REGULAR MEETING - OCTOBER 3, 2013

The Mayor and City Council met in regular session on Thursday, October 3, 2013 at 7:00 p.m. in the Council Chambers of City Hall, located at 114 West Sycamore Street, Lincolnton. Those in attendance were:

RHYNE CLONINGER HEAVNER HOVIS

Mayor Gilleland called the meeting to order and thanked all those attending for their interest in local government. He led the Pledge of Allegiance.

Mayor and City Council members extended their sympathy to City Manager for the recent death of his father.

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

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

- Approved of Minutes from the September 12, 2013 – Regular Meeting
- Approved (P-01-13) amendment to the City's Record Retention Policy in accordance with the NC Department of Cultural Resources Records Retention and Disposition Schedule – (last amended September 10, 2013)

REGULAR AGENDA

APPLICATION FROM LINCOLN ECONOMIC DEVELOPMENT ASSOCIATION REQUESTING A CONDITIONAL USE PERMIT FOR A COATINGS BUSINESS IN THE GMC DISTRICT. THE USE WILL OCCUPY THE EXISTING BUILDING LOCATED AT 569 SOUTH GROVE STREET (PARCEL ID 54841):

CUP-6-2013

Mayor Gilleland opened the Public Hearing. The City Clerk administered the oath to all those wishing to speak for or against the issue. Laura Simmons, Planning Director, reviewed the request from LEDA for a conditional use permit for a coatings business in the GMC District.

Laura said the property is approximately 5.8 acres in size and is located at 569 South Grove Street, the former Carolina Mills building. If the permit is

approved the powder coatings business would electro statically apply powder coating to cast, cut, stamped and welded steel parts for customers. The operation would include washing, conversion coating and powder coating processing. The parts are then baked to cure the coating. The proposed hours of operation are first shift, 6 am until 2:30 pm, five days per week and second shift from 2:30 to 12:30 am, four days per week. They would employ 12 to 15 people at this location. Additional shifts and employees could be added later.

Laura reviewed the applicant's compliance with the conditional use permit application, section 153.237 and 153.238 of the UDO as well as the staff review committee comments. She concluded recommending approval of the conditional use permit on behalf of Planning Board and Staff provided the staff review committee requirements are met.

Mrs. Crystal Gettys, of Lincoln Economic Development Association, spoke in favor of the request. Crystal thanked the departments involved in providing information for this project, saying everyone worked well with the company gathering information and reviewing the requirements.

Mayor Gilleland said he hopes this project works out as he would like to see revitalization in that area. Mrs. Gettys felt if approved, the renovations could attract others to the area as well.

Mr. Robert Tomlinson spoke regarding this request. He was concerned about the type of business and the traffic it may generate in that area. He resides on Grove Street. He asked, "What is the fascination with North Grove Street?" He also expressed concern with the speed on Grove Street, saying he realized it is a state street and the City is not responsible but he hasn't heard back from the City or the State regarding his concerns. He spoke about several other items not related to the public hearing, exceeding five minutes.

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

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

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 would not substantially injure the value of adjoining or abutting property or 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, would be in harmony with the area in which it is to be located and would 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.

(5) Councilman Heavner made the motion unanimously approved that the use would not overly impact the ability of the City to collect and/or treat any wastewater generated by the use or the ability of the City to treat and distribute any potable water needed by the use.

(6) Councilman Rhyne made the motion unanimously approved that the use would not overly impact (impact beyond capacity) the system of streets serving the use or that improvements would be made to the streets in consort with the development of the use, the result of which would be adequate handling of the additional traffic generated.

(7) Councilman Cloninger made the motion unanimously approved that not only would the use meet the minimum screening requirements of this chapter, but also that such additional screening would be installed, as necessitated by the visual characteristics of the particular use, that the use would screen from view of adjoining residential districts, or that the nature of the topography makes the screening from distant view from such residential areas impossible and that other measures such as heavy on-site landscaping would be taken to lessen any near or distant visual impacts.

