year's Eve Celebration. The City Manager stated that the New Year's event went well and there were no problems.

Council Member Clark stated that it would be nice if WLOS TV would film the gold nugget drop on New Year's Eve.

The City Manager advised that ECS, a geotechnical engineering firm, should start work the following week on the Foxfire drainage study, to evaluate and determine the source of the water on Mr. Barksdale's property at South McDowell Avenue and Woodland Street in the Foxfire neighborhood. The City Manager reported that Mr. Sikes notified Mr. Barksdale of the City's plans and, in late December, obtained Mr. Barksdale's signature on a Memorandum of Understanding authorizing work to be completed on this property. ECS has also contacted Mr. Barksdale directly to inform him of the schedule for the work. The City Manager stated that he would advise Council when ECS makes a determination. This evaluation will likely take 6-8 weeks to complete.

The City Manager presented Mayor Little and Council Members with invitation to the Dr. Martin Luther King, Jr. Day service at Addie's Chapel United Methodist Church on Monday, January 19 at 11:00 A.M.

The City Manager advised that, as was discussed at a recent Planning Session, Planning and Development Director Heather Cotton is finalizing several Zoning Text Amendments to modify requirements for manufactured housing. These amendments will be presented to Council at the January 20 meeting.

COUNCIL MEMBER COMMENTS:

Council Member Ramsey asked if DOT had communicated any possible safety improvements to the curve on Rutherford Road curve near Vale Street and Silver Dollar Pawn Shop, where numerous accidents have occurred in recent years. The City Manager said that he not heard from DOT regarding this matter, but would check with DOT District Engineer Tim Anderson to see if any ideas had been developed.

Council Member Doggett stated that today is Mayor Little's Birthday. Council Members and City staff sang "Happy Birthday" to Mayor Little.

Mayor Pro Tem Cuthbertson thanked Utility Maintenance Division staff for flushing water lines on Broad Street on New Year's Eve to address a muddy water problem.

Council Member Clark suggested that the City should ask DOT to clean and plant landscaping on the North Main Street bank between the McLarty building just north of City Hall and Montevista Avenue. He noted that the bank looks deplorable.

ADJOURNMENT: Upon a motion by Council Member Ramsey, seconded by Council Member Martin, Council voted unanimously to adjourn.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager

AA.000000523 (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 20, 2015 at 6:00 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 Don Ramsey.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Heather Cotton, AICP, Planning and Development Director; Brant Sikes, Public Works Director; Allen Lawrence, Police Chief; Mike Conley, McDowell News.

GUESTS PRESENT: J. Matt Smith 1105 Airport Road, Marion NC; Gloria Burrow, 60 East Court Street, Marion, NC; Mike Woody, 743 Airport Road, Marion, NC; Lillian Presnell, 800 Airport Road, Marion, NC; Marcia Presnell, 800 Airport Road, Marion, NC; Deena Smith, 1105 Airport Road, Marion, NC; Kenneth & Erica Doyle, 2081 US 70 East, Marion, NC; Pat Davis, 2133 Lake Tahoma Road, Marion, NC; Hubert & Candas Corpening, 60 Jackson Road, Marion, NC; Jeff & Shelia Ethridge, 855 Airport Road, Marion, NC; Eugene Holland, 105 W. Railroad Street, Marion, NC; Pam Bartels, 1445 Airport Road, Marion, NC; Rhonda Silver, 872 Lake Club Lane, Nebo, NC; Tony Yancey, 81 West Fort Street, Marion, NC; Gary McNeely, 1574 Airport Road, Marion, NC; Dennis Whitson, 3800 Sugar Hill Road, Marion, NC; Mark Shuman, 391 East Court Street, Marion, NC; Wynn Jackson, 1285 Airport Road Marion NC; Russell Murphy, Marion, NC; Frank Routh, 1445 Airport Road, Marion NC; Doug McCraw, 229 McKinney Road, Marion, NC; Jack Wyatt, 34 State Street, Marion, NC; Steve Bush, Executive Director, McDowell Chamber of Commerce.

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 – January 6, 2015 Regular City Council Meeting Minutes.

B. Consider Approval of Revised Boot Reimbursement Policy

City of Marion
Boot Reimbursement Policy

Upon completion of one (1) year of service with the City of Marion, an employee may purchase a pair of boots at the City's expense and will be allowed to do so on each anniversary date of hire thereafter. The City will pay a maximum of $100.00 toward the purchase price. If the price of the boots chosen by the employee exceeds $100.00, it will be the responsibility of the employee to pay the difference in the cost.

The department head must authorize for a purchase order to be issued by the Purchasing Agent for a pair of boots. The Purchasing Agent is to make the retail business aware that the City will pay a maximum of $100.00 toward the cost of the boots. If the cost exceeds the $100.00 limit, the business is responsible for collecting the difference at the time of purchase. The difference shall not be charged to the City or payroll deducted.

To qualify for the boot reimbursement, the employee must be classified as a regular employee with full-time status.

Adopted by the City Council of the City of Marion this the 20th day of January, 2015.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Policy Number: P-15-01-20-1

PUBLIC HEARING – ADOPTION OF ZONING MAP AMENDMENT TO ESTABLISH ZONING FOR AIRPORT FOR ROAD/HARRISON TERRACE ANNEXATION AREA: Mayor Little opened the Public Hearing.

Planning and Development Director Heather Cotton advised that the attached ordinance would amend the *Official Zoning District Map* to assign the R-4 Multi-Family Residential Zoning District designation to the Harrison Terrace Annexation Area. The property is owned by Robert A. and Carol P. Yancey and has the Parcel Identification Number 1702.19-52-3665. Ms. Cotton stated that the City Council adopted Ordinance No. 14-11-18-1 extending the corporate limits of Marion to include a satellite parcel of land on Airport Road between Autumn Care and the City's current municipal limits. This annexation was voluntarily petitioned by the owner of the property for the purpose of developing a 60-unit multi-family apartment housing.

Mayor Little stated that he would temporarily close the Public Hearing for this item, since Council needed first to consider a Zoning Text Amendment to establish the R-4 Residential District.

PUBLIC HEARING – ZONING TEXT AMENDMENT – ESTABLISH R-4 RESIDENTIAL DISTRICT: Mayor Little opened the Public Hearing.

Planning and Development Director Heather Cotton advised that the Zoning Text Amendment presented to Council and proposed by Staff would add a new multi-family residential district to the City Code. The new district would be the R-4 Multi-Family Residential District, which would allow for large scale residential development projects that are currently permitted as a special exception in R-2 Residential. Ms. Cotton reported that this new district was first recommended in the 2012 Comprehensive Land Use Plan. Based on revisions being made to residential districts at this time and the timing of the new 60-unit Harrison Terrace project, Ms. Cotton stated that staff is recommending that this new district be added to distinguish between housing types and densities deemed appropriate within in the R-2 Neighborhood Residential District and those associated with large scale multi-family housing developments that require larger public facilities and infrastructure to accommodate the scale of development. Adding this district would also allow staff to include provisions for development standards within Article IX.5 Dimensional Standards, which

AA.00000524 (24)

defines minimum lot sizes, setback standards, and building height at the same time as those being amended for the R-2 and newly created R-3 residential districts.

Ms. Cotton advised that staff recommended approval of the proposed ordinance during a regularly scheduled meeting held on January 8, 2015. Planning Board approved Staff's recommendation by unanimous vote.

Mayor Little asked if there was anyone present to discuss this item.

Pam Bartels asked Ms. Cotton to explain this request further.

Ms. Cotton reported that most of the City and the vast majority of residential property in the City is currently zoned R-2 General Residential. The R-2 district contains such a wide range of uses that most people are unaware of what types of development can be established in that district. Ms. Cotton advised that the new R-4 District would be called a multi-family district and designed for properties two acres of size or larger.

Mayor Little stated that having an R-4 District would provide for a better way to communicate to neighbors that a larger scale, multi-family development was likely to take place.

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 amending Chapter 21 and establishing the R-4 Multi-Family Residential 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, 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 Section 21-211 R-4 Multi-Family Residential District including the following:

Section 21-211. R-4 Multi-Family Residential District.

Section 21-211.1 Intent.

The R-4 Multi-Family Residential District is intended to provide opportunities for land area greater than two acres in size for large scale multi-family housing developments and other residential housing development that may include ancillary land uses for assisted or group living accommodations. Such districts should be located in close proximity to non-residential districts to provide convenient access to goods and services, as well as employment, education, and recreational opportunities, and serve as a transition between non-residential and lower density residential land uses.

Section 21.-211.2 Permitted Uses.

Within the R-4 Multi-Family Residential District, a building or land shall be used for the following purposes.

(1) All uses permitted in R-1, R-2, and R-3.

(2) Attached residential land uses having twenty (20) units per acre or less; including
   1. Multi-family residential housing including senior housing.
   2. Group care facility
   3. Assisted living facility including ancillary land uses that serve residents.
   4. Dormitories
   5. Orphanages
   6. Condominiums or attached single-family residential

Section 21-211.3 Special Exceptions. The following uses are permitted as special exceptions as provided for in article XII, subsection 21-303.2 of this chapter:

(1) Any residential use having more than twenty (20) units per acre.

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

Adopted this the 20th day of January 2015.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/ Clerk

Ordinance Number: O-15-1-20-4

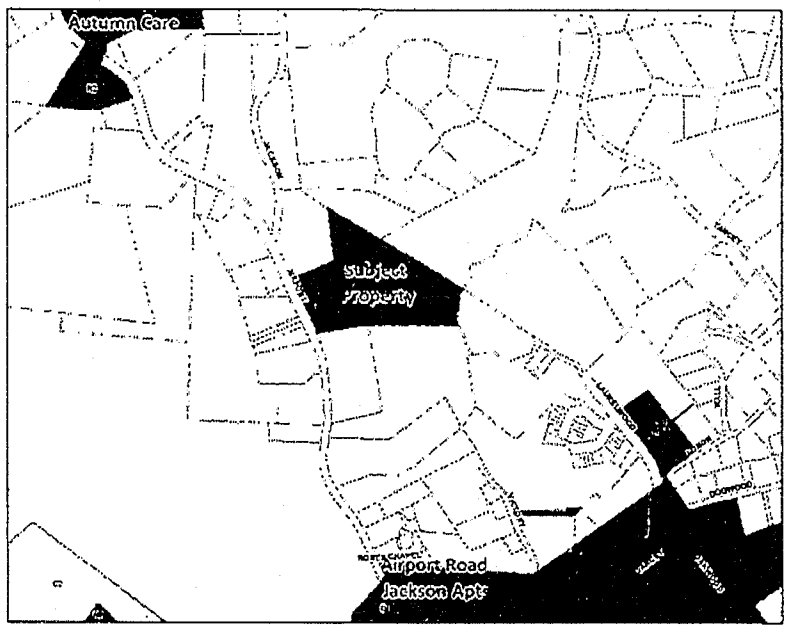
Council Member Clark stated that this Zoning Text Amendment and having the R-4 Multi-Family Residential District would provide options for developers and the City and be part of the City's roadmap for the future.

PUBLIC HEARING – ADOPTION OF ZONING MAP AMENDMENT TO ESTABLISH ZONING FOR AIRPORT ROAD/HARRISON TERRACE ANNEXATION AREA: Mayor Little reopened the Public Hearing.

Ms. Cotton reported that the purpose of this ordinance is to assign a zoning designation to the Airport Road/Harrison Terrace annexation area that will be most compatible with the proposed use and provide a mechanism to regulate new land uses. Ms. Cotton advised that staff has proposed the creation of a new district that the annexation area would be most compatible. The proposed district is R-4 Multi-Family Residential, which allows for larger scale multi-family development projects. Section 21-211, R-4 Multi-Family Residential Zoning District, is established as a district where the principal use of land is for multi-family residential purposes.

AA.0000000525 (24)

Ms. Cotton stated that staff recommended approval of the proposed ordinance during a regularly scheduled meeting of the Planning Board held on January 8, 2015. At that meeting, the Planning Board approved staff's recommendation to assign the R-4 Multi-Family Residential District to the Airport Road/Harrison Terrace annexation area.



Mr. Matt Smith presented Council Members with a petition with 26 signatures of property owners along Airport Road, opposing R-4 zoning for the Airport Road property, expressing concerns about the proposed 60 unit multi-family development, due to concerns about traffic, lack of sidewalks, compatibility with the surrounding neighborhood and grading and filling needed on the site of the proposed development. The petition further asked Council to look at the site in more detail before making a decision about the zoning.

