

REGULAR MEETING - APRIL 3, 2008

The Mayor and City Council met in regular session on Thursday, April 3rd at 7:00 p.m. in the Council Chambers of City Hall, located at 114 West Sycamore Street. Mayor Black called the meeting to order. City Council members in attendance were:

HOUSER CLONINGER HEAVNER HOVIS

Mayor Black led the Pledge of Allegiance. Councilman Houser made the motion unanimously approved the Regular Agenda.

Councilman Heavner made the motion unanimously approved the **CONSENT AGENDA** as follows:

- Approved the minutes of the Regular Meeting of March 6, 2008
- Approved (BA-02-08) Budget Amendment – Transfer \$ 177,419.00 from Fund Balance to the Recreation Capital Expense; \$ 88,419 – HVAC Unit at Betty Ross Park and \$ 89,000 for Highland Drive Park
- Approved a Proclamation for Litter Sweep; April 19 – May 3, 2008
- Approved the following calls to Public Hearing for the May 1st City Council Meeting:
 - ZMA-4-2008 – Application from Stephen G. Waits requesting the rezoning of 0.735 acres of land from Residential-8 (R-8) to Neighborhood Business (NB). The subject property is located on the north side of East Main Street, but does not have frontage on East Main Street. It is approximately 400 feet northeast of the intersection of East Main Street and Lithia Inn Road. The address of the subject property is 2403 East Main Street. (Parcel ID 14166).
 - CU-ZMA-1-2008 – Application from Carolina Health Care System requesting the rezoning of approximately 69.76 acres of land from Residential-25 (R-25) and Residential-15 (R-15) districts to Conditional Use Office-Institutional (CU-OI) District. A conditional use permit is being requested to construct a new medical center, medical office buildings and future office buildings on the property. The subject property is located between Buffalo Shoals and McAlister Roads approximately 500 feet north and east of the intersection of the juncture of McAlister Road into Buffalo Shoals Road.

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- CUP-2-2008 – Application from Lincoln ABC Board requesting a conditional use permit to construct a public operated alcohol beverage control (ABC) store in the Planned Business (PB) district. The subject property is located on lot# 2 of the Crossroads Centre Shopping Center on the west side of Stanford Road approximately 300 feet north of the intersection of Stanford Road and East Main Street.

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APPLICATION FROM LINCOLN COUNTY SHERIFFS OFFICE REQUESTING A CONDITIONAL USE PERMIT TO HAVE AN OUTDOOR SHOOTING RANGE. THE SUBJECT PROPERTY IS LOCATED BEHIND LINCOLN COUNTY SHERIFFS DEPARTMENT AT THE END OF JOHN HOWELL MEMORIAL DRIVE:

(CUP-1-2008)

Councilman Heavner made the motion unanimously approved to open the Public Hearing.

The City Clerk administered the oath to Planning Director Steve Gurley, Mark Carpenter, Harvey Jonas and Travis Leatherman, enabling them to speak to the issue as required for a quasi-judicial hearing.

Steve Gurley thoroughly reviewed the request for a conditional use permit for an outdoor shooting range, to be located behind the Lincoln County Sheriffs Department at the end of John Howell Memorial Drive. Steve played a video of the site, and provided two maps providing a general description.

Steve reviewed the staff review committee comments. He noted that all activities of the range must be outside of the floodway. The area shown on the attached map is outside of the floodway. Fill dirt is not allowed in the floodway area so no berms or barriers can be constructed in this area.

He noted that the applicant has met all requirements of Section 13.3 and 13.4.2 and 13.5.11 of the Lincoln Land Use Plan. He reviewed the additional standards recommended by staff, Section 13.5.10, as (1) hours of the range shall be no earlier than 10:00 a.m. and no later than 10:00 p.m. (2) Range shall be limited to law enforcement and public safety agencies only.

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The Lincoln Planning Board recommended denial of the conditional use permit, by a 4 - 2 vote. Steve said staff's recommendation to the Planning Board was that the conditional use permit be approved provided that the Staff Review Committee condition, all the requirements of Section 13.5.10 and additional staff recommendations are satisfactorily addressed and met before issuance of a zoning certificate of compliance. Steve concluded recommending on behalf of staff that the permit be issued with the above noted conditions.

