

REGULAR MEETING – NOVEMBER 5, 2009

The Mayor and City Council met in regular session on Thursday, November 5, 2009 at 7:00 p.m. in the Council Chambers of City Hall, located at 114 West Sycamore Street, Lincolnton. The following Council Members were in attendance:

HOUSER CLONINGER HEAVNER HOVIS

Mayor Black called the meeting to order. Councilman Cloninger called Seth Prather of Boy Scout Troop #50 forward to lead the Pledge of Allegiance. Seth attended the Council meeting as he is working towards his citizenship in the community merit badge.

Mayor Black suggested several changes to the regular agenda. Agenda item #10, a presentation to several Lincolnton and Boger City firefighters and emergency medical staff was moved to the first item after the Consent Agenda and the Closed Session was removed from the Agenda.

Councilman Heavner made the motion unanimously approved to adopt the Regular Agenda as amended.

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

- Approved Minutes for the Regular Meeting of October 1, 2009
- Approved the following Calls to Public Hearing for the December 3rd City Council Meeting:
ZMA-12-2009 – Application from Paul E. Duncan requesting the rezoning of two parcels of land approximately 3.1 acres in size from Residential-12 (R-25) to Office Institutional (O-I). The subject properties are located on the east side of Buffalo Shoals Road approximately 1000 feet north of the intersection of Highland Drive and Buffalo Shoals Road.
ZMA-13-2009 – Application from Joseph J. Cobb requesting the rezoning of approximately 0.36 acres from Residential-8 (R-8) to General Business (GB). The subject property is located on the west side of North Aspen Street approximately 150 feet north of the intersection of North Aspen Street and Bonview Avenue.
- Approved a Proclamation declaring November 2009 - Family Caregivers Month

REGULAR AGENDA:

RECOGNITION OF LINCOLNTON AND BOGER CITY FIREFIGHTERS FOR MEDICAL LIFE SAVING EFFORTS ON SEPTEMBER 15th:

Lincolnton Fire Chief Mike Lee told Council, “On September 1st at 1:31 p.m., the Lincolnton Fire Department was requested by Lincoln County Emergency Medical Services to assist with an unresponsive person at 96 Julia Drive. Due to possible seriousness of this call for assistance, Engine 1 responded from Station 1 to assist Engine 2, which was the first due apparatus responding from the Boger City Volunteer Fire Department.

REGULAR MEETING – NOVEMBER 5, 2009

Engine 2 arrived on scene within 4 minutes of the dispatch from Lincoln County Emergency Communications followed by Engine 1 and Boger City Volunteer Fire Department Truck 40. Fire personnel entered the residence at 96 Julia Drive to find a 68 year old male patient lying lifeless on his bed. After a quick patient survey, fire personnel determined that the patient was without a pulse and he was not breathing. Per medical protocols, fire personnel began cardio pulmonary resuscitation (CPR) while applying a semi-automatic defibrillator to the patient. The patient received two defibrillation attempts before Paramedics from Lincoln County EMS arrived on scene to take over patient care. The patient was later transported to Charlotte for further medical procedures. As of October 2, 2009, the patient is expected to recover from this life threatening episode.”

Chief Lee concluded that without quick and professional response of our personnel, there is little doubt that this victim and his family would not have the opportunity to spend quality time together.

He then called forward Mr. & Mrs. Lowman and Councilman Cloninger to assist in presenting each individual, both Lincolnton and Boger City firefighters, for their efforts on September 15th which resulted in the saving of the life of a Lincolnton citizen. Chief Lee thanked the Mayor and Council for their support, along with the staff of Emergency 911 Communications, and everyone involved.

