

## REGULAR MEETING - JANUARY 9, 2014

The Mayor and City Council met in regular session on Thursday, January 9, 2014 at 7:00 p.m. in the Council Chambers of City Hall, located at 114 West Sycamore Street Lincolnton.

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

Councilman Rhyne requested an item be added to the agenda to discuss amending or revising the dates for the upcoming Planning Retreat.

Councilman Rhyne made the motion unanimously approved the **REGULAR AGENDA** adding discussion of the dates for the upcoming Planning Retreat.

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

- Approved December 2013 Organizational and Regular meeting minutes .
- Approved the following Call to Public Hearing for the February 6<sup>th</sup> meeting:  
CUP-1-2014 – Application from SBA Network Services, LLC requesting a conditional use permit to construct a cell tower (250 feet in height) in the Residential-25(R-25) District. The subject property is 28.99 acres in size and located at 257 Bethel Church Road (Parcel ID 16976)
- Approved a resolution (R-01-14) to surplus the handgun and badge of officer *Mark Sain* of the Lincolnton Police Department – Model 37, 45 Gap - Serial # GBH530 – *Note: The value of the weapon was estimated at \$255 and was deducted from the eligible \$ 800 monetary service amount. He will receive a check for \$ 545.00 from the City.*
- Approved a resolution (R-03-14) to amend US Bank Resolution adding signatures of newly elected officials

### **REGULAR AGENDA:**

### **TO RECEIVE PUBLIC COMMENT ON PROPOSED AMENDMENTS TO THE CITY'S CODE OF ORDINANCES ADDING A NEW CHAPTER 97 – FILM ORDINANCE. NOTE THIS WILL ADDRESS THE RECENTLY PROPOSED LANGUAGE APPROVED BY CITY COUNCIL AT THEIR DECEMBER 5<sup>TH</sup> MEETING:**

Mayor Gilleland opened the Public Hearing. Laura Simmons, Planning Director reviewed the proposed amendment to the City's Code of Ordinances to add a new chapter to address filming within the corporate limits of Lincolnton. The proposed amendments included adding a new Chapter 97 as follows:

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### An Ordinance to Amend the City of Lincolnton Code of Ordinances Requirements for Film Production

Section 1. Amend Title IX, General Regulations, by adding a new Chapter 97, FILM PRODUCTION, to read as follows:

#### **Chapter 97, FILM PRODUCTION**

##### **1. Purpose**

The City of Lincolnton recognizes film production as an important economic activity which benefits the community. However, such activity requires regulation to ensure that citizens, property, traffic flow and public safety are protected and the least amount of disruption to the community occurs.

The City has developed this Film Ordinance to facilitate advance planning, coordinate scheduling and arrange for appropriate city services and operations to serve the film production event in an efficient manner. Toward this end, Film Production Companies are required to secure a Film Permit in advance of any film production activity.

##### **2. Definitions of Terms**

Terms and expressions used in this ordinance are defined as follows:

- A. **News Media.** The photographing, filming or videotaping for the purpose of television news broadcast or reporting for print media by reporters, photographers or camerapersons.
- B. **Charitable Film Production.** Motion pictures, television programs or video tapes produced by a non-profit organization which qualifies under Section 501(c)(3) of the Internal Revenue Code as a charitable organization.
- C. **Student Film Production.** The photographing, filming or videotaping for educational purposes with a letter from the student's school verifying the student status.
- D. **Film Production.** All activity attendant to staging or shooting motion pictures, television shows or programs, commercials, videotapes or similar productions. Film production shall be deemed to include all activity attendant to the arrival and set up of base camps, equipment and vehicles and the take down and departure of same.
- E. **Location Manager.** A representative of the film production organization or the individual in charge of planning and implementing the film production. The person submitting the permit application must be an adult age 18 years or older.
- F. **Production Company.** The film production organization which is planning and implementing the film production.

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- G. **Film Liaison.** City of Lincoln staff member who administers the Film Ordinance and permit application process.
- H. **Film Permit.** A document issued by the City of Lincoln upon completion of the application process that officially approves the film production and identifies requirements for appropriate city services and operations and after payment of any required fees.
- I. **City Services.** Services provided by the City of Lincoln in support of special events, including regular and over-time staff hours, regular and over-time equipment hours, supplies and other services.

### 3. Application

This ordinance shall apply to any film production activities taking place within the Lincoln city limits, whether on public or private property. Examples of film production activities include, but are not limited to, staging or shooting motion pictures, television shows or programs, videotapes, and commercials.

