

REGULAR MEETING – JANUARY 4, 2007

The Mayor and City Council met in regular session on Thursday, January 4, 2007 in the Council Chambers of City Hall, 114 West Sycamore Street, Lincolnton, NC. Mayor Huitt called the meeting to order and led the Pledge of Allegiance. The following Council members were in attendance:

HOUSER CLONINGER HEAVNER HOVIS

Councilman Houser made the motion unanimously approved to approve the ***CONSENT AGENDA*** as follows:

- Approved Minutes of meetings held in December 2006.
- Approved Budget Amendment (BA-01-07) – Appropriation from fund balance \$ 6,300 to Distribution and Collections – Capital Expense to extend water line at East Main Street and Roper Drive.
- Approved (C-01-07) Carolina Transformer Site PRP Participation Agreement

PUBLIC HEARINGS:

APPLICATION FROM CARILLON ASSISTED LIVING REQUESTING THE RENEWAL OF A CONDITIONAL USE PERMIT ISSUED IN DECEMBER 2004 TO CONSTRUCT A NEW ASSISTED LIVING FACILITY IN THE CU-RMF DISTRICT. THE SUBJECT PROPERTY IS LOCATED ON THE WEST SIDE OF SALEM CHURCH ROAD APPROXIMATELY 100 FEET SOUTH OF THE INTERSECTION OF SALEM CHURCH ROAD AND KEENER ROAD: (CUP-5-2006)

Mayor Huitt opened the Public Hearing. The City Clerk administered the oath to all those wishing to speak for or against the Public Hearing. Steve Gurley Planning Director gave a thorough review of the request for the renewal of a conditional use permit, originally issued in December 2004, to develop the above said property with an assisted living facility.

Steve referenced a letter from Carillon explaining the reasons for the delaying the project. He reviewed the applicants compliance with the conditional use permit requirements, the staff review committee comments, compliance with section 13.4.2 of the LUDO, Water Supply Watershed Standards as it pertained to this application, and concluded saying that if all zoning ordinance requirements can be met the proposed facility should be compatible with the

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area. He said the area does have water and sewer available to it, making the area more conducive for this type of development. On behalf of Planning Board and Staff, Steve recommended approval of the CUP, provided the applicant addresses and corrects all missing and deficient information listed as follows:

Exceptions from Section 13.3 – (1) Landscaping plan must be updated to meet street landscaping, parking lot landscaping and screening requirements. (2) Need information on type, size, and details for wall and freestanding signs.

Staff Review Committee Comments - (1) All construction plans must be submitted and approved by the Lincoln County Building and Land Development Department (2) Driveway permits must be obtained from NCDOT (3) All utility drawings must be reviewed and approved by Superintendent of Utilities. Specific information is needed concerning valves on bypass and a master meter is needed. (4) The owners must provide commercial trash pick up (5) The City Fire Inspector, Patrick King, prior to development, must approve all fire hydrant locations and all fire hydrants must be of Muller type (6) Sidewalks, meeting the City of Lincolnton requirements, must be installed along the entire frontage of Salem Church Road. An easement must be given to the City, if the City is to maintain the sidewalk.

Mr. Bob Steenson, of Carillon Assisted Living in Raleigh, NC, spoke in favor of the application. He told Council he has been involved in the project since its inception, and has appeared before them several times to request renewal of the permit due to legal and state mandated obstacles. He said to date Carillons case is scheduled to be heard the first quarter of 2007, whereby permission to develop should be granted and then plans for construction of a sixty-two room facility would be filed, with work actually beginning by the second quarter of the year. He concluded saying Carillon Assisted Living is now, more than ever, committed to providing assisted living services to the citizens of Lincolnton.

Councilman Cloninger made the motion unanimously approved to close the Public Hearing.

Councilman Heavner made the motion unanimously approved to consider the conditional use permit.

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Findings of Fact – Section 13.4.2:

- (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 Heavner made them motion unanimously approved that the use would not substantially injure the value of adjoining or abutting property or the use is a public necessity.
- (4) Councilman Houser made the motion unanimously approved that the location and character of the use, if developed according to 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 Lincolnnton Land Use Plan and other plans for the physical development of the City as officially adopted by the City Council.

Councilman Cloninger made the motion unanimously approved to approve the conditional use permit (CUP-05-06) as recommended provided that the applicant addresses and corrects all missing and deficient information contained in the report as stated above.

APPLICATION FROM WILLIAM AND NANCY BEUTEL REQUESTING THE REZONING OF 1.67 ACRES OF LAND FROM RESIDENTIAL-8 (R-8) TO NEIGHBORHOOD BUSINESS (NB) DISTRICT. THE SUBJECT PROPERTY IS LOCATED ON THE EAST SIDE OF SOUTH ASPEN STREET APPROXIMATELY 400 FEET NORTH OF THE INTERSECTION OF SOUTH ASPEN STREET AND JONAS DRIVE:

(ZMA-7-2006)

Steve Gurley, Planning Director gave a thorough review of the request. He recommended on behalf of Planning Board and staff that Council rezone the property to NB District as requested by the applicant. He also recommended, if the property is rezoned, that the Lincolnnton Land Use Plan be amended to reflect the property in the NB Planning area. He said he would submit the amendment at a later date to hold a Public Hearing for Council to consider approval.

