REGULAR MEETING - APRIL 4, 2013

The Mayor and City Council met in regular session on Thursday April 4, 2013 at 7:00 p.m. in the Council Chambers of City Hall.

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

Mayor Gilleland observed a moment of silence in memory of Mrs. Betty Houser, wife of former City Councilman Fred Houser, who recently passed away.

Councilman Cloninger made the motion unanimously approved to approve the ***REGULAR AGENDA.***

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

- Approved minutes from the March 7th - Regular Meeting
- Approved the following Calls to Public Hearing for the May 2nd City Council meeting:
  CUP-2-2013 – Application from Bob Colvard requesting renewal of a conditional use permit issued in 2010 to construct mini warehouse units in the NB District. The subject property is located at the northwest corner of West NC Highway 150 and Hilltop Road. The address of the property is 944 West NC Highway 150 (Parcel ID 22706).
  CUP-3-2013 – Application from Bryan McClure requesting a conditional use permit to operate a private social club in the Central Business (CB) District. The subject property is located at 118 East Water Street (Parcel ID 00485).

REGULAR AGENDA:

APPLICATION FROM BRYAN MCCLURE REQUESTING AN AMENDMENT TO SECTION 153.238 (H) (SOCIAL CLUBS AND LOUNGES) OF THE LINCOLNTON UNIFIED DEVELOPMENT ORDINANCE. THE AMENDMENT, IF APPROVED, WOULD CHANGE THE 300 FOOT SEPARATION REQUIREMENT TO A 50 FOOT DISTANCE TO BE MEASURED FROM BUILDING TO BUILDING INSTEAD OF PROPERTY LINE TO PROPERTY LINE:

Mayor Gilleland opened the Public Hearing. Laura Simmons, Planning Director, reviewed the background of the request, the proposed amendment and gave a brief history of social club and lounge requirements.

Laura said the proposed amendment would change Section 153.238(H) (Social Clubs and Lounges) by amending the text to read as follows:

(H) Social Clubs and Lounges.

(1) No business shall locate within 50 feet of a church, public or private elementary and secondary schools, child day care or nursery school, public park or playground or residentially zoned property.

(2) The 50 foot distance shall be measured in a straight line from building to building, with no consideration to intervening structures, roads or landforms.

NOTE: The requested amendment would change the ordinance requirements for all zoning districts that allow Social Clubs and Lounges throughout the entire City. It will not just change the Central Business (CB) district in which the applicant currently has a business. Currently, the NB (neighborhood Business), CB (Central Business Transitional), GB (General Business), and PB (Planned Business districts allow social clubs and lounges as a conditional use.

In conclusion of her review, Laura said Planning Board and staff propose amending the ordinance as requested by the applicant but apply the change only to the Central Business (CB) District and not other business districts that allow for social clubs and lounges,. She noted the Planning Board approved the amendment by a 4-3 vote and recommended above said option.

Mr. Daniel Rhodes, Mr. Chris Goodson, Mrs. Brooke Sherrill all were in attendance and spoke in favor of the request. Mr. Wayne Howard, of the Lincoln Herald, also spoke in favor of the request. The applicant Mr. Bryan McClure spoke in favor, saying "approval of this amendment would open the door for future opportunities to our downtown, with each being done on a case by case basis." After further discussion, and closing the floor to public comments, Councilman Rhyne made the motion unanimously approved to Close the Public Hearing.

Councilman Hovis said "I'm on the line on this one but we need to support Brad and the Downtown Development Association." "We are spending tax payers money to keep the town vibrant."

Councilman Cloninger said, "We push so much to have a downtown that we are proud of here's a chance to do something about it." "After hearing what we have heard tonight from business owners, I see nothing wrong with changing the ordinance as the Planning Board has recommended." "We can do the conditional use permit one business at a time."

Councilman Heavner said, "We have an ordinance now that states 300 feet, we are not doing away with the option in the Central Business District we are just keeping it at 300 feet."

This item generated much discussion, Councilman Hovis made the motion to amend the ordinance as requested by the applicant but to apply the change only to the Central Business (CB) as recommended by the Planning Board.

The motion passed three (3) to one (1), with Councilmen Rhyne, Cloninger, and Hovis voting in favor and Councilman Heavner voting no.