Note: The following activities are exempt from this film ordinance:

- A. News media activities
- B. Charitable film production
- C. Student film production

### 4. Film Permit

A. **Application Procedure.** At the beginning of the film planning process, the Location Manager should contact the Film Liaison to discuss the planned film production and to obtain a copy of the Film Application. Prior to submittal of the application, a pre-production meeting is required between the Film Liaison and the Location Manager. Other agencies may be included in this meeting as needed. A complete listing of all anticipated locations with tentative dates is requested at this time, as the Film Liaison or other agency representatives may know of possible conflicts with City services, local events or other filming activities of which the Location Manager may not be aware.

The Production Company should complete the application with required attachments and return it to the Film Liaison no later than 30 days prior to film production. The Film Liaison will review the application for completeness and route the application to the appropriate City staff for acknowledgement of service and operations support for the event and for comment. When all requirements listed on the application have been met, the Film Liaison will issue a Film Permit to the Location Manager for the specific film production activity at the specified times and locations. The City of Lincoln reserves the right to deny film activities that, in the City's view, pose a threat to public health and safety and/or if determined that the Production Company will be unable to provide adequate

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services to ensure public health and safety during the activity. The Film Liaison may convene the appropriate City staff to meet with the Location Manager prior to issuing the permit and as needed after the permit is issued to facilitate coordination of activities and services. In the event that the film production involves multiple locations or dates, separate applications per location per day are required. Multiple locations listed on the same application or illegible applications will not be accepted. Incomplete applications will also not be accepted.

No more than one filming permit will be issued within any neighborhood or business district for any given time or date. The Production Company shall limit the activities at each location to those outlined in the permit and within the time frame specified in the permit. Failure of the Production Company to comply with the guidelines and conditions set forth in each permit or the use of any location not specified in the permit shall give the City of Lincoln grounds to revoke the permit or take other restrictive actions as necessary.

**B. Change in Plans.** The permit is issued based on the conditions outlined in the permit application. The Location Manager must notify the Film Liaison about any changes in plans, activities and/or service requirements no later than three weeks prior to the event so that accommodations can be made, if feasible. If accommodations for the proposed changes are not feasible, then the Location Manager must follow the arrangements specified in the permit application.

**C. Permit Amendments.** The Film Liaison should document changes in plans in writing as an amendment to the Film Permit and circulate to respective City departments.

### **5. Low Impact vs High Impact Filming Defined**

#### **A. Low Impact vs High Impact Filming Activities in Residential Areas.**

Filming in residential areas is defined as either low impact or high impact. Low impact film activities are defined as those which:

1. Have a minimal impact on the activities of the neighborhood,
2. Take place between the hours of 6 am to 10 pm Monday through Saturday and noon to 10 pm on Sunday including the arrival, set up, take down and departure of base camps, equipment and vehicles, and
3. Have a minimal impact on traffic and pedestrian flow and parking.

High impact filming activities are defined as those which involve extenuating circumstances including, but not limited to, extended hours, displacement of more than 25% of on-street parking in neighborhoods where on-street parking is customary and essential to residents, use of explosives, pyrotechnics, fire, smoke-making machines or similar special effects, extensive set dressing, extensive nighttime lighting, loud noises, gunshots, street closures, and larger than average base camps and/or base camps with larger than average trucks parked on public streets.

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**B. Low Impact vs High Impact Filming Activities in Commercial Areas Outside of Downtown Business District.** Filming in commercial areas outside of the Downtown Business District is defined as either low impact or high impact. Low impact film activities are defined as those which:

1. Have a minimal impact on the activities of the area, and
2. Have a minimal impact on traffic and pedestrian flow and parking.

High impact filming activities are defined as those which involve extenuating circumstances including, but not limited to, displacement of more than 25% of on-street parking in areas where on-street parking is customary and essential to businesses, use of explosives, pyrotechnics, fire, smoke making machines or similar special effects, extensive set dressing, loud noises, gunshots, street closures and larger than average base camps and/or base camps with larger than average trucks parked on public streets.

**C. Low Impact vs High Impact Filming Activities in Downtown Business District.** The Lincoln Downtown Business District is defined as the area bounded by Government Street to the west, Pine Street to the north, Water Street to the south and Flint Street to the east. Filming in the Downtown Business District may be defined as either low impact or high impact. Low impact film activities are defined as those which:

1. Have a minimal impact on the activities of the area,
2. Take place outside of regular business hours. Since business hours for restaurants may be different from those of service and retail establishments, this determination will be made on a case-by-case basis,
3. Take place outside of the peak shopping season from Thanksgiving Day to December 31,
4. Have a minimal impact on parking, vehicular and pedestrian traffic flow and maintain public access to businesses that are open and allow for normal flow of pedestrian and vehicular traffic,
5. Utilize no more than two on-street parking spaces in any linear block containing businesses or residents dependent upon on-street parking,
6. Utilize no on-street parking where there are no marked on-street parking spaces,
7. Utilize no more than 25% of the available sidewalk for filming-related activity and provide a clear path around or through such activity, and
8. Produce minimal noise between the hours of 10:00 pm to 6:00 am.

