

REGULAR MEETING - MARCH 4, 2010

The Mayor and City Council met in regular session on Thursday, March 4, 2010 at 7:00 p.m. in the Council Chambers of City Hall located at 114 West Sycamore Street, Lincolnton, NC.

Mayor Gilleland opened the meeting and thanked all those attending for their interest in City government. He led the Pledge of Allegiance.

Councilman Houser made the motion unanimously approved the *REGULAR AGENDA*.

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

- Approved minutes of the following meetings:
 - February 4, 2010 Regular Meeting
 - February 18, 2010 Special Meeting
- Approved advertisement to appear in the LTN on March 19th reporting delinquent taxes that are liens on real property within the corporate limits of Lincolnton as per NCGS.105.396(a)
- Approved revised contract (C-18-09) for Electric Service to Super Wal-Mart
- Approved (R-02-10) Resolution directing the City Clerk to investigate a petition received under NCGS 160A-31 to annex property.
- Approved the following Calls to Public Hearing for the April 1st City Council meeting:
 - ANX-1-10 - A petition for annexation from Wal-Mart Real Estate, for contiguous annexation of approximately 15.038 acres of land. The property is approximately 150 feet east of North Generals Blvd. near the intersection of North Generals Blvd. and Tait Mill Road.
 - CUP-2-2010 - Application from Bob Colvard requesting a conditional use permit to construct mini warehouse units in the NB District. The subject property is located at the northwest corner of West NC Highway 150 and Hilltop Road.

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REGULAR AGENDA:

PUBLIC HEARING

CUP-1-2010

APPLICATION FROM CAROLINE BROWN REQUESTING AN AMENDMENT TO A CONDITIONAL USE PERMIT THAT WOULD ALLOW FOR AN INTERNET SWEEPSTAKES USE WITHIN AN APPROVED BEACH BINGO FACILITY. THE BUSINESS WOULD BE LOCATED IN THE NORTHGATE SHOPPING CENTER AT THE NORTHEAST CORNER OF NORTH ASPEN STREET AND VANDIVER DRIVE. THE ADDRESS OF THE USE IS 151 VANDIVER DRIVE:

Mayor Gilleland opened the Public Hearing. The City Clerk administered the oath to those wishing to speak for or against the issue. Mark Carpenter, Interim Planning Director reviewed the request from Carolina Brown to amend a conditional use permit (CUP-1-2010) that would allow for an internet sweepstakes use to operate within an approved Beach Bingo business in the Planned Business District.

Mark said the applicant will occupy space in the Northgate Shopping Center, owned and operated by T&T Investments, for the beach bingo business/internet sweepstakes use. The shopping center is a Class C shopping center as defined in the zoning ordinance. These type uses are classified in the definition of arcade, amusement center, and game room.

According to Rich Ducker, Attorney for the School of Government, video poker machines were required to be removed from the state by July 1, 2007. A new method of operation to qualify games as a form of "sweepstakes" was introduced in order to avoid the law. The system would invite patrons to purchase prepaid internet access cards that also happen to allow them to use computer terminals with gaming software as an ancillary benefit.

Mark told Council that the City already has these type businesses operating in the Carolina Shopping Center near the intersection of Highway 150 east and Highway 27 east. It is a permitted use because it was in the General Business (GB) district and was located in a shopping center more than 50,000 square feet in size.

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He then reviewed the conditional use permit requirements, the additional requirements for arcades, amusement centers, or game rooms under section 13.4.2, as well as the staff review committee comments.

He concluded recommending on behalf of Planning Board and staff that the conditional use permit be approved as requested and submitted by the applicant.

Mrs. Carolina Brown was in attendance and offered to answer any questions that Council may have regarding the request. There were no questions from the Mayor and City Council.

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.

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 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 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, 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 Lincolnton Land Use Plan and other plans for the physical development of the City as officially adopted by the City Council.
5. Councilman Heavner made the motion unanimously approved that if such use is not located in a Class C Shopping Center, it

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will be located no closer than three hundred (300) feet from any Residential District.

6. Councilman Hovis made the motion unanimously approved that the use would be in general conformity with the Lincolnnton Land Use Plan and is in the Mixed Use/Residential Commercial Planning Area. The use should be in harmony with the area in which it is to be located.

Councilman Houser made the motion unanimously approved to approve the conditional use permit as recommended by the Planning Board and staff.