HONORING VIVIAN B. NICHOLS FOR UPCOMING RETIREMENT FROM THE CITY UTILITY BILLING DEPARTMENT:

(R-06-13)

Mayor Gilleland called Vivian Nichols forward to recognize and congratulate her on her upcoming retirement. He read the following resolution aloud;

WHEREAS, the City of Lincolnton does desire to recognize and honor employees of the City for dedicated and distinguished contributions to our City and its citizens; and

WHEREAS, ***Vivian B. Nichols*** began employment with the City of Lincolnton on October 5, 1993 in the Utility Billing and Collections Division of the Finance Department, and has faithfully served in that department for nineteen years; and

WHEREAS, ***Vivian B. Nichols*** throughout her tenure has demonstrated great commitment to her duties and responsibilities in the Utility Billing & Collections Department, and through this commitment has assisted the Finance Department in being recognized and awarded for many years the "Certificate of Achievement for Excellence in Financial Reporting"; and

WHEREAS, ***Vivian B. Nichols*** has been described by her supervisor as a behind the scenes person, who is dedicated, self-motivated, displaying a great work ethic in the performance of her duties, and has earned the respect of her co-workers and the citizens of Lincolnton;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Lincolnton, that appreciation be shown to ***Vivian B. Nichols***, honoring her on her upcoming retirement on May 1, 2013, and that we extend congratulations and best wishes to her for continued success in all her future endeavors.

Adopted and presented this the 4th day of April, 2013.

Mayor Gilleland and City Council members thanked her for her years of service to the City and wished her the best on her upcoming retirement.

AUTHORIZING THE ADVERTISEMENT OF AN OFFER TO PURCHASE CITY OWNED PROPERTY LOCATED AT 1201 E. CATAWBA STREET:

Jeff Emory, City Manager, told Council of a written offer he had received from Tabernacle of Blessings Apostolic Ministries to purchase the above stated City owned property for a purchase price of $ 18,000.

Councilman Rhyne made the motion unanimously approved to adopt the following resolution; **(R-07-13)**

AUTHORIZING THE ADVERTISEMENT
OF AN OFFER TO PURCHASE CERTAIN PROPERTY

WHEREAS, the Mayor and City Council of the City of Lincolnton desires to dispose of certain surplus property of the City;

NOW, THEREFORE, BE IT RESOLVED by the Lincolnton City Council that;

1. The following described property is hereby declared to be surplus to the needs of the City;

BEGINNING at a point in the center of the S.A.L. Railroad, Northeast corner of Lincoln Heights Subdivision (iron stake located on the south edge of said railroad) and runs thence with Lincoln Heights Subdivision line, South 24 deg. 10 min. East 253 feet to an iron stake, the south edge of Hickory Avenue, a corner of Oaklawn School property, North 60 deg. East 170 feet, more of less, to a stake in the western edge of the by pass right

of way, also corner of school property,; thence with the western edge of by pass right of way 214 feet, more or less, to a point in the center of the S.A.L. Railroad (iron stake located on south bank of said railroad); thence with the center of the S.A.L. Railroad, South 75 deg. West 240 feet, more or less, to a point in the center of said railroad, the point BEGINNING, containing 1.03 acres, more or less.

2. The Lincolnton City Council has had an offer to purchase for the sum of $ 18,000 for the property described above.
3. The Lincolnton City Council proposes to accept the offer unless an upset bid shall be made.
4. The person making the offer must deposit with the City Clerk a sum equal to five percent (5%) of his or her offer.
5. The Lincolnton City Clerk shall cause a notice of such offer to be published in accordance with N.C.G.S. 160A-269.
6. The Lincolnton City Clerk is directed , should a qualifying upset bid and deposit be received within ten (10) days from the publication of said notice in accordance with N.C.G.S. 160A-269, to re-advertise the offer at the increased upset bid amount.

Adopted this the 4th day of April, 2013.

This offer to purchase will be advertised according to NCGS requirement and if no upset bid is received by 5:00 p.m. on Tuesday, April 30th, the City Clerk and City Attorney will proceed with the necessary paperwork to complete the sale.

CONSIDERATION OF CONTRACT BETWEEN THE CITY AND DOWNTOWN DEVELOPMENT ASSOCIATION - 2013 "ALIVE AFTER FIVE" CONCERT SERIES:

(C-05-13)

Cathy Davis, Chair of Downtown Development Association, spoke to the sale of beer and wine at "Alive After Five" Concert Series for 2013. Ms. Davis stated that the stage would be relocated to the west side of the courthouse as was last year.

Cathy said it is DDA's intent to serve beer from a "Draft wagon" positioned on the north side of the 100 Block of West Main Street between 6 pm and 9 pm on the day of the event. Event dates were listed as follows: May 30th, June 27th, July 25th and August 29th.

Councilman Cloninger made a motion unanimously approved to approve the contract for "Alive After Five" as requested.