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High impact filming activities may be defined as those which involve extenuating circumstances including, but not limited to, those which take place during business hours, disrupt traffic flow or parking, occur during the peak shopping season, involve the use of explosives, pyrotechnics, fire, smoke-making machines or similar special effects, extensive set dressing, extensive nighttime lighting, loud noises, gunshots, street closures, and larger than average base camps and/or base camps with larger than average trucks parked on public streets.

D. The low vs. high impact determination will be made by the City on a case-by-case basis.

### **6. Permitting and Notification Procedure for Filming in the City of Lincoln.**

A. **Notification Process.** The Production Company is responsible for notifying all businesses and residents affected by the film production. Notification shall take place following the City's review of the application and no less than ten business days prior to any film production activity. The Production Company must notify affected businesses and residents of the planned activity (including equipment staging areas and base camps). The Film Liaison shall determine the extent of the required notification. Notification shall include a copy of the film permit application and a cover letter from the Production Company and shall include detailed information concerning the location and duration of the filming activities as well as specifics regarding lights, noise, traffic and parking where applicable and contact phone numbers. Maps and other pertinent information may be included as well. The Production Company is responsible for seeing that businesses and residents on upper floors receive the same notification as street-level businesses and residents. The cover letter provided by the Production Company shall provide notice of a five business day call-in period as outlined in Section 6-B below. Documentation of the required notification is required for further processing of the application.

B. **Business or Resident Concerns.** Businesses and residents within the required notification area shall have a five business day call-in period during which they may contact the Film Liaison to ask any questions or express concerns or objections. The Film Liaison will attempt to address objections and concerns in consultation with the Location Manager.

C. **Notification Process for High Impact Filming.** The notification process for high impact filming as defined in Section 5 above shall follow the same procedure and include the same information as that required for low impact filming. However, proof of notification in the form of signatures on sign off sheets must be obtained from affected businesses and/or residents and

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submitted to the Film Liaison prior to any further processing of the film application.

- D. **Permit Issuance.** At the end of the call - in period, the Film Liaison will issue the film permit if all reported concerns and objections have been adequately addressed.
- E. **Permit Amendments.** If the film production activities differ substantially from the film permit application, the Production Company shall re-notify affected businesses and residents in accordance with Sections 6-A, 6-B and 6-C above.
- F. **Insufficient Notice.** The City of Lincolnton reserves the right to deny or revoke permits where insufficient time has been allowed for proper notification or when the notification process has been improperly applied.

### 7. Street Closures and Intermittent Traffic Holding

**A. Street Closures.** Production companies who wish to temporarily close a street inside the City limits must also complete a street closure application. Applications for closures of city maintained streets must be submitted a minimum of 30 days prior to the requested closure date. If the request involves closure of a state maintained street, the application would also need to be submitted in advance to the North Carolina Film Commission for approval.

**B. Traffic Control.** Traffic control, if needed, must be handled by off-duty police officers hired by the Production Company or as otherwise approved by the City of Lincolnton Police Department. The City of Lincolnton Police Department reserves the right to determine the number of officers needed.

### 8. Special Effects, Explosives and Similar Devices

No film activity which involves the use of explosives, pyrotechnics, fire, smoke-making machines or other special effects of a similar nature may be undertaken unless specifically approved by permit from the Lincolnton Fire Department. The City of Lincolnton Fire Department reserves the right to require the presence of off-duty fire personnel during any film activity which involves the use of hazardous materials.

### 9. Removal of Vegetation

Removal or alteration of vegetation in the public right of way or on City owned lands is prohibited unless specifically approved by the film permit.

### 10. Clean Up

The production company is fully responsible for clean – up and proper disposal of all waste and materials produced.