Dr. William Beutel was in attendance to speak in favor of the rezoning.

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

Councilman Cloninger made the motion unanimously approved to rezone the property to Neighborhood Business District as recommended.

APPLICATION FROM THE LINCOLNTON CITY COUNCIL REQUESTING AMENDMENTS TO SECTION 17.28.4 OF THE “LINCOLNTON UNIFIED DEVELOPMENT ORDINANCE”. THE AMENDMENTS, IF ADOPTED, WILL ALTER THE PROCEDURES WHEREBY LAND DEDICATION AND/OR FEES IN LIEU OF LAND DEDICATION ARE MADE BEFORE FINAL SUBDIVISION PLAT APPROVAL: (ZTA-3-2006)

Planning Director Steve Gurley reviewed the request to amend the Lincolnnton Unified Development Ordinance. The request stemmed from a presentation by representatives of the Lincolnnton Country Club at the December 14, 2006 Council meeting, whereby City Council referred the item back to the Lincolnnton Planning Board for their recommendation. Chip Stroupe, representing the Country Club, spoke specifically about Section 17.28.4.b – Payments of Fees in Lieu of Land Dedication) of the LUDO.

Steve reviewed five possible options that he and his staff provided to the Planning Board at their December 19th meeting. Of the five options, option number four was recommended by Planning Board to City Council. Option four would exempt residential uses within public golf courses from the requirement (changing Section 17.28.4.a.1 by adding a phrase between “subdivider” and “who” in the first line to read: “except a major subdivision developed completely within a golf course”.)

After some discussion Councilman Heavner made the motion unanimously approved to close the Public Hearing.

Councilman Hovis made the motion unanimously approved to amend the LUDO as recommended by the Lincolnnton Planning Board, selecting option four as stated above.

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DISCUSSION OF FINAL PAYMENT FOR PROFESSIONAL SERVICES – STEWART, COOPER, NEWELL ARCHITECTS, INC.:

Jeff Emory, City Manager discussed the final payment to Stewart-Cooper-Newell Architects for services provided beyond the original contract amount, for the construction of the City Hall/Fire Station project. He referenced a letter from the architects stating that design services for the project went beyond the contract date by approximately two years. He said according to Ken Newell, this time period generated \$ 100,000 in additional fees. Removing all profit from current invoices would result in a total payment of \$ 89,000. Jeff told Council that after discussions with Mr. Ken Newell, of SCN, he offered final payment of \$ 75,000. He said he has not heard back from Ken to date on this offer. He concluded recommending Council consider payment to Stewart-Cooper-Newell Architects in the amount of \$ 85,000 as final payment of this project.

After some discussion, Councilman Houser made the motion unanimously approved to pay SCN Architects \$ 85,000 as final payment for their extended services for the City Hall/Fire Station project.

CONSIDERATION OF MATCHING FUNDS FOR UNITED WAY CAMPAIGN :

Brad Guth, B&CD Director told Council that the City's United Way Campaign, contributed by City employees, was \$ 3,283.38. He requested that Council consider appropriating matching funds in this amount to make the total contribution for the City of Lincoln \$ 6,566.76.

Councilman Houser made the motion unanimously approved to match the funds as recommended for the above stated amount.

STATUS REPORT ON RAIL TRAIL EXPANSION TO MOTZ AVENUE:

Steve Gurley, Planning Director provided Council with an update on the status of Phase II and Phase III of the Marcia H. Cloninger Rail-Trail. *Phase II:* Steve Bennett was selected to do landscape plantings for Phase II of the trail, with work to be complete by mid January. *Phase III:* Steve said he has not heard from his contact with Norfolk Southern Railroad since his meeting on November 29th. He said plans are not to proceed with other property owners

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until we have everything cleared with Norfolk Southern. He will attempt to contact Norfolk Southern for a status report and share his findings with Council at their February 1st meeting.

PUBLIC COMMENT:

No one spoke during the public comment portion of the meeting.

NEWS MEDIA:

Mr. Ron Manus of the Lincoln Times News was in attendance and requested photos of all City officials, in an attempt to update his files. He photographed the Mayor, City Council, City Attorney, City Manager, City Clerk, Planning Director, Business & Community Development Director and several Planning Board members. There were no questions from the News Media concerning the Council meeting.

CLOSED SESSION:

Councilman Houser made the motion unanimously approved to enter into CLOSED SESSION in accordance with NCGS 143-318.11(a) to discuss a legal matter.

Councilman Houser made the motion unanimously approved to return to REGULAR SESSION.

ADJOURNMENT:

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

DONNA C. FLOWERS, CMC
CITY CLERK

BOBBY G. HUITT
MAYOR