ZMA-11-09 – APPLICATION FROM ROGER D. AND CANDACE HEAVNER, RICHARD L. GILES, DARE B. DELLINGER, GEORGE NORMAN ASHLEY III AND SHERRI TAYLOR ASHLEY REQUESTING THE REZONING OF 2.1 ACRES OF LAND FROM RESIDENTIAL-25 (R-25) DISTRICT TO OFFICE AND INSTITUTIONAL (OI) DISTRICT. THE PROPERTY IS MADE UP OF THREE INDIVIDUAL PARCELS. IT IS LOCATED ON THE NORTH SIDE OF EAST NC HIGHWAY 150 APPROXIMATELY 2,000 FEET EAST OF THE INTERSECTION OF EAST NC HIGHWAY 150 AND EAST NC HIGHWAY 27:

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

Planning Director Steve Gurley reviewed the application for a request to rezone 2.1 acres of land from R-25 to Office Institutional. He said the property is made up of three parcels and is located on the north side of east NC Highway 150. Mr. Gurley reminded Council that these three parcels were rezoned to the O-I district several months ago as a result of various circumstances the main one being the hospital being located to the northwest. Mr. Gurley welcomed any questions as to the location of the site. Because the property is not in the Institutional-Office planning area, if the property were to be rezoned it would require an amendment to the Land Use Plan. Staff and Planning Board feel that this property should be rezoned. The Planning Board and Staff recommendation is; One, that the three parcels be rezoned from R-25 to the O-I district, and two, that the Land Use Plan be amended changing the property from Rural Residential to the Institutional-Office area.

With no one present requesting to speak to this Public Hearing, Councilman Cloninger made the motion unanimously approved to close the Public Hearing.

REGULAR MEETING – NOVEMBER 5, 2009

Councilman Heavner made the motion unanimously approved to rezone the property as requested and recommended.

Councilman Houser made the motion unanimously approved to amend the Land Use Plan changing the property to the Institutional-Office Area.

CUP-5-2009 – APPLICATION FROM CAROLINE BROWN REQUESTING A CONDITIONAL USE PERMIT TO OPERATE A BEACH BINGO BUSINESS IN THE NORTHGATE SHOPPING CENTER AT 151 VANDIVER DRIVE. THE SITE IS LOCATED AT THE NORTHEAST CORNER OF VANDIVER DRIVE AND NORTH ASPEN STREET:

Planning Director Steve Gurley reviewed the request from Mrs. Brown for a conditional use permit to operate a beach bingo business in the Northgate Shopping Center. Conditional use request are quasi-judicial hearings, and therefore require sworn testimony. City Clerk Donna Flowers administered the oath to all those wishing to speak for or against the issue.

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

Mr. Gurley further reviewed the request noting the location of the proposed use would be in a class C shopping center and this type of use is a permissible use in this area. Beach Bingo is allowed under General Statute 14-309.14 which is a state regulation. He said 1,250 square feet of the facility would be used for the proposed beach bingo operation. The application does meet the requirement of the ordinance. Mr. Gurley reviewed the findings of fact that Council is required to make in considering the application. He said in addition to the traditional four findings of fact, there are two additional relating to beach bingo operations.

Mr. Gurley reported that the Planning Board and staff recommendation is that the Conditional Use Permit be approved. There were no questions regarding this item.

Councilman Cloninger 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 the use will not materially endanger the public health or safety if located where proposed and developed according to plan.
2. Councilman Heavner 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 Heavner 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 Lincolnton Land Use Plan and other plans for the physical development of the City as officially adopted by the City Council.

REGULAR MEETING – NOVEMBER 5, 2009

5. Councilman Hovis made the motion unanimously approved that the use is in a Class C Shopping Center.
6. Councilman Houser made the motion unanimously approved that the hours of operation for this use will be no earlier than 8:00 a.m and close no later than 12:00 midnight.

Councilman Cloninger made the motion unanimously approved the Conditional Use Permit as recommended.