Councilman Rhyne made the motion unanimously approved to grant the conditional use permit as recommended by Planning Board and staff.

Councilman Cloninger said, "I would like to congratulate LEDA on bringing someone in here to occupy an 82,500 square foot structure. We are happy they are coming to Lincolnton."

PROPOSED AMENDMENT TO CHAPTER 153, UNIFIED DEVELOPMENT ORDINANCE, TO REVISE THE PROVISIONS RELATED TO THE BOARD OF ADJUSTMENT TO MAKE THEM CONSISTENT WITH RECENTLY ENACTED STATE LEGISLATION.

ZTA-3-2013

Mayor Gilleland opened the Public Hearing. Laura Simmons, Planning Director, reviewed the request from planning staff to amend language in the LUDO to make the necessary changes to the provisions regarding the Board of Adjustment. Laura told Council that recently enacted legislation, Session Law 2013-126 (HB 276), "An Act to Clarify and Modernize Statutes Regarding Zoning Boards of Adjustment" requires the City to amend our current ordinance language. She said the Planning Board and staff recommend that the following changes be made to conform to the new legislation:

Amend Section 153.277, VARIANCES, *to revise the findings of fact that must be made to approve a variance. The new language eliminates the "practical difficulty" language and replaces it with "unnecessary hardship" and defines what constitutes "unnecessary hardship".*

Amend Section 153.280, APPLICATION PROCEDURE, *to change the vote requirement from a four-fifths majority to a simple majority for approval of a request for an administrative review or for a request for a change in non conforming use. (Approval fo a variance request would still require a four-fifths majority vote).*

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

Councilman Rhyne made the motion unanimously approved to amend the Lincolnton Unified Development Ordinance as recommended.

APPOINTMENT TO THE LINCOLNTON-LINCOLN COUNTY AIRPORT AUTHORITY –TO FILL A VACANCY (UNEXPIRED TERM THROUGH DECEMBER 2015):

(APPT-02-12)

Mayor Gilleland told Council that two applications had been received for the recent vacancy on the Lincolnton-Lincoln County Airport Authority. Both were completed and turned in within the advertised time frame, and both are City residents. Mr. John Anderson and Mr. Leon Harmon were the two applicants.

Councilman Hovis made the motion unanimously approved that Mr. Leon Harmon be appointed to fill the unexpired term of the late Joe Polhill, beginning immediately with a term expiration of December 2015. *Note: In accordance with City Policy the appointee would be eligible to be appointed and serve a first three year term at the conclusion of filling the unexpired term, if Council so chooses.*

Councilman Cloninger said that both applicants would serve the City well in this capacity and ask that Mr. Anderson be encouraged to reapply for future vacancies to this board. The City Clerk was directed to contact him accordingly, as a position would be available in December of 2013.

UPDATE ON EAST MAIN STREET INTERSECTION PROJECT:

Leonard Fletcher, TGS Engineering, provided Council a map and a signalized intersection estimate for the proposed intersection upgrades for East Main and Generals Blvd. The figures provided were as of May 28, 2013. The total proposed cost of the intersection improvements were $ 613,140.00.

Mr. Fletcher said the study has been completed. He had discussed with NCDOT the options of a round-about for the proposed intersection. Mr. Fletcher said, "After traffic counts and traffic analysis, the ten year projection showed the round-about would fail. The best option was signal improvements. Two recommendations were; a turn lane south on Generals Blvd, also putting a double left on Main Street headed West, but having no right of way available there would be too costly." "The other alternative would be to add a median. They are recommending that politically, they can stand it if you all can stand it. No one would be able to turn out across traffic, a right in right out would be

installed. He used Wendy's as a example, saying they have signage saying no left turn, only a right turn coming out, but people do not follow the signage.

The median would prohibit a left turn. He said this intersection has the highest count for traffic accidents in Lincoln County."

The grant plus the city's portion is $ 580,000. NCDOT committed to pay for the paving in that intersection. With them participating it will make this a much better project. It won't be so hard for you to spend your money if they spending more than you are spending, at least you will be getting a safer intersection also. He has met with Mike Holder three times and he has agreed to pay but is trying to tie down his funding source. Laura and I discussed not accepting the grant to do the work until they can come up with their part.