Mr. Harvey Jonas spoke against the request, noting he has nothing against the Sheriff's Department, he simply felt it would not be a safe use in that area. He felt it would have an adverse affect on the property value to adjoining property owners.

Mr. Travis Leatherman, spoke representing the Lincoln County Sheriff's Department. He said he felt it is the most suitable piece of property that the County owns to construct a firing range. He said plans for actual use of the range would not exceed five hours per day, possibly between the hours of 8:00 a.m. until 12 noon and 2:00 p.m. to 4:00 p.m. He noted that the trees currently on the land would be left standing to assist as a noise barrier.

Each Council member had several questions in concern for citizens and surrounding neighbors safety for Mr. Leatherman. After much discussion and Mr. Leatherman addressed each concern, Councilman Cloninger made the motion unanimously approved to close the Public Hearing.

Councilman Heavner made the motion unanimously approved to consider the CUP-1-2008.

Section 13.4.2 – Finding of Fact:

- (1) Councilman Heavner made the motion unanimously approved that the use would not materially endanger the public health or safety if located where proposed and developed according to plan;
- (2) Councilman Hovis made the motion unanimously approved that the use meets all required conditions and specifications,
- (3) Councilman Cloninger made the motion unanimously approved the use would not substantially injure the value of adjoining or abutting property unless the use is a public necessity,

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- (4) Councilman Houser made the motion unanimously approved the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Lincoln Land Use Plan and other plans for the physical development of the City as officially adopted by the City Council.

Councilman Hovis made the motion unanimously approved to grant the conditional use permit as recommended by the Planning Department.

THE CITY OF LINCOLNTON AND LINCOLN COUNTY JOINTLY PROCLAIM MAY 2, 2008 LINCOLN COUNTY VIETNAM ERA VETERAN'S APPRECIATION DAY:

Dale Punch, representing the American Legion, along with several other members appeared before City Council to receive a proclamation honoring Vietnam Era Soldiers of Lincoln County. Mayor Black read aloud the proclamation endorsed by both the City and Lincoln County, as Mayor Pro-Tem John Cloninger joined the veterans to proudly receive the recognition.

The proclamation read as follows:

Whereas, Lincoln County was born amid the throes of the struggle for American Independence;

Whereas, Lincoln County was the actual site of one of the most bloodiest partisan battles of the American Revolution;

Whereas, participants in the Battle at Ramsour's Mill became Lincoln County's first recognized veterans;

Whereas, Lincoln County citizens have answered their country's call and have served in every war and conflict since the American Revolution;

Whereas, citizens of the City of Lincoln and the County of Lincoln have served willingly and honorably, many receiving recognition for bravery, including Admiral Rufus Z. Johnston, who received our nation's highest award, the Congressional Medal of Honor

Whereas, the City of Lincoln and County of Lincoln have deemed it appropriate to honor our veterans with monuments, inscribed with the names of those men who gave the last full measure in defense of their homeland, on the East side of the Court House, and a Veterans' Plaza honoring all the Armed Force branches of service on the Western side of the Court House;

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Whereas, the City of Lincolnton and the County of Lincoln have saw fit to honor living soldiers of World War II and soldiers of the Korean War with a day of recognition;

Now, Therefore, we, the Mayor and City Council of the City of Lincolnton and we, the Commissioners of the County of Lincoln do hereby, as a combined effort, proclaim that May 2, 2008 be celebrated as Lincoln County Vietnam Era Veteran’s Appreciation Day.

Adopted this the 3rd day of April 2008.

Dale thanked the Mayor and City Council for their continued support of all veteran organizations within Lincolnton and Lincoln County.

THE CITY OF LINCOLNTON AND LINCOLN COUNTY JOINTLY PROCLAIM MAY 2008 RELAY FOR LIFE IN LINCOLN COUNTY:

Cheryl Burgess, Relay for Life Committee Chair, read aloud a proclamation jointly endorsed by both the City and Lincoln County proclaiming May 2-9, 2008 the “Power of Purple” week in Lincoln County.

Cheryl Burgess thanked the Mayor and City Council for their continued support.