ZTA-5-2009- APPLICATION FROM LINCOLN COUNTY COALITION AGAINST CHILD ABUSE, INC. REQUESTING THAT THE LINCOLNTON UNIFIED DEVELOPMENT ORDINANCE BE AMENDED TO ALLOW A CHILD ADVOCACY CENTER AS A CONDITIONAL USE IN THE RESIDENTIAL-OFFICE (R-O) ZONING DISTRICT:

Mr. Gurley explained this being a request for a zoning text amendment and not a rezoning. The text amendment would request that Section 7.6.2 be amended by adding a child advocacy center as a conditional use in that district. The applicant states that the Lincoln County Coalition Against Child Abuse would operate both program, prevention and intervention under one roof. Program would provide education information and outreach into the community in an effort to decrease abuse. The standard hours of operation would be from 8:00 a.m. to 9:00 p.m. This use, in both Planning Boards and staffs opinion, would be compatible with the Residential-Office District and therefore would be in compliance.

Planning Board and staff recommended three amendments to the ordinance. One, that Section 4.2, the definitions sections, be amended to add a definition titled Child Advocacy Center that would read a facility providing treatment and resources for child abuse victims and non-offended family members. Two, the amendment in section 7.6.2 be amended by adding a new subsection 24 which would read Child Advocacy Center. And three, an amendment to the parking standards in the ordinance which would read Child Advocacy Center, 3.3 spaces per 1000 square feet of floor area.

Planning Board and staff recommended that the use be approved contingent upon adding the above three amendments.

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

City Clerk Donna Flowers stated that no one had signed up to speak to this item, however, Mr. Tommy Carpenter was in the audience and offered to answer any questions from Council regarding this request.

Hearing no questions, Councilman Cloninger made the motion unanimously approved to close the Public Hearing.

Councilman Houser made a motion unanimously approved to amend the LUDO as recommended by the Planning Board and Staff.

REGULAR MEETING – NOVEMBER 5, 2009

“CAROLINA THREAD TRAIL MASTER PLAN FOR LINCOLN COUNTY COMMUNITIES” – A PLAN FOR THE LONG TERM COORDINATION OF GREENWAY AND TRAIL DEVELOPMENT WITHIN THE COMMUNITIES OF LINCOLN COUNTY TO HELP PROMOTE PRESERVATION AND IMPROVEMENT OF RESIDENTS’ QUALITY OF LIFE. UPON ADOPTION, THE PLAN WILL HELP GUIDE THE CITY OF LINCOLNTON THROUGH A PROCESS OF GREENWAY AND TRAIL DEVELOPMENT AS A PART OF REGION-WIDE CAROLINA THREAD TRAIL EFFORTS:

Mr. Steve Gurley directed Council to the final draft of the Master Plan Carolina Thread Trail for Lincoln County Communities in their packets. If approved the plan would improve and add to the Greenway Master Plan that Council approved in 2002. Two individuals were present to speak to the plan. Randy Gates from Carolina Thread Trail, and Chuck Flink with Greenways Inc. Before hearing from those to speak, Mayor Black called for a motion to open the Public Hearing

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

Ms. Randy Gates was the first to speak to this item. Ms. Gates discussed the plan on a regional perspective stating that the trail is a vision to connect fifteen (15) counties with greenways and trails, eleven (11) in North Carolina and four (4) counties in South Carolina. The idea of the thread is with the vision of connectivity, we can help fuel and accelerate local greenway efforts so that they grow together over time. The concept was presented in March 2008 to Council and a resolution of support was adopted by Council stating that the City of Lincolnton supported the Carolina Thread Trail in concept and was committed to working with neighboring communities, and with the Carolina Thread Trail to plan and implement plan design and construct trails. The Lincoln County Board of Commissions adopted the same resolution in April of 2008, then charged the Lincoln Natural Resources Committee to manage the planning process for the County. The Committee applied for a planning grant and was awarded \$60,000.00 to develop the Master Plan.

Ms. Gates referred to several counties which have already adopted their master plan. She spoke specifically about what the plan entails, and the proposed benefits to those involved.

