

## REGULAR MEETING - JUNE 4, 2009

The Mayor and City Council met in regular session on Thursday, June 4, 2009 at 7:00 p.m. in the Council Chambers of City Hall, located at 114 West Sycamore Street, Lincolnton North Carolina.

Mayor David Black called the meeting to order and led the Pledge of Allegiance.

The following Council Members were in Attendance:

**HOUSER      CLONINGER      HEAVNER      HOVIS**

Councilman Heavner made the motion unanimously approved the Regular Agenda.

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

- Approved Minutes of the following meetings:
  - Regular Meeting April 2, 2009
  - Budget Work Session April 27, 2009
  - Budget Work Session May 12, 2009
- Approved a Resolution (R-09-09) directing the City Clerk to investigate petition(s) received under NCGS 160-31, and upon the findings execute the certificate(s) of sufficiency for the following request for satellite annexations; ANX(S)-1-09, ANX(S)-2-09, and ANX(S)-3-09
- Approved the following Calls to Public Hearing for the July 9<sup>th</sup> regular meeting:
  - \* NC Highway 150 Corridor Plan – A plan for the City of Lincolnton and the Extraterritorial Zoning Jurisdiction on both sides of existing NC Highway 150 between South Grove Street Extension and Old Gastonia Highway and proposed NC Highway 150 between Old Gastonia Highway and US Highway 321. The plan, when adopted will compliment the Land Use Plan adopted by the Mayor and City Council in July 2003.
  - \*CUP-4-2008 R – Application from Hesed House of Hope, Inc. requesting City Council approval for site plan revisions to a conditional use permit to construct a homeless shelter in the Residential-8 (R-8) District. The conditional use permit was originally approved on October 2, 2008. The subject property is

## REGULAR MEETING - JUNE 4, 2009

### CONSENT AGENDA CONTINUED:

#### Call to Public Hearing for July 9, 2009:

located on the north side of East Lincoln Street approximately 300 feet west of the intersection of East Lincoln Street and Linden Street.

- \*ZMA-9-2009 – Application from Northwest Corridor II, LLC requesting the rezoning of approximately 1.5 acres from RMF, NB to R-8, NB, and RMF. The subject property is located on the north side Wilma Sigmon Road approximately 250 feet east of the intersection of Wilma Sigmon Road and Olivia Lane (Lincoln Meadows Subdivision Entrance)
- \*ANX(S)-1-09 – Petition from Charlotte Mecklenburg Hospital Authority requesting the satellite annexation of approximately 2.1 acres of land. The annexation includes three parcels of land. Two parcels are located on the north side of East NC Highway 150 directly across from the intersection of Highway 150 and Myra Lane. One parcel is located on the south side of McAlister Road approximately 1000 feet west of the intersection of Highway 150 and McAlister Road. A map of the properties are on file and available for inspection in the City of Lincolnton Planning Department office at Lincolnton City Hall, 114 West Sycamore Street.
- \* ANX(S)-2-09- Petition from Radiation Oncology Centers of the Carolinas, Inc. requesting the satellite annexation of approximately 1.177 acres of land located on the south side of McAlister Road approximately 1,100 feet west of the intersection of Highway 150 and McAlister Road. A map of the property is on file and available for inspection in the City of Lincolnton Planning Department office at Lincolnton City Hall, 114 West Sycamore Street.
- \* ANX(S)-3-09- Petition from Highway 321 Investments, LLC requesting satellite annexation of 30.328 acres of land located on the west side of Car Farm Road approximately 600 feet south of the intersection of Car Farm Road and Maiden Highway. The property also has frontage onto U.S. Highway 321 North. A map of the property is on file and available for inspection in the City of Lincolnton Planning Department office at Lincolnton City Hall, 114 West Sycamore Street.

