

## REGULAR MEETING - OCTOBER 4, 2007

The Mayor and City Council met in regular session on Thursday, October 4, 2007 at 7:00 p.m. in the Council Chambers of City Hall, 114 West Sycamore Street.

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

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

- Approved of MINUTES of the September 13<sup>th</sup> regular meeting.
- RESOLUTIONS:
  - (R-11-07) Declaring Public Power Week – October 7 – 13, 2007
  - (R-12-07) Declaring two (2) service weapons and two (2) badges surplus for the retirement of Captain Danny Hallman and Officer Bobby Poteat
- BUDGET AMENDMENT (BA-02-07) – Funds appropriated by City Council from the General Expense for the Farmer’s Market
- Calls to Public Hearing for the November 1<sup>st</sup> meeting:
  - CUP-3-2007- Application from Piedmont Companies requesting the issuance of a conditional use permit to construct a Walgreen’s Drug Store in the General Business (GB) District. The subject property is located at the southwest corner of the intersection of East Main Street and South Generals Boulevard.
  - CUP-4-2007-Application from William and Lori Ferrell requesting the issuance of a conditional use permit to operate an indoor shooting range in the Planned Business (PB) District. The subject property is located on the west side of Center Drive approximately 100 feet south of the intersection of Center Drive and East Gaston Street. The address of the property is 606 Center Drive.
  - ZTA-4-2007-Application from Carolinas HealthCare System requesting text amendments to the Lincolnton Unified Development Ordinance. The proposed amendments would add the following definitions to Section 4.2: Outpatient Wellness Center, Personal Health Clinic, Medical Education Center, Health Center, Helistop, and Hospital. Amendments are also proposed for Section 5.10- Height Calculations and Exceptions, Section 5.13- Accessory Structures, and Section 7.7.1 permitted uses in the Office-Institutional (O-I) District.

Deleted: ¶

REGULAR MEETING – OCTOBER 4, 2007

**APPLICATION FROM PIEDMONT COMPANIES, INC. REQUESTING THE REZONING OF APPROXIMATELY .03 ACRES FROM RESIDENTIAL-8 (R-8) TO GENERAL MANUFACTURING AND COMMERCIAL (GMC) DISTRICT. THE SUBJECT PROPERTY IS LOCATED ON THE WEST SIDE OF SOUTH GROVE STREET EXTENSION APPROXIMATELY 150 FEET NORTH OF THE INTERSECTION OF SOUTH GROVE STREET EXTENSION AND THE WEST NC HIGHWAY 150 BYPASS:**

**(ZMA-1-07)**

Councilman Cloninger made the motion unanimously approved to open the Public Hearing. Mark Carpenter, Zoning Administrator told Council that the applicant withdrew the application for the above stated request. With no action necessary for this request, Councilman Houser made the motion unanimously approved to close the Public Hearing.

**APPLICATION FROM GENE POINSETTE REQUESTING A CONDITIONAL USE PERMIT TO START A INDOOR/OUTDOOR FLEA MARKET IN THE GENERAL MANUFACTURING AND COMMERCIAL (GMC) DISTRICT. THE SUBJECT PROPERTY IS LOCATED AT THE SOUTHEAST CORNER OF WILMA SIGMON ROAD AND JOHN HOWELL MEMORIAL DRIVE. THE ADDRESS OF THE PROPERTY IS 610 WILMA SIGMON ROAD:**

**(CUP-2-07)**

Mayor Huitt opened the Public Hearing. City Attorney T.J. Wilson, Jr. administered the oath to all those wishing to speak for or against the issue. Zoning Administrator Mark Carpenter, thoroughly reviewed the request for a conditional use permit to start a indoor/outdoor flea market at the above stated location.

Mark said the application is in compliance with water supply watershed standards and section 13.3 of the zoning ordinance with the following exceptions; (1) parking lot landscaping will be required around the parking lot, (2) sign information must be shown on site plan. He noted eight staff review committee comments that were outlined in the Planning Departments report.

