

REGULAR MEETING – JUNE 5, 2008

The Mayor and City Council met in regular session on Thursday, June 5, 2008 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 and led in the Pledge of Allegiance. The following Council members were in attendance:

HOUSER HEAVNER HOVIS

Councilman Cloninger was absent as he was vacationing out of the country.

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 – May 1, 2008
- Approved the following Call to Public Hearing for the July 3rd regular meeting:
ZTA-1-08 - Application from Hesus House of Hope, Inc. requesting an amendment to Section 7.4.2 (conditional uses in the Residential-8 zoning District). The amendment if approved would add a new subsection 11 that would read: “11. Homeless Shelters”
- Approved (BA-04-08) Budget Amendment – 2007-2008 fiscal year end.
- Approved (R-03-08) Resolution in opposition of involuntary annexation moratorium – HB 2367:
- Approved (C-08-08) Contract Between The City And Mark Knuckles Associates, Inc. For Annual Compliance Watch Consultation Services

REGULAR AGENDA:

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APPLICATION FROM STIMMEL ASSOCIATES AND DEPAUL COMMUNITY FACILITIES REQUESTING THE REZONING OF APPROXIMATELY THREE (3) ACRES OF LAND FROM RESIDENTIAL-25 (R-25) AND RESIDENTIAL MULTI-FAMILY (RMF) TO CONDITIONAL USE RESIDENTIAL MULTI-FAMILY (CU-RMF). A CONDITIONAL USE PERMIT IS BEING REQUESTED TO EXPAND THE EXISTING NURSING CARE FACILITY (HEATH HOUSE) BY APPROXIMATELY 3,800 SQUARE FEET. THE PROPERTY IS LOCATED ON THE NORTH SIDE OF WILMA SIGMON ROAD APPROXIMATELY 100 FEET EAST OF THE INTERSECTION OF BAILEY SPRINGS DRIVE AND WILMA SIGMON ROAD:

CU-ZMA-2-2008

The City Clerk administered the oath to all those wishing to speak for or against the issue. Councilman Heavner made the motion unanimously approved to open the Public Hearing.

Planning Director Steve Gurley reviewed the request from Stimmel Associates and DePaul Community Facilities to rezone 3.01 acres of land, located on the north side of Wilma Sigmon road, from Residential-25 and Residential Multi-Family Districts to the Conditional Use Residential Multi Family District. Steve thoroughly reviewed the site and area descriptions. He reviewed the conditional use district rezoning process, the rationale for a conditional use rezoning, the applicant's compliance with LUDO Section 13.4.2, Water Supply Water Shed Standards, staff review committee comments, land use plan stipulations and the compliance with the land use plan for this particular application. He concluded saying that the Planning Board and staff felt that the development would have no harmful effect in the area. He said the project is an expansion to a use that has been on the property for several years. Staff has seen no harmful effects from that development.

Steve recommended on behalf of the Planning Board and staff that the property be rezoned from R-25 and RMF to CU-RMF, and that the conditional use permit for a 3,765 square foot expansion to the existing assisted living center/nursing care facility be approved, provided all staff review committee comments are met. *(The information provided in the Planning Departments report, including the staff review committee comments, is on file in the City Planning Department for reference)*

Mr. Petri, spoke in favor of the request on behalf of the applicant.

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

Councilman Heavner made the motion unanimously approved to consider the rezoning.

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

Section 13.4.2 – Findings of Fact:

- (1) Councilman Heavner made the motion unanimously approved that the use will not materially endanger the public health or safety.
- (2) Councilman Houser made the motion unanimously approved that the use meets all required conditions and specifications.
- (3) Councilman Hovis made the motion unanimously approved that the use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity.
- (4) Councilman Heavner made the motion unanimously approved that the location and character, 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 .

Councilman Houser made the motion unanimously approved to approve the rezoning and the conditional use permit as requested and recommended provided all staff review committee comments are met.

APPLICATION FROM DR. KEITH DEDMON REQUESTING A CONDITIONAL USE PERMIT TO CONSTRUCT A NEW MEDICAL OFFICE IN THE NEIGHBORHOOD BUSINESS (NB) DISTRICT. THE SUBJECT PROPERTY IS LOCATED ON NORTH ASPEN STREET APPROXIMATELY 175 FEET NORTHEAST OF THE INTERSECTION OF NORTH ASPEN STREET AND NORTH FLINT:

CUP-3-2008

Councilman Houser made the motion unanimously approved to open the Public Hearing. The City Clerk administered the oath to all those wishing to speak for or against the issue.