CONSIDERATION OF ADOPTION OF SAFETY MANUAL FOR THE CITY OF LINCOLNTON:

(P-02-08)

Jeff Emory, City Manager provided Council a brief overview of a proposed revised safety policy and procedures manual for the City. Jeff recommended adoption of the document, noting that since the City has contracted the safety program with Compliance Training Associates, Inc. employee accidents have been greatly reduced. He said he has reviewed the manual with Mrs. Lowery and feels certain the document will bring the City up to date with current regulations.

Debbie Rogers Lowery of CTA, Inc. was on hand to answer any questions from Council. Mrs. Lowery concluded thanking the City Manager and especially Steve Peeler, Director of Public Works & Utilities for their support.

The City Manager noted that any future changes to the safety policy would come before City Council possibly on the consent agenda if necessary.

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Councilman Cloninger made the motion unanimously approved to adopt the policy as recommended by the City Manager.

CONSIDERATION OF RENEWAL OF CONTRACT BETWEEN THE CITY AND THE DOWNTOWN DEVELOPMENT ASSOCIATION FOR THE ALIVE AFTER FIVE CONCERT SERIES FOR 2008:

(C-04-08)

Buddy Collins, DDA Chair requested that City Council consider renewal of the contract between the City and the Downtown Development Association, for the 2008 Alive After Five Concert Series. The scheduled dates for this years event are: May 29th, June 26th, July 31st, August 28th, September 25th and September 29th (a special event for Cycle NC event)

Councilman Heavner made the motion unanimously approved to enter into the contract as requested.

CONSIDERATION OF RENEWAL OF CONTRACT BETWEEN THE CITY AND DOWNTOWN DEVELOPMENT ASSOCIATION FOR THE HOG HAPPENIN EVENT – JUNE 6 & 7, 2008:

(C- 05- 08)

Buddy Collins, DDA Chair requested that City Council consider renewal of contract between the City and the Downtown Development Association for the 2008 “Hog Happenin” event. The event is scheduled to take place on June 6th and 7th.

Councilman Houser made the motion unanimously approved to enter into the contract as requested.

CONSIDERATION OF PROPOSED AGREEMENT BETWEEN THE CITY AND CENTRALINA COUNCIL OF GOVERNMENTS TO PERFORM A STUDY TO EVALUATE THE CITY’S INFORMATION TECHNOLOGY SYSTEMS:

(C-06-08)

Jeff Emory, City Manager said he recently met with a representative from Centralina Council of Governments, to discuss possible assistance with evaluating the City’s current information technology systems. He said Mr. Bob Henderson spent a day with staff, gathering information on the City’s current

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technology. Centralina has prepared a proposal in the amount of \$ 2,144.00 plus fifteen of the City's membership hours, for conducting an evaluation of the City's current status. Mr. Henderson's study would provide recommendations on what steps should be taken to meet future technology needs.

Councilman Cloninger made the motion unanimously approved to enter into the contract with Centralina to conduct the evaluation as recommended.

REQUEST FROM FUNTYME EVENTS, INC. TO OPERATE A CARNIVAL AT LINCOLNTON PLAZA SHOPPING CENTER IN FRONT OF BIG LOTS – MAY 8 THROUGH MAY 18, 2008:

Steve Gurley, Planning Director reviewed the above stated request from Mr. Hubert Bullard, of Funtyme Events, Inc. He said this is a request that has typically been approved by City Council each year for the operation of a carnival at Lincolnton Plaza Shopping Center. He recommended approval of the permit, noting eight conditions be met prior to issuance of the permit. They are as follows: (1) Period of activity shall be from May 8 – May 18th. (2) Hours of operation shall be (a) 5:00 p.m. until 11:00 p.m. Monday through Friday (b) 3:00 p.m. until 11:00 p.m. Saturdays (c) 1:00 p.m. through 11:00 p.m. on Sundays. (3) The applicant must maintain a valid certificate of liability insurance in the amount of \$ 2,000,000 during the activities operation. (4) Porta-Johns will be on-site for use by the public (5) Dumpsters will be placed in-site for trash disposal (6) State and local inspections shall be completed and approved prior to opening the carnival (7) The City of Lincolnton shall not provide water, sewer, or electrical utilities to the site (8) Two off-duty certified law enforcement officers will be employed during carnival operation.

