

REGULAR MEETING - SEPTEMBER 11, 2008

The Mayor and City Council met in regular session on Thursday, September 11, 2008 at 7:00 p.m. in the Council Chambers of City Hall located at 114 West Sycamore Street, Lincolnnton.

Boy Scout Troop 71 of Lincolnnton led the Pledge of Allegiance. The following Council members were in attendance:

HOUSER CLONINGER HEAVNER HOVIS

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 – August 5, 2008
- Approved the following PROCLAMATIONS:
 - Constitution Week – September 17 – 23, 2008
 - Litter Sweep – September 20 – October 4, 2008
 - Proclaiming October Industry Appreciation Month
- Approved Budget Amendment (BA-06-08) – Transfer \$ 31,500 from Miscellaneous Revenue to Waste Water Treatment Plant – Capital Expense
- Approved a call to Public Hearing for the October 2nd regular meeting: ZMA-5-2008- Application from Rex and Tracey Haynes, Gail McDonald, and Javier Brito requesting the rezoning of approximately 1.46 acres (3 lots) from Residential-8 (R-8) to Neighborhood Business (NB). The subject property is located on the west side of North Aspen Street approximately 200 feet northwest of the intersection North Aspen Street and Colonial Village Drive.

REGULAR AGENDA

LUPA-1-2008- REQUEST FROM THE CITY OF LINCOLNTON PLANNING DEPARTMENT TO AMEND THE LINCOLNTON LAND USE PLAN. THE AREA REQUESTED IN THE AMENDMENT IS LOCATED ALONG MCALISTER ROAD AND BUFFALO SHOALS ROAD AND CONTAINS PROPERTY THAT IS WITHIN AND ADJACENT TO THE SITE OF THE PROPOSED NEW MEDICAL CENTER. THE PROPOSED AMENDMENT

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WOULD CHANGE THE FUTURE LAND USE CLASSIFICATION FROM RESIDENTIAL SUBURBAN AND TRADITIONAL SINGLE FAMILY TO INSTITUTIONAL OFFICE:

Steve Gurley, Planning Director, reviewed the above stated request. He said the request derived from several realtors and or other interested parties asking the Planning Department about the potential for rezoning on sites adjacent to the hospital site. Steve said based on these inquiries and our anticipations, we feel that a limited area adjacent to the hospital should be placed in the Institutional/Office Planning Area to accommodate future development. He said almost all the adjacent area is developed in single-family homes, but felt in the future we would see a gradual transition to less residential uses and more office and commercial uses.

Steve concluded saying that if the proposed amendment is approved there would be no impact on existing development in the area. There would be no change in zoning with the plan amendment as proposed. Planning Board and Staff recommended that the Lincoln Land Use Plan be amended as follows: Place fifty-five (55) parcels of 39 acres as described above and shown on the attached map in the "Institutional/Office" Future Land Use Classification as described on the Future Land Use Plan Map as duly adopted in the LLUP. The existing future land use classifications are a combination of "Traditional Single Family and Residential Suburban.

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

Councilman Cloninger made the motion unanimously approved to amend the Lincoln Land Use Plan as recommended by the Planning Board and Staff.

APPLICATION FROM HESED HOUSE OF HOPE, INC. REQUESTING A CONDITIONAL USE PERMIT TO CONSTRUCT A HOMELESS SHELTER IN THE RESIDENTIAL-8 (R-8) DISTRICT. THE SUBJECT PROPERTY IS LOCATED THE NORTH SIDE OF EAST LINCOLN STREET APPROXIMATELY 300 FEET WEST OF THE INTERSECTION OF EAST LINCOLN STREET AND LINDEN STREET:

CUP-4-2008

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Mayor Black told Council, “This item could be tabled and recessed to our October 2nd meeting, or the Public Hearing could be opened and discussions take place tonight.”

Councilman Cloninger made the motion unanimously approved to open the Public Hearing. Councilman Cloninger hoped to hear facts of this case tonight in order to assist with a shelter being in place, if approved, before the winter.