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### **11. General Restrictions**

The following restrictions and standards apply to film production in the City of Lincolnton:

- A. Clear access must be provided and maintained for all emergency vehicles per the City Fire Code.
- B. Production vehicles and equipment shall not block fire hydrants, driveways, or other access ramps unless authorized by the City and/or affected businesses/residents.
- C. Production vehicles and equipment must be parked in such a way as to not impede safe lines of vision at intersections and comply with all City ordinances regarding on-street parking.
- D. Lighting for filming, both during the day and at night, should not interfere with the safe movement of traffic.
- E. Production companies blocking or holding traffic on streets scheduled for trash/recycling pick up or leaf collection must allow trucks to access those areas for normal pickup.
- F. Production companies are responsible for returning any public rights of way used for filming, base camp, or equipment purposes to their original condition in a timely manner, and for repairing damage to foliage, grass, or public property.
- G. Any filming activity involving holding, delaying or re-routing of traffic may require the presence of one or more off-duty police officers, to be determined by the Lincolnton Police Department.
- H. The City reserves the right to require the presence of one or more off-duty police officers at any filming activity utilizing public property and/or rights-of-way for base camps,
- I. The City reserves the right to require the presence of one or more off-duty fire personnel at any filming activity utilizing hazardous materials.
- J. No parking of vehicles or equipment of any kind in alleys shall be permitted without written permission from the Lincolnton Fire Department and the written consent of affected businesses and residents.

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- K. In the event of natural or civil disasters, the City reserves the right to cancel all outstanding film permits on both public and private properties within City limits. Should evacuation of a street, neighborhood, or district be deemed necessary by fire, police, or other emergency authorities, all outstanding permits for that area are null and void. Permits will be re-granted as soon as possible following a safety evaluation by the City.
- L. The City reserves the right to change, modify, update, or waive provisions of these standards where necessary for the public's safety.
- M. The City reserves the rights to cancel filming permits and/or take further restrictive actions where necessary to assure adherence to these standards.

### **12. Insurance**

All film productions are required to maintain liability insurance policies for filming on location within the City. The following minimum policy amounts are required:

|                                        |             |
|----------------------------------------|-------------|
| General Liability Insurance            | \$1,000,000 |
| Automobile Liability                   | \$1,000,000 |
| Worker's Comp and Employer's Liability | \$1,000,000 |

While these minimum insurance amounts are required, each filming will be treated on a case by case basis. If the Production Company has "high hazard" events planned, then these amounts may be increased. Examples of high hazard events include, but are not limited to, using a vehicle to jump a railroad track, using a significant amount of explosives or pyrotechnics, or demolition of a building or vehicle. The Film Liaison will determine if insurance amounts need to be increased.

### **13. Disclaimer of Liability; Indemnity**

Every production company to whom a Filming Permit is issued and every person who participates in filming events acknowledges and agrees that the City of Lincolnton, its elected officials and employees, shall not be held liable, for any injury, loss, damage, liability or obligation arising out of, or connected in any manner with, the planning, permitting, or conduct of the film production.

Every production company to whom a Filming Permit is issued, as a condition of the issuance of the Filming Permit, agrees to indemnify and hold harmless the City of Lincolnton, its elected officials and employees with respect to any and every claim, demand, cause of action, injury, loss, damage, liability and obligation arising out of, or connected in any manner with, the planning, permitting, or conduct of the film production. The City of Lincolnton shall require a written acknowledgment of the disclaimer of liability and the indemnity set out herein.

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### **14. Permits, Fees and Deposit**

- A. **Required Permits.** Some film productions may include activities that require the issuance of one or more permits by the City, as outlined in the City of Lincoln Fee Schedule.
- B. **Off -Duty City Personnel.** Some film productions may require the use of off-duty City Police or Fire personnel. Such personnel may be hired directly by the Production Company at an hourly rate of \$30.00 per hour for four hour minimum periods of time.
- C. **Use of City Services or Facilities.** Production companies that wish to use City services or facilities will be charged the same fee as other for-profit ventures for the service or facility used. Production companies that wish to use City services for which a fee has not been established will be charged at the discretion of the City on the basis of time, equipment, and materials. The City reserves the right to deny requests for use of City services or facilities.
- D. **Deposit Required.** Prior to the granting of any film permits, the City will require production companies to assure their financial responsibility through a \$5,000.00 cash deposit. Upon completion of filming, the deposit will be returned after the Production Company has paid all outstanding bills owed to the City.

Section 2. That this ordinance shall become effective upon its adoption.

After the thorough review of the above, Councilman Cloninger made the motion unanimously approved to close the public hearing.

Councilman Eaddy made the motion unanimously approved to amend the City's Code adding Chapter 97 – Film Ordinance, as recommended.