## REGULAR MEETING - JUNE 4, 2009

- Approved Budget Amendment (BA-03-09)– 2008-2009 Fiscal Year End
- Approved (C-08-09) of contract between the City and Mark Knuckles Associates, Inc. for Annual Compliance Watch Consultation Services
- Approved (P-01-09) revised City Safety Policy and Procedures

### **REGULAR AGENDA:**

**(ZMA-7-09) – APPLICATION FROM RADIATION ONCOLOGY CENTERS OF THE CAROLINAS, INC. REQUESTING THE REZONING OF 1.1 ACRES OF LAND FROM RESIDENTIAL-25 (R-25) TO OFFICE-INSTITUTIONAL (O-I) DISTRICT. THE SUBJECT PROPERTY IS LOCATED ON THE SOUTH SIDE OF MCALISTER ROAD APPROXIMATELY 1,100 FEET WEST OF THE INTERSECTION OF MCALISTER ROAD AND NC HIGHWAY 150. THE ADDRESS OF THE PROPERTY IS 440 MCALISTER ROAD:**

Steve Gurley, Planning Director, presented the report from Planning Board and staff to the Council. The request was for rezoning. Mr. Gurley directed Council to the map of the property showing the exact location of the property. Mr. Gurley informed Council that the Lincoln Land Use Plan currently shows this property in the Office-Institutional planning area therefore if the property is rezoned it will not require an amendment of the Land Use Plan. Planning Board and staff recommendation is that the property be rezoned as requested by the applicant. Councilman Cloninger made the motion unanimously approved to open the public hearing. Mr. Paul Williams, representing Radiation Oncology Centers of the Carolinas spoke in favor of the request. Mr. Williams stated that they are looking forward to joining the medical community in Lincoln and are very appreciative of the assistance from Steve Gurley and Mark Carpenter. Mr. Williams offered to answer any questions Mayor and Council made have had. With there being no questions, Council Hovis made the motion unanimously approved to close the public hearing. Councilman Heavner made the motion unanimously approved to accept the application as presented.

REGULAR MEETING – June 4, 2009

**(ZMA-8-09) -APPLICATION FROM CAROLINAS HEALTH CARE SYSTEM REQUESTING THE REZONING OF 1.34 ACRES OF LAND FROM RESIDENTIAL-25 (R-25) TO OFFICE INSTITUTIONAL (O-I) DISTRICT. THE SUBJECT PROPERTY IS MADE UP OF TWO PARCELS OF LAND LOCATED ON THE NORTH SIDE OF EAST NC HIGHWAY 150 DIRECTLY ACROSS FROM THE INTERSECTION OF EAST NC HIGHWAY 150 AND MYRA LANE:**

Steve Gurley, Planning Director, represented the report from the Planning Board and staff. The location of the property was identified on the maps provided for Mayor and Council. The adjacent properties are a combination of residential and some institutional uses. Mr. Gurley stated that this property is not in the Office-Institutional (O-I) planning area therefore if the rezoning is considered and approved, the Lincolnnton Land Use Plan would also need to be amended. Planning Board and staff recommendation is that Council rezone the property as requested by the applicant and that the property be placed in the Office-Institutional (O-I) planning area as defined in the Land Use Plan. With no question from Council, Councilman Heavner made the motion unanimously approved to open the public hearing. Peggy Hay with Carolinas Medical Center spoke in favor of the request and offered to answer any question from Mayor and Council. Jonathan Savage spoke against the request stating that Council please consider these rezoning changes. Mr. Savage feels that these changes is going to effective this community in a negative way. With no further questions or discussion Councilman Heavner made the motion unanimously approved to close the public hearing. Councilman Hovis made the motion unanimously approved to accept the recommendation of staff and rezone the property as requested. Councilman Cloninger made the motion unanimously approved to amend the Lincolnnton Land Use Plan to show the property in the Office-Institutional (I-O) planning area.