The City Manager said the NCDOT verbal agreement is not in the estimate provided.

Councilman Rhyne said you would not be able to go East and turn left with the median. When traffic gets high you have to do away with your left turn.

Councilman Cloninger said doing away with the wires would be a plus, Mr. Fletcher said metal mask arms would replace the poles, and some of the wires would be ran under ground.

Councilman Rhyne asked if the pedestrian signals would be push button, Mr. Fletcher said, "You wouldn't put one in, that didn't have it."

Mr. Fletcher said, "The paving of the intersection, and removal of asphalt would probably about cost about $ 100,000, and NCDOT has verbally agreed to pay for this portion of the project. But with lane changes and things NCDOT may have to put another $ 100,000." Councilman Rhyne questioned the total project amount adding the paving. Mr. Fletcher said, "The project would in fact be $ 600,000. This is the project estimate, there have been twenty different estimates since this estimate. Trust me the paving is in there."
Councilman Rhyne found it odd that a big number like that would not be listed separately in the project cost. Mr. Fletcher said, "This is not exactly the latest estimate."

Councilman Rhyne said, "Why wouldn't the newest estimate be brought to us tonight when the study began in March?" Mr. Fletcher said, "I recently met with Mr. Holder on September 26th this is a courtesy visit tonight and I was not prepared to give a final number."

Councilman Rhyne said, "I beg to differ, the courtesy came with a $ 20,000 check. I think we ought to see something closer than a May 28th estimate." Mr. Fletcher said, "Mr. Holder hasn't given me a definite figure, and hopefully in November you will have an estimate and it will be accurate. I'm not going to give you a number I can't guarantee. Trying to negotiate and get things for the City just takes time. It takes time to work with them and time to work it out. I am not ready at this point to give you a final number but hopefully will be able to at the November meeting."

UPDATE ON RECENT FLOOD DAMAGE; REPORT FROM INSURANCE CARRIER ON COVERAGE:

Jeff Emory, City Manager, said he continues to work with the insurance company. The insurance company is to have a meeting tomorrow and hopefully notification will be given to us soon. We are working with them as closely as we can and providing them the necessary information they have requested.

Mr. Emory said First Citizens is working extremely well with the City. He has told City Attorney TJ Wilson and First Citizens Insurance if the decision does not look favorable for the City we may want to explore some sort of legal action. He said, "We firmly believe the coverage is there the way we interpret the policy." Jeff told Council if he learns anything definite prior to the next Council meeting he would share the information with them as soon as it is received. He will plan to provide and update on the status of the claim at the November 7th meeting.

Councilman Rhyne said he serves on the Recreation Board and he asked about a timeframe for repairs to the gym floor. He said he was told the project would cost around $ 80,000 and whether it is repaired now or in June the money would be coming from the same budget year. Mr. Emory noted that was a good point but he has a lot of concerns from a budgetary standpoint. He said he would be prepared to move forward asking Council for a decision at the November meeting.

UPDATE ON SPECIAL EVENTS ORDINANCE AND UPDATE ON APPLE FESTIVAL - COST TO THE CITY:

Jeff Emory, City Manager, said at the direction of Council he went back and figured the overtime expense for this year's Apple Festival. Right now personnel wise the City spent around $ 12,000.

Laura Simmons provided a brief update on the Special Events Ordinance. She said that meetings are underway with discussions on going about a draft ordinance. The number of event's have increased over the years as has the request for filming in Lincolnton. She said they are looking at a separate ordinance for the filming portion and they plan to bring those back to City Council at the November meeting.

Councilman Rhyne said he would like to see what the City does and doesn't do, who is allowed to use what equipment owned by the City, etc. Laura said cities surveyed are in to cost recovery for filming. Mayor Gilleland said the biggest factor with filming is to have a deposit upfront. Councilman Rhyne said it also important not to price ourselves out but to cover any cost to the City.