### **TO RECEIVE PUBLIC COMMENT ON A PROPOSED AMENDMENTS TO THE CITY'S CODE OF ORDINANCES AS FOLLOWS:**

Chief of Police Rodney Jordan told Council he had been contacted by the Lincoln County Animal Services Manager, David Workman, to consider amending the City's current ordinance as it relates to animal control. Lincoln County currently is contracted by the City to provide animal control services inside the corporate limits. Mr. Workman suggested to ease enforcement our ordinance mirror Lincoln County's in certain areas. He recommended the following revisions to the below stated sections of the City's Code of Ordinances:

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### Title IX – General Regulations - Chapter 90.21 – Dangerous Dogs Chapter 90.22 – Duty of County Dog Warden and Chapter 90.35 – Vaccination of Dogs:

#### GENERAL PROVISIONS

##### § 90.01 KEEPING OF LIVESTOCK PROHIBITED.

##### § 90.01 KEEPING OF LIVESTOCK PROHIBITED.

(A) It shall be unlawful to keep or maintain any cow, horse, pony, mule, sheep, goat or other livestock on any lot or within any pen, stable or other enclosure or building within the corporate limits.

(B) This section shall not be deemed to prohibit the assembling of livestock for shipment or the unloading from shipment of livestock, provided the livestock are not kept within the corporate limits for more than 24 hours prior to shipment or subsequent to unloading.

(Prior Code, § 3-1) Penalty, see § [10.99](#)

##### § 90.02 FOWL AT LARGE.

##### § 90.02 FOWL AT LARGE.

It shall be unlawful for any person to keep any ducks, geese, guinea, chicken or other domestic fowl in the city.

(Prior Code, § 3-2) Penalty, see § [10.99](#)

##### § 90.03 PIGEONS TO BE CONFINED.

##### § 90.03 PIGEONS TO BE CONFINED.

It shall be unlawful for any person to keep pigeons, except when the pigeons are properly kept in a cage or enclosure at all times.

(Prior Code, § 3-3) Penalty, see § [10.99](#)

##### § 90.04 CONTINUATION OF ACTIVITIES AFTER AREA ANNEXED INTO THE CITY.

##### § 90.04 CONTINUATION OF ACTIVITIES AFTER AREA ANNEXED INTO THE CITY.

(A) Any activity described in this chapter shall be allowed to continue in the same manner as is being carried out at the time it is annexed into the city.

(B) No activity shall be expanded or enlarged beyond the size, dimension and intensity that exists at the time the land on which the activity is located is annexed into the city.

(Prior Code, § 3-4) (Ord. O-31-94, passed 3-3-1994) Penalty, see § [10.99](#)

##### § 90.05 HORSES OR LIVESTOCK ON LINCOLNTON RAIL-TRAIL.

##### § 90.05 HORSES OR LIVESTOCK ON LINCOLNTON RAIL-TRAIL.

(A) It shall be unlawful to have or use horses or other livestock on the Lincolnton Rail-Trail for any purpose including as a means of transportation.

(B) Violation of this section shall be punishable as a misdemeanor.

(Prior Code, § 3-5) (Ord. O-66-98, passed 12-10-1998) Penalty, see § [10.99](#)

##### § 90.06 ANIMALS AT SPECIAL EVENTS.

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### § 90.06 ANIMALS AT SPECIAL EVENTS.

(A) It shall be unlawful for any owner to take an animal into or allow the animal to enter or remain within the boundaries of a festival, concert or other public gathering (special events). The event boundary shall include any area that is part of the event and shall include any public street, sidewalk or other publicly-owned area within the confines of such event.

(B) The following animals are exempt from the prohibitions contained in division (A):

- (1) Guide (or seeing-eye) dogs assisting persons who are visually impaired;
- (2) Animals under the control of the duty law enforcement personnel;
- (3) Animals that are part of an authorized exhibit or attraction approved by the event organizers.

(Ord. O-06-07, passed 11-1-2007) Penalty, see § [10.99](#)

#### DOGS AT LARGE

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#### § 90.20 GENERALLY.

### § 90.20 GENERALLY.

It shall be unlawful for the owner or person in charge of any dog to permit the same to be at large on the streets or sidewalks, or to be off the owner's premises, in the city unless under the control of the owner or person in charge of the dog, either by leash, collar, chain or otherwise.

(Prior Code, § 3-20) Penalty, see § [10.99](#)

#### § 90.21 DANGEROUS DOGS.

### § 90.21 DANGEROUS DOGS.

No person, owning or having the custody of, any vicious or dangerous dog of any kind, shall allow the dog to be at large unmuzzled, on or in any of the streets or other public places. – By our county ordinance “Dangerous Dogs” are not allowed to remain in the county.

(Prior Code, § 3-21) Penalty, see § [10.99](#)

#### § 90.22 DUTY OF COUNTY DOG WARDEN.

### § 90.22 DUTY OF COUNTY DOG WARDEN.

(A) It is hereby declared the duty of the county dog warden to pick up any dog going at large and to immediately notify the owner, if possible, that the dog is being detained until positive identification of its owner. The dog warden shall return the dog to the owner upon payment of vaccination fee, board bill and other necessary expenses.