## REGULAR MEETING - JUNE 4, 2009

### **(ZTA-3-09) - APPLICATION FROM LINCOLN COUNTY COALITION AGAINST CHILD ABUSE, INC. AND SHIRLEY SMITH REQUESTING THAT THE LINCOLNTON UNIFIED DEVELOPMENT ORDINANCE BE AMENDED TO ALLOW A CHILD ADVOCACY CENTER AS A CONDITIONAL USE IN THE RESIDENTIAL-8 (R-8) ZONING DISTRICT:**

Steve Gurley, Planning Director, presented report from Planning Board and staff. This is a request for a text amendment. After reading, verbatim, the application submitted by the Coalition, Mr. Gurley stated that gave examples of several conditional uses allowed in the Residential-8 (R-8) district. This use appears to be comparable to these other conditional uses. Staff has recommended to Planning Board that if this amendment is considered that it be considered in three (3) parts. First, that the term Child Advocacy Center be defined in the Unified Development Ordinance. Next, is to list this center as a conditional use in the Residential-8 (R-8) district. And finally, to amend the parking standards requiring that three point three (3.3) parking spaces per one thousand (1,000) square feet of floor area. Mr. Gurley concluded that the Planning Board recommendation on this request for text amendment be denial. Councilman Houser made the motion unanimously approved to open the Public Hearing. Mr. Mike Millholland, the applicant, spoke to the request. Mr. Millholland stated that this use is already allowed in the Residential-8 (R-8) district. Mr. Millholland asked that Council amend the text. Cathy Davis, Director for the Coalition Against Child Abuse, also spoke to this request stating that a packet of information was mailed to the Mayor and each of the Council Members. Ms. Davis commented on the fact that the curb appeal of this property and its pristine condition are a few of the reasons why the board decided to pursue this location. She also stated that the structure is well maintained and the size suits their needs. Few changes will be made which will allow for an easy transition back to a residential dwelling. In reference to the concerns of increased traffic, a maximum of 8 to 10 cars on any given day with the height of the traffic being in the late afternoon during counseling hours. The Coalition does propose that the entrance be from North Grove Street with the nature flow to the back and exit onto Bonview. Volunteers are already involved with clean-up efforts regarding the concern of increased litter and More than \$60,000.00 has been reserved to go toward the purchase and have engaged in conversations with financial institutions to make sure financing would be available. She also addressed other financial sources.

## REGULAR MEETING - JUNE 4, 2009

Ms. Davis shared pictures of two houses used in neighboring facilities operating in a home environment. she also commented on some of the other concerns that have been raised however she concluded by asking Council to consider granting the request.

Citizens were given two minutes to speak to Council regarding this request as follows:

In Favor  
Mike Millholland

In Opposition  
Ed Hatley  
Emily Robinson  
Jim Eurey  
DeAnna McGinnis  
Tina Rash

Councilman Heavner made the motion unanimously approved to close the public hearing.

After assuring those in attendance that the motion he was about to make in no way reflected how he personally feels about the importance and need for our community to have a viable organization such as the Coalition Against Child Abuse, Councilman Cloninger made the motion unanimously approved to deny the application requesting a Zoning Text Amendment. *Councilman Houser reiterated the concern of this being spot zoning.*

**(CUP-4-2009) - APPLICATION FROM LINCOLN COUNTY COALITION AGAINST CHILD ABUSE, INC. AND SHIRLEY SMITH REQUESTING A CONDITIONAL USE PERMIT TO OPERATE A CHILD ADVOCACY CENTER OFFICE IN THE RESIDENTIAL-8 (R-8) DISTRICT. THE SUBJECT PROPERTY IS LOCATED AT THE NORTHEAST CORNER OF NORTH GROVE STREET AND BONVIEW AVENUE. THE ADDRESS OF THE PROPERTY IS 502 NORTH GROVE STREET:**

*Mayor Black stated that with the Zoning Text Amendment being denied the application for the Conditional Use Permit is a moot point therefore this public hearing was not opened.*