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Steve Gurley, Planning Director, reviewed the request from Dr. Dedmon for a conditional use permit to construct a new medical office in the Neighborhood Business District at the above stated location. Steve reviewed the background information, and noted that the applicant has met all requirements of the LUDO Section 13.3 with one exception; Utility Plans, (water, sewer, etc.) that are on site or proposed for the development.

He reviewed the staff reviewed committee comments as follows: (1) All construction plans must be submitted and approved by the Lincoln County Building and Land Development Department. (2) Driveway permits and storm water plans must be submitted and obtained from NCDOT. (3) All utility drawings must be reviewed and approved by Superintendent of Utilities prior to development. (4) City Fire Inspector must approve all plans for fire hydrants and fire safety. (5) Driveway cuts into existing sidewalks must be repoured with a minimum of six inches of concrete with a gravel base. All radiuses must meet NCDOT standards. Coordinate with City Director of PW&U prior to cutting existing sidewalks.

Steve concluded recommending that the conditional use permit be approved provided that the applicant addresses and corrects all missing and deficient information listed in this report and abides by all comments of the staff review committee.

Applicant Keith Dedmon and Mr. Jeff Elmore spoke in favor of the request. Mr. Elmore said he has received the driveway permits from NCDOT and Lincoln County Building and Land Development for this project.

Upon conclusion, Councilman Houser made the motion unanimously approved to close the Public Hearing.

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

Section 13.4.2 – Findings of Fact:

- (1) Councilman Hovis made the motion unanimously approved that the use will not materially endanger the public health or safety if

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- located where proposed and developed according to plan.
- (2) Councilman Houser made the motion unanimously approved that the use meets all required conditions and specifications.
 - (3) Councilman Heavner made the motion unanimously approved that the use will not substantially injure the value of the adjoining or abutting property unless the use is a public necessity.
 - (4) Councilman Hovis made the motion unanimously approved that the location and character , if developed and approved according to plan, will be in harmony with the area in which it is located and will be in general conformity with the Lincoln Land Use Plan and other plans for the physical development of the City.

Councilman Houser made the motion unanimously approved to approve the conditional use permit provided that all deficiencies noted are corrected.

PROPOSED AMENDMENT TO THE CITY OF LINCOLN
CODE OF ORDINANCES: CHAPTER 6 - FIRE PREVENTION
AND PROTECTION - ARTICLE II. FIRE PREVENTION CODE –
SECTION 6-20: (O-02-08)

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

City Manager Jeff Emory told Council that the proposed Fire Prevention Ordinance had several corrections from the one originally presented at Planning Retreat in March. One revision was to omit the diskette fee from the fee list included in the proposed ordinance. He said the City would not need to provide this service as the information would be available through the City website. Revisions were distributed to Council for placement in their booklet. Jeff said implementation of this amendment would now allow the City to levy fines for violators of the ordinance.

Harvey Gates, Fire Chief said he patterned the ordinance after Lincoln County, taking almost the exact wording, to make the City and County Fire Prevention Ordinances consistent. He noted that three types of permits will now be required by businesses with implementation of this ordinance; operational, construction and special use. He said if approved he would like to have the ordinance, and its fees, become effective January 1st, 2009, to provide time for the Fire Department to educate the public on upcoming changes. He provided Council with a

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draft brochure that will be mailed out to citizens and businesses to assist in educating them on the ordinance.

Chief Gates told Council that invoices for applicable fees would be generated and mailed by the Fire Department as necessary, and the Finance Department would directly collect monies when any payment is made.

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

Councilman Houser made the motion unanimously approved to adopt the proposed ordinance to become effective January 1, 2009.

2008 – 2009 PROPOSED BUDGET - TO RECEIVE PUBLIC COMMENT ON THE PROPOSED 2008-2009 FISCAL YEAR BUDGET:

(O-03-08)

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

Jeff Emory, City Manager reviewed the highlights of the fiscal year 2008-2009 budget. He said the 25.2 million dollar budget includes a \$.56 tax rate, a 4% increase for water and sewer fees, a 2.5 % proposed electric rate increase, as well as a 2.5 % cost of living increase for all employees. Other changes include a revised cemetery lot schedule to become effective upon adoption. There is also a list of fees associated with the amendment to the Fire Prevention Ordinance, and an increase in parking fines from \$ 5.00 to \$ 20.00 per ticket, that are included in the proposed budget. The budget ordinance this year includes a fee schedule addendum, summarizing all applicable City fees. *(A copy of the Budget Ordinance/ Fee Schedule will appear at the end of this document becoming a part of these official minutes.)*

He said he feels confident that the proposed budget will allow the City to continue to provide a high level of service to its citizens, and at the same time address some of the City's Capital needs.

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Jeff thanked City Council for their continued support and direction during the budget preparation process. He also thanked the City staff for their hard work in assisting him with preparing the budget.