(B) Any dog at large picked up by the dog warden shall be kept for a period of five days to allow the owner to identify or claim the dog; however, after the expiration of five days, if the dog is still unclaimed, it shall be the duty of the dog warden to destroy the dog in a humane manner.

(Prior Code, § 3-22) Penalty, see § [10.99](#) – By County Ordinance we are only required to hold animals for Four (4) days.

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### DOGS AND RABIES CONTROL

#### § 90.35 VACCINATION OF DOGS.

##### § 90.35 VACCINATION OF DOGS.

Each owner in the city of a dog shall be required to forthwith have the dog vaccinated against rabies by some reputable veterinary surgeon. The surgeon shall furnish a certificate or tag to the owner for each dog vaccinated. Any owner failing to have the person's dog vaccinated shall be guilty of a misdemeanor. Each owner shall carry with the owner at all times the owner's certificate or tag of vaccination and shall show it upon demand of any police officer.

(Prior Code, § 3-23) Penalty, see § 10.99

The ordinance shall become effective upon adoption.

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

Councilman Cloninger made the motion unanimously approved to amend the City's Code, as above stated, and as recommended by the Police Chief.

#### **RESOLUTION HONORING THE RETIREMENT OF POLICE OFFICER GERALD MARK SAIN FROM THE LINCOLNTON POLICE DEPARTMENT FEBRUARY 1, 2014:**

**(R-02-14)**

Mayor Gilleland called Police Officer Mark Sain forward to present him a framed resolution honoring his retirement from the City of Lincolnton. The Mayor began by thanking Mark for his years of service and tireless efforts to ensure the safety of Lincolnton's citizens. He read the resolution aloud as follows:

**WHEREAS,** *Mark Sain* began employment with the City of Lincolnton on January 23, 1989 as an Electric Lineman II. In 1996 he was promoted to Electric Supervisor, then in 2002 he became Electric Distribution Superintendent. In 2008 Mark's interest in public service expanded to law enforcement as he transferred to the Police Department as a Police Officer I; and

**WHEREAS,** *Mark Sain* completed Supervisory Leadership Development courses and lead the electric utilities department to receive safety awards for eight consecutive years; and

**WHEREAS,** *Mark Sain* has proven his leadership qualities, throughout his tenure with the City. Mark has served as a role model, providing excellent Public Service and Public Safety to the citizens of Lincolnton; and

**WHEREAS,** *Mark Sain*, has served the citizens of Lincolnton for a total of twenty-five years in both the Public Utilities and Law Enforcement/Public Safety Sector, and plans to retire effective February 1, 2014; and

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**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and City Council of the City of Lincolnton that appreciation be shown to *Mark Sain* honoring him on his upcoming retirement and that we extend congratulations and best wishes to him for continued success in all his future endeavors.

Adopted and presented this the 9<sup>th</sup> day of January, 2014.

Once presented Mark thanked the Mayor and City Council for allowing him the opportunity to work for the City. He said it was an honor and privilege to serve the citizens during his time in both the Electric Department and as a Police Officer.

### **UPDATE FROM LINCOLNTON FIRE DEPARTMENT:**

Councilman Eaddy recently suggested to the City Manager that each month a City department give a brief update of the operations of their respective department. Dr. Eaddy felt this would be beneficial not only to Council but to our citizens, educating them on what services each department provides.

The City Manger selected Mitch Burgin, Fire Chief, to be the first to give a brief summary to Council. Chief Burgin gave a thorough review of the duties of his department and of his men as a fire fighter. He had several fire fighters in attendance and called on them throughout his presentation to participate in role playing actual fire calls. Each fire fighter stepped forward as Chief Burgin used various scenarios for routine fire calls and working structure fires.

Chief Burgin said the Lincolnton Fire Department responded to 2,021 calls, ranging from fire related incidents to medical emergencies. Approximately fifty percent of calls were fire related, with the remaining fifty percent being medical situations. Mitch said, "I think we have got a good percentage there. There are a lot of fire departments that spend 70 to 80 percent on medical situations, and we are about 50-50, so I think that is pretty good." Mitch explained that one of the biggest achievements for the fire department was improving their response time to emergencies. Lincolnton Fire Departments response time is three minutes and twenty seconds, almost three times as fast as Lincoln County's EMS at eight minutes.

The Chief said, "There is no way to tell how many lives we've saved, but I can tell you it changes putting oxygen on someone within three minutes." In conclusion, the Chief said, "We hope we were able to convey the real life challenges Lincolnton fire fighters face." The Mayor and City Council thanked him for his presentation and all the fire fighters for the wonderful job they do for the citizens of Lincolnton.