Mr. Chuck Flink provided a power point presentation outlining the entire planning process, the public involvement and the highlights of the Thread Trail in Lincoln County. Mr. Flink reviewed a map depicting the trail and potential possibilities throughout our county.

Mrs. Sylvia Holmes, a Carolina Thread Trail member, also spoke in favor of this item. Mr. Craig Wyatt, of 1960 Chapman Wyatt Lane, Lincolnton spoke in favor of the trail. Chaffin Rhyne also spoke in favor of the trail in that having the trail could bring in jobs and that it would bring people to the downtown area. Mr. Ray Holmes, a Denver resident, spoke briefly commending the Mayor and City Council for having the first trail in Lincoln County. Ms. Wallace a Lincolnton resident also spoke in favor of the trail and is the chair on the Lincoln Nature Resources Committee.

With no one else signed to speak, Councilman Houser made the motion unanimously approved to close the Public Hearing.

REGULAR MEETING – NOVEMBER 5, 2009

Mr. Gurley recommended on behalf of Planning Board and staff that the plan be adopted.

Councilman Houser wanted Steve to clarify that no monetary commitment from the City is being made if the plan were to be adopted. Mr. Gurley confirmed that no financial commitment from the City would be required at this time, if the plan were approved.

Councilman Cloninger made the motion to accept the recommendation of Planning Board and staff to adopt the Carolina Thread Trail Master Plan as presented. *(A copy of the plan is on file in the Planning Department and available for inspection)*

CONSIDERATION OF AWARDING BIDS FOR BANKING SERVICES FOR THE CITY OF LINCOLNTON, EFFECTIVE JANUARY 2010:

(C-14-09)

Finance Director Georgetta Williams spoke to Council regarding the recommendation for the City's banking services. Mrs. Williams first commended First Citizens Bank, as they have been the successful financial institution for the past fifteen years for the City's banking services.

Mrs. Williams stated that every three years the Finance Department sends Request for Proposals (RFP's) to numerous qualified local financial institutions. The proposed bid process, which would secure a contract for a three year period, began around September 1st. Georgetta continued, reading a memo that she submitted to the City Manager, which listed the five (5) bids received for the City's banking services.

She said, "Each bid was analyzed and given fair consideration of the services that they could offer the City". Based upon her research, Mrs. Williams recommended that the City's banking services be awarded to Peoples Bank with BB&T as an alternate. Georgetta said if Peoples bank fails to meet all requirements stated in the contract, the City could accept BB&T's bid. She said in reviewing their financial strengths, both are rated four star, or excellent, institutions by Bauer Financial, which is a key factor in this economic environment.

Mayor Black had a concern regarding those wishing to cash a payroll check being charged a fee if they do not have an account at BB&T and suggested that if Peoples Bank could not meet all of the requirements, they revisit going to the alternate bank before awarding the contract.

City Manager Jeff Emory clarified that if no fee would be charged by the alternate bank, there would be no need to revisit the recommendation.

Councilman Houser made the motion unanimously approved to award the banking services to Peoples Bank for a three year period, January 2010 through January 2013.

The City Manager commended Georgetta Williams and the entire Finance Department for the good job they have done in researching the various banks.

REGULAR MEETING – NOVEMBER 5, 2009

**CONSIDERATION OF CONTRACT BETWEEN THE CITY AND NCDOT-
MUNICIPAL BRIDGE INSPECTION (2 YEAR CONTRACT)**

(C-15-09)

Mr. Steve Peeler told Council that this agreement is a standard one with NCDOT and is typically entered into every two years for the inspection of our municipal bridges. The City would piggyback NCDOT's inspection contract paying twenty (20%) percent of the cost of the inspection with NCDOT paying the remainder. He recommended that the agreement be approved with a motion and a second.

Councilman Houser motioned that the City enter into the agreement as recommended.

