The Mayor and City Council met in regular session on Thursday, February 2, 2012 at 7:00 p.m. in the Council Chambers of City Hall located at 114 West Sycamore Street, Lincolnton North Carolina.

Mayor John O. Gilleland called the meeting to order and led the Pledge of Allegiance. Those in attendance were:

RHYNE CLONINGER HEAVNER HOVIS

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

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

CUP-3-2012 – Application from Gaylain's House of Hope – to operate a group home for women in recovery of substance abuse.
CUP-4-2012 – Application from Harvest Presbyterian Church – expansion of a church located in the R-15 District.

APPLICATION FOR WILLIAM AND JANET ALVEY REQUESTING A CONDITIONAL USE PERMIT TO USE A PORTION OF THEIR COMMERCIAL PROPERTY FOR AN ACCESSORY RESIDENTIAL APARTMENT IN THE GENERAL BUSINESS (GB) DISTRICT. THE SUBJECT PROPERTY IS LOCATED AT THE SOUTHEAST CORNER OF NORTH ASPEN STREET AND MULL ROAD. THE ADDRESS OF THE PROPERTY IS 2246 NORTH ASPEN STREET (PARCEL ID 21586):

CUP-1-2012

Mayor Gilleland opened the Public Hearing. City Clerk Donna Flowers administered the oath to all those wishing to speak for or against the issue. Planning Director Laura Simmons reviewed the request. Ms. Simmons stated that access to the unit will be provided by a new driveway cut to Mull Road The accessory unit is proposed to be approximately 940 square feet and would include a deck. Staff review committee noted some minor comments. Ms. Simmons confirmed that the application does meet requirements of the UDO and findings of fact. Planning Board and staff recommend approval of the conditional use permit subject to compliance to staff review comments. There were no questions for Ms. Simmons.

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

Councilman Heavner made the motion unanimously approved to consider the Conditional Use Permit application.

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.

Councilman Hovis made the motion unanimously approved that the use meets all required conditions and specifications.

Councilman Cloninger made the motion unanimously approved that the use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity

Councilman Rhyne 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.

Councilman Cloninger made the motion unanimously approved to approve the conditional use permit.

APPLICATION FOR RENEWAL OF A CONDITIONAL USE PERMIT ISSUED IN 2007 FROM PEGASUS TOWER COMPANY REQUESTING A CONDITIONAL USE PERMIT TO ALLOW FOR THE CONSTRUCTION OF A 195FT. TALL STEEL LATTICE COMMUNICATION TOWER IN THER RESIDENTIAL-25 (R-25) DISTRICT. THE SUBJECT PROPERTY IS LOCATED ON THE WEST SIDE OF STARTOWN ROAD APPROXIMATELY 1,500FT. SOUTH OF THE INTERSECTION OF STARTOWN ROAD AND CLARKS CREEK ROAD (PARCEL ID 15613)

CUP-01-07R

Mayor Gilleland opened the public hearing. City Clerk Donna Flowers administered the oath to all those wishing to speak for or against the issues. Four (4) people signed to speak.

Laura Simmons, Planning Director, reviewed this application. Ms. Simmons stated that City Council issued a conditional use permit in 2007 to Pegasus Tower Company to construct a 195ft. communications tower. The tower location is on the westerly side of Startown Road. Site plan indicates that tower would serve a tower for mobile phone companies. Applicant has not secured a building permit since conditional use permit was issued. Original

permit is still valid due to legislation expending all permits until 2012. City was contacted in December 2011 requesting and extension of the conditional use permit. Company has indicated that tower has not been constructed due to economic reasons. There were conditions placed on the permit in 2007.
Staff presented two options to Planning Board regarding renewal of request. Planning Board voted 4-3 to recommend option 2, rescind the approval of the permit and have the applicant come back with a proposal when there are firm development plans and the market is better suited for tower development, to City Council. There were no questions for staff.

Harold Timmons spoke to the issue stating that he represented the application in 2007 when it was originally approved. He asked that Pegasus Tower Company be granted an extension and that Council not follow Planning Boards recommendation. Mr. Timmons spoke to the economic hardship that is effecting everyone. Mr. Timmons requested an opportunity for rebuttal. Some discussion and questions were generated which were directed to Mr. Timmons from Mayor and Council Members.

Mr. Isaacs spoke against the request as well as presented Council a petition from neighbors that are also opposed to the construction of this tower. Mr. Isaacs opposition is primarily due to the fact that he feels this structure is going to distort the view from his home and his desire to project the beauty of the area. Mr. Isaacs stated that he sees no benefit in the construction of this structure in that it will create no jobs.