## **REGULAR MEETING - JANUARY 9, 2014**

### **APPLICATIONS WERE RECEIVED FOR A VACANCY FOR THE LINCOLNTON PLANNING BOARD – EXTRA TERRITORIAL JURISDICTION AREA (ONE MILE RADIUS OF EXISTING CITY LIMITS):**

**(APPT-01-14)**

Mayor Gilleland reviewed applications that were received for a vacancy for the Lincolnnton Planning Board, Extra-territorial Jurisdiction. One application was received from the advertise ad within the application deadline. Mrs. Becky Burke of Highway 27 West met the criteria living within the one mile radius of the corporate limits.

Councilman Cloninger having reviewed the application, noting Mrs. Burke has served the City faithfully on previous boards, nominated her for appointment. City Council unanimously approved Mrs. Burke to begin serving her first three year term on the Lincolnnton Planning Board effective immediately. Her term will run from January 2014 through December 2016. The City Clerk will notify her of the appoint and will complete Mrs. Burke's oath and all necessary paperwork prior to the January 21<sup>st</sup> Planning Board meeting.

### **UPDATE ON CITIZEN REQUEST FOR A STOPLIGHT AT THE INTERSECTION OF BONVIEW AND HIGH STREET (CURRENTLY A CAUTION LIGHT):**

Rodney Jordan, Chief of Police, told Council he and Mrs. Dellinger had met and discussed possible options to address concerns of speeding on Bonview Avenue. He recommended to first amend the City's current ordinance changing the speed limit on Bonview from 35 mph to 25 mph. Chief Jordan felt this would be the first step of corrective action to address the problem in that area. He said if Council would want to consider this option, a public hearing to amend the City's Code could be held at the February 6<sup>th</sup> meeting, to receive public comment.

Councilman Eaddy made the motion unanimously approved to hold a public hearing to consider amending the ordinance as recommended by the Chief of Police, reducing the speed from 35 mph to 25 mph on Bonview Avenue. The City Clerk will advertise accordingly to conduct a public hearing at the February meeting.

### **DISCUSSION OF REQUEST FOR PROPOSED REVISIONS TO SIDEWALK DINING ORDINANCE:**

Brad Guth, Director of B&CD, reviewed a draft of proposed revisions to the City's current sidewalk dining ordinance. He said, "Currently the city of Lincolnnton regulates what a business owner can do on the sidewalk in front of their business. For example, our current ordinance allows for

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alcohol to be served in a designated area but only if accompanied with food service. Southern Charm Winery owners met with Business and Community Development Department Staff and a Downtown Development Association Volunteer during a regular business outreach meeting and requested help in getting the ability for their patrons to enjoy being served a glass of wine in a sidewalk café in front of their business.”

The proposed ordinance change would permit a business to use the sidewalk in front of their building, as prescribed by the ordinance, for any use the business is permitted to use.

Brad said Southern Charm Winery is permitted by the North Carolina ABC Commission to serve wine by the glass without food service. Currently, Southern Charm is the only business that this ordinance change would affect if approved.

This item generated much discussion among Council members. Councilman Hovis expressed concerns about the sale of beer, saying the ordinance in its original form was hard to pass with the food requirement in the ordinance. He felt it would be hard to present a proposed amendment where food would not have to be sold.

Councilman Rhyne asked if Lizzie Lu’s who currently sales wine by the bottle but not by the glass, could possibly begin selling wine (consuming onsite) with the proposed amendment. Brad said “Yes, if they are permitted by the ABC Commission.”

After further discussion Councilman Rhyne said he would encourage holding a public hearing to receive input from citizens and downtown merchants regarding the proposed amendment.

Councilman Cloninger made the motion unanimously approved to hold a public hearing regarding the proposed amendment at the February 6<sup>th</sup> City Council meeting. The City Clerk was directed to advertise accordingly.

### **DISCUSSION OF BOD (BIOCHEMICAL OXYGEN DEMAND) - WASTEWATER TREATMENT PLANT:**

Jeff Emory, City Manager, told Council in recent efforts through Lincoln Economic Development Association to recruit a large water user, the BOD limits at our Wastewater Treatment Plant were discussed. Jeff said, while there in no urgent need to increase the limits as we are currently in compliance with our state issued permit, he feels formulating a strategy to address future issues would be a good idea.

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Steve Peeler, Public Service Director, provided several graphs to City Council depicting the current BOD levels used by each existing industry. He also provided graphs depicting a 20% cushion to allow for BOD fluctuation. He felt implementing a long term plan at the plant to increase our BOD while not immediately necessary, could be a benefit to the City. He said this could put the City in a better position to recruit industry, and it could become an economic development tool that LEDA could use to bring new industry here or to expand existing industry. He said, "The cost would involve sampling, conducting a study within the plant to determine if we could recapture any of the existing BOD percentages currently allocated to our industries or to increase of BOD limits.