Councilman Houser made the motion unanimously approved to issue the permit with the requirement that the above noted conditions be met.

REQUEST FROM AMERICAN PROMOTIONAL EVENTS (TNT FIREWORKS) TO SELL FIREWORKS FROM A TENT AT WALMART – JUNE 21 THROUGH JULY 5, 2008:

Steve Gurley, Planning Director reviewed the request from TNT Fireworks to sell fireworks in front of WalMart on the above said dates.

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He recommended approval of the request if the following conditions are met:

(1) Period of activity shall be from June 21 through July 5, 2008 (2) The hours of operation shall be from 9 a.m. until 5 p.m. (3) Proceeds from the sales shall be paid to a non-profit organization, Mountain View Baptist Church, 5045 East Maiden Road, Maiden, NC. (4) The City of Lincolnton shall not provide water, sewer, or electrical utilities to the site.

Councilman Hovis made the motion unanimously approved to the permit contingent upon the above stated conditions.

STATUS REPORT ON PHASE III RAIL TRAIL EXPANSION:

Steve Gurley, Planning Director told Council he now has warranty deeds for three (3) of the properties for Phase III of the rail trail. He said to date he has not heard any word on the status of the Recreational Trails Grant application, mailed on January 29th. He said it is not likely that we hear anything until late spring or early summer. He will keep Council apprised of any developments in this endeavor.

AUTHORIZATION TO PROCEED WITH HAVING PLANS DRAWN FOR RESTROOM/CONCESSION FACILITY AT BETTY ROSS PARK:

Jeff Emory, City Manager requested authorization from City Council to proceed with the rebuilding of the concession/restroom facility located between the two ball fields at Betty Ross Park. He said this facility was burned through an act of arson, and individuals were found and charged appropriately.

Recreation Director Richard Haynes and Jeff have met and both agree strongly that the building is needed. Currently the only restrooms available when the ball fields are in use are the restrooms located at the picnic shelter. This is simply not adequate for the number of people that frequent those two ball fields.

The City Manager was clear that the proposal amounts he has estimated would come under the required \$ 300,000 construction bid amount as described in state statute, therefore not requiring the City to utilize a formal bid process.

He did ask Council to authorize him to allow Pease Associates to draw plans at a cost of no more than \$ 10,000. Once these plans are approved, Howard Construction can get started in hopes the project would be completed by mid to late summer.

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Councilman Heavner made the motion unanimously approved to pay Pease and Associates \$ 10,000 for a architecturally rendering of sealed plans that will be taken to Howard Construction Company for their estimate to construct the facility.

DETERMINE DATE FOR A BUDGET WORK SESSION TO BE HELD IN LATE APRIL:

Jeff Emory, City Manager provided an option for two (2) potential budget work sessions. One was Wednesday, April 23rd and the other was Friday April 25th at 2:00 p.m. in the Council Chambers, to discuss budget issues.

Councilman Cloninger made the motion unanimously approved that the date be set for Friday, April 25th beginning at 2:00 p.m. thereby directing the City Clerk to advertise accordingly.

PRESENTATION FROM ELECTRICITIES OF NORTH CAROLINA:

Mr. Steve Peeler, Director of Public Works & Utilities, introduced Mr. Steve Shelton, Sr. Vice-President of NCMPPA # 1, to Mayor and City Council. Mr. Shelton gave a power point presentation of the current make up of the Electricities organization, depicting their ownership in nuclear plants noting Lincolnton's 1.6% ownership.

Mr. Shelton said there is a 2.5% increase projected for this year in electric rates. He provided a very thorough overview and answered questions by Mayor and City Council concerning our current rate structure. *(A copy of the power point presentation is on file in the Public Works Department for reference)*

PUBLIC COMMENT:

There were no questions during the Public Comment portion of the meeting.

NEWS MEDIA:

There were no questions from the New Media.

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CLOSED SESSION

The City Manager asked that Council consider entering into Closed Session so that he may discuss several items in relation to personnel in accordance with NCGS 143-318.11(a)(1). to discuss personnel issues.

ADJOURNMENT:

Councilman Cloninger made the motion unanimously approved to adjourn the meeting.

**DONNA C. FLOWERS, CMC
CITY CLERK**

**DAVID M. BLACK
MAYOR**