Mr. Freddie Carpenter also spoke in opposition to the construction of this tower. Mr. Carpenter resides at 1948 Startown Road which is directly across from the proposed site. Mr. Carpenter stated that he did not oppose this request in 2007 but due to several life changes, he now feels that this structure will affect his ability to sale his property. Mr. carpenter requested that if Council decides to approve the request, that they require that no trees be removed and that there be a larger buffer area.

Mr. Timmons, in his rebuttal, displayed pictures of the site showing vegetation at and around the proposed site. Mr. Timmons also noted that due to the fall of the elevation, along with the vegetation, the actual visibility of the structure will be limited.

Councilman Heavner made the motion unanimously approved to close the public hearing.

Councilman Heavner made the motion unanimously approved to consider the conditional use permit.

Motion was discussed with Council asking why planning board voted four to three to deny the request. City Attorney T. J. Wilson explained there was much discussion from both sides. Mr. Wilson stated that because of the time that has passed and the economic uncertainty, Planning Board felt it would be best for the request to be made when economic conditions were better. Councilman Rhyne stated he would not want it in his front yard.

Motion was made by Councilman Heavner to approve option one (2 year extension). Vote passed 3 to 1, with Councilman Rhyne voting no.

<u>Section 13.4.2 – Findings of Fact:</u>

(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 unless the use is a public necessity.
(4) Councilman Cloninger 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.

Councilman Heavner made the motion approved to approve the conditional use permit. Motion carried 3 to 1 with Heavner, Cloninger and Hovis voting in favor and Rhyne voting no.

<u>APPLICATION FROM ALEX DAVIS REQUESTING A CONDITIONAL USE PERMIT TO OPERATE A BUSINESS CENTER/SWEEPSTAKES USE IN THE PLANNED BUSINESS (PB) DISTRICT. THE SUBJECT PROPERTY IS LOCATED WITHIN THE LINCOLN CENTER SHOPPING CENTER AT 128 SIGMON ROAD (PARCEL ID 52838)</u>

CUP-02-2012

Mayor Gilleland opened the public hearing with City Clerk, Donna Flowers administering the oath to those wishing to speak for or against the issue.
Planning Director Laura Simmons reviewed the request stating that the site plan proposes a 1,420 sq. ft. business center with internet sweepstakes use and will also include sales of office supplies, copying, faxing, printing and the sale of internet time along with promotional sweepstakes Visuals of the site were submitted and displayed. Ms. Simmons stated that the city

ordinance allows internet sweepstakes uses within class c shopping centers and would operate under North Carolina state law. The City currently has four sweepstakes uses and has received no complaints since the first

issuance in 2010 and had no violations. Ms. Simmons informed Council that all requirements and specific conditions have been met along with other specific conditions. The four findings that Council must find were stated. Planning Board and staff recommend that request be approved as submitted.

Mr. John Page, representing Alex Davis, spoke in favor of the request and offered to answer any questions that Council had. Councilman Hovis thanked Mr. Page for bring new business into town however there were no questions.

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

Councilman Hovis made motion unanimously approved to consider the application.

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 unless the use is a public necessity.
(4) Councilman Rhyne 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.

Councilman Cloninger made the motion unanimously approved to approve the conditional use permit as submitted by the applicant.

PROPOSED CONTRACT BETWEEN THE CITY AND LINCOLN COUNTY FOR FACILITIES CHARGE FOR LIGHTING AT GASTON COLLEGE – LINCOLN CAMPUS: (C-02-12)

Jeff Emory, City Manager began by noting the current circumstances regarding the parking lot lights at Gaston College. Gaston College is requesting an agreement to pay a facilities charge for the parking lot lighting in exchange for the city being responsible for all maintenance. Mr. Emory stated that 2 of the 3 lots are billed under this formula. The fee would be a set amount per pole each month. The City's fee schedule would be amended to reflect this change should Council approve the contract. Mr. Emory stated that he would e-mail Council exact cost of work including equipment and labor.

Councilman Heavner suggested that action be taken at the March Council Meeting when a public hearing held to amend fee schedule.