Planning Director Steve Gurley was asked to review the request from Hessed House of Hope for a conditional use permit to develop property with a homeless shelter. Steve noted that the Planning Board tabled action on this item at their August 19th meeting, and therefore he did not have a recommendation for City Council from them for this meeting.

Steve reviewed the request thoroughly and displayed several maps regarding the location and size of the proposed facility. He reviewed the findings of fact, noted the staff review committee comments. Several Council members expressed concerns about the road access to the facility, questioning if fire apparatus or EMS vehicles, and garbage trucks would be able to get to the building. After much discussion Mayor Black suggested that the applicant address the ingress, egress concerns and include those findings in their report to be heard at the October 2nd City Council meeting.

Councilman Cloninger made the motion unanimously approved to recess the Public Hearing and to reconvene at the October 2nd City Council meeting beginning at 7:00 p.m.

**PROPOSED AMENDMENT TO THE CITY OF LINCOLNTON
CODE OF ORDINANCES CHAPTER 10 – OFFENSES AND
MISCELLANEOUS PROVISIONS – SECTION 10-3. INDIRECT
SOLICITATION OF ALMS IN PUBLIC PLACES.**

(O-04-05)

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

Jeff Emory, City Manager told Council that the Chief of Police had requested a proposed amendment to the City’s Code of Ordinances to the above said section, regarding solicitation. The current ordinance states that the Finance

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Director will issue a permit for solicitations. He recommended omitting this language as permits have not been required since the early nineteen eighties. To date solicitations in public places is prohibited inside the City Limits.

This item generated some discussion. In conclusion Councilman Heavner made the motion to close the Public Hearing. Councilman Hovis made the motion unanimously approved to recess the hearing until the October 2, 2008 City Council meeting.

**PROPOSED AMENDMENT TO THE CITY OF LINCOLNTON
CODE OF ORDINANCES CHAPTER 13 – TRAFFIC – SEC. 13-35.
HANDICAP PARKING:**

(O-05-06)

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

Jeff Emory, City Manager proposed the following amendment to the City's Code of Ordinances:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LINCOLNTON TO AMEND THE CODE OF ORDINANCES AS FOLLOWS:

Chapter 13 TRAFFIC
ARTICLE III. SCHEDULES

ADD:

Sec. 13-35. Handicapped Parking

- (8) One (1) space on the north side of West Main Street between Government Street and the Court Square.

This amendment shall become effective upon erection of the appropriate signage.

Amended this the 11th day of September 2008.

Councilman Houser made the motion unanimously approved to close the Public Hearing. Councilman Cloninger made the motion unanimously approved to amend the code as recommended.

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PRESENTATION REGARDING PLACING A PARK BENCH ON THE RAIL/TRAIL IN MEMORY OF MRS. VIRGINIA MCALISTER (RECENT PEDESTRIAN FATALITY IN DOWNTOWN) :

Mrs. Tonya (Biggerstaff) Craig appeared before Council to request that her family be allowed to place a park bench on the Marcia H. Cloninger Rail-Trail in memory of the late Virginia McAlister. She said she has been out to a location on the trail, and has selected a grassed area that is well lit. The bench would be of a metal material, high in quality, rather than a traditional wood bench. She asked that Council grant permission for she and her family to proceed with the purchase of a bench, and that she work with City staff for installation.

Councilman Heavner made the motion unanimously approved to proceed with the purchase of a bench, and that Mrs. Biggerstaff work with city staff on this request.

MUSCULAR DYSTROPHY ASSOCIATION – PROCLAMATION HONORING THE CITY LINCOLNTON AND BOGER CITY FIRE DEPARTMENTS FOR THEIR FUNDING RAISING EFFORTS, REQUESTING THAT SEPTEMBER 2008 BE PROCLAIMED LINCOLNTON FIRE FIGHTER APPRECIATION MONTH

Ruthie Mihal, District Director, of the Muscular Dystrophy Association asked City Council to present a proclamation from the City on behalf of the MDA to honor the efforts of the firefighters of Lincolnton and Boger City as MDA is sponsored Firefighter Appreciation Month in August 2008. She said the MDA is extremely grateful to the firefighters for their assistance with the “Fill the Boot” campaign which will assist MDA in providing medical services at local clinics, summer camps, research grants, support groups, and public education seminars at no cost to local children and families.