Ms. Pat Davis stated concerns about traffic on Airport Road and the difficulty of backing out onto the road currently.

Mr. Richard Evans stated that he is an adjoining property owner. He expressed concerns about the environmental impact of the proposed project.

The City Manager advised that any development that disturbs more than one acre of property must obtain a Sedimentation and Soil Erosion Control permit from the North Carolina Department of Environment and Natural Resources and meet State guidelines.

Mayor Little said that the State has strict requirements and the developer could be cited for not abiding by all regulations or not obtaining the required permit.

Ms. Deena Smith stated that she is concerned about pedestrians. She advised that Airport Road is dangerous already for pedestrians and she would not consider crossing the road due to the heavy traffic that is already on the road.

Mr. Gary McNeely said that he and his mother live on Airport Road, that there is a curve near their properties and that his mother's mail box had been hit by vehicles for four or five times. Mr. McNeely stated that there have been several wrecks on Airport Road, including one involving a roll over crash. He reported that many cars speed on this road and use it as a cut-through.

Ms. Cotton stated that Airport Road is maintained by NCDOT, which would issue driveway permits for any new development. Ms. Cotton advised that traffic concerns could be forwarded to NCDOT.

The City Manager advised that, if NCDOT considered the proposed apartment development to be enough of a traffic issue, they could require the developer to make necessary upgrades, including construction of turn lanes.

Mr. Wynn Jackson stated that the bottom line is, the property owners and residents of Airport Road just do not want the apartment development out there. There is already a lot of traffic on Airport Road and the new apartment development will just add more.

Mr. Frank Routh asked who the developer was and where they are based.

The City Manager stated that the developer is the Flatiron Group from Charlotte.

A citizen asked if this development occurs, will natural gas, water and sewer be extended to the site.

The City Manager stated that natural gas service is provided in this area by PSNC Energy, which would set criteria for extensions. The City Manager advised that the proposed apartment site already has access to water service and the City is looking at options for serving the site with either gravity sewer or force main sewer, with the sewer extension costs paid by the developer.

Mr. Gary McNeely asked if water service would come further down Airport Road. The City Manager stated that further water and sewer extensions are possible and would depend on interest in such services and future development.

Ms. Marcia Presnell stated that she has concerns about traffic on Airport Road and the impact of the apartment development on the safety of the surrounding neighborhood. She expressed concerns about this type of living creating a danger for her elderly mother on the adjacent property. Ms. Presnell said that these type of people would be able to see what her mother has and that concerns her. Ms. Presnell also suggested that there would be drug usage and she does not see how this would benefit anyone.

Mr. Tony Yancey stated that he owns the property. He bought the property to develop and advised that there are already several apartment complexes on Airport Road and surrounding roads. Mr. Yancey said this development might actually slow down traffic on Airport Road. He suggested that an apartment development of the quality that is planned is needed in Marion.

Mayor Little reported that, prior to this property being annexed, there was no zoning in this area. He suggested that absence of zoning is risky. At least with zoning in place, certainty and order is assured. Mayor Little added that this may be a quality project or it may not be. The City sets criteria for development and defines what uses are allowed, but cannot control who lives in a certain location.

Ms. Pam Bartels stated that she has concerns about high density apartments. The current apartments on Airport Road are not high density.

Mr. Doug McCraw stated that he was born and raised on Airport Road and that his mother still lives there. He asked if anyone has considered that when people moved to Airport Road, they wanted to be in a single family neighborhood. He feels that people who live out there should be considered.

Mr. Matt Smith stated Council Members should look at this land closely and walk on it prior to making a decision. The only entrance and exit will be on Airport Road. Mr. Smith advised that Council Members should also consider how school buses will access the development.

Ms. Pam Bartels ask if the property had already been annexed. The City Manager stated that the property had been annexed in November by the City Council, at the request of the property owner.

Mr. Frank Routh stated that the City should address the road issues on Airport Road if this development is approved. That way, the development could turn in to something positive for the community.

Ms. Pam Bartels asked if this goes through, would Council consider safety improvements at Autumn Care where visitors and staff must cross the road.

Council Member Doggett stated that she has had concerns with this issue since 2006 and that the City had tried to convince DOT to make improvements. She noted that DOT added a crosswalk and pedestrian crossing signs at the urging of the City, but that the crossing remained dangerous.

The City Manager reported that Airport Road was a DOT maintained road and the City could forward concerns about traffic and pedestrian safety. However, the City cannot force DOT to make any specific improvements and DOT has criteria that they use to evaluate the need for improvements. The City Manager suggested that it is possible that the Harrison Terrace development is large enough to trigger some road improvements, which could turn the development into a positive for the surrounding community.

Mr. Dennis Whitson stated that change is always difficult. When he first came back from college, it was hard to find somewhere to live. Mr. Whitson suggested that the Harrison Terrace development will serve a need in Marion and McDowell County. Mr. Whitson referenced the independent market study that had been completed for this project that showed that over 99 percent of the major apartment units in the area were rented.

Pastor Paul Adelgren of Missionary Alliance Church on Airport Road suggested that more pedestrian traffic will be created on a road where it is not safe to walk.

Mayor Little stated that a lot of the issues being discussed are important, but the City does not necessarily have direct control over all of the issues. Mayor Little added that this is a satellite annexation area that has previously had no zoning. He stated that Council must decide the appropriate zoning district for this property. Mayor Little said that some of the questions may be answered when plans are submitted. He noted that the developer has yet to submit plans.

Council Member Clark stated that all apartment complexes in the City are currently zoned R-2 General Residential. Placing this property in the R-4 Multi-Family Residential District would send a clear message regarding the developer's intention to construct a multi-family development on the property.

Mr. Matt Smith stated that it bothers him when Mayor Little says that no plans are submitted, since he has a copy of plans for the development sent by the City Manager to Ms. Lillian Presnell.

Mayor Little advised that the developer had submitted a conceptual drawing, but that such a drawing is subject to change. Mayor Little said his definition of "plans" involves full building and site plans that are sufficient to obtain a building and zoning permit.

Mayor Little added that the developer will still have steps to complete, even if the R-4 zoning is approved. The developer will have to meet listed criteria and regulations and obtain all needed permits.

Council Member Doggett stated that the issue before Council tonight is simply considering whether to approve the zoning district recommended by the Planning Board and staff, and also agreed to by the property owner.

Council Member Martin stated that he had listened to all the concerns and that he would consider comments and concerns. This is simply the first step of the approval process, as the developer still will have to obtain permits from the City and other agencies and meet all regulations and standards. Council Member Martin advised that he heard the citizens loud and clear, both those in favor of the R-4 zoning and those against; however, Marion also needs nice places for people to live.

Council Member Ramsey stated that he definitely heard what everyone was saying, especially about traffic safety issues. Every concern voiced here tonight is a valid concern and can be forwarded to the appropriate agency. Council Member Ramsey said that he feels that the R-4 zoning is appropriate and a way to move the community forward and provide as many protections as possible, while allowing for reasonable development.

Mayor Pro Tem Cuthbertson stated that one thing to keep in mind is that R-4 zoning sends more of a clear message of the intent of multi-family development than does R-2 zoning. He stated that it is not easy for Council to make this type of decision and that Council must weigh all opinions and options and make the best decision for the City as a whole.

Council Member Clark stated that if there had been water and sewer already in place on Airport Road, the developer would not have needed the City and could have already built, since there is no zoning outside the City. However, the developer needed water and sewer service and the property owner asked the City to annex the property, a request that Council approved. Council Member Clark said that Council now must approve an appropriate zoning classification for the property. He added that there have been approximately eight request for North Carolina Housing Finance Agency tax credits for multi-family projects in Marion in the past four years. The Harrison Terrace development is the first one to be approved and the City should, in his opinion, try to find a way to make it work.

Council Member Clark advised that he lives at the intersection of Yancey Road and Fleming Avenue and knows the traffic issues on Airport Road. There are unknowns about this request that will hopefully be cleared up by the developer in the near future. However, if the property is in the City, there will be more control than if the development took place outside the City. Council Member Clark stated that it boils down to doing what is best for the community. That is what Council Members are faced with and, with that being said, he also understands the concerns of property owners along Airport Road.

Mayor Little stated that before he closes this Public Hearing, he wanted to thank everyone for coming out and voicing their concerns. Mayor Little commended everyone for their intelligent and respectful comments.

Mayor Little closed the Public Hearing.

Upon a motion by Council Member Martin, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to adopt the following Ordinance to assign the R-4 Multi-Family Residential District to the Airport Road/Harrison Terrace annexation area:

AA.000000527 (24)

ORDINANCE
AMENDING CHAPTER 21 ZONING
MARION CITY CODE
AIRPORT ROAD/ HARRISON TERRACE ZONING AMENDMENT

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 Airport Road/Harrison Terrace Annexation Territory adopted by City Council on November 18, 2014 Ordinance Number O-14-11-18-1.

Section 3: The City of Marion is assigning the R-4 Multi-Family Residential 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 2012 Comprehensive Land Use 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 January 8, 2015.

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 20th day of January 2015.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-15-01-20-5

Council Member Clark suggested that the Harrison Terrace developer be asked to hold a community meeting with the neighborhood, so that questions could be asked and concerns addressed. The City Manager stated that staff would definitely ask the developer to hold such a meeting and that he was confident that the developer would be willing to meet with the neighborhood.

ZONING TEXT AMENDMENT – ESTABLISH ALLOWANCES FOR INDOOR FIRING AND ARCHERY RANGES: Planning and Development Director Heather Cotton advised that the proposed Zoning Text Amendment is based on a request filed by Kenneth Doyle, who is present tonight, to allow for indoor firing ranges within the City of Marion. Staff also expanded the land use provision to include archery ranges.

Ms. Cotton stated that upon receiving the request, staff researched regulations for indoor firing range facilities in other municipalities in order to determine appropriate standards for such use. Variations in distance requirements from 200 feet to 1500 feet were found in both municipal and county regulations across the state. In addition, regulatory control over noise associated with the discharge of firearms and the containment of projectiles within the enclosed area to protect both range users and the public were among the criteria listed.

Ms. Cotton reported that staff also reviewed guidelines published by the U.S. Department of Energy (DOE) for use in planning new fire range facilities and rehabilitation of existing buildings. Standards outlined in the document were used to help draft the proposed ordinance. A full copy of the 58 page document can be found at http://www.hss.doe.gov/SecPolicy/pfs.html.

Ms. Cotton stated that a copy of the draft ordinance was also provided to the City of Marion Police Department, with Police Department Range Master Lieutenant Jamie Harklerode providing further recommendations that such ranges be required to install adequate filtration and disposal systems within the facility to remove lead and other heavy metals meeting OSHA standards, and further recommendation was made that such systems not be tied into the waste treatment system without City approval.

Ms. Cotton advised that staff recommended approval of the proposed ordinance allowing indoor firing ranges and archery ranges as a permitted use in the M-1 Industrial District and as a special exception in the C-2 General Business District. During a regularly scheduled meeting held on January 8, 2015, the Planning Board approved staff's recommendation by unanimous vote.

Mayor Little opened the Public Hearing.

Council Member Clark stated that we would not want persons to get lead poisoning or deal with noise issues and asked if the listed regulations were adequate.

Mayor Little stated that he agrees with Council Member Clark and added that there should be a good air filtration in such an establishment.

Mr. Kenneth Doyle stated that the company that would build the range facility would meet all state and federal regulations.

Mayor Pro Tem Cuthbertson stated that when the firing range at the National Guard Armory was built, they had to meet such guidelines as well.

Steve Bush, Executive Director of the McDowell Chamber of Commerce, stated that he strongly supported bringing an indoor range to the community. Mr. Bush said that he had seen examples recently of firing ranges that would allow 4-H students and school children to train and learn about gun safety.

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 creating allowances for Indoor Firing Ranges and Archery Ranges as recommended:

AA.00000528 (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 Section 21-21 *Definitions* in its proper alphabetic order.

Indoor firing or archery range An enclosed, permanent structure for the purpose of archery and/or the discharging of firearms for the purposes of recreational target practice.

Section 3. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina is amended by adding indoor firing or archery range to Section 21-204.4 Special Exception in the C-2 General Business District.