**REGULAR MEETING - JUNE 4, 2009**

**(CU-ZMA-1-2009) - APPLICATION FROM CLIFF MARTIN REPRESENTING THE FLETCHER BRIGHT CO. REQUESTING THE REZONING OF APPROXIMATELY 24 ACRES OF LAND FROM RESIDENTIAL-8 (R-8), OFFICE INSTITUTIONAL (O-I), AND PLANNED BUSINESS (PB) TO CONDITIONAL-USE PLANNED BUSINESS (CU-PB) DISTRICT. A CONDITIONAL USE PERMIT IS BEING REQUESTED IN ORDER TO DEVELOP THE PROPERTY FOR A 182,000 SQUARE FOOT WAL-MART SUPERCENTER. THE SUBJECT PROPERTY IS LOCATED ON THE EAST SIDE OF NORTH GENERALS BLVD ACROSS FROM THE INTERSECTION NORTH GENERALS BLVD. AND TAIT MILL ROAD:**

Councilman Houser made a motion unanimously approved to open the public hearing.

Steve Gurley Planning Director reviewed the request stated the location and size of the property. The property is currently occupied by a vacant hotel and several single family dwellings. Applicant request for the rezoning is to construct a Walmart Shopping Center with two access points onto Generals Blvd subject to approval by NCDOT. Mayor and Council were directed to the maps and site plans included in their packets. Mr. Gurley answered questions from Council and Councilman Cloninger's inquiry about trees within the parking lot. Mr. Gurley continued with confirming that the 793 parking spaces shown on the site plan does meet ordinance requirements and also addressed some of the other requirements including a 100ft buffer adjacent to Walker Branch. Landscaping will also be required and a buffer on the south side of the property. Eleven parcels are being combined, nine of which are a part of a subdivision on Newbold Street. This request is a conditional use/rezoing which allows the City and the property owners to see how the property will be used. This application and site plan meet the requirements set forth in Section 13.3 of the Unified Development Ordinance. There are a few things that would need to be done before the permit is finalized. The recommendation is for the approval of this Conditional Use Permit however come back at a later date with a Text Amendment. In Planning Boards and staffs opinion, all four Findings of Fact have been met by the applicant. Staff Review Committee had several comments.

## REGULAR MEETING - JUNE 4, 2009

1. Once assembled, entire property needs to be considered for annexation.
2. All utilities must be coordinated with the City's utility supervisor
3. Grease trap compliance must be met prior to development with permit issued by the City sewer pre-treatment coordinator
4. The City's Fire Inspector must approve all plans for fire hydrant, sprinkler systems and fire equipment access prior to development
5. Detailed building plans must be submitted and approved by the Lincoln County Planning and Inspections Department
6. All storm water on the site must be diverted so as not to create a problem on adjacent properties. Detailed storm water must be submitted and approved prior to development
7. Driveway permits will be required by NCDOT.
8. City solid waste pickup will not be available to the site
9. Erosion control must be approved by the state.

In conclusion, the site plan meets all specifications of Section 13.3 of the Unified Development Ordinance. Two requirements in 5.31 must be met prior to development. All staff review committee comments must be met before development. Planning Boards and staff recommendation is that the property be rezoned, Conditional Use Permit be approved for this property and the Land Use Plan be amended showing the three acres on Newbold Street in the Planned Business planning area. Questions were generated regarding electric service provider. Mr. Steve Peeler felt that it may be customer choice.

Mr. Walter Fields spoke to the request. Mr. Fields informed Mayor Black and the Council that several speakers would be presenting information regarding this item. Amanda Stokes, Ashley Story, Cliff Martin, Walter Fields, Jonathan Gray Sunday Bougher and Marsha Jordon were all present to speak to this request. Ms. Stokes provided Mayor and Council with a handout from attorneys. Walter Fields, City Planner, reviewed binder (handout) and displayed drawings of sit designs planned. Jonathan Grey addressed the right turn lane that will be installed. Marsha was interview by Amanda Stokes regarding this item, providing information in reference to the property values and the impact of the other properties in that area. Mayor Black inquired about any efforts being made to the current store.

## REGULAR MEETING - JUNE 4, 2009

Sunday Bougher spoke to the design elements which includes bringing things down to a more pedestrian level. And also some of what would be included in this complex site. Ashley Story concluded this presentation by reviewing the compliance with the findings of fact and stating again that this use meets all requirement conditions and specifications. This are designed to direct people in the front which addresses one of the neighbors' concerns . In reference to the question about utility preferred provider request, Mr. Story did state that they did not have the authority to decide that. Councilman Cloninger commented on the professionalism of the presentation.