Mayor Black read the proclamation aloud and presented it to those firefighters in attendance.

PRESENTATION FROM CENTRALINA COUNCIL OF GOVERNMENTS ON CONNECT REGIONAL VISION - REQUEST FOR COUNCIL TO ENDORSE A RESOLUTION IN SUPPORT OF THIS ENDEAVOR:

(R-09-08)

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Rebecca Yarborough, of Centralina Council of Governments, gave a power point presentation on Carolinas CONNECT Charlotte. She summarized CONNECT, saying it is a visioning project led by the Centralina and Catawba Regional Councils of Government and the Charlotte Regional Partnership for the Greater Charlotte Bi-State Region. It connects member governments, the private sector, non-profit sector and all stakeholders with an interest in the region's future. Communities are growing together so that our jurisdictional boundaries now connect and are less visible to the region's residents. Our region is adding over 1.5 million people, virtually doubling the region's population by 2030. This kind of growth brings challenges to all, such as traffic, infrastructure issues, schools, loss of green space, how to keep downtowns going, etc. To solve and address these problems most effectively, we need to work together collaboratively and creatively and doing so requires that we know what we have in common, and where we want to go. CONNECT is a process for establishing our common ground and building a shared vision that can provide the basis for collaborative action, mutual support and realization of community regional goals.

Mrs. Yarborough concluded asking that City Council consider adopting a proposed resolution supporting the CONNECT Regional Vision and Action Plan.

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

NOMINATIONS FOR APPOINTMENT TO FILL THE UNEXPIRED TERM OF W.J. WATERS – LINCOLNTON AIRPORT AUTHORITY (NOTE: THE UNEXPIRED TERM WOULD END DECEMBER 2008):

(APPT- 07-08)

Mayor David Black said he had one name that had been submitted to him as a nomination to the Airport Authority, Mr. Lee Elmore. With no other nominations from City Council, Councilman Houser made the motion unanimously approved to appoint Mr. Lee Elmore to the Lincolnton-Lincoln County Airport Authority to fill the unexpired term of W.J. Waters. Mr. Elmore's term will begin effective immediately, and expire in December of 2008.

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PETITION REQUESTING NO PARKING ON CEDAR STREET BETWEEN 729 AND 813 AND ON CARTER STREET BETWEEN 328 AND 338 ON BOTH SIDES OF THE STREETS:

Robert Clark, 812 S. Cedar Street, spoke to City Council and presented a petition for No Parking on Cedar Street between 729-813 and on Carter Street between 328 and 338, on both sides of the street. Mr. Clark said it is very difficult to get emergency vehicles and delivery vehicles down Cedar Street because of the cars, buses and trucks parked on and near the intersection. He presented pictures of this intersection depicting vehicles blocking the street.

Councilman Hovis said, "By looking at the pictures there is not enough room for a car to pass let alone a fire truck or emergency vehicle." Mayor and Council directed the City Manager to investigate the matter and report back to City Council at a future meeting.

APPROVAL OF PROPOSED 2008-2009 CITY OF LINCOLNTON STUDENT ADVISORY COUNCIL MEMBERS:

Jeff Emory, City Manager, requested that Council take official action to approve the 2008-09 Lincoln Student Advisory Council. Advisor to this group will be Jill S. Eaddy. Mrs. Eaddy and former City Manager David Lowe were instrumental in organizing this Council eighteen years ago. The City is fortunate to have Mrs. Eaddy serve in this capacity.

In accordance with the Student Advisory Council by-laws, each of the four high schools submit five (5) names for consideration. Lincoln Charter School submits two (2). Three at large members may be appointed by the Mayor and City Council. Nominees for this year SAC consist of the following:

WEST

Whitney Beaver
Ashley Saine
Rheanna Martin
Nathan Hull
Jake Bridges

EAST

Ryan Nagey
Casie Mahaley
Missy Switek
Rubyona Whitworth
Maci Huffman

NORTH

Mallory Ballard
Sierra Herrington
Taylor Allison
Mandy Lail
Sydney Wilkinson
Alyssa Duhon *

LINCOLNTON

Logan Lawing
Adair Thompson
Ashton Ritter
Christian Guy
Natalie Wiseman

CHARTER

Kurstin Murphy
Jessie Gates

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*Alyssa Duhon, North Lincoln was nominated by Mayor Black. She expressed interest in serving on the Council and will serve as one of Councils appointments.