Sec. 21-204.4 Special Exception

(35) Indoor firing or archery range provided such facility meet the following criteria:

1. It is located 500 feet, measured from the closest point of the facility to the property line of a school or day care center, residential dwelling, place of worship, hospital or other health care facility offering overnight care.
2. Located in an enclosed building that absorbs and contains all sound from the discharge of a firearm through the use of sound deflection, absorbent baffles barriers, or other sound emission control devices.
3. Construction of interior and exterior walls, ceiling, and floor that is incapable of being penetrated or in any manner allow the ricochet or redirection of a projectile that in doing so could inflict harm on a range user or member of the public.
4. Maintain filtration and disposal systems for the removal of lead and other heavy metals meeting OSHA standards and Chapter 20, Article IV sewerage and waste discharge standards of the Marion City Code.

Section 4. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina is amended by adding indoor firing or archery range to Section 21-206.2 Permitted Uses in the M-1 Industrial District.

Sec. 21-206.2 Permitted Uses

(16) Indoor firing or archery range.

1. It is located 500 feet, measured from the closest point of the facility to the property line of a school or day care center, residential dwelling, place of worship, hospital or other health care facility offering overnight care.
2. Located in an enclosed building that absorbs and contains all sound from the discharge of a firearm through the use of sound deflection, absorbent baffles barriers, or other sound emission control devices.
3. Construction of interior and exterior walls, ceiling, and floor that is incapable of being penetrated or in any manner allow the ricochet or redirection of a projectile that in doing so could inflict harm on a range user or member of the public.
4. Maintain filtration and disposal systems for the removal of lead and other heavy metals meeting OSHA standards and Chapter 20, Article IV sewerage and waste discharge standards of the Marion City Code.

Section 5. This ordinance shall become effective upon its adoption.

Adopted this the 20th day of January 2015.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/ Clerk

Ordinance Number: O-15-1-20-1

PUBLIC HEARING – ZONING TEXT AMENDMENT – MODIFICATIONS TO R-2 DISTRICT AND MANUFACTURED HOUSING:
Planning and Development Director Heather Cotton advised that the ordinance presented to Council is a revision to the R-2 Residential District based on recommendations made by the Manufactured Housing Steering Committee appointed by City Council.

Ms. Cotton reported that the ordinance provides for an expanded definition for the types of manufactured housing permitted within residential districts, as well as provisions within the nonconforming section of the code to allow for the replacement of exiting manufactured homes within the City. Based on additional residential districts being proposed, staff has added a recommended change to the name of the R-2 General Residential to more accurately describe the type of housing and density provided for in this area. Staff is recommending a change in the name of the district from R-2 General Residential to R-2 Neighborhood Residential.

Ms. Cotton advised that the ordinance would remove single-wide manufactured housing as a permitted use in the R-2 district, but other residential uses would remain as permitted uses or uses allowed by special exception.

Ms. Cotton reported that staff recommended approval of the proposed ordinance during a regularly scheduled meeting held on January 8, 2015. Planning Board approved staff's recommendation and the recommendation of the Manufactured Housing Steering Committee by unanimous vote.

Mayor Little opened the Public Hearing.

AA.000000529 (24)

Mr. Mark Shuman advised that he was surprised when this issue was brought up, since he thought this matter was put to rest a year ago. Mr. Shuman said that he and other concerned property owners who have discussed this issue do not really have a problem with the proposed Zoning Text Amendment, but would ask Council to enlarge the area proposed for the R-3 Residential District and single-wide manufactured housing.

The City Manager noted that Ms. Cotton worked with the Manufactured Housing Steering Committee to identify acreage for the R-3 District that actually exceeds the amount of land currently used for single-wide manufactured housing in the City and proposing areas for R-3 that have large numbers of single-wides already. The City Manager acknowledged that the proposed R-3 district would clearly provide much less potential acreage for single-wide manufactured housing than currently exists in the R-2 General Residential District.

Ms. Cotton advised that, if the R-2 and R-3 District changes are approved, then the Planning Board will review and make recommendations for which properties will be placed in the R-3 District. All property owners proposed for inclusion in the R-3 District will be notified and given a chance to attend the public hearing before Council.

Council Member Ramsey asked how the proposed ordinance is different than what the Manufactured Housing Steering Committee.

Council Member Clark stated that the proposed ordinance is what was discussed and agreed to by consensus with the Manufactured Housing Steering Committee. He suggested that Council should adopt the Zoning Text Amendment as presented and the Planning Board can then review and make recommendations on the exact areas to be included in the R-3 District.

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 make modifications to the R-2 Neighborhood Residential District as recommended:

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 renaming Section 21-203 R-2 General Residential to R-2 Neighborhood Residential, and all references to such zoning district within the Marion City Code to be renamed accordingly.

Section 3. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina is amended by adding the following to Section 21-21 *Definitions* in their proper alphabetic order.

Manufactured/ mobile home. A factory-assembled transportable home built on a permanent chassis, and designed and intended to be used as a year-round dwelling unit. For the purpose of this chapter, the terms manufactured home and mobile home are the same, and refer to a dwelling that was constructed after June 15, 1976 following the enactment of the National Manufactured Housing Construction and Safety Standards Act of 1974, and not constructed in accordance with the standards of the North Carolina Residential Building Code, current edition. A manufactured home shall not be construed to be a modular home, travel trailer, park model, or other form of recreational vehicle, or a building type permitted for nonresidential purposes. The floor area for a manufactured home shall be a minimum of twelve (12) feet in width with no less than six hundred (600) square feet of gross living area unless otherwise stated in the ordinance. Manufactured homes are classified in the following categories:

Class A: A multi-sectional manufactured housing unit constructed after June 15, 1976 that meets or exceeds the U.S. Housing and Urban Development (HUD) Department standards for manufactured home construction.

Class B: A manufactured home constructed after June 15, 1976 that meets or exceeds the U.S. Housing and Urban Development (HUD) Department standards for manufactured home construction

Class C: Any manufactured housing unit that does not meet the Class A or Class B definition.

Section 4. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina is amended by deleting Section 21-203.2 Subsection (6) Mobile Homes in R-2 Neighborhood Residential and replacing it in its entirety with the following:

(6) One (1) Class A manufactured home per residential lot, provided that:

(A) It is the principal structure on the lot, and no other residential structure is located on the same lot;

(B) The manufactured home shall have a minimum width of 24 feet and a maximum length not to exceed four times its width, and a minimum gross floor area of 1,000 square feet;

(C) The towing apparatus, wheels, axles, and transporting lights shall be removed after placement on the lot and before occupancy and shall not be included in the length and width measurements of the manufactured home;

(D) The applicant shall demonstrate to the satisfaction of the building inspector that the manufactured home was built after June 15, 1976 in accordance with the National Manufactured Housing Construction and Safety Standards Act. The applicant may evidence of the construction date of the home and compliance with the National Manufactured Housing Construction and Safety Standards Act using one of the following methods:

(1) A HUD seal mounted on the outside of the home; or

(2) An original HUD data plate on the inside of the home; or

(3) A third party inspection report by a state licensed engineer or architect; or

(4) A verification letter from either the manufacturer or the United States Department of Housing and Urban Development demonstrating the home's compliance with this subsection.

(5) A Certificate of Title issued by an official State Department of Motor Vehicles (DMV) office that indicates the date of manufacture of the home.

(E) The manufactured home complies with all other municipal building and zoning codes, and is set up in accordance with the standards established by the North Carolina Department of Insurance;

AA.000000530 (24)

(F) The longest axis dimension of the manufactured home shall be oriented parallel with the front property line along a street. The placement of a manufactured home on a corner lot shall be determined by the Zoning Administrator based on the orientation of existing single-family dwellings located on either side of the street on both intersecting streets;

(G) The manufactured home shall be placed on a permanent masonry foundation that meets or exceeds the standards of the North Carolina Residential Building Code and such foundation walls shall be unpierced except for normal ventilation and access openings. Exposed common concrete block shall be covered by brick, stone, stucco, or other masonry or exterior veneer façade commonly used in standard residential construction;

(H) The exterior siding shall consist predominantly of vinyl, aluminum, wood, hardboard, or other non-reflective material comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;

(I) The roof shall have a vertical rise of at least three inches for each twelve inches of horizontal run, shall be a Class 'C' as defined by the North Carolina Building Code or better material that is commonly used in conventional residential construction, and shall provide an eave projection of no less than six inches, which may include a gutter;

(J) All attachments, including but not limited to stairs, steps, porches, decks, and/or other additions to the manufactured home, shall meet or exceed the standards of the North Carolina Residential Building Code;

(K) Structural additions that alter the original shape of the structure shall be architecturally compatible with the original building, and have exterior siding and roofing with the color, material and appearance similar and complimentary in appearance to the predominant materials used in the original manufactured home construction or materials commonly used in conventional residential construction. Unfinished metal roofing and/or siding shall be prohibited;

(L). The manufactured home shall not be permitted within three hundred (300) feet of any structure listed as a locally designated historic landmark or U.S. Department of Interior's National Register of Historic Places; or located within a locally designated historic district, U.S. Department of Interior's National Register Historic District, or in an area listed as a Traditional Neighborhood on the Comprehensive Land Use Plan's Future Land Use Map, as may be amended; and

Section 5. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina is amended by deleting Section 21-203.3 Special Exceptions subsection (2) Mobile Home Parks in R-2 Neighborhood Residential and replacing it in its entirety with the following:

(2) Manufactured home parks subject to the following requirements:

(A) Class A and Class B manufactured homes are permitted within a manufactured home park. Class C manufactured homes, travel trailers, park models, and/or any other vehicle that does not meet the U.S. Housing and Urban Development (HUD) Department Standards for manufactured home construction and not already existing at the time of the effective date of this ordinance are prohibited. Each manufactured home within a park shall be located in a designated manufactured home site;

(B) The minimum area for a manufactured home park shall be two (2) acres;

(C) The maximum density shall be eight (8) manufactured home sites per acre;

(D) No less than five (5) manufactured home sites shall be delineated on an approved site plan and made available at first occupancy;

(E) The minimum lot size for individual manufactured home site shall be forty (40) feet by eighty (80) feet;

(F) Each manufactured home including structural additions shall be spaced no less than ten (10) feet apart except where the NC Department of Insurance requires greater separation, the stricter provision shall apply;

(G) All manufactured home sites shall abut upon a driveway of not less than twenty (20) feet in width. All driveways shall have unobstructed access to a public street or highway and shall be hard surfaced, or of properly compacted gravel, well marked and lighted by the mobile home park owner;

(H) There shall be a minimum of two (2) off-street parking spaces for each manufactured home site, which shall be on the same site as the manufactured home served;

(I) A densely planted buffer yard, consisting of evergreen trees shall be located along all sides of the manufactured home park, but shall not extend beyond the established setback line along any street. The buffer yard shall include evergreen species that reach no less than twelve (12) feet at mature height. Minimum plant size and installation shall conform to the landscape standards of this chapter. This planting requirement may be modified by the board where adequate buffering exists in the form of vegetation and/or terrain;

(J) Each manufactured home shall be set up and in accordance with regulations for the installation of manufactured homes adopted and published by the North Carolina Department of Insurance;

(K) Each manufactured home or manufactured home site shall have a county-issued 911 address plaque or other city approved permanent address plaque identifying the home's physical address prominently displayed and visible from the driveway;

(L) The towing apparatus, wheels, axles, and transporting lights shall be removed after placement on the lot and prior to the issuance of a Certificate of Occupancy and shall not be included in the length and width measurements of the manufactured home;

(M) The applicant shall demonstrate to the satisfaction of the building inspector that the manufactured home was built after June 15, 1976 in accordance with the National Manufactured Housing Construction and Safety Standards Act. The applicant may evidence of the construction date of the home and compliance with the National Manufactured Housing Construction and Safety Standards Act using one of the following methods:

(1) A HUD seal mounted on the outside of the home; or

(2) An original HUD plaque on the inside electrical panel of the home; or

(3) A third party inspection report by a state licensed engineer or architect; or

(4) A verification letter from either the manufacturer or the United States Department of Housing and Urban Development demonstrating the home's compliance with this subsection.

(5) A Certificate of Title issued by an official State Department of Motor Vehicles (DMV) office that indicates the date of manufacture of the home.