Councilman Houser made the motion unanimously approved to close the public hearing.

Councilman Houser made the motion unanimously approved to consider the rezoning of the property from Planned Business (PB), Residential-8 (R-8) and Office-Institutional (O-I) to the Conditional Use Planned Business District.

Councilman Heavner made the motion unanimously approved to consider the Application for the Conditional Use Permit

### Section 13.4.2 – Findings of Fact:

1. Councilman Heavner made the motion unanimously approved the use will not materially endanger the public health or safety if located where proposed and developed according the 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 that the use will 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 develop 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 Lincolnton Land Use Plan and other plans for the physical development of the City as officially adopted by the City Council.

## **REGULAR MEETING - JUNE 4, 2009**

Councilman Cloninger made the motion unanimously approved to approve the Conditional Use Permit

Councilman Houser made the motion unanimously approved to amend the Land Use Plan to show the three acres on Newbold Street in the Planned Business planning area.

Mayor Black recessed the meeting at 8:30 pm

### **PUBLIC HEARING FOR THE CITY TO CONSIDER ADOPTION OF PROPOSED AMENDMENTS TO THE LINCOLN COUNTY SOLID WASTE PLAN: (R-10-09)**

Councilman Houser made a motion unanimously approved to open the public hearing.

Steve Peeler, Director of PW& U along with Mr. Jason Wagner of the Centralina Council of Governments addressed Council regarding adoption of the amended Lincoln County Solid Waste Plan. Mr. Wagner gave a review of the proposed changes. Plans are required to be updated every three years. The County will be presented this on June 15<sup>th</sup>.

Councilman Houser made the motion to adopt the proposed Resolution.  
Second by Councilman Cloninger

### **PUBLIC HEARING TO RECEIVE PUBLIC COMMENT ON THE 2009-2010 PROPOSED FISCAL YEAR BUDGET: (O-07-09)**

*NOTE: Action on this item, after closing the Public Hearing, includes adopting the Budget Ordinance (O-07-09) and 2009-10 schedule of fees*

Jeff Emory, City Manager referred Mayor and Council to the copy of the revised proposed Budget. Packet also included the Budget Ordinance. Mr. Emory thanked staff for their cooperation. Mr. Emory stated that the proposed Budget is \$26, 487,637 which is a \$114,000 reduction from the proposed budget due to actions Council took on this item at the last meeting.

## REGULAR MEETING - JUNE 4, 2009

Mr. Emory pointed out that there is a schedule of fees also included in the packet. In conclusion, Mr. Emory stated that he feels it is a good budget and it takes into account good benefits for our employees. Councilman Hovis questioned sales tax revenue. Sales tax is our second major source of revenue in the General Fund. Mr. Emory stated that he feels comfortable with the amount that was budgeted.

Councilman Heavner made a motion unanimously approved to open the public hearing.

Councilman Heavner made a motion unanimously approved to close the public hearing.

In further discussion by Council. Councilman Houser said we should go slow on adoption – “don’t be in a rush to do it.” Legislature has said don’t breath easy regarding sales tax rate. Mr. Emory pointed out that anything in the budget, other than the tax rate, can be amended. Councilman Cloninger inquired as to whether Councilman Houser was please with the budget and if he had gone over the budget line item by line item. More discussion was generated. Mayor Black asked if another work session needed to be set.

Councilman Hovis made a motion to adopt the Budget as proposed

Councilman Houser made a substitute motioned, due to the economy and the recession, to have another work session before the end of June to adopt the budget.

Councilman Houser and Councilman Heavner voted for the substitute motion, Councilman Cloninger and Councilman Hovis voted against the substitute motion. Mayor Black broke the tie with a no vote.

Original motion unanimously to adopt the budget as proposed

## **REGULAR MEETING - JUNE 4, 2009**

### **PRESENTATION OF ECONOMIC DEVELOPMENT PLAN FROM ELECTRICITIES:**

Crystal Morphis, Sanford Holshouser provided a powerpoint presentation regarding an Economic Development Plan.

