

## REGULAR MEETING - MARCH 5, 2009

The Mayor and City Council met in regular session on Thursday, March 5, 2009 at 7:00 p.m. in the Council Chambers of City Hall, located at 114 West Sycamore Street, Lincolnnton.

Mayor Black called the meeting to order and led the Pledge of Allegiance. The following Council members were in attendance:

**HOUSER      CLONINGER      HEAVNER      HOVIS**

Councilman Cloninger made the motion unanimously approved the regular Agenda.

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

Approved (C-02-09) Service Agreement for fiscal year 2009-2010 between the City and Centralina for the Lake Norman RPO

Approved (C-03-09) Service Agreement with Centralina Council of Governments – Lincoln County 2009 Solid Waste Plan Update

Approved the following calls to Public Hearing for the April 2<sup>nd</sup> City Council Meeting:

- ZTA-1-2009- Application from Daystar Church of God requesting that Section 7.12.1 of the Unified Development Ordinance be amended to allow for “Churches” as a permitted use.
- ZMA-3-2009- Application from Bobby G. Humphrey, Jr. requesting the rezoning of approximately 0.55 acres land from Residential-15 (R-15) to Residential-8 (R-8). The subject property is located at the southwest corner of Country Club Road and Crossover Drive.
- ZMA-4-2009-Application from Daniel H. Jones requesting the rezoning of approximately 1.48 acres of land from Residential-25 (R-25) to Neighborhood Business (NB). The subject property is located on the south side of Arcadia Heights Road approximately 600et east of the intersection of East NC Highway 150 and Arcadia Heights Road.
- CUP-1-2009-Application from Victory Grove Tabernacle requesting a conditional use permit to construct a Family Life Center in the Residential-15 (R-15) District. The subject property is located at the

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northeast corner of Victory Grove Church Road and Jerry Crump Road. The street address is 457 Victory Grove Church Road.

- CUP-2-2009-Application from Tayco Realty, LLC requesting a conditional use permit to construct a shopping center with outparcels. The subject property is located on 17.73 acres of land located at the southwest corner of the East Main Street and Railroad Street. The address of the property is 2130 East Main Street (Belding Hausman, Inc.)
- ZTA-2-2009-Application from Walter Fields of Urban Resource Group requesting that Section 5.31 of the Unified Development Ordinance be amended. The proposed amendment would make changes to Development Standards for all Large Retail Establishments including parking, external appearances, building orientation, and vesting periods.
- ZMA-5-2009 – Application from Anna Lisa Johannessen and Coalition Against Child Abuse requesting the rezoning of approximately one (1) acre of land from Residential-8 (R-8) to Neighborhood Business (NB). The subject property is located on the east side of North Grove Street and is bordered by Linwood Drive to the North and Bonview Avenue to the South.

### **REGULAR AGENDA:**

### **ZMA-1-2009 – APPLICATION FROM ABERNATHY HOLDINGS, LLC REQUESTING THE REZONING OF APPROXIMATELY 7.13 ACRES FROM RESIDENTIAL-8 (R-8) TO GENERAL BUSINESS (GB). THE SUBJECT PROPERTY IS LOCATED AT THE SOUTHWEST CORNER OF SALEM CHURCH ROAD AND BOGGS STREET:**

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

Steve Gurley, Planning Director reviewed the request from Abernathy Holdings to rezone 7.13 acres of property from Residential-8 (R-8) to General Business (GB). Zoning surrounding the site is a mixture of R-8, GB and RMF Districts, primary uses are a combination of commercial, institutional, and residential uses. The site is bordered by single family housing to the north and east. RB Cronlands Hardware is located southeast of the site.

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Steve concluded recommending that the property be rezoned as requested by the applicant and that the Lincoln Land Use Plan show this area in the General Business Planning area.

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

Councilman Houser made the motion unanimously approved to rezone the property to General Business as requested and recommended. Councilman Heavner made the motion unanimously approved to amend the Land Use Plan Map to reflect said change.