(N) Each manufactured home shall have a continuous underpinning of either masonry materials or other products suitable for the purpose of underpinning and installed under the perimeter, unpierced except for required ventilation and access prior to receiving a certificate of occupancy;

AA.00000531 (24)

(O) Exterior siding shall consist predominantly of vinyl, wood, hardboard, or other non-reflective material comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction including but not limited to manufactured home construction;

(P) All attachments, including but not limited to stairs, steps, porches, decks, and/or other additions to the manufactured home, shall meet or exceed the standards of the North Carolina Residential Building Code;

(Q) Structural additions that alter the original shape of the structure shall be architecturally compatible with the original building, and have exterior siding and roofing with the color, material and appearance similar and complimentary in appearance to the predominant materials used in the original manufactured home construction or materials commonly used in conventional residential construction. Unfinished metal roofing and/or siding shall be prohibited; and

(R) The grounds of a manufactured home park shall be kept free of trash, liter, and debris. Grounds, buildings, and storage areas shall be properly maintained to prevent the infestation of rodents, vermin, and insects. It shall be the responsibility of the manufactured home park owner to maintain the park in accordance with these standards and all other applicable Marion City Code requirements at all times.

Section 6. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina is amended by adding Section 21-73 Nonconforming Manufactured Homes to Article VII. General Provisions Division I. Nonconforming Uses, Continuance, and Lots as follows:

21-73 Nonconforming Manufactured Homes.

Dimensional or use nonconformities associated with manufactured homes shall be addressed in the following manner.

(1) The replacement of one manufactured home with another manufactured home shall be permitted provided that no new dimensional nonconformities are created, the replacement manufactured home conforms with the Federal Manufactured Housing Construction and Safety Standards Act and constructed after June 15, 1976, and such replacement occurs within 365 days of the last day of occupancy of the original manufactured home.

(2) Any manufactured home not constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act, has been vacant for 365 consecutive days, where active water, sewer, and power utilities have not been maintained at the home during that time, and is deemed by the City to be a public nuisance in accordance with Marion City Code, Chapter 9 Health and Sanitation and/or unfit for human habitation in accordance with Marion City Code, Chapter 4 Building shall not be reoccupied, and the property owner shall be required to remove the home within ninety (90) days of notice from the City of Marion. An extension may be requested in writing by the property owner indicating a plan and date of removal or repair of the structure. Failure to remove the manufactured home shall be deemed a violation of the Marion City Code and subject to civil action.

Section 7. This ordinance shall become effective upon its adoption.

Adopted this the 20th day of January, 2015.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/Clerk

Ordinance Number: O-15-01-20-2

PUBLIC HEARING – ZONING TEXT AMENDMENT – ESTABLISH R-3 RESIDENTIAL DISTRICT: Mayor Little opened the Public Hearing.

Planning and Development Director Heather Cotton advised that the ordinance presented to Council Members would add a new residential district to the City Code. The new district would be the R-3 Mixed Use Residential District, which would allow for a broader mix of housing types including "single-wide" manufactured homes. This ordinance is proposed based on recommendations made by the Manufactured Housing Steering Committee appointed by City Council.

Ms. Cotton stated that staff recommended approval of the proposed ordinance during a regularly scheduled meeting held on January 8, 2015. Planning Board approved Staff's recommendation and the recommendation of the Manufactured Housing Steering Committee by unanimous vote.

There were no citizens present wishing to speak about this item.

Mayor Little Closed the Public Hearing.

Upon a motion by Council Member Clark, seconded by Mayor Pro Tem Cuthbertson, Council voted unanimously to adopt the following Ordinance establishing the R-3 Mixed-Use Residential 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 by adding the following:

Section 2. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina is amended by adding Section 21-210 R-3 Mixed-Use Residential District including the following:

Section 21-210. R-3 Mixed Use Residential District.

Section 21-210.1 Intent.

The R-3 Mixed Use Residential District is intended to provide opportunities for flexible residential land uses that can provide alternative, affordable housing options for residents of the city.

AA.000000532 (24)

Section 21-210.2 Permitted Uses.

Within the R-3 Mixed Use Residential District, a building or land shall be used for the following purposes.

(1) All uses permitted in the R-1 Single-Family Residential and R-2 Neighborhood Residential Zoning Districts.

(2) One (1) Class A or Class B manufactured home per residential lot, provided that:

(A) It is the principal structure on the lot, and no other residential structure is located on the same lot;

(B) The towing apparatus, wheels, axles, and transporting lights shall be removed after placement on the lot and before occupancy and shall not be included in the length and width measurements of the manufactured home;

(C) The applicant shall demonstrate to the satisfaction of the building inspector that the manufactured home was built after June 15, 1976 in accordance with the National Manufactured Housing Construction and Safety Standards Act. The applicant may evidence of the construction date of the home and compliance with the National Manufactured Housing Construction and Safety Standards Act using one of the following methods:

(1) A HUD seal mounted on the outside of the home; or
(2) An original HUD data plate on the inside of the home; or
(3) A third party inspection report by a state licensed engineer or architect; or
(4) A verification letter from either the manufacturer or the United States Department of Housing and Urban Development demonstrating the home's compliance with this subsection.

(5) A Certificate of Title issued by an official State Department of Motor Vehicles (DMV) office that indicates the date of manufacture of the home.

(D) The manufactured home complies with all other municipal building and zoning codes, and is set up in accordance with the standards established by the North Carolina Department of Insurance;

(E) The manufactured home shall have a continuous underpinning of either masonry materials or other product suitable for the purpose of underpinning and installed under the perimeter, unpierced except for required ventilation and access prior to receiving a certificate of occupancy;

(F) The exterior siding shall consist predominantly of vinyl, aluminum, wood, hardboard, or other non-reflective material comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction including but not limited to manufactured home construction;

(G) All attachments, including but not limited to stairs, steps, porches, decks, and/or other additions to the manufactured home, shall meet or exceed the standards of the North Carolina Residential Building Code;

(H) Structural additions that alter the original shape of the structure shall be architecturally compatible with the original building, and have exterior siding and roofing with the color, material and appearance similar and complimentary in appearance to the predominant materials used in manufactured home construction or materials commonly used in conventional residential construction. Unfinished metal roofing and/or siding shall be prohibited; and

Section 3. That Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina is amended by adding Section 21-210 R-3 Mixed Use Residential District including the following:

Section 21-210.3 Special Exceptions. The following uses are permitted as special exceptions as provided for in article XII, subsection 21-203.2 of this chapter:

(1) Manufactured home parks subject to the following requirements:

(S) Class A and Class B manufactured homes are permitted within a manufactured home park. Class C manufactured homes, travel trailers, park models, and/or any other vehicle that do not meet the U.S. Housing and Urban Development (HUD) Department standards for manufactured home construction and not already existing at the time of the effective ordinance are prohibited. Each manufactured home within a park shall be located in a designated manufactured home site;

(T) The minimum area for a manufactured home park shall be two (2) acres;

(U) The maximum density shall be eight (8) manufactured home sites per acre;

(V) No less than five (5) manufactured home sites shall be delineated on an approved site plan and made available at first occupancy;

(W) The minimum lot size for individual manufactured home site shall be forty (40) feet by eighty (80) feet;

(X) Each manufactured home including structural additions shall be spaced no less than ten (10) feet apart except where the NC Department of Insurance requires greater separation, the stricter provision shall apply;

(Y) All manufactured home sites shall abut upon a driveway of not less than twenty (20) feet in width. All driveways shall have unobstructed access to a public street or highway and shall be hard surfaced, or of properly compacted gravel, well marked and lighted by the mobile home park owner;

(Z) There shall be a minimum of two (2) off-street parking spaces for each manufactured home site, which shall be on the same site as the manufactured home served;

(AA) A densely planted buffer yard, consisting of evergreen trees shall be located along all sides of the manufactured home park, but shall not extend beyond the established setback line along any street. The buffer yard shall include evergreen species that reach no less than twelve (12) feet at mature height. Minimum plant size and installation shall conform to the landscape standards of this chapter. This planting requirement may be modified by the board where adequate buffering exists in the form of vegetation and/or terrain;

(BB) Each manufactured home shall be set up and installed on a manufactured home site within the manufactured home park in accordance with all applicable State of North Carolina regulations for the installation of manufactured homes adopted and published by the North Carolina Department of Insurance;

(CC) Each manufactured home or manufactured home site shall have a county-issued 911 address plaque or other city approved permanent address plaque identifying the home's physical address prominently displayed and visible from the driveway;

(DD) The towing apparatus, wheels, axles, and transporting lights shall be removed after placement on the lot and prior to the issuance of a Certificate of Occupancy and shall not be included in the length and width measurements of the manufactured home;

AA.00000533 (24)

(EE) The applicant shall demonstrate to the satisfaction of the building inspector that the manufactured home was built after June 15, 1976 in accordance with the National Manufactured Housing Construction and Safety Standards Act. The applicant may evidence of the construction date of the home and compliance with the National Manufactured Housing Construction and Safety Standards Act using one of the following methods:

(1) A HUD seal mounted on the outside of the home; or
(2) An original HUD data plate on the inside of the home; or
(3) A third party inspection report by a state licensed engineer or architect; or
(4) A verification letter from either the manufacturer or the United States Department of Housing and Urban Development demonstrating the home's compliance with this subsection.
(5) A Certificate of Title issued by an official State Department of Motor Vehicles (DMV) office that indicates the date of manufacture of the home.

(FF) Each manufactured home shall have a continuous underpinning of either masonry materials or other product suitable for the purpose of underpinning and installed under the perimeter, unpierced except for required ventilation and access prior to receiving a certificate of occupancy;

(GG) Exterior siding shall consist predominantly of vinyl, aluminum, wood, hardboard, or other non-reflective material comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction including but not limited to manufactured home construction;

(HH) All attachments, including but not limited to stairs, steps, porches, decks, and/or other additions to the manufactured home, shall meet or exceed the standards of the North Carolina Residential Building Code;

(II) Structural additions that alter the original shape of the structure shall be architecturally compatible with the original building, and have exterior siding and roofing with the color, material and appearance similar and complimentary in appearance to the predominant materials used in the original manufactured home construction or materials commonly used in conventional residential construction. Unfinished metal roofing and/or siding shall be prohibited; and

(JJ) The grounds of a manufactured home park shall be kept free of trash, liter, and debris. Grounds, buildings, and storage areas shall be properly maintained to prevent the infestation of rodents, vermin, and insects. It shall be the responsibility of the manufactured home park owner to maintain the park in accordance with these standards and all other applicable Marion City Code requirements at all times.

Section 4. This ordinance shall become effective upon its adoption.

Adopted this the 20th day of January 2015.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Manager/ Clerk

Ordinance Number: O-15-01-20-3

PUBLIC HEARING - ZONING TEXT AMENDMENT - COMMERCIAL PROPERTY INGRESS AND EGRESS: Mayor Little opened the Public Hearing.

Planning and Development Director Heather Cotton advised that this ordinance would amend Section 21-161, Auto-Related Businesses, by deleting the subsection that pertains to the access of such businesses by means of driveway ingress and egress and the ability for vehicular maneuverability onsite.

The language proposed for deletion includes the following:

"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."

Ms. Cotton reported that staff recommended approval of the proposed ordinance during a regularly scheduled meeting held on January 8, 2015. The Planning Board respectfully rejected staff's recommendation and in a unanimous vote recommended that the regulation not be stricken from Section 21-161 regulating Auto-Related Businesses.

Mayor Little closed the Public Hearing.

Council Member Clark said that he appreciates Ms. Cotton preparing this Zoning Text Amendment and recommending it to the Planning Board. He advised that he believed that the regulation of parking areas and ingress and egress for one type of business, auto repair shops, was overreaching and that the Zoning Text Amendment should be approved to delete such a regulation.

Upon a motion by Council Member Clark, seconded by Council Member Ramsey, Council voted unanimously to adopt the following Ordinance as recommended and presented:

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. Chapter 21, Zoning, of the Code of Ordinances, City of Marion, North Carolina is amended by deleting Subsection 21-161 of Auto-Related Business Standards in its entirety and replacing it with the following:

Sec. 21-161. Automobile repair shops, automobile sales, tire sales and services, towing business or combination thereof.

AA.000000534 (24)

The following regulations shall apply to all automobile repair shops, automobile sales, tire sales and services, towing and wrecking service businesses or combination thereof:

(1) Open storage of junked or inoperable motor vehicles, auto parts or similar materials shall not be permitted. Tires may be temporarily stored for no longer than thirty (30) days in the side or rear yard and shall be neatly stacked at all times in an organized manner using the lacing techniques. Up to sixty (60) tires may be stored in the front yard provided the tires are also neatly stacked using the lacing technique. Tires in the front yard in excess of sixty (60) shall be enclosed in approved screening.