CONSIDERATION OF CONTRACT BETWEEN THE CITY AND DOWNTOWN DEVELOPMENT ASSOCIATION – 2013 "HOG HAPPENIN" EVENT:

(C-06-13)

Cathy Davis, Chair of DDA, spoke to the sale of beer and wine at "Hog Happenin". Ms. Davis stated that the stage would be relocated to the west side of the courthouse as it was last year. Repositioning the stage was well received by all those in attendance at last year's event.

Ms. Davis said, "There was minimal impact on businesses on East Main Street, which when the event was held on the East side posed a problem in the past". "On the west side there is a considerable amount of natural shade". The hours of operation was noted to be on Friday from 5 pm to 10 pm, and Saturday, 11 am to 7 pm.

Councilman Heavner made a motion unanimously approved to approve the contract for "Hog Happenin" including extending the beer garden into the 200 block of West Main.

LIMITED ACCESS AGREEMENT BETWEEN THE CITY AND BOSCH TO CONDUCT TESTING ON CITY OWNED PROPERTY (CITY PARK):

(C-07-13)

Jeff Emory, City Manager, shared a copy of a letter which enclosed an agreement between the City and AMEC Environment & Infrastructure, Inc. (representing Bosch Tool Corporation) in connection with an environmental investigation being conducted at the former Lincolnton Manufacturing Division plant located at 124 Legionaire Road, in Lincolnton.

The investigation is being conducted under the North Carolina Department of Environment and Natural Resources, Registered Environmental Consultant Program. A preliminary investigation has indicated that groundwater at the former Lincolnton Division property has been impacted with chlorinated solvents and that some impacted groundwater has moved beyond the property boundaries. Investigation procedures call for tracking this groundwater. Therefore, Bosch's environmental consultant, AMEC, would like to conduct environmental investigations on City property at North Aspen Street (property known as City Park). Should any monitoring wells be installed on the property, the location will be secured and most likely can be located where it would not interfere with the use of the property.

Councilman Heavner made the motion unanimously approved to enter into the agreement with AMEC (Bosch's Environmental Consultant) as recommended by the City Manager.

CONSIDERATION OF POTENTIAL GRANT FOR RESTROOMS AT CITY PARK:

Mark Mullen, Lincolnton Rotary Club, was suppose to speak to this item but was unable to attend the meeting. Cathy Davis spoke on his behalf, and on behalf of the Sunrise Rotary Club regarding potential grant funds available.

Cathy Davis said that Recreation Director Richard Haynes approached the Rotary Club about potential grant funds. At this point no application has been submitted or approved by the Rotary Club. Should they apply for funding through the District and the application be successful, they will get back to the City regarding funding.

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

Laura Simmons, Planning Director, gave a brief update on Phase III of Marcia H. Cloninger Rail Trail. She said staff is coordinating with NCDOT on the second inspection and various punch list items. After the punch list items are resolved, they will coordinate a final inspection. She will keep Council abreast of the items that remain to be completed on this project.

DETERMINE DATE FOR A BUDGET WORK SESSION:

Jeff Emory, City Manager, recommended that Council hold a budget work session at the conclusion of the May 2nd City Council meeting. He said he had spoken with Councilman Hovis and he would not be available the week prior and he would like to have it when all Council could be present. He also said he may not have all the numbers together prior to May, as we have not received insurance rates to date.

After some discussion it was the consensus of Council to have the meeting immediately following the regular May meeting. The City Clerk expressed concerns about stating a meeting time, in accordance with NC Open Meetings Law. A time is to be determined prior to the agendas going out, to provide the appropriate notice to citizens and media outlets.

MONTHLY FINANCIAL REPORT & OVERTIME REPORT:
Jeff Emory, City Manager, presented Council a copy of a financial report for the month of February 2013 outlining the general fund, water and sewer fund, electric fund and overtime balances to date.

Differences between the 11-12 FY and the 12-13 FY in the general fund was $ 340,760.84. The difference in the water & sewer fund was $ 242,887.15 and the electric fund difference was $ 436,429.71. The overtime was $ 70,055.47 less at this point in the fiscal year than it was in the 11-12 FY.

Councilman Cloninger asked Mayor Gilleland to entertain adding an item to the agenda to discuss the possibility of changing the June 6th City Council meeting.

Councilman Rhyne made the motion unanimously approved to amend the agenda, adding an item to discuss a meeting date change.

Councilman Cloninger asked that Council consider moving the regular meeting from Thursday, June 6th to Monday, June 3rd at 7:00 p.m. as he has to be out of town for continued education classes.

Councilman Rhyne made the motion unanimously approved to hold the June meeting on MONDAY, JUNE 3rd at 7:00 p.m. in the Council Chambers. The City Clerk shall advertise this meeting change in accordance with the NC Open Meetings Law.

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.

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