### **PRESENTATION TO LINCOLNTON CITY COUNCIL FROM THE DOWNTOWN DEVELOPMENT ASSOCIATION – DDA ADVOCACY AWARD:**

Brad Guth, Business and Community Development Director spoke to Council regarding the DDA Advocacy Award. This year the Mayor and City Council where chosen to be recognized with this award actively championing the cause of downtown development in Lincolnton. Brad Whitely presented this award.

### **CITY OF LINCOLNTON – 2009 – 2010 SALARY SCHEDULE / SCHEDULE OF BUDGETED POSITIONS:**

**(R-07-09)**

Jeff Emory, City Manager addressed the Council regarding the salary schedule/schedule of budgeted positions. Mr. Emory pointed out that there was no change in the salary schedule due to there being no cost of living increase. The only changes in the budgeted positions is a reclassification of a position in Business and Community Development and the bi-weekly hours for two position in the fire department. Mr. Emory recommend that the resolution be adopted

Councilman Cloninger made a motion unanimously approved to adopt the Resolution of Salary Schedule and Budgeted Positions.

**REGULAR MEETING - JUNE 4, 2009**

**CONSIDERATION OF ADOPTION OF ELECTRIC RATE RIDER – RENEWABLE ENERGY PORTFOLIO STANDARDS (REPS) CHARGE IN ACCORDANCE WITH SENATE BILL 3 REQUIREMENTS:**

Jeff Emory, City Manager reminded Council that this was discussed at a work session. These are standard that came into effect as a requirement of Senate Bill #3 - ratified in August 2007. The City is not passing on the increase for whole sale power to our customers. Mr. Emory does recommend that this rider be adopted in order to comply with Senate Bill #3.

Councilman Heavner made a motion unanimously approved to adopt Electric Rate Rider – Renewable Energy Portfolio Standards Change as presented

**REQUEST TO RETAIN THE UNEXPENDED FUNDS FROM 2008-2009 FISCAL YEAR BUDGET FOR REDEVELOPMENT VENTURE FUND:**

Brad Whitley, representing Downtown Development Association, addressed Council

Councilman Houser made a motion unanimously approved to approve that the

**ORDER OF COLLECTION FOR 2009-2010 TAXES:**

Jeff Emory, City Manager

Councilman Houser made a motion unanimously approved to adopt the Order of Collection for 2009-2010 taxes.

**UPDATE ON STATUS OF MARCIA H. CLONINGER RAIL/TRAIL EXPANSION:**

Steve Gurley, Planning Director

**RESOLUTION REQUESTING THE CLOSING OF A PORTION OF MCDANIEL SPRINGS ROAD (SR#1288) FROM THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION:**

**(R-08-09)**

Steve Peeler, Director of PW&U

**PROPOSED CONTRACT TO OBTAIN CLEAN WATER MANAGEMENT TRUST FUND GRANT MONIES IN THE AMOUNT OF \$ 50,000:**

**(C-09-09)**

Steve Peeler, Director of Public Works & Utilities

**STRATEGIES FOR SATELLITE ANNEXATIONS FOR HOSPITAL AREA:**

Jeff Emory, City Manager

**PUBLIC COMMENT:**

Mr. John McClain spoke to Council regarding the Fireman's Relief Fund. Mayor Black attempted to explain to Mr. McClain that City Council have not authority in this matter and that his request would have to be taken before the Fireman's Relief Fund Board. Councilman Hovis volunteered to contact the committee and speak on Mr. McClain's behalf.

Invitation was extended to attend the Anything Butt competition. This competition consisted of dessert and any kind of meat. Mayor Black commented that he would be a judge.

**NEWS MEDIA:**

**ADJOURNMENT:**

Being no further business, Councilman Cloninger made the motion unanimously approved to ADJOURN the meeting

---

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

---

**DAVID M. BLACK**  
**MAYOR**