(2) Junked or inoperable motor vehicles, auto parts or similar materials may be stored within an enclosed structure which visually conceals such objects or stored on a site that is the subject of an approved screening plan, as defined herein and approved by the zoning administrator.

(3) 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 (4) feet of the curb or the edge of the road if no curb exists.

(4) Junked or inoperable motor vehicles shall not be stored in the customer or employee parking spaces required per the off-street parking requirements set out in division 2.

(5) All service, sales, storage or similar activities shall be conducted entirely on the premises.

(6) All major repair work, if any, shall be conducted within a building capable of being completely closed.

(7) Certain businesses claiming to be auto repair shops, automobile sales, tire sales and services or towing and wrecking service businesses that do not meet the definitions in section 21-21 of this chapter may be deemed gasoline service or filling stations and, therefore, subject to the regulations governing gasoline service or filling stations.

(8) Certain businesses claiming to be automobile repair shops, automobile sales, tire sales and services, and towing and wrecking service businesses that do not meet the definitions in section 21-21 of this chapter may be deemed junk yards and, therefore, subject to the regulations governing junk yards.

(9) The provisions contained in chapter 9, article III concerning abandoned, nuisance or junked motor vehicles continues to apply. Automobile repair shops and automobile sales businesses, tire sales and services and towing and wrecking service businesses must obtain a permit from the zoning office.

(10) All automobile repair shops and automobile sales businesses, tire sales and services and towing and wrecking service businesses within the city limits of Marion not in compliance with this section within six (6) months after the adoption of the ordinance adopting or amending this section, shall be in violation.

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

Adopted this the 20th day of January 2015.

Stephen R. Little
Mayor

ATTEST:

J. Robert Boyette
City Manager/ Clerk

Ordinance Number: O-15-1-20-6

PUBLIC HEARING – ZONING TEXT AMENDMENT – MODIFY RESIDENTIAL DISTRICT DIMENSIONAL REQUIREMENTS:
Mayor Little opened the Public Hearing.

Planning and Development Director Heather Cotton advised that the attached ordinance would modify Article IX.5, Dimensional Requirements, of the Zoning Ordinance, which regulates lot sizes, minimum lot widths, setback requirements, and building height. With new residential zoning districts added to the code, amendments are needed within Article IX.5 so that when new lots are created and/or developed within those districts standards are in place to guide such activity.

Ms. Cotton reported that, in addition to new standards for R-3 and R-4 residential districts and after careful review, staff has proposed changes that improve consistency between the subdivision ordinance and the zoning ordinance, as well as changes recommended in the 2012 Comprehensive Land Use Plan to reduce nonconforming residential lots in Mill Villages, increase density where appropriate facilities and infrastructure currently exist along appropriate street frontages, and enhance development opportunities for infill development.

Ms. Cotton stated that staff was careful to maintain existing standards for the R-1 and R-2 residential districts and only modified existing dimensional requirements if inconsistencies were identified within the code. She added that it is important to note that these changes will only affect residential development. The changes do not include non-residential zoning districts. Further work is needed and recommended to improve standards in Article IX.5 Dimensional Standards within all zoning districts within the City of Marion including but not limited diagrams that would help with the interpretation and meaning of specific provisions as has been included in other sections of the code over time.

Ms. Cotton advised that staff recommended approval of the proposed ordinance during a regularly scheduled meeting held on January 8, 2015. Planning Board approved Staff's recommendation and the recommendation of the Manufactured Housing Steering Committee by unanimous vote.

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 adopt the following Ordinance revising dimensional requirements for residential zoning districts as recommended:

ORDINANCE
AMENDING CHAPTER 21

AA.000000535 (24)

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 replacing Section 21-231 and Section 21-232 under Article 9.5 Dimensional Requirements to the following:

Sec. 21-231 Purpose.

The dimensional development standards in this chapter establish lot sizes and certain restrictions for all residential and nonresidential development. These standards allow for variety in housing and building types while striving to maintain and enhance the overall character of neighborhoods and commercial areas within the City of Marion. Standards established in this section are based on recommendations made in Marion's 2012 Comprehensive Land Use Plan, and are specific to both the type of land use and the zoning district in which it is established. Separate standards are established to regulate residential and nonresidential development in each district. This approach to district development standards implements the Comprehensive Plan and has several public benefits:

(1.) It allows for development that is more sensitive to the environment and allows for the preservation of open and natural areas.
(2.) It promotes quality site layout and energy-efficient development.
(3.) It promotes affordable and life-cycle housing.
(4.) It promotes development intensities that match existing and proposed infrastructure investments.
(5.) It promotes infill development that is consistent in character and scale with established neighborhoods.
(6.) It promotes compact land development that supports alternative transportation, such as bicycling, walking, and public transit.
(7.) It promotes market-based development decisions while protecting shared public interests.

Sec. 21-232 Dimensional Standards General.

(1.) Maximum Residential Density.

A. All residential density and non-residential intensity shall meet the standards as set forth below.

B. The North Carolina Department of Health is authorized to require a larger minimum lot size when public water or wastewater service is not available or utilized.

C. No individual accessory structure shall exceed 2,000 square feet within the R-1 or R-2 single-family residential lot. All accessory structures shall meet the primary structure setback unless otherwise indicated in this chapter.

D. No building shall exceed fifty (50) feet in height unless written approval is provided by the City of Marion fire chief in order to determine the following:

1.) If the height of the structure exceeds the fire fighting capacity of the fire department; and

2.) To determine if the structure meets fire safety standards per the North Carolina Building Code.

(2.) Street Thoroughfare Density Bonus.

An increase in the maximum residential density may be granted for exceptional residential projects that abut a major or minor street thoroughfare in an effort to encourage infill development while preserving traditional single-family neighborhoods.

An increase of 20% maximum residential density is permitted in all residential zoning districts with the exception of the R-1 Single-Family Residential District, if the following conditions are met:

A. The residential project is of exceptional design and quality that enhances the aesthetic appearance of the roadway corridor;

B. It is located along a major or minor street thoroughfare with a right-of-way greater than 50 feet in width;

B. The parcel maintains at least 80 feet of street frontage along the said street thoroughfare;

C. There are no more than two centralized driveways per public roadway frontage that are constructed in a manner that provides direct access to all dwelling units within the development.

(3.) Steep Slope Dimensional Standards.

(A.) Where the average natural slope is between fifteen percent (15%) and twenty-five percent (25%) dimensional requirements are as follows:

Average Cross Slope	Between 15% and 25%	Between 25.1% and 40%	Greater than 40%
Average Minimum Lot Area (square feet)	12,000	25,000	1 acre
Minimum Lot Size 80% of Lots (square feet)	12,700	28,000	48,000
Minimum Lot Size (square feet)	9,000	14,000	25,000
Minimum Lot Street Frontage (Feet)	70	100	140
Minimum Lot Frontage Cul-de-sac.	45	55	70
Minimum Average lot Width	70	100	130

AA.000000536 (24)

(B.) Flag Lot

1. In exceptional cases City Council may approve flag lots where it is impractical to serve an isolated lot by a public street.
2. The street frontage of a flag lot shall have a minimum width of twenty-five (25) feet providing an access strip between two (2) regular lots to the isolated parcel.
3. The area of such strip shall be excluded in computing the lot area and width, and the length of such strip shall not exceed three hundred (300) feet.

Sec. 21-232.1 Dimensional Standards by Residential District.

(A) R1 Single Family Residential Dimensional Standards.

All residential development in R1 shall meet the standards in the table below, except that, any legally established lot of record created prior to the effective date of this ordinance may be developed with a single family residence provided all other provisions of the city code are met. For illustrations, lot dimensions, and required yards for each land use type, see section 21-232.2.

Residential Property Dimensional Standards	R1
Residential Density (units per acre)-	6
Minimum Lot Size (square feet)	10,000
Minimum Average Lot Width (feet)	70
Minimum Public Street Frontage (feet)	35
Minimum Public Street Frontage Corner Lot (feet)	50

(B) R2 Neighborhood Residential Dimensional Standards.

All residential development in R2 shall meet the standards in the table below, except that, any legally established lot of record created prior to the effective date of this ordinance may be developed with a single family residence provided all other provisions of the city code are met. For illustrations, lot dimensions, and required yards for each land use type, see section 21-232.2.

Residential Property Dimensional Standards	R2
Residential Density (units per acre)	6
Multifamily/ PRD (units per acre)	10
Minimum Lot Size (square feet)	7,000
Minimum Average Lot Width (feet)	50
Mill Village Overlay Minimum Lot Size (square feet)	5,000
Mill Village Overlay Minimum Average Lot Width (feet)	50
Minimum Public Street Frontage (feet)	35
Minimum Public Street Frontage Corner Lot (feet)	50

(C) R3 Mixed-Use Residential Dimensional Standards.

All residential development in R3 shall meet the standards in the table below, except that, any legally established lot of record created prior to the effective date of this ordinance may be developed with a single family residence provided all other provisions of the city code are met. For illustrations, lot dimensions, and required yards for each land use type, see section 21-232.2.

Residential Property Dimensional Standards	R3
Residential Density (units per acre)	10
Multifamily/ PRD (units per acre)	16
Minimum Lot Size (square feet)	5,000
Minimum Average Lot Width (feet)	40
Minimum Public Street Frontage (feet)	35
Minimum Public Street Frontage Corner Lot (feet)	50

(D) R4 Multi-Family Residential Dimensional Standards.

All residential development in R4 shall meet the standards in the table below, except that, any legally established lot of record created prior to the effective date of this ordinance may be developed with a single family residence provided all other provisions of the city code are met. For illustrations, lot dimensions, and required yards for each land use type, see section 21-232.2.

Residential Property Dimensional Standards	R4
Residential Density (units per acre)	20
Minimum Lot Size (acres)	2
Minimum Average Lot Width (feet)	100
Minimum Public Street Frontage (feet)	50
Minimum Public Street Frontage Corner Lot (feet)	80

Sec. 21-232.2 Residential Development Standards.

A. Single-Family Detached House.

AA.000000537 (24)

(1) General Description.

A single-family detached house is a dwelling unit of any design including but not limited to site-built, modular, or manufactured located on an individual lot with yards on all four sides of the house. Vehicular access can take place from the front, side, or rear of the lot.

(2) Development Standards.

Unless otherwise provided for within the City Code, a single-family home, including site built, modular, or manufactured design shall be permitted in accordance with the following development standards table.

Table 21-232.2 Single-Family Dwelling Development Standards By District.

Residential Property Dimensional Standards	**R1**	**R2**	**R3**	**MVO**	**R4**
Street Frontage					
Minimum Public Street Frontage *(ref. Chapter 16 16-55.)*	35 ft.				50 ft.
Minimum Public Street Frontage Corner Lot *(ref. Sec. 16-55.)*	50 ft.				80 ft.
Minimum Yard Setbacks					
Front Yard Setback	25 ft.	25 ft.	15 ft.	20 ft.	35 ft.
Rear Yard Setback	10 ft.	10 ft.	15 ft.	15 ft.	25 ft.
Side Yard Setback	10 ft.	10 ft.	10 ft.	10 ft.	20 ft.
Maximum Building Height					
Maximum Building Height Principal Building	35 ft.	35 ft.	35 ft.	35 ft.	45 ft
Maximum Building Height Accessory building or Structure	25 ft.	25 ft.	25 ft.	25 ft.	35 ft.

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

Adopted this the 20th day of January 2015.

Stephen R. Little
Mayor

ATTEST:
J. Robert Boyette
City Manager/ Clerk

Ordinance Number: O-15-01-20-7

PUBLIC COMMENT PERIOD: Mr. Doug McCraw stated that he had recently spoken to Marion Business Association (MBA) Executive Director Freddie Killough about his idea to hold a series of Cruise In events at the Farmer's Market/West Henderson Street Parking Lot. Mr. McCraw said that he has considerable experience in running events and promotions and would like to hold monthly Cruise In events. He advised that Ms. Killough was favorable to the idea, but said that the MBA and City would need to review and approve the events.

Mr. McCraw said that he does not have and could not afford liability insurance and would propose that the City be a no-cost sponsor of the events and allow the City's liability insurance policy to cover the Cruise Ins.