**ZMA-2-2009 – APPLICATION FROM TIMBERLAKE NURSERY, INC. REQUESTING THE REZONING OF APPROXIMATELY 4.77 ACRES FROM RESIDENTIAL-25 (R-25) TO GENERAL BUSINESS (GB) DISTRICT. THE SUBJECT PROPERTY IS LOCATED ON THE EAST SIDE OF MAIDEN HIGHWAY (OLD US 321) APPROXIMATELY 1,600 FEET NORTH OF THE INTERSECTION OF MAIDEN HIGHWAY AND BETHEL CHURCH ROAD. IT IS BORDERED ON THE NORTH BY LUTHER SHRUM LANE:**

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

Steve Gurley, Planning Director reviewed the request from Timberlake Nursery for the above said rezoning. He noted that it was the opinion of staff that the land requested for rezoning is not in compliance with the land use plan. However, this area lies on a major thoroughfare (Maiden Highway) and has several pockets of business uses nearby. The area would be conducive to business development. He concluded recommending that the property be rezoned as requested by the applicant.

Councilman Cloninger made the motion unanimously approved to rezone the property to General Business as recommended. Councilman Hovis made the motion unanimously approved to amend the Land Use Plan to show this area in the General Business Planning Area.

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**RECOGNITION OF THE 2008-2009 LINCOLNTON STUDENT ADVISORY COUNCIL:**

Jill S. Eaddy, Advisor to the Student Advisory Council, introduced the 2008-2009 SAC members to City Council. Members present were presented a City lapel pin by Mayor Black and City Council members. SAC Chairperson Natalie Wiseman called on committee chairs to provide an update on their respective committee regarding their project. Allysa Duhon provided an update on the Councils work on various special projects of the SAC. Mandy Lail, SAC Secretary, provided information on the Student Memorial Project. Christian Guy – Smoking in Schools, Kurstin Murphy – Improvements to the Marcia H. Cloninger walking/biking trail, Ashton Ritter – Student ID Project, and Taylor Allison – Skate Park.

Mrs. Eaddy concluded thanking City Council and City staff for their continued support.

**RESOLUTION TO ESTABLISH AND OFFER HIGH EFFICIENCY HEAT PUMP REBATE PROGRAM:**

**(R-02-09)**

Steve Peeler, Director of PW&U recommended Council consider approving the following resolution to establish and offer high efficiency heat pump rebates:

**Whereas**, the N.C. Legislature established Session Law 2007-397 to, among other items, promote the development of renewable energy and energy efficiency in the state through implementation of a renewable energy and energy efficiency portfolio standard (REPS); and

**Whereas**, the City of Lincolnton is a Participant in North Carolina Municipal Power Agency 1 (NCMPA1); and

**Whereas**, the City of Lincolnton has entered into an agreement for NCMPA1 to develop and implement compliance plans to meet the requirements of REPS on behalf of its Participants; and

**Whereas**, energy efficiency programs are a part of NCMPA1's compliance plans for REPS; and

**Whereas**, the City of Lincolnton desires to promote energy efficiency measures to its retail customers; and

**Whereas**, NCMPA1 has approved the development and funding of incentives for certain voluntary energy efficiency programs for its Participants to offer their retail customers; and

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**Whereas**, NCMPA1 will fund the incentives as a credit on the Participants' monthly wholesale power billing statement;

**Now, therefore be it Resolved**, that the City of Lincolnton does hereby recognize the value of developing and promoting voluntary energy efficiency for its retail customers and does hereby establish a High Efficiency Heat Pump Rebate program in the amount of \$400 per eligible heat pump unit as per the program guidelines developed by NCMPA1.

Councilman Houser made the motion unanimously approved to adopt the resolution presented.

**RESOLUTION TO ESTABLISH AND OFFER COMMERCIAL AND INDUSTRIAL REQUEST FOR PROPOSAL FOR ENERGY EFFICIENCY PROJECTS:**

**(R-03-09)**

Steve Peeler, Director of PW&U requested Council adopt the following resolution to Establish and Offer Commercial and Industrial Request for Proposal for Energy Efficiency Projects:

**Whereas**, the N.C. Legislature established Session Law 2007-397 to, among other items, promote the development of renewable energy and energy efficiency in the state through implementation of a renewable energy and energy efficiency portfolio standard (REPS); and

**Whereas**, the City of Lincolnton is a Participant in North Carolina Municipal Power Agency 1 (NCMPA1); and

**Whereas**, the City of Lincolnton has entered into an agreement for NCMPA1 to develop and implement compliance plans to meet the requirements of REPS on behalf of its Participants; and

**Whereas**, energy efficiency programs are a part of NCMPA1's compliance plans for REPS; and

**Whereas**, the City of Lincolnton desires to promote energy efficiency measures to its retail customers; and

**Whereas**, NCMPA1 has approved the development and funding of incentives for certain voluntary energy efficiency programs for its Participants to offer their retail customers; and

**Whereas**, NCMPA1 will fund the incentives as a credit on the Participants' monthly wholesale power billing statement; and

**Now, therefore be it Resolved**, that the City of Lincolnton does hereby recognize the value of developing and promoting voluntary energy efficiency for its retail customers and does hereby establish a rebate incentive for the purpose of enabling its commercial and industrial customers to undertake

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energy efficiency projects through a Request for Proposal for Energy Efficiency Program as developed by NCMPA1.