RESOLUTION HONORING THE LIFE AND MEMORY OF FORMER LINCOLNTON MAYOR BOBBY G. HUITT:

(R-03-10)

Mayor John Gilleland, Jr. read aloud and presented Mrs. Bobby Huitt and family the following resolution honoring the life and memory of former Lincolnnton Mayor Bobby Glenn Huitt:

WHEREAS, Bobby Glenn Huitt was appointed to serve on the Lincolnnton City Council in 1982 to represent Ward IV, upon the death of William Rankin. Then in 1983 he was elected and served through 1995 as a Councilman, during which he served as Mayor-Pro Tempore from 1987; and

WHEREAS, Bobby Glenn Huitt was elected as Mayor of the City of Lincolnnton, by and for the people in 1997, proudly representing government and the citizens of Lincolnnton through December of 2007; and

WHEREAS, Bobby Glenn Huitt was dedicated to spending his time, talent, and experience in carrying out the many responsibilities of the various elected offices and boards and or commissions to which he served for over twenty three years; and

WHEREAS, Bobby Glenn Huitt was an inspiring, caring, and lighthearted man who enjoyed people and living life to its fullest. He was a loving, devoted husband, father, grandfather and great-grandfather who cherished his family putting their needs and the needs of others before self. It is indeed true that he touched the lives of many and his memory will live on in our hearts forever;

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NOW THEREFORE BE IT RESOLVED by the Lincolnton City Council that;

1. The love and sympathy of the City of Lincolnton is hereby extended to Mrs. Jan Rudisill Huitt on the loss of her husband, to Durk Glenn Huitt, Babette Huitt Williamson, Kip Rudisill Huitt, Heather Huitt Lackey, and Hayley Huitt Modlin on the loss of their father, and to other family members on the loss of their loved one.
2. The City of Lincolnton does hereby express its eternal gratitude for the life of Bobby Glenn Huitt and for his service to the City and its citizens.
3. This Resolution be spread upon the minutes of this meeting as a permanent part of the records of the City of Lincolnton, and that a copy of this Resolution be presented to Mrs. Jan Rudisill Huitt with affection, and sincere condolences.

Done this the 4th day of March 2010.

PRESENTATION TO PUBLIC WORKS & UTILITIES DEPARTMENT STAFF - MAIN STREET CHAMPIONS AWARD:

Mayor John Gilleland, Jr. officially presented a plaque received from the North Carolina Main Street Center recognizing the City of Lincolnton's Public Works and Utilities Department Staff the "Main Street Champion" award for their dedicated support of the downtown revitalization efforts of the Downtown Development Association of Lincolnton.

Several employees from various Public Works departments were in attendance to receive this award. Mayor Gilleland publicly praised the employees for their unacknowledged daily and special efforts that make downtown Lincolnton such a great place to live, work, play and visit.

REQUEST FROM LINCOLNTON HIGH SCHOOL - PROCLAMATION RECOGNIZING "EARTH HOUR" IN LINCOLNTON ON MARCH 27, 2010 FROM 8:30 P.M TO 9:30 P.M.:

Adair Thompson, 2010 Class President Lincolnton High School requested that City Council consider adopting a proclamation observing "Earth Hour" on Saturday, March 27th from 8:30 p.m. to 9:30 p.m. She said adoption of this proclamation would allow Lincolnton to join in the global initiative to raise awareness regarding climate change and to reduce greenhouse gas emissions. Mayor Gilleland

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issued the proclamation as requested and presented a copy to Mrs. Thompson on behalf of the City.

AWARD THE BID FOR ELECTRIC LINE EXTENSION TO SERVE THE SUPER WAL-MART TO BE LOCATED OFF OF GENERALS BLVD.:

(C-07-10)

Steve Peeler, Director of PW&U recommended that Council award the apparent low bidder the contract to build the overhead electric line service to the new Wal-Mart and village, to be located off of Generals Blvd.

Five proposals and two no bids were received from contractors solicited for the overhead electric distribution line. Steve, in accordance with Southeastern Consulting Engineers, recommended that Williams Electric of Shelby, North Carolina be awarded the contract in the following amount:

Base Bid	\$ 135,365.36
Contingency for Remobilization	2,000.00
Change Order Fund	<u>10,000.00</u>
Total recommended award	\$ 147,365.36

Councilman Cloninger made the motion unanimously approved award the contract to Williams Electric of Shelby as recommended.

CONSIDERATION OF CONTRACT BETWEEN THE CITY AND DOWNTOWN DEVELOPMENT ASSOCIATION - 2010 "ALIVE AFTER FIVE":

(C-08-10)

Buddy Collins, of DDA, presented a proposed contract with an attached map depicting the proposed location for the beer wagon for the 2010 Alive After Five Concert series. This year's event dates would be May 27th, June 24th, July 29th, August 26th and September 30th.