The City Manager advised that Ms. Killough had called him about 4:30 p.m. that afternoon to make him aware of Mr. McCraw's request. The City Manager said that he suggested that the MBA Events Committee and Board review and endorse the proposed events and then make a recommendation to Council.

The City Manager stated that he thought that the Cruise Ins would be great events for downtown and would not cause any problems, as long as they were held at a reasonable time, such as a Saturday evening. Mr. McCraw said that he would propose to hold the Cruise Ins on late Saturday afternoons and evenings during warmer weather months.

Mr. McCraw advised that he would handle all coordination and staffing of the event, would cover any funding gaps and would consider donating profits to a local non-profit.

Mr. Matt Smith came back into the meeting during this discussion to speak with Council Members again. Mr. Smith was asked to be seated until Mr. McCraw was finished.

AA.000000538 (24)

Council Members agreed by consensus to allow the City to be a no-cost sponsor of the Cruise Ins and to allow the City's liability insurance policy to cover the events, subject to Marion Business Association endorsement of the events. The City Manager stated that, once the MBA reviews and endorses the Cruise Ins, he will bring this matter back to Council for further approval.

Mr. Matt Smith stated that he felt that Mayor Little was not being accurate when he previously suggested that the Harrison Terrace apartment development would be allowed in the R-2 General Residential District. Mr. Smith cited specific language from the Zoning Ordinance. Mayor Little said that he was attempting to be as accurate as he could in his comments.

DISCUSS STREET REQUEST: The City Manager advised that, as was discussed at the January 6 Council meeting, Mr. Donnie Suttles of Montevista Avenue has requested that the City replace the temporary barricades on Bakersville Road with guardrails. Mr. Suttles reports increased loitering activity recently, which led to this request. He also notes that the barricades are unsightly and detract from the neighborhood.

The City Manager reported that Public Works Director Brant Sikes had advised that the City could completely block off the Fleming Avenue end of Bakersville Road with a guardrail and most of the Montevista Avenue end as well, as long as a locked gate is in place to allow City staff to access the street periodically for cleaning and maintenance.

The City Manager stated that the Street Committee recommended approval of this request, on the condition that property owners with properties that would need access to the streets were notified and offered a key to the gate. While several properties front on the street, the Street Committee felt that the only property owners who need access to the road are the Cooks, who have three separate parcels with little to no other street access other than Bakersville Road, and Hospice of McDowell County, which might need access to the road if the vacant acreage beside their building was ever subdivided. The City Manager added that other property owners, including Cross, Moretz and Mehaj, have driveways off of other streets and have never used Bakersville Road as an access.

The City Manager stated that he had spoken to Marc Cook in early January, who said that he liked the idea and preferred the guardrail and gate to the current barricades. The City Manager said that Mr. Cook Marc said that his family would like a key, if a gate is placed on the Montevista Avenue end of Bakersville Road. The City Manager reported that Hospice of McDowell County Executive Director Kit Cosgrove said that she had no objections to the idea and would not need a key to the gate. Ms. Cosgrove said that she would run this idea by the Hospice Board at their January 15 meeting and let him know if there were any concerns. No concerns were expressed by the Board.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Martin, Council voted unanimously to approve the recommendation of the Street Committee to authorize the City to replace the temporary barricades on Bakersville Road with guardrails, with the guardrails completing blocking off the Fleming Avenue end of Bakersville Road and most of the Montevista Avenue end as well, with a locked gate being placed on part of the Montevista Avenue end to allow City staff to access the street periodically for cleaning and maintenance.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager gave an update of various recommendations from Tree Board Members from their meeting held on Friday January 16, 2015. The City Manager reported that the Tree Board approved a recommendation from the City's contracted Certified Arborist, Lawrence Moore, to place stiff knee braces on several of the ginkgo trees on Main Street that are growing crooked. Public Works Director Brant Sikes described how the stiff knee braces will look and function. The City Manager advised that the Tree Board recommended holding Arbor Day on Friday, March 13, with Eastfield Elementary School students planting trees and shrubs on the Broad Street right of way above the Railroad Street retaining wall and on Friday, March 20, with Marion Elementary School students planting pink kousa dogwood trees on North Garden Street in the block between New Street and Fleming Avenue, to replace trees in that block that are not doing well.

Council Member Doggett said that she liked the proposed pink kousa dogwood trees proposed for North Garden Street.

The City Manager stated that the Tree Board had changed its meetings to the third Friday of each quarter (February, May, August and November) at 8:00 a.m. at the Steakhouse to accommodate the schedules of all Tree Board Members. He advised that the North Carolina Forest Service will complete the tree identification project at the Catawba River Greenway, if no McDowell High School group can be identified to complete the project. The City Manager added that the Tree Board mentioned some potentially hazardous trees on private property on State Street. The City Manager said that Mr. Moore had verified that these trees are potentially hazardous and the City will send a letter to the property owner, advising them of the potential hazard.

Mayor Little and Council Members expressed no objections to the Tree Board recommendations.

The City Manager advised that the Marion Business Association (MBA) Board recently approved the 2015 Calendar of Events, which was presented to Council Members for information. The City Manager noted that the MBA is adding three summer concerts, to take place on Friday evenings at the Farmer's Market Shelter on June 19, July 17 and August 21. The Labor Day Concert at the Depot has been cancelled. The MBA Events Committee and staff felt that the relatively low attendance at the Labor Day Concert and the fact the concert seemed to draw essentially the same crowd that comes to the Thursday night bluegrass music at the Depot did not justify continuing the event.

The City Manager advised that, after sending notice, Building Inspector Jay Suttles had spoken to Petroleum World of Shelby, owner of the dilapidated former Budget Tire building at Baldwin Avenue and East Court Street. The person he spoke to at Petroleum World was not even aware that the company owned this property, but agreed to immediately take action to demolish the structure, once they verify their ownership. The City Manager stated that, if the property owner does not comply, staff will bring an ordinance to Council to authorize the City to demolish the structure.

The City Manager advised that he had received a call from Mr. David Patneaude who stated a representative of the Governor's Office would be visiting Marion on Thursday and would like to meet with City officials at 11:00 a.m. that day at City Hall. Mayor Little stated that he would be out of town and unable to attend, but urged any Council Members who were available to join the City Manager in meeting with the lady from the Governor's Office.

The City Manager advised that, as requested by Council Member Ramsey at the January 6 Council meeting, he had checked with DOT District Engineer Tim Anderson to see if DOT had developed recommendations for safety improvements in the curve on Rutherford Road near Vale Street where several crashes have been experienced in recent years. The City Manager reported that Mr. Anderson had told him that DOT would start by adding curve warning signs and moving speed limit signs closer to the intersection and would then monitor the location.

Public Works Director Brant Sikes reported that City personnel and project managers from the vendor would begin replacement of City water meters in early February, as part of the City's replacement of its automated water meter reading (AMR) system. Notices will be delivered to customers as meters are replaced.

Planning and Development Director Heather Cotton advised that the contractor is nearly finished with work on Phase 2 of the Catawba River Greenway, except for completion of punch list items and some paving of some small areas to take place in March. Ms. Cotton reported that City personnel would be working on the installation of the fitness equipment, pump shelter and signage.

AA.000000539 (24)

The City Manager stated that, if the project completion is within sight, Council can hopefully discuss in late February setting a date for the Greenway dedication, perhaps to take place in March.

Mr. Sikes advised that ECS, a geotechnical engineering firm the City has previously used, started work the previous week on evaluating and determining the source of the water on Mr. Greg Barksdale's property at South McDowell Avenue and Woodland Street in the Foxfire neighborhood. Mr. Sikes said that the evaluation will likely take 6-8 weeks to complete.

COUNCIL MEMBER COMMENTS:

Council Member Ramsey thanked Administrative Assistant Debi Sherlin for the superb meal she prepared for Council that evening.

Mayor Little advised McDowell News reporter Mike Conley that the starting time for Council meetings had been incorrectly listed at 6:00 p.m. for the past two meetings. Mr. Conley stated that he would correct the starting time for Council meetings to 6:00 p.m.

Council Member Clark suggested that Charter Communications should place the City's Government Access Channel on a lower channel that people could more easily find.

ADJOURNMENT: Upon a motion by Council Member Doggett, seconded by Council Member Ramsey, 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 February 3, 2015 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 Lloyd Cuthbertson, Council Members A. Everette Clark, Juanita Doggett, Billy Martin and Don Ramsey.

OTHERS PRESENT: Bob Boyette, City Manager; Debi Sherlin, Administrative Assistant; Harriett Thomas, CPA, Finance Director; Brant Sikes, Public Works Director; Allen Lawrence; Police Chief; Mike Conley, News Reporter, McDowell News.

GUESTS PRESENT: Duke & Artie Logan, 445 N. College Street, Morganton, NC; James Lindsey, 85 W. Woodlawn Street, Marion, NC; Russell Murphy, 69 California Avenue, Marion, NC; Carl Ferguson, 125 Greenbrier Lane, Morganton, NC; Thressa O'Neal, 129 California Avenue, Marion, NC; Fred Johnson, 3679 NC 26, Morganton, NC; Bruce & Joan Pearson, 4595 Homestead Court, Morganton, NC; Ric Luther, 366 South Main Street, Marion, NC; Brianna Smith, 111 Ridgewood Drive, Marion, NC; Billie & Eunice Pearson, 164 St. Mary's Chapel Road, Morganton, NC; Alice Logan, 9 East Grayson Street, Marion, NC; Pauline Brown, 220 California Avenue, Marion NC; Toni Smith, 179 Cherokee Way, Marion, NC; Linda Pearson, 603 Carbon City Road, Marion NC; Larry & Gloria Boyce, PO Box 1913, Marion, NC; Ray & Phyllis McKesson, 489 Landis Road, Marion, NC; Della Watson, PO Box 306, Marion, NC; Kay McKesson, PO Box 1877, Marion, NC; Greg Conley, PO Box 2230 Marion, NC; James Sugrue, PO box 1174, Marion, NC; Marvin Stewart, 184 Park Avenue, Marion, NC.

OPENING OF MEETING: Mayor Little opened the meeting with a moment of silence.

CITIZEN OF THE MONTH PRESENTATION: Council Member Billy Martin presented the Citizen of the Month for February 2015 to the family of:

Mr. CLARENCE EUGENE "GUS" SMITH

Council Member Martin advised that that it was his honor and privilege to posthumously recognize Mr. Clarence Eugene "Gus" Smith as Citizen of the Month for February 2015. Gus passed away unexpectedly on Friday morning January 9, 2015. His passing was both shocking and heartbreaking to all who knew and loved him, most especially his wife of over 43 years, Mrs. Katherine "Toni" Smith, his son Melvin "Boo-Boo" Smith and his granddaughter Brianna Smith. The Smith family, Gus and Toni, Anthony, who passed away at a young age, and "Boo-Boo" grew into a family who everyone loved and respected.

Gus was a member of Addie's Chapter United Methodist Church all his life. He was active with the Addie's Chapel United Methodists Men's Club and was always willing to help in every possible way to see that the church thrived, grew and succeeded in serving the community. Gus attended Mountain View School through the 10th grade and graduated from Marion Senior High School in 1967. He was among the first group of Black students to help integrate Marion High School. He was a great athlete in basketball, football and baseball. After graduating, he attended Winston-Salem State University. From Winston-Salem State, he entered the United States Army and was stationed at Fort Bragg as a member of the 82nd Airborne Division. Upon completion of his military service, he furthered his education at McDowell Technical Community College and Western Piedmont Community college in Morganton, NC. Gus worked at Air Preheater until it closed, at Rexnord in Morganton and retired from Caterpillar in Morganton as an assembly technician in 2011 at the age of 62. He was a handyman; a jack of all trades who could fix anything. He used his skills to help countless people through the years in need of a carpenter, electrician and/or plumber.

Gus was also gifted in music. Over the years he has entertained and touched thousands of lives throughout our region. His involvement in music entertainment carried him from local venues to venues up and down the east coast.

AA.000000540 (24)

Council Member Martin stated that he wanted to publicly thank Toni for allowing him this opportunity to recognize his lifelong friend. Council Member Martin advised that Gus deserved this distinction as much as anyone one person he knows who has ever lived in the City of Marion and McDowell County.