Councilman Cloninger seconded the motion, unanimously approved.

**CONSIDERATION OF REVISED CONTRACT WITH NCPA#1 FOR ELECTRIC
RATE RIDER #16 AND ELECTRIC RIDER #11**

(C-16-09)

Mr. Steve Peeler spoke to this item explaining that the purpose is for the City's rate, #16 and #17, that are with the Power Agency, being riders on both rates. This would establish a way for us to get credit for the avoided cost of non-renewable energy resources "Green Power". This is a revision to that rate that would allow the City to recuperate some savings and pass it on to our customers. Mr. Peeler requested approval of this revision.

Councilman Houser inquired as to what the rate increase would be with Mr. Peeler stated that he did not know at this time. Councilman Houser also questioned if approval was necessary at this meeting.

Councilman Heavner made the motion unanimously approved to approve the revised contract with the Power Agency.

**REQUEST TO SUBMIT APPLICATION TO THE NORTH CAROLINA MAIN
STREET ENERGY GRANT FUND:**

(C-17-09)

Brad Guth, Business and Community Development Director, told Council as part of the American Recovery and Reinvestment Act, the State Energy Office is requesting proposals for a grant program entitled NC Main Street Energy Grant Fund. He said grants are available up to \$ 250,000 with a dollar for dollar match required by the community. The only eligible communities are those designated as Main Street communities and have active Main Street programs. There are \$ 2.5 million in funds available. Fifty percent will be awarded in round one and fifty percent will be awarded in round two.

Before application can be made an energy audit must be completed, and we must create a strategic energy plan. Electricities or an energy auditor will conduct the energy audit, and Leigh Guth with the NC Cooperative Extension will help develop the energy plan as well as assist with the proposal.

REGULAR MEETING – NOVEMBER 5, 2009

This will also assist with the three proposed three dimensions for this project in that we will receive credit for partnership with the Cooperative Extension Agency. Brad briefly touched on the scope of the project and the three dimensions.

The first is converting the incandescent bulbs in 120 decorative street lamps in downtown to LED's (light-emitting diodes). LED's reduce lighting energy requirements by fifty percent or more. The second aspect would be adding solar generation to provide the energy for new LED's. By adding the solar component not only are we saving energy by reducing power consumption, but we are also generating energy from a renewable energy source to provide power to the lights. Brad said the third aspect is the educating the public about the specifics of this particular project and the importance of energy efficiency/conservation and renewable energy measures in general.

Brad concluded asking that Council consider approving submission of the application tonight and that Council determine, if their grant efforts are successful, if the City could commit to a \$ 125,000 required match.

The City Manager said he felt the system would be an energy saver in the long run reducing the City's energy costs in part. Mr. Peeler, Director of PW&U, said it would also show that the City was attempting to conform to legislation for energy conservation and would be a renewable energy source.

Some discussion was generated and Mr. Emory clarified that approving the request to submit an application for the grant would not be approving the funds for the match required at this time. Appropriating funds would have to be brought back to Council for official action.

Councilman Houser made the motion unanimously approved the request to submit an application for the grant.

REQUEST FROM NCDOT THAT THE CITY ADOPT A RESOLUTION – PETITION OF ABANDONMENT FOR A PORTION OF NEWBOLD STREET:

(R-14-09)

Mr. Steve Gurley, Planning Director, provided Council with a resolution prepared by NCDOT requesting the closing a portion, about 350 feet, of Newbold Street. Steve said this has been proposed and property owners have petitioned NCDOT to abandon a portion of Secondary Road # 1286, known locally as Newbold Street. Approval of this request from NCDOT assist their compliance with the new Wal-Mart construction.

Mr. Gurley referenced a mistake that was found in the resolution drafted by the Department of Transportation, stating an incorrect street name. Staff recommended adoption of the resolution, with the amendment of Newbold Street, (rather than McDaniel Springs Road) and that a copy of the resolution be forwarded to NCDOT upon execution.