Councilman Houser made the motion unanimously approved to appoint the above named members as recommended by their respective principals.

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

Steve Gurley, Planning Director, provided City Council with a status report on progress of Phase III of the rail-trail since the last Council meeting.

He said funding options through Congestion Mitigation/Air Quality (CMAQ) are being explored through a subcommittee of the Lake Norman Rural Planning Organization Technical Coordinating Committee. Work is ongoing with the Lincoln County Thread Trail Committee to help secure long term funding from the Carolina Thread Trail Organization. The City Attorney is preparing warranty deeds and other legal information for all remaining property owners. Once deeds are prepared, monetary offers will be sent to the remaining property owners along the corridor. Steve said budgeted funds will be used to pay for the properties as offers are accepted.

CONSIDERATION OF A DATE FOR A SPECIAL MEETING TO DISCUSS CAPITAL PROJECTS (POTENTIAL DATES ARE MONDAY, SEPTEMBER 22ND OR FRIDAY, SEPTEMBER 26TH):

Jeff Emory, City Manager, asked Council to consider holding a budget work session to prioritize several proposed capital projects. He said the meeting would be helpful to place some sort of order on the various projects that have recently been discussed. Prioritization would assist in determining funding sources for that various projects if approved.

Councilman Cloninger made the motion unanimously approved to hold a work session on Monday, September 22nd at 12:30 p.m. in the Council Chambers of City Hall and directed the City Clerk to advertise accordingly.

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PUBLIC COMMENT:

Mr. Alan Hoyle, of 824 N. Academy Street Extension, spoke to Council regarding pets. He was asked by Lincoln County Animal Control, who provides animal control services for City residents, to remove three miniature goats from his property, as it is a violation to keep livestock inside the City limits. He said, "Having goats considered as "livestock" is excessive", and expressed concerns that property owners currently can keep pit bulldogs, known to be vicious by nature on their property but cannot have harmless goats on their property.

He said, "I feel it is infringing on my freedom as an American citizen, through this ordinance to ask that I get rid of those baby goats, which have been pets for my children the past six months."

Mayor Black said he and the City Attorney would take a look at the City's Ordinance regarding this matter and be back in contact with him.

Mr. John Mauney, of 660 Andrews Drive, requested that City Council reconsider the closing of Sycamore Street during the upcoming Apple Festival. He commended the Police Department for their efforts to provide the best possible public safety for this event. He said, "At least two hundred and fifty parking spaces will be lost by the closing of this street". He said he feels the whole idea of diverting traffic is over kill, and asked that Council consider a less evasive plan. He checked into who was the authoritative figure on determining that the streets be closed, and found that the Chief of Police has that authority.

Mr. Mauney asked Council, "Why try and fix something that isn't broke?" Mayor Black said he had talked with Chief Abernathy prior to the Council meeting and he would talk with him again to see if there is a more feasible way to provide ingress and egress, rather than closing the street, for the day of Apple Festival.

CLOSED SESSION:

Councilman Houser made the motion unanimously approved to go into CLOSED SESSION to discuss Personnel and property acquisition in accordance with NCGS 143-318.11(5)&(6).

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

The City Clerk reported action taken during closed session as follows: Councilman Cloninger made a motion to obtain a proposal for a pay and classification study for all City employees, initially to concentrate on the Department Head level. The motion passed by a three to one vote. Councilman Houser voted in opposition of obtaining a proposal, with Councilmen Cloninger, Heavner and Hovis voting yes.

NEWS MEDIA:

There were no questions from the News Media.

ADJOURNMENT:

Councilman Houser made the motion unanimously approved to adjourn the meeting at 9:40 p.m.

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

**DAVID M. BLACK
MAYOR**