Mayor Little presented Mrs. Smith and her family with a framed Proclamation that read as follows:

Proclamation
in recognition and honor of the late
Clarence Eugene "Gus" Smith
by the Mayor of Marion, North Carolina

Whereas Clarence Eugene "Gus" Smith was educated in the public schools of Marion, North Carolina, at Mountain View School and at Marion High School from which he graduated in 1967. Gus Smith was among the first Black students who helped in a positive manner to integrate Marion High School, where he was immediately accepted and respected as a true friend by many and where he shared his talents in athletics in the three sports of basketball, football and baseball.

And Whereas Gus Smith continued his education at Winston-Salem State University in Winston- Salem, North Carolina. After college, he enrolled in the United States Army and was one of the few select men recognized to be outstanding enough to become a member of the famous and highly respected 82nd Airborne Division. At a time when our country was experiencing tumult in many ways, Gus Smith set an example as a caring, giving, brave man who was proud to serve his country.

And Whereas Gus Smith was an extraordinarily talented and gifted musician. He was a member in the 1960s of a local band, the Tremolations, and became a popular performer both in the Marion and McDowell County area but far beyond. Gus Smith entertained and brought smiles to thousands of people who heard him throughout the east coast of the United States. His latest musical venture was as an enthusiastic participant in The Legends Musical Review here in McDowell County.

And Whereas Gus Smith was also well known as a devoted family man and church man. He loved his wonderful wife of 43 years, Katherine "Toni" Smith, his two sons, Melvin and Anthony, and his granddaughter, Brianna. What a marvelous legacy he has left for his family. He lived his Christian faith as a talented yet humble, kind, and patient follower of his Lord and Savior. He walked the talk as an active member of Addies Chapel United Methodist Church and especially the Addie's Chapel Men's Club. If there was a need, Gus Smith was there to help.

And Whereas his family, friends and community miss deeply Gus Smith, whose life on this earth ended unexpectedly. His memory will long flourish in our hearts. On this very evening, he has been named posthumously by Council Member Billy Martin and the City Council as Marion's Citizen of the Month for February 2015.

Now Therefore, in appreciation and respect for the life-long contributions of the late Clarence Eugene Smith, I, Stephen R. Little, Mayor of the City of Marion, North Carolina, do hereby proclaim the anniversary date of his birth, March 21, 2015 to be GUS SMITH DAY in the City of Marion, North Carolina. So proclaimed on February 3, 2015.

_____
Stephen R. Little
Mayor of Marion, North Carolina

Mayor Little, Council Members, family and friends all shared kind words about Mr. Gus Smith and his selection as Citizen of the Month for February.

CONSENT AGENDA: Upon a motion by Council Member Ramsey, seconded by Mayor Pro Tem Cuthbertson, those members of Council present voted unanimously to approve the consent agenda as follows:

A. Approval of Minutes – January 20, 2015 Regular City Council Meeting Minutes

B. Receive Report of Unpaid 2014 Real Property Taxes

In accordance with G.S. 105-369(a), Municipal Tax Collector must report to governing board total unpaid 2014 taxes that are liens on real property. As shown in a memo presented to Council from Finance Director Harriett Thomas and Tax Collector Brett Moore, as of January 27, 2015, the amount of unpaid 2014 real property taxes was $209,775.58.

Council acknowledged receipt of this required report.

C. Adopt Resolution Directing Clerk to Investigate a Petition for Annexation – Forsythe Street/Bryan Property

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-58.1 – FORSYTHE STREET/BRYAN – 2015

WHEREAS, a petition requesting annexation of an area described in said petition was received on January 20, 2015 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, 2015.

_____
Stephen R. Little, Mayor

ATTEST:

AA.000000541 (24)

J. Robert Boyette, City Clerk

Resolution Number: R-15-02-03-1

D. Receive Certificate of Sufficiency – Forsythe Street/Bryan Property Annexation Request

CERTIFICATE OF SUFFICIENCY - FORSYTHE STREET/BRYAN - 2015

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 3rd day of February, 2015.

(Seal)

J. Robert Boyette, City Clerk

E. Approve Resolution Fixing the Date of Public Hearing on the Question of Annexation – Forsythe Street/Bryan Property Annexation Request

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-58.1 – FORSYTHE STREET/BRYAN - 2015

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 6:00 P.M. on Tuesday, March 3, 2015.

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

Tract One: BEING Lot No. 2, Block D, fronting 50 feet on Forsythe Street in Central Lakes Park, Property of Carolina Yancey Tighe near Marion as the same appeared of record in the Office of the Register of Deeds for McDowell County, North Carolina, in Map Book 1, at Page 211-D, reference to which is hereby made for a full and complete description of same.

Tract Two: BEGINNING at an iron stake in the western edge of Forsythe Street, it being the common corner of Lot Nos. 41 and 42, Block D, in Central Lakes Park Subdivision, map of which is recorded in the office of the Register of Deeds for McDowell County, N.C., in Map Book 1, page 211-D, to which reference is hereby made, and runs thence south 88° 00 minutes west along the common line of Lot Nos. 41 and 42, Block D, 94.92 feet to an iron stake, the common corner of Lot Nos. 41 and 42, Block D, of said subdivision; thence North 6° 15' west along the Eastern side of Virginia Avenue, 25.03 feet to an iron stake; thence North 88° 00' East 94 feet, more or less, to an iron stake in the western margin of Forsythe Street; thence along the Western margin of Forsythe Street, South 2° 56 minutes West 25 feet to the BEGINNING. It being the Southern one-half of Lot No. 41, Block D, of said subdivision.

BACK REFERENCE: Book 729, page 714, 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 3rd day of February, 2015.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-15-02-03-2

F. Adopt Resolution Directing Clark to Investigate a Petition for Annexation – Valley Street/Whitson property

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-31 – VALLEY STREET/WHITSON - 2015

WHEREAS, a petition requesting annexation of an area described in said petition was received on January 23, 2015 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:

AA.000000542 (24)

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, 2015.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

RESOLUTION NUMBER: R-15-02-03-3

G. Receive Certificate of Sufficiency – Valley Street/Whitson Property Annexation Request

CERTIFICATE OF SUFFICIENCY –VALLEY STREET/WHITSON - 2015

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 3rd day of February, 2015.

(Seal)

J. Robert Boyette, City Clerk

H. Approve Resolution Fixing the Date of Public Hearing on the Question of Annexation – Valley Street/Whitson Property Annexation Request

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31 – VALLEY STREET/WHITSON - 2015

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 6:00 P.M. on Tuesday, March 3, 2015.

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

TRACT ONE

BEING Lots Nos. 8,9, 10,11,12, 13, and 14 in Block "D", of the Development known as "Villa Vista", shown on a Map recorded in Map Book 1 at Page 161, in the Office of the Register of Deeds for McDowell County, North Carolina, to which reference is hereby made.

AND BEING the same property as described in and conveyed by that certain deed dated April 4, 1957, from E. Ray Simmons and wife, Lois Bobo Simmons, to Otis H. Lewis and wife, Vera M. Lewis, and which is recorded in the Office of the Register of Deeds for McDowell County in Deed Book 142 at Page 434.

EXCEPTING AND RESERVING, HOWEVER, from the above-described lots, that certain 0.516 acre parcel conveyed by Thomas A. Stamey and wife, Mitzi McEntire Stamey, to Kenneth McElreath and wife, Kimberly Diane McElreath, by deed dated March 4, 2009, and which is recorded in Deed Book 986 at Page 714 of the McDowell County Registry.

AND BEING the remaining portion of Tract One and Tract Two described in that certain deed from Otis H. Lewis, et. al., to Thomas A. Stamey and wife, Mitzi McEntire Stamey, by deed dated September 12, 2006, and which is recorded in McDowell County Deed Book 887 at Page 212. Reference may also be made to Deed Book 887 at Page 217.

TRACT TWO

BEING Lots No. 1, 2, 3 and 4 in Block D of the Subdivision called Villa Vista, map of which is recorded in Map Book 1 at Page 161, in the Office of the Register of Deeds for McDowell County, North Carolina.

TRACT THREE

BEGINNING at a point in the line between Lots 4 and 5 in Block D of Villa Vista, said point being located 132 feet from the Southern margin of Valley Street, North 38 degrees 42 minutes East, crossing Lots 5, 6 and 7 in said Block D to a point in the line between Lots 7 and 8; thence with the line between Lots 7 and 8 to the Northern margin of Rector Street; then with the Northern margin of Rector Street in a Westerly direction to the intersection of Rector Street and Hill Street; then along and with the Northern margin of Hill Street to the point where the line between Lots 4 and 5 in Block D intersects with said margin; then with the line between Lots 4 and 5 in said Block in a Northerly direction to the BEGINNING.

BEING a portion of Lots Nos. 5, 6, and 7 in Block D of Villa Vista Subdivision, according to the map of said subdivision recorded in McDowell County Map Book 1 on Page 161 to which reference is hereby made for greater certainty of description.

TRACT FOUR

BEING Lots Nos. 5, 6, and 7 in Block D of the Villa Vista Subdivision of the W.T. Morgan Dairy Farm. The same being a part of the W.T. Morgan Dairy Farm on the West side of U.S. Highway #70 near State Garage, and more fully described in a Map recorded in the Register of Deeds Office of McDowell County.

EXCEPTING from this conveyance that portion of the property conveyed by warranty deed dated the 3rd day of October, 1958, from Edna Fortner Hester and Mark Hester and Effie F. Bradford to Howard Westall and wife, Myrtle Westall, said deed being recorded in the Office of the Register of Deeds for McDowell County, North Carolina in Deed Book 153 at Page 223, to which reference is hereby made for a complete description of the property excepted from this conveyance.

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 3rd day of February, 2015.

Stephen R. Little, Mayor

ATTEST:

J. Robert Boyette, City Clerk

Resolution Number: R-15-02-03-4

PUBLIC APPEARANCE – MARION BUSINESS ASSOCIATION: Mr. Ric Luther, President of the Marion Business Association (MBA), appeared before Council and gave the following annual report for the MBA for the quarter of October 1 – December 31, 2014:

October - December 2014
Quarterly Report of Marion Business Association

Economic Development Report
8 - New Businesses Opened
Southern Ground, Corner Tavern, El Mercadito, O'Reilly Auto Parts, Vapor Quest, Coates Detail, Goathead Games, Curtis' Coins
2 - New Business Owners or New Locations
Arizona Pawn - Frank Nederostik, new owner
Outdoor Unlimited - relocated to Front Porch
2 - Businesses Closed –
Sonya's Sweets
Corner Clothing
7 -Business Assistance Inquiries
3 - Business Loan Inquiries
3- Business Grant Inquiries
338 - Business Visits
6 - Property Referral Inquiries
2 - Property Owner Contacts w/ available buildings
0 - Contacts with interested Commercial Developers
0 - New Businesses Breaking Ground
4- Façade Grant Inquires
0 - Façade Grant Awarded (MBA & MEDA Historic Marion Façade Grant Program and MBA Sign Grant)
0- Properties sold

Other Economic Activity:

- *Historic Marion Façade Grants* – Main Street Barber installed windows and painted. 31 West Court - New Awning. All funds are allocated.
- *Historic Marion Tailgate Market* continued as Fall Craft Market through December 16, Tuesdays and Saturdays with locally made crafts added to in-season produce.
- MBA maintains an *Available Commercial Properties* listing of properties in the City of Marion. The listing is also available on the MBA website, www.hometownmarion.com
- The *Certified Retirement Community Committee* continues to market and promote Marion and McDowell County. The CRC project is a joint effort of the City of Marion, Marion Business Association, McDowell Chamber of Commerce, McDowell County and McDowell Tourism. 2 Trade shows are planned for 2015.

Committee Meeting Reports –

MBA Board of Directors met October 7 and November 4. Board Christmas Breakfast December 9.
MBA Economic Development Committee met November 13 to review marketing proposals and economic development projects.
Mountain Glory Festival Committee met October 15 to review 2014 festival and begin planning for 2015. This committee is very active and hands on in planning the festival. The 2014 Festival was very successful.
Events & Promotions Committee met October 16 and November 20. The Committee continues to fine- tune and improve events and promotions for Marion. See the 2015 Calendar of Events.
Historic Marion Tailgate Market Committee will meet in January 13 to plan for 2015.
Design/Facade Review Committee met December 8 for Facade Grant Review.

Other Committees MBA Supports:-
WNC Rail Committee
MEDA
McDowell House
McDowell Non-Profit Organizations (NPO)
Get Not Out - Back to Work Program

Special Events Report

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Mountain Glory Festival - 356 Volunteer Hours. Smoothest Event Ever. Great Team. Great sponsor - City of Marion!!!