In conclusion of the review, on behalf of the Planning Board and staff, Mark recommended that the conditional use permit be approved provided that all requirements of Section 13.3, and staff review committee concerns are

Deleted: ¶

## REGULAR MEETING – OCTOBER 4, 2007

addressed before the issuance of the zoning certificate of compliance for the project.

Mr. Gene Poinsette spoke in favor of the request. He told Council he intends in every way to comply with the concerns and necessities to upgrade the property to obtain the application. He addressed the hours of operation, noting that Friday and Saturday from 7 am until 7 pm, and on Sunday from 10 am until 7 p.m. he plans to have the flea market open to the public. He said it would be an upscale flea market, such as Metrolina in Charlotte.

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 (CUP-2-07).

### 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 Cloninger 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 or the use is a public necessity.
- (4) Councilman Houser made the motion unanimously approved that the location and character of the use, 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.

Councilman Houser made the motion unanimously approved to approve the conditional use permit provided all recommended requirements are met.

Deleted: ¶

REGULAR MEETING – OCTOBER 4, 2007

**SECOND READING: PROPOSED AMENDMENT TO THE CITY CODE OF ORDINANCES – CHAPTER 8 – MUNICIPAL UTILITIES AND SERVICES; ARTICLE III. SEWERS – SECTION 8-50 THROUGH 8-293, REVISIONS TO THE SEWER USE ORDINANCE IN ACCORDANCE WITH NORTH CAROLINA DEPARTMENT OF ENVIRONMENT HEALTH AND NATURAL RESOURCES:**

**(O-02-07)**

Mayor Huitt opened the Public Hearing. Steve Peeler, Director of Public Works & Utilities, reviewed the summary of changes to the City's Sewer Use Ordinance as required by North Carolina Department of Environment Health and Natural Resources. He noted that upon conclusion of the second reading of the document as required by NCDEHNR, and upon action by Council the document would be submitted back to the state for their approval. With no one speaking against the issue, Councilman Houser made the motion unanimously approved to close the Public Hearing.

Councilman Hovis made the motion to adopt the ordinance revisions as presented. Councilman Houser seconded the motion unanimously approved.

**FORMAL REQUEST TO APPROVE THAT A HIGH VOLTAGE ELECTRIC LINE LOCATED OFF CHURCH STREET BE RE-ROUTED:**

Gary Dittman, Pastor of Emmanuel Lutheran Church, appeared on behalf of Emmanuel congregation to request that Council consider re-locating high voltage power lines, currently over the church playground area. He said the church is in the process of renovating and upgrading their playground in memory of Patricia Rhyne, a former local teacher and member of Emmanuel Lutheran Church. He said he and the congregation feel the current location of the line is a liability. He said playground equipment was not placed on that portion of the property until 1990. He noted that a playground enhancement was completed in 1995 in memory of Ched Beam. The current enhancement will be broader than playground equipment and will also be a facility that will be used by the community.

Deleted: ¶

## REGULAR MEETING – OCTOBER 4, 2007

Councilman Heavner ask for comments from the City Manager. Jeff told Council that there is no official policy. He said in the past property owners have shared the expense of relocation of a line when they have requested that the line be relocated and some have probably been relocated with the City absorbing the cost. He said regardless of what is done in this instance the City may need to adopt a policy regarding relocation of electrical lines.

Councilman Cloninger reminded Council that when Highland Drive Park was completed the City did not want to have high voltage lines over the park area and in turn asked Rutherford Electric Membership Corporation to relocate a line, which they did. He said he feels the City needs to help take the high voltage line off the area at Emmanuel Lutheran Church as requested.

Councilman Heavner questioned if Councilman Cloninger could vote on this issue as he is a member of Emmanuel Lutheran Church. The City Attorney felt as long as it was duly noted and with no objections from City Council, Councilman Cloninger could vote on the issue.