Councilman Houser made the motion unanimously approved to adopt the resolution as recommended, with no cost being borne by the City.

### **RESOLUTION TO ESTABLISH AND PROMOTE ENERGY EFFICIENCY AT MUNICIPAL FACILITIES:**

**(R-04-09)**

Steve Peeler, Director of PW&U, recommended that Council consider adopting the following resolution to Establish and Promote Energy Efficiency at Municipal Facilities:

**Whereas**, the N.C. Legislature established Session Law 2007-397 to, among other items, promote the development of renewable energy and energy efficiency in the state through implementation of a renewable energy and energy efficiency portfolio standard (REPS); and

**Whereas**, the City of Lincolnton is a Participant in North Carolina Municipal Power Agency 1 (NCMPA1); and

**Whereas**, the City of Lincolnton has entered into an agreement for NCMPA1 to develop and implement compliance plans to meet the requirements of REPS on behalf of its Participants; and

**Whereas**, energy efficiency programs are a part of NCMPA1's compliance plans for REPS; and

**Whereas**, the City of Lincolnton desires to promote energy efficiency measures to both its retail customers and at its municipally-owned facilities; and

**Whereas**, NCMPA1 has approved the development and funding of incentives for certain voluntary energy efficiency programs for its Participants; and

**Whereas**, NCMPA1 has approved a program to provide a rebate incentive based on projected energy savings for energy efficiency projects undertaken by Participants at municipally-owned facilities; and

**Whereas**, NCMPA1 will fund the incentives as a credit on the Participants' monthly wholesale power billing statement; and

**Now, therefore be it Resolved**, that the City of Lincolnton does hereby recognize the value of developing and promoting voluntary energy efficiency and does hereby establish to participate in the undertaking of energy efficiency projects at its municipally-owned facilities through the incentive program as developed by NCMPA1.

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Councilman Houser made the motion unanimously approved to adopt the resolution as presented and recommended.

**RESOLUTION REGARDING ECONOMIC STIMULUS FUNDING:**  
**(R-05-09)**

Steve Peeler, Director of PW&U presented the following resolution to Council for their consideration;

**RESOLUTION BY GOVERNING BODY OF APPLICANT**

**WHEREAS**, the Federal Clean Water Act Amendments of 1987 and Safe Drinking Water Act Amendments of 1996 and the North Carolina Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater or drinking water system improvements, and

**WHEREAS**, The City of Lincolnton has need for and intends to construct several wastewater or drinking water system projects described as 1) Water Main Improvements, 2) Elevated Tank, 3) Backwash Lagoons, 4) DAF unit at WWTP, 5) Clarks Creek Sewer line replacement, 6) WTP liquid chlorination system, and

**WHEREAS**, The City of Lincolnton intends to request state grants and loans assistance for projects,

**NOW THEREFORE BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF LINCOLNTON:**

That City of Lincolnton, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State grant award.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the City of Lincolnton to make scheduled repayment of the loan, to withhold from the City of Lincolnton any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That Jeff Emory, City Manager, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the

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**Applicant** with the State of North Carolina for a loan or grant to aid in the construction of the project described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and Local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Councilman Cloninger made the motion to approve the resolution as presented. Councilman Houser seconded the motion, which was approved unanimously.

Mayor Black asked Mr. Peeler to provide a brief update on damages and or power outages due to the recent snow storm. Mayor Black commended Mr. Peeler and his employees for a great job on keeping the power outage to a minimal and for their efforts in street maintenance during this storm.

### **CONSIDERATION OF ACCEPTING FIRE APPARATUS FROM THE LINCOLNTON- LINCOLN COUNTY AIRPORT:**

Mike Lee, Fire Chief requested that Mayor and Council consider accepting a 1981 Dodge truck with a chemical suppression unit to the City's fleet of vehicles, to be housed at the Lincoln Fire Department. He said this apparatus is currently owned by Lincoln County and has been used by the Lincoln-Lincoln County Airport.