Councilman Hovis made the motion, unanimously approved to accept staff recommendation and adopt the resolution for the abandonment of a portion of Newbold Street as recommended.

REGULAR MEETING – NOVEMBER 5, 2009

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

Mr. Steve Gurley, Planning Director, began by thanking Council for the action on the Master Plan stating that a lot of work has been put into the project. Mr. Gurley thanked Councilman Cloninger for the work he has put in to the plan.

Mr. Gurley continued stating that there was one development with the phase III section of the Marcia H. Cloninger Rail-Trail this week which involved property changing hands. The new property owner fully intends to make property available for the Phase III segment of the trail. Steve concluded by stating that the attorney and his staff are working hard on other properties and hope to acquire properties for the construction of the trail as soon as possible.

UPDATE ON THE ELECTRIC EXTENSION PROJECT:

City Manager, Jeff Emory, reminded Council of their decision to approve a proposal to provide electrical service to the new Super Wal-Mart which is one of the City's largest electric customers. Several things were necessary in order to extend an electric line, and to provide a generator to this property.

Mr. Emory said, "Since then we have additional information that makes us believe that it would probably be in the City's best interest to actually have a contract, which would come at a later date to provide, with Power Secure to provide that generator." Power Secure is a preferred provider with Wal-Mart in various other parts of the state. Going this route, the City would not have the upfront cost of purchasing this generator, nor the constant maintenance and operation cost. With Council's direction, Mr. Emory stated that he would like to begin work on an agreement with Power Secure to locate the generator and the second, an agreement with Wal-Mart outlining the conditions of the entire project.

Jeff was hopeful that we would have a proposed contract as early as the December meeting but no later than January. He referenced a letter from Electricities who has assisted with this project, also recommending that the City use the third party for the generator.

Councilman Houser made the motion unanimously approved directing the City Manager Jeff Emory to draft both agreements, one with Wal-Mart for electrical service, and the second with Power Secure to provide the generator.

PUBLIC COMMENT:

Councilman Cloninger apologized for not recognizing the Girl Scout, the sister of the Boy Scout who led the Pledge at the beginning of tonight's meeting. The Prather family thanked City Council and Councilman Cloninger for allowing their son to lead the Pledge.

REGULAR MEETING – NOVEMBER 5, 2009

Having no one signed to speak, Mayor Black took the opportunity to express how much he has enjoyed serving as Mayor for the City of Lincoln for the past two (2) years.

Mayor Black said, “I thought it may be longer but that’s the way things go in politics. I would like to congratulate Mr. Tim Shain and Mr. Carroll Heavner on their recent victories in the municipal election, it was a hard fought race. I enjoyed working with each and every one of you, the staff, the attorney and especially Donna.”

Mr. Fred Houser said, “It’s been my pleasure to work with everyone on the Council over the past twelve years. I hope you will continue to work together. I talked with Mr. Shain while working at the library the day of the election, and I think he will get along with everyone.”

Mayor Black asked Mr. Shain if he would like to make any comments. Mr. Shain said, “I appreciate very much the opportunity. I heard from everyone, “Why are you getting into politics? Politics gets very dirty. There was nothing negative said to me or about me during this campaign and I really appreciate the level that we both, and everybody, kept the race.”

Mayor Black told Council at the request of Councilman Houser he would like to have add the closed session back to the agenda, and called for a motion to enter into closed session to discuss property acquisition.

In accordance with NCGS 143.318.11(a)(5) Councilman Cloninger made the motion unanimously approved to enter into CLOSED SESSION to discuss property acquisition.

Councilman Cloninger made the motion unanimously approved to return to REGULAR SESSION. Mayor Black reported that no action was taken during the closed session portion of the meeting.

NEWS MEDIA:

There were no questions from the News Media.

ADJOURNMENT:

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

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

**DAVID M. BLACK
MAYOR**