The "beer wagon" if approved would be located on the southside of the 100 block of East Main Street between 5 pm and 9 pm the day of each event. Purchasing and consumption of beer would be restricted to that area between Academy Street and Court Square. DDA volunteers will supervise and monitor the area. Everyone purchasing beer will be required to be 21 and wearing a tyvex wristband. Drink sales will be limited. DDA will secure a; required permits and purchase alcohol liability insurance at a cost just over \$ 3,000 to

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cover itself and name the City as an additional insured. He concluded requesting that Council approve the contract as in prior years.

Councilman Cloninger questioned Mr. Collins as to whether there have been problems in prior events with the beer garden. Mr. Collins said there had not. He commended the Lincoln Police Department for their presence and enforcement at these events.

Councilman Heavner made the motion unanimously approved to enter into the contract for the 2010 Alive After Five Concert Series as requested.

CONSIDERATION OF CONTRACT BETWEEN THE CITY AND DOWNTOWN DEVELOPMENT ASSOCIATION - 2010 "HOG HAPPENIN":

(C-09-10)

Buddy Collins, of DDA, presented a proposed contract with an attached map displaying the area at which it is recommended that beer sales be permitted for the 2010 Hog Happenin. He said non-profit organizations are permitted by state law to obtain temporary permits to sell alcohol at events. Organizations selling beer at events is a common practice through the region primarily because beer sales are a major source of revenue for these events.

He said it is DDA's intent to serve beer from a beer wagon that would be positioned on the eastside of the 100 block of South Aspen Street between 5 p.m. and 10 p.m. on Friday, June 4th and 11 am to 7 p.m. Saturday, June 5th. Purchasing and consumption of beer would be restricted to the area between Court Square and Church Street, with DDA volunteers supervising and monitoring the area. DDA will secure all required permits and purchase alcohol liability insurance at a cost just over \$ 3,000 to cover itself and name the City as an additional insured.

Mayor Gilleland asked if Emmanuel Lutheran Church had been notified of the proposed date for this event to hopefully avoid any conflict of events being held at the church. Brad Guth, B&CD Director said they had not been contacted but that he would make contact with a church representative tomorrow if approved.

Councilman Cloninger made the motion unanimously approved to enter into the contract with DDA as requested and recommended.

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CONSIDERATION OF RENEWAL OF LEASE AGREEMENT FOR BUSINESS & COMMUNITY DEVELOPMENT OFFICE, 114 EAST MAIN STREET :

(C-10-10)

City Manager Jeff Emory recommended that Council consider approving a proposed lease agreement between the City and Charles and Jenny Rhyne for property located at 114 East Main Street. This lease would continue through January 31, 2012 and would provide space for the City's Business and Community Development Office.

The rent, including utilities, would be \$ 475.00 per month for an approximate 1000 square feet of office space.

Councilman Houser made the motion unanimously approved to enter into the lease as recommended by the City Manager.

STATUS REPORT ON RAIL/TRAIL EXPANSION:

Mark Carpenter, Interim Planning Director provided Council an update on the status of property acquisition along Phase III of the Marcia H. Cloninger Rail-Trail.

He said of the thirty-one properties, including NCDOT property purchased as part of Phase I and City property south of City Park, twenty-two have been secured. The City Attorney and his staff along with the Planning Department continue to work on securing deeds for easements for the remaining property owners.

NCDOT should be sending a fully executed copy of the CMAQ agreement for Phase III in the near future, as it was executed and returned from the City on February 10th.

PUBLIC COMMENT:

Mr. John McClain asked Council to consider establishing a retirement similar to that given to a Lincolnton fire fighter, \$ 75.00 per month, to retired fire fighters from the Firemen's relief Fund.

Mayor Gilleland said the City would look into this matter and put the options in writing to Mr. McClain.

Mr. Mark Lawing spoke to Council about a parking issue in front of his business on Government Street, between East Main and Water Street, beside the James W. Warren Citizens Center. He said there are 122 County

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employees housed at the Citizens Center and only 76 parking spaces are currently available by the County to park.

He asked that Council look into including 2 hour parking for this portion of the street. He said Lincoln County employees currently park in the seven spaces along the side of the Citizens Center on Government Street which limits the parking for his customers at Coldwell Banker.

Mr. Lawing also asked that the City consider making a handicap parking space on the courthouse.

The City Manager said he would have City staff to investigate this matter and report back to Council on any recommendations.

CLOSED SESSION:

Councilman Cloninger made the motion unanimously approved to enter into CLOSED SESSION to discuss personnel in accordance with NCGS 143318.11(a)(6).

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

NEWS MEDIA:

There were no questions from the News Media.

ADJOURNMENT:

Having no other business, Councilman Cloninger made the motion unanimously approved to adjourn.

DONNA C. FLOWERS, CMC
CITY CLERK

JOHN O. GILLELAND, JR.
MAYOR