Chief Lee said this vehicle, when purchased, cost around \$ 44,000. He felt it would be beneficial for the LFD to have this piece of equipment. He felt the main purpose for the donation/transfer from the Authority was they simply did not have the personnel trained to operate the equipment at the airport, and it was their hopes that the City would be able to use the apparatus. He did note that if approved he may recommend the truck be replaced within the next couple of years.

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Councilman Houser made the motion unanimously approved that the City accept the truck and apparatus, and that the title be transferred accordingly.

**CONSIDERATION OF CONTRIBUTION REQUESTED BY LINCOLN COUNTY FOR THE CITY TO PROVIDE A PORTION OF MATCHING FUNDS FOR THE GREENWAY MASTER PLAN GRANT AWARDED TO LINCOLN COUNTY BY THE CAROLINA THREAD TRAIL ORGANIZATION:**

**(C-03-09)**

Steve Gurley, Planning Director requested that Council consider an expenditure of \$ 2,000 for matching funds toward preparation of a County Greenway Master Plan. He said the County has entered into a contract with Greenways incorporated to prepare the plan for \$ 65,500. The plan, once completed, will update and enhance the Lincolnton Greenway Master Plan prepared by Greenways Incorporated in 2002. If funded the City's portion would be expended as a portion of the Carolina Thread Trail Grant match.

**STATUS REPORT ON PHASE III OF RAIL TRAIL EXPANSION:**

Steve Gurley, Planning Director gave Council a brief update on the progress of Phase III of the Rail Trail. He said there are a total of 31 properties, including NCDOT property purchased as a part of Phase I and City property south of City Park. There are twenty separate property owners. Ten of the thirty-one properties have been secured and offers have been made on seven additional properties. The City Attorney and staff continue to work on deeds for easements for the remaining property owners along the corridor. Budgeted funds and or RTP funds will be used to pay for the properties as offers are accepted.

**RECOMMENDATION TO ADJUST THE CITY'S WATER & SEWER RATE SCHEDULE:**

Jeff Emory, City Manager told Council that due to a dramatic decrease in water and sewer sales, the City may need to consider a water and sewer rate adjustment of 24.5%. He said in the mid 1990's, the state required the City to expand the Water Treatment Plant due to the plant being at over 90% capacity during certain days of the month. In order to finance this and other needed water and sewer improvements, the City issued revenue bonds. In 2005 the

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bonds were re-financed, providing a more attractive interest rate. Jeff said while the City's water and sewer fund is in sound financial shape, a requirement of the bond covenant is that the City must take in a dollar of revenue for every dollar spent in operating expenses. During the current fiscal year, revenues fell well below this requirement. Jeff concluded saying the increase would allow the City to meet the various bond requirements, and continue operating our water and waste water systems in the healthy efficient manner they have traditionally been operated.

Councilman Heavner said, "I feel we have no choice, we have to meet the debt obligation." "If we get more water user in the future we could reduce the rate."

Councilman Houser was adamant that the public be informed why the City has had to raise rates, if approved. Council members all agreed that a news release be drafted and sent to the media along with utility customers, explaining our situation.

After some discussion, Councilman Houser made the motion unanimously approved to increase water and sewer rates by 24.5% effective beginning the April 1<sup>st</sup> 2009 billing cycle.

Councilman Cloninger made the motion unanimously approved that the rate increase not apply to larger industrial textile customers.

### **PUBLIC COMMENT:**

Mr. James Leatherman of 210 S. Academy Street asked Mayor and Council about potential plans for Corriher property located off of Water Street. He said his property adjoins that property and he had been told by someone surveying the property that the City had intentions of eminent domain in that area.

Mayor Black confirmed that the City is not aware of any plans to condemn the property. He told Mr. Leatherman if he was approached by anyone not stating their name or intentions to him, he would advise that he contact the Lincolnton Police. Mr. Leatherman thanked Council for their time.

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**NEWS MEDIA:**

There were no questions from the News Media.

**ADJOURNMENT:**

Councilman Cloninger made the motion unanimously approved to adjourn the meeting at 8:20 p.m.

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

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**DAVID M. BLACK  
MAYOR**