Tailgate Market Fall Festival - Streets were full of Trick and Treaters!! Fun, fun Event. Had Corporate Sponsors for 1st time!

Marion Christmas Parade - Cold, rainy day.

Melodies on Main - 180+ visited Santa Claus. Very good event on Courthouse Lawn

New Year's Eve - Marion Rotary is great sponsor. Great volunteers!

Volunteer Hours Committed – 559

2015 Calendar of Events

Saturday, February 14 - Valentine's Day Dance and Dessert - Ticketed Event/Fundraiser
Saturday, March 28 – Easter Egg Hunt @ YMCA
Saturday, May 4 – Sidewalk Yard Sale
Friday, June 5 – Liver Mush Festival
Friday, June 19 - Summer Concert, Shade Shelter - ****New Event
Saturday, July 4 – Independence Day Celebration
Friday, July 17 - Summer Concert, Shade Shelter - ****New Event
Saturday, August 1 – Sidewalk Yard Sale
Tuesday, August 4 – National Night Out
Friday, August 7 – Shagging in the Street, Shade Shelter
Friday, August 21 - Summer Concert, Shade Shelter -****New Event
Saturday, October 10 – Mountain Glory Festival
Tuesday, October 27 – Market Fall Festival
Sunday, November 22 – Christmas Parade
Thursday, December 3 – Melodies on Main
Saturday, December 5– Appalachian Potter's Market – McDowell High
December – Blue Ridge Artisans Craft Show @ MACA
Thursday, December 31 – New Year's Eve Celebration

Historic Marion Tailgate Market – Mid-May – October
Tuesdays, 3:00 - 6:00 PM - Saturdays, 9:00 - 12 noon
Fall Craft Market - September – December - Tuesdays, 3:00 - 5:30 PM

****New Event

Mayor Little thanked Mr. Luther for his presentation for all the great work done by the Marion Business Association.

PUBLIC APPEARANCE – FRANK DEAN, PRESIDENT, MCDOWELL TRAILS ASSOCIATION – DISCUSS JOSEPH MCDOWELL HISTORICAL CATAWBA GREENWAY AMPHITHEATER: The City Manager advised that Mr. Frank Dean contacted him earlier that day and stated that he would need to cancel his public appearance to discuss the amphitheater.

The City Manager stated that since Phase 2 of the Joseph McDowell Historical Catawba Greenway has opened to the public, it would be helpful to obtain input from Council regarding how use of the amphitheater on the Greenway should be handled. The City Manager asked Council the following questions:

A. Should use of the amphitheater be scheduled, or be first come, first serve like City parks?

B. If use of the amphitheater is scheduled, should the City charge for its use?

C. If use of the amphitheater is scheduled, should there be a written policy regarding who can use the amphitheater, or should use be open to any requesting party or only to non-profit groups, governmental organizations and civic clubs?

The City Manager advised that Council input regarding this matter would be appreciated.

Council Member Doggett stated that she feels that the City should schedule use of the amphitheater.

Mayor Little stated that he has the opposite viewpoint and believes that the City does not need to know who is using the amphitheater, any more than the City needs to know who is using the picnic shelter at the Community Building.

Council Member Clark stated that he can see both sides and suggested that Council put more thought into this decision.

Council agreed by consensus to consider this matter at a future meeting. Mayor Little suggested that Council Members visit the amphitheater, if they have not done so already, since it looks great.

PUBLIC COMMENT PERIOD: There were no unscheduled citizens present for this meeting wishing to speak to Council.

APPROVE ADVERTISEMENT OF DELINQUENT 2014 REAL PROPERTY TAXES: Finance Director Harriett Thomas stated that, as required by State law, the City must advertise unpaid real property taxes for the current year at least once between March 1 and June 30. She advised that the City typically run this advertisement in the McDowell News in May.

Ms. Thomas recommended that the City run the required tax advertisement in the McDowell News on Wednesday, May 13. McDowell County will also run their delinquent tax advertisement the same day.

Upon a motion by Council Member Clark, seconded by Council Member Martin, Council voted unanimously to authorize City staff to run the required delinquent property tax advertisement in the McDowell News on Wednesday, May 13.

Ms. Thomas added that current year property tax collection is nearly 91 percent as of the current date and is running 0.3 percent ahead of last year's record collection pace.

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REOPENING OF PUBLIC COMMENT PERIOD: Mayor Little reopened the Public Comment period.

Mr. James Sugrue arrived during the meeting and inquired about a letter he had received from the City concerning the rezoning of property in the Eastfield neighborhood.

The City Manager advised that properties in the Eastfield neighborhood and in other areas of the City had been proposed for rezoning from R-2 Neighborhood Residential to R-3 Mixed Use Residential. The City Manager outlined the main differences between the two districts, mainly involving the R-3 district having a smaller lot size of 5,000 square feet vs. a 7,000 square foot minimum lot size in R-2 and the R-3 district allowing single wide manufactured housing, while the R-2 district did not permit single wide manufactured housing.

The City Manager added that the rezoning proposal would be reviewed by the Planning Board at 7:00 p.m. on Thursday, February 5 at City Hall and that a public hearing would be held by City Council on the proposal on Tuesday, February 17 at 6:00 p.m.

Mr. Sugrue stated that his questions had been answered and thanked Council for the chance to come to the meeting.

CONSIDER APPROVAL OF PURCHASE OF BUDGETED SANITATION DIVISION VEHICLES: Public Works Director Brant Sikes advised that bid had recently been sought for the purchase of three trucks for the Sanitation Division. These trucks are used for residential garbage collection. Mr. Sikes stated that six bids had been received for the purchase of these trucks, as follows:

Dealership	**Location**	**Truck**	**Price/Each**	Total Bid Amount
Crossroads Ford	Morganton, NC	2014 Ford F-150, 4x4, regular cab	$22,996.42	$22,996.42 for one truck only
Jim Cook Chevrolet	Marion, NC	2015 Chevrolet Silverado 1500, 4x4, regular cab	$22,633.00	$67,899.00
Everett Chevrolet	Hickory, NC	2015 Chevrolet Silverado 1500, 4x4, regular cab	$22,539.91	$67,619.73
Crossroads Ford	Morganton, NC	2015 Ford F-150, 4x4, regular cab	$22,393.88	$67,181.64
Mike Brown Ford	Spruce Pine, NC	2015 Ford F-150, 4x4, regular cab	$21,518.50	$64,555.50
Ken Wilson Ford	Canton, NC	2015 Ford F-150, 4x4, regular cab	$20,895.00	$62,685.00

Mr. Sikes advised that, after thorough review of each bid, Staff's recommendation is to award the contract for the purchase of the three trucks to Ken Wilson Ford in the amount of $62,685.00. Mr. Sikes stated that a total of $91,000.00 was included in the 2014-15 Budget for the purchase of these trucks, with $75,000 included for the trucks and $16,000.00 budgeted for the purchase of modified beds for the trucks. The modified beds are sole-source purchases, as they must be custom made to fit each truck. Mr. Sikes reported that Ken Wilson Ford's bid of $62,685.00 is $12,315.00 less than the amount budgeted for the purchase of the trucks.

Upon a motion by Mayor Pro Tem Cuthbertson, seconded by Council Member Ramsey, Council voted unanimously to award the contract for the purchase of three budgeted trucks in the Sanitation Division to Ken Wilson Ford in the amount of $62,685.00.

SCHEDULING OF TOWN MEETING: The City Manager advised that, at the December 2 Council meeting, Council agreed to schedule the annual Town Meeting in April. Last year, the Town Meeting was held on Thursday, April 24 at the Community Building. This year, possible dates would be Thursday, April 16 or Thursday, April 23.

Mayor Little and Council Members agreed by consensus to schedule this year's Town Meeting for Thursday, April 16 at 6:00 P.M. at the Community Building.

CITY MANAGER COMMENTS: The City Manager gave a brief report on current projects.

The City Manager reported that a Council Planning Session would be held on Friday, February 13 at 8:30 a.m., starting at the Police Department.

The City Manager advised that City personnel will be refinishing the Community Building floor starting on February 17. The City picked a time when only the Marion Rotary Club would be disrupted. Rotary has agreed to relocate their meeting to the Depot on February 19.

The City Manager advised that, in early December, the N.C. Local Government Commission approved the City borrowing $470,000 for the purchase of a replacement automated water meter reading (AMR) system. The City closed on the loan before Christmas.

Public Works Director Brant Sikes stated that the water meter installation had started the previous day. On the first day of installation, City personnel and the vendor installed 40 meters. Mr. Sikes said that the City is receiving daily status reports from the vendor and that so far there had been no issues. He added that customers will be notified of the meter replacement through door hangers. The City has also put notice of the meter replacement in the newspaper, on WBRM, on the City website and on the City channel.

The City Manager advised that, as reported at the January 20 Council meeting, the Greenway contractor is completing final punch list items on Phase 2 of the Catawba River Greenway. The contractor will then complete final paving in March, including repair of two small areas and the paving of the driveway on the right side of the McDowell House. City personnel will be working on the installation of the fitness equipment and signage. The City Manager reported that City crews have completed work on the pump shelter for Jeff Benfield. The City Manager stated that he was finally able to get the lease agreement signed by Jeff Benfield on January 26.

The City Manager suggested that Council discuss a date for the Greenway dedication at a later date, perhaps in early March.

Mr. Sikes advised that, on January 16, ECS, a geotechnical engineering firm the City has previously used, started work on evaluating and determining the source of the water on Mr. Barksdale's property at South McDowell Avenue and Woodland Street in the Foxfire neighborhood. Mr. Sikes reported that sampling was underway and was being split three ways, with the City, engineer and Mr, Barksdale all receiving samples. Mr. Sikes stated that the City's lab tests showed no fluoride and that there is no indication of the water being from a City source so far. He added that the evaluation by ECS will likely take several more weeks to complete.

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The City Manager advised that DOT is finishing work on the draft City Comprehensive Transportation Plan (CTP). He stated that the City should soon receive a draft CTP for Council to review at the February 17 Council meeting. DOT will hold a Public Input Session on the draft CTP on Tuesday, February 24, from 2:00 p.m. until 6:00 p.m. at the Depot. If Council likes the CTP and public input does not substantially impact the plan, then the CTP could be ready for Council to adopt as soon as March or April. The Isothermal Rural Transportation Planning Organization and the North Carolina Board of Transportation would also need to adopt the CTP.

Finance Director Harriett Thomas stated that City staff began accepting debit and credit cards earlier that day at City Hall, after a long implementation period, due to delays caused by the City's financial software vendor.

COUNCIL MEMBER COMMENTS: Mayor Little advised that he and Council Member Doggett recently visited a classroom at North Cove Elementary and heard a presentation concerning the movie theater project planned for Marion.

Council Member Doggett stated that the students did a great job with the project and that she had given the City Manager the students' work to give to the movie theater developer.

Council Member Martin stated that, when the repaving of West Henderson Street near the US 221 Bypass underpass was recently completed by DOT, paving was not done properly around one manhole. Public Works Director Brant Sikes advised that he would look at this location and report the deficiency immediately to DOT.

Mayor Pro Tem Cuthbertson mentioned that the traffic signal loops at the West Henderson Street/Railroad Street intersection had not yet been repaired by DOT, after being damaged during the recent street resurfacing. The City Manager reported that the DOT Division Traffic Engineer had told him a few weeks ago that 32 loops needed to be repaired and that this work would be taking place in the near future. The City Manager stated that he had observed some of the loops being repaired recently, but he would let DOT know the next day that the loop at the West Henderson Street/Railroad Street intersection still needed to be repaired.

Council Member Ramsey advised that he had received several positive comments regarding the new sound system at the Community Building.

Mayor Little mentioned the recent letter to the editor in the McDowell News that stated that it was difficult to hear during Council meetings. He encouraged Council Members to use the microphones provided for them.

Council Member Clark stated that he does not like to use the microphone, since it must be manually turned on and off to prevent extraneous noise from being captured. He noted that a lot of cities have sound systems that have a light on the Council table indicating if the microphone is on or off and that some cities even have the Mayor controlling the microphone of the Council Members.

Council Member Martin thanked Mayor Little and Council Members for their recognition of Gus Smith as Citizen of Month, something that meant a great deal to Mrs. Smith and the entire family.

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