The study would also assist in determining how much more poundage of sludge we could generate and also determine if we have the infrastructure at the plant to handle that additional poundage of sludge. If we have an opportunity to increase our BOD with our industries and that is economically feasible we should do this." He felt the study could answer these questions and also determine what the capital cost would be to expand the WWTP.

Mr. Peeler said, "We are coming up to the pre-treatment permit renewal cycle; they are done on a five year basis. If we were to recover any percentage from existing industries this may be the time to do that."

Councilman Eaddy said, "At this point we don't have to do anything. We just need to know a time line for when BOD's could be up an running should we get a large water customer looking to locate in Lincolnton."

While Council members seemed to consider the idea of a study they asked Mr. Peeler to look at the possibility of recapturing some of the existing BOD allocation too.

The City Manager said if the City has an ordinance that states that within five years an industries usage is consistently lower than the allocation the City reserves the right to adjust their BOD permit limits. After further discussion, Jeff told Council that staff would get a quote of what a study would cost and provide that information to them at the February meeting.

### **MONTHLY FINANCIAL/ OVERTIME REPORT:**

Jeff Emory, City Manager, reviewed the monthly financials and overtime report for the month ending November 2013. He reviewed the general

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fund, the water & sewer fund, the electric fund as well as the overtime cost.

Jeff Emory, City Manager, reviewed the monthly executive summary provided by the Finance Department summarizing the three major funds; General, Water & Sewer and Electric as well as overtime for the period ending November 13.

Jeff said, "The General Fund numbers reflect a negative balance of \$ 134,000.00, as compared to last year which was \$ 516,000.00, making our overall fund balance a positive \$ 482,000.00 from last years total. Water and Sewer Fund we are a negative \$ 333,000.00 from last year which is directly related to water usage being down. The last two months of overtime have been much better." The Mayor said the water and sewer continues to concern me as the balance continues to decrease. Jeff expressed concerns as well, noting that fund is the fund that we have to meet dollar for dollar according to the Local Government Commission. Mayor and Council thanked Jeff for the update saying this monthly report is a good way to keep them abreast of the City's finances.

### **ADDED ITEM:**

#### **CONSIDERATION OF CHANGING BUDGET RETREAT DATE:**

Councilman Rhyne asked Council to consider moving the date for the upcoming Planning Retreat. The dates set last month were February 29 and March 1<sup>st</sup>. Councilman Rhyne will be away on a mission trip with his church that weekend and cannot attend. He suggested we move the retreat to Friday, March 7 and Saturday March 8<sup>th</sup>.

Some Council members did not have calendars on hand so the City Clerk will send out an email to confirm with everyone if these dates will work. Once confirmed the City Clerk will advertise the Planning Retreat in accordance with the Open Meetings Law.

### **PUBLIC COMMENT:**

The City Clerk confirmed with Mayor Gilleland that each speaker would be allowed three minutes for public comment. Eight people signed to speak. They were as follows:

Mr. Pyth Harkey, 1640 Shoal Road Lincolnton, spoke to the Council about his concerns for the Hog Happenin event. He said, "People from the county are coming to town to spend their money at the Hog Happenin' and as a county resident I feel I have a right to speak. Public

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drinking is offensive to me and this event includes public drinking and naked women.” He said the event is not a family event. He hopes the City and Hog Happenin Committee members can change the event to become a positive for Lincoln. He spoke in favor of Dale Punch and said he was offended by the notion that Dale Punch was a disappointment to anyone. He encouraged a public apology to Dale from Mr. Guth.

Mr. Phil Collins, of 1587 Molly Acres Lane Lincoln, said he too was in support of Mr. Dale Punch. The memorandum that was passed around stating that Dale Punch was a disappointment was a defamation to Dale’s character. Mr. Collins supports Mr. Punch, noting that Dale has helped families of servicemen in Iraq and other military families while soldiers were away fighting for our very freedom. He said, “Dale is not a disappointment to me.” Mr. Collins thanked the Council for their time.

Mr. Eric Robinson, Lincoln County Veterans Officer, also spoke favorably of Mr. Punch. He said, “I work closely with Dale and Dale is out advocating to our veterans on the street while I am in the office. I do not see Dale as a disappointment as to what we do. He puts his efforts where his mouth is.” He too has witnessed Dale assisting veterans and their families playing a big role in some veteran’s lives.

Mr. Bill Ledford, 702 W. Pine Street, expressed his opposition to Hog Happenin’. He said he provides free parking to citizens for this event in his