EXECUTIVE SUMMARY (MONTHLY FINANCIAL REPORT/OVERTIME REPORT):

Jeff Emory, City Manager, reviewed the report provided by Finance regarding the various funds for the City. He said currently, in the general fund, our cash flow balance is $ 46,000 below last year's balance. He said "The Water & Sewer fund is $ 100,000 below and that really concerns me." "Revenues are more than $ 100,000 less than this time last year and that is directly related to billing."

The Mayor said the revenues are down almost a $ 250,000 for the first quarter of this fiscal year. Jeff said, "The Electric fund is good at this time." He expressed concerns about the amount of overtime reported, and said he plans to address that with the various departments. Councilman Rhyne questioned why the amount was 50% higher this year as compared to last, Mr. Emory said he was not prepared to answer that without looking at his overtime report.

UPDATE ON CHERRYVILLE WATER CONTRACT AND LINCOLN COUNTY CONTRACTS:

Mayor Gilleland told Council he had met with Cherryville Mayor Bob Austell and City Manager Ben Blackburn. He said it was a very good meeting and a very open meeting, obviously way out in front of getting into any details. We

discussed $ 1.25 per 1000 gallons and they are not interested. We have guaranteed them some water to sell to Cherryville and that is up for discussion. Cherryville's marginal cost to produce water is .35 compared to Lincolnton's .32, so they were not interested in purchasing water from Lincolnton at this point.

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Jeff Emory, City Manager, told Council that the City Attorney made the revisions to the proposed contracts and they have been delivered to the Lincoln County Manager. Jeff said he did not get a timeframe for a response for those revised contracts. He will let the City know if he hears back from the County Manager regarding this matter.

Councilman Hovis made the motion to approve the revised contracts forwarded to Lincoln County. The City Attorney noted that the action approving the contracts as revised was taken at the September 12th meeting, therefore no action would be necessary at this meeting. Councilman Hovis withdrew his motion.

Mayor Gilleland said, "I would like to get the County back to the table especially being down in revenues a quarter of a million dollars in just the first three months of this fiscal year." Jeff noted that amount was both water and sewer.

Councilman Rhyne asked about the Airport contract. He said he feels that needs to be addressed as to how the funding will be handled. Mr. Emory said, "Lincoln County said that is totally up to the City, it is stand alone and they put that one in our court." It was determined that this item will need to be discussed in the near future. Councilman Rhyne wanted to make sure it did not fall by the way side.

Councilman Hovis noted that Councilman Heavner's birthday was yesterday and he wanted to wish him a happy birthday and note that he has served on City Council for over thirty years. The City Clerk noted he has over thirty-five years of service and according to her records is the longest serving elected official in Lincolnton's history.

PUBLIC COMMENT:

Mr. Dale Punch, told Council the recent action regarding the "trash tax" was democracy at work. He thanked them for resending the fee and the ordinance.

He commented on the amount the City projected they spent on the Apple Festival clean-up, saying "$ 10,000 was spent and no one got drunk". He felt while the event was good, with BBQ vendors coming to town, he felt it could be a one day event rather than two days. Dale said he had asked Brad Guth in an email what the event does to help businesses in downtown. He has had no

reply. Mayor Gilleland asked the City Manager to talk with Mr. Guth and get Dale's question answered.

Mayor Gilleland said he had concerns with the motorcycles as a safety issue when doing the tricks on Water Street. He said there needs to be a barrier where someone can't get hurt. Councilman Rhyne said concerns are being addressed based on recent meetings he has been in with the Hog Happenin Committee, he said "Peoples voices are being heard".

Robert Tomlinson spoke to Council regarding the proposed intersection at East Main Street and Generals Blvd. He had concerns as to why the City would put money toward a state owned intersection. He also expressed concerns regarding police protection at the Apple Festival.

NEWS MEDIA:
There were no questions from the News Media.

ADJOURNMENT:
Having no other business Councilman Rhyne made the motion unanimously approved to adjourn the meeting.

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