Emily Robinson also representing Emmanuel Lutheran Church told Council she had spoke to Mr. Peeler on September 27<sup>th</sup> and he told her that a power pole had been moved for Johnny Lineberger, but he could not provide a cost.

Councilman Houser expressed concerns about the City paying for the entire relocation of the line. He suggested the church pay twenty-five percent of the cost to relocate the line. Currently the City has one quote from Williams Electric of relocation for \$ 7435.00. The City is awaiting a quote from Lee Electric. Pastor Dittman said he would confer with the church's governing board for their approval of twenty-five percent of the total cost to the City, based on the cost not exceeding \$ 7500.00.

Councilman Heavner made the motion unanimously approved that the City pay seventy-five percent of the cost to relocate the line.

Deleted: ¶

**REGULAR MEETING – OCTOBER 4, 2007**

**RESOLUTION AND MUNICIPAL AGREEMENT BETWEEN THE CITY AND NC DEPARTMENT OF TRANSPORTATION FOR MUNICIPAL BRIDGE INSPECTIONS:**

**(R-13-07) (C-14-07)**

Steve Peeler, Director of PW&U, reviewed the two-year agreement between the City and NCDOT for inspection of bridges inside the city limits. He noted that this agreement states the City pays twenty percent and NCDOT pays eighty percent of the inspection cost for municipal bridge inspection. Steve said this City has approved this contract every two years for a number of years.

Councilman Cloninger made the motion to enter into the agreement as recommended. Councilman Houser seconded the motion, unanimously approved.

**REQUEST FROM NCDOT FOR ADOPTION OF AMENDMENT TO THE CITY CODE OF ORDINANCES FOR SPEED LIMIT REVISION ON SR 1434 INSIDE THE CORPORATE LIMITS OF LINCOLNTON :**

**(O-5-07)**

Jeff Emory, City Manager told Council of a request from NCDOT that the City amend the its Code of Ordinances allowing the speed limit to be reduced to twenty-five miles per hour on a portion of Story Street located inside the City limits.

Councilman Houser made the motion to approve the request as presented amending the City's Code of Ordinances. Councilman Heavner seconded the motion, unanimously approved.

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

Mark Carpenter gave a brief report to Council on the progress of Phase Three Rail-Trail Expansion. Mark said once deed information and property descriptions for this area is complete the City will proceed with their offer to Norfolk Southern Railroad. He said once this information is received staff's intentions are to offer property owners the appraised costs for right-of-way across their property based on values established in property appraisal prepared by Austin Smith and Associates in May 2006.

Deleted: ¶

**REGULAR MEETING – OCTOBER 4, 2007**

**UPDATE ON THE LINCOLNTON RECREATION DEPARTMENT:**

Jeff Emory, City Manager gave Council a brief update on the Recreation Department. He said we have received all funds that were transferred from the Recreation Commission account to the City, which totaled \$ 680,439.00. He shared other expenses for the recreation department thus far which totaled \$ 47,252.00. He said there are other items that need to be addressed such as the air conditioning unit for Lentz gym, and the construction of restrooms at Betty Ross Park. He felt replacement of restrooms would be in the range of \$ 100,000, and the air conditioning unit replacement could be slightly over \$ 90,000. He said while the City does not have an estimate to complete the two baseball fields at Highland Drive, he feels it could easily be in excess of \$ 100,000. He gave this update to Council to make them aware of some of the projects that are going on at the park. He said it will be necessary to adopt a budget amendment to cover the cost of the expenses we have already incurred.

**PUBLIC COMMENT:**

No one spoke during the Public Comment portion of the agenda.

**CLOSED SESSION:**

Councilman Houser made the motion unanimously approved to enter into CLOSED SESSION in accordance with NCGS 143-318.11(5) to discuss real property.

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

**NEWS MEDIA:**

There were no questions from the News Media.

Deleted: ¶

**REGULAR MEETING – OCTOBER 4, 2007**

**ADJOURNMENT:**

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

---

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

---

**BOBBY G. HUITT  
MAYOR**