PROPOSED CONTRACT FOR THE CLEANING OF THE CITY HALL ROOF AND DUCT SYSTEM – JOHNSON'S ROOF SERVICE, INC - $5980.00 (ROOF REPAIRS) ADVANTA CLEAN - $2470.00 (DUCT WORK):

(C-03-12)

Mr. Jeff Emory, City Manager, directed Mayor and Council to the two proposals submitted. Mr. Emory stated that all information had been submitted from the company with the low bid, Johnson's Roofing Services, regarding what method they would be used to clean the roof. He also noted that this is the same company that originally installed the roof. Proposed cost submitted was $5980.00. The proposal to clean the air duct system for $2470.00 was also included. Mr. Emory recommended that Council approve the proposed work and funds from Building Maintenance be used to cover the cost. He also noted an issue with the heat and air unit in the Council Chambers which may need to be replaced.

Councilman Hovis made the motion unanimously approved to enter in to a contract with Johnson Roofing Service for roof cleaning and Advanta Clean for duck work cleaning.

CONSIDERATION OF 2012 FIREWORKS CONTRACT WITH EAST COAST PYROTECHNICS, INC, FOR $10,000.00:

(C-04-12)

Mr. Jeff Emory, City Manager, began by thanking Donna Flowers, City Clerk, for doing the leg work for this item. He continued by saying that East Coast Pyrotechnics, Inc., is the same company that the city has contracted with in the past. Mr. Emory recommended that this contract be approved noting that the get a quality show, contracts need to be secured about six months in advance.

Councilman Cloninger made the motion unanimously approved to enter into a contract with East Coast Pyrotechnics, Inc. for 2012 fireworks show.

RESOLUTION TO ESTABLISH AND OFFER LIGHTING REBATE PROGRAM:
(A public hearing will be required at the March meeting to amend the fee schedule)

(R-01-12)

Mr. Steve Peeler, Public Works & Utilities Director, brought before Council a request to initiate a lighting rebate program. Program would be administered by the NCMPA1 and Electricities. Program is available to commercial customers only. There is a maximum cap of $25,000.00 per customer. Mr. Peeler is requested to Council approve rebate program to be in compliance with session law and to offer incentives to commercial customers. Mr. Emory pointed out that there will be an application process which will be reviewed by Electricities. Mr. Peeler stated that there has been a couple of inquiries. City Clerk asks if City would be required to notify commercial customers. Mr. Emory again noted that fee schedule change would be required.

Councilman Heavner made the motion unanimously approved to adopt resolution.

CONSIDERATION OF LEASE AGREEMENT BETWEEN CHAFIN RHYNE AND THE CITY – 114 E. MAIN STREET – BUSINESS & COMMUNITY DEVELOPMENT 2 YEAR LEASE-FEBRUARY 2012 – FEBRUARY 2014:

(C-05-12)

Mr. Jeff Emory, City Manager presented a proposed 2 year lease extension for 114 E. Main Street. T.J. Wilson, City Attorney, pointed out some of the details within the contract while noting that the contents of the two year contract has remained the same. Mr. Wilson recommended Council approve the two year contract.

Councilman Cloninger made the motion unanimously approved the contract, leasing the building at 114 East Main Street for a two year period.

CONTINUED DISCUSSION AND PROPOSAL TO AMEND THE CITY'S FEE SCHEDULE REGARDING DEPOSITS FOR RESIDENTIAL CUSTOMERS:

City Manager Jeff Emory explained to Council the proposed changes to the City's existing policy, regarding deposits. After some discussion Council agreed that the policy should be amended, and that the public hearing be held at the March 1st meeting, to amend the schedule as follows: "renter's having twenty-four months of good payment history with the City of Lincolnton will be exempt from utility deposits."

UPDATE ON PHASE III OF MARCIA H. CLONINGER RAIL TRAIL AND INGLES:

Planning Director Laura Simmons provided an update to Council on the progress of phase III of the rail trail. Mr. Leonard Fletcher, of TGS Engineers, also updated Council on his latest discussions with NCDOT regarding the City having to rebid the project, having to comply with newer specs. He said he had conversations with NCDOT also asking that they allow the contract to include take-down of the building on the City owned parcel abutting City Park as part of the project.

Laura told Council reported to Council that Ingles has obtained their building permit and they have indicated construction will begin this year. She said construction usually takes around eight months. She will keep Council abreast of this project as progress occurs.

PUBLIC COMMENT:

No one spoke under the Public Comment portion of the meeting.

NEWS MEDIA:

There were no questions from the news media.

ADJOURNMENT:

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

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DONNA C. FLOWERS, CMC	**JOHN O. GILLELAND, Jr.**
CITY CLERK	**MAYOR**