Councilman Houser commented that the City has for the past ten years absorbed most of the electrical increases that have been passed onto the City by Electricities. He does not feel the 2.5 percent increase proposed for this year's budget is unreasonable in light of the percentage the City has absorbed over the last ten years. He also noted that after looking at the loss of revenues in sales taxes to the City and escalating gas prices, the City's tax rate must remain at fifty six cents to allow us to remain in a positive financial condition.

With no other questions, Councilman Houser made the motion unanimously approved to close the Public Hearing.

Councilman Houser made the motion unanimously approved to adopt the 2008-2009 fiscal year budget as presented by the City Manager.

CITY OF LINCOLNTON – 2008 – 2009 SALARY SCHEDULE / SCHEDULE OF BUDGETED POSITIONS:

(R-04-08)

Jeff Emory, City Manager said the proposed salary schedule and schedule of budgeted positions reflects no new positions to the City's workforce. He commended the City departments for doing more with the same number of people.

He recommended approval of a resolution by which adopts the proposed salary schedule as follows:

WHEREAS, the proposed 2008-2009 fiscal year budget has been prepared by the City Manager and presented to the Mayor and City Council; and

WHEREAS, the proposed 2008-2009 fiscal year budget included a recommended salary schedule and schedule of budgeted positions; and

NOW, THEREFORE, BE IT RESOLVED, that the City of Lincolnton adopts the "Salary Schedule", and "Schedule of Budgeted Positions", as attached to this resolution, for the fiscal year beginning July 1, 2008 and ending June 30, 2009.

Adopted this the 5th day of June 2008.

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Councilman Heavner made the motion unanimously approved to adopt the resolution as recommended.

REQUEST TO RETAIN THE UNEXPENDED FUNDS FROM 2007-2008 FISCAL YEAR BUDGET FOR REDEVELOPMENT VENTURE FUND:

Buddy Collins, Chair of DDA, told Council that the Redevelopment Venture Fund currently has a balance of \$ 56,121.40. He asked that Council consider allocating \$ 20,000, the remaining balance in the Business and Community Development Department's CBD Enhancements line item to the DDA, to continue to support its redevelopment Venture Fund.

City Manager Jeff Emory told Council that the City has honored this request the past several years. To date there have been no expenditures from this fund, as no grants have been awarded through B&CD for any of the potential three grant programs. He said last year the City provided \$ 15,000 rather than the entire \$ 20,000. He suggested that Council may consider a set amount such as this again this year.

Council questioned Mr. Collins about the status of Crowell Hospital Property. He told them it is secure and is being maintained by the DDA. Mowing grass and minor repairs completed by DDA are reimbursable through Preservation North Carolina. He also updated Council on the Pine Street Recreation property.

After some discussion, Councilman Heavner made the motion to approve \$ 20,000 to DDA to be placed in the Redevelopment Venture Fund. The vote passes two to one. Councilmen Houser and Heavner voted in favor and Councilman Hovis voted opposition of the request.

ORDER OF COLLECTION FOR 2008-2009 TAXES:

Jeff Emory, City Manager recommended approval of the order of collections for Lincoln County to once again collect the City's taxes. This is a standard procedure that is done each year, and the Lincoln County Tax Department requests that Council consider adoption or approval by their June meeting.

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Councilman Houser made the motion unanimously approved to adopt the Order of Collection for Lincoln County to collect the City's taxes for fiscal year 2008-2009.

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

Steve Gurley, Planning Director provided a brief update on the status of Phase III of the Rail Trail expansion.

EROSION/SEDIMENTATION ORDINANCE STATUS REPORT:

Steve Gurley, Planning Director told Council that he has been working with Lincoln County Soil and Water Conservation District personnel on the goal of implementing the Lincoln County Erosion/Sedimentation Ordinance inside Lincolnton and the ETJ.

He said in conversations with Rick McSwain, Lincoln County S&WCD Director, he indicated that the County is not in a position to take on any further workload but conditions could change in the next several months. He assured Steve he would continue to monitor the possibilities of the County assisting the City in this endeavor. Steve will report any further progress at the June 5th City Council meeting.

PUBLIC COMMENT: Mr. Roy Murray, of Hertford North Carolina, thanked City Council for their continued support of the "Hog Happenin" event, which was being held in downtown Lincolnton June 6 and 7, 2008. He said he has attended and participated the past several years, and appreciates being able to park his camper in the City parking lot on Pine Street. He encouraged continued improvements to this lot such as paving and installation of water and electric hook ups.

NEWS MEDIA: There were no questions from the News Media.

ADJOURNMENT: Councilman Houser made the motion unanimously approved to adjourn.

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

**DAVID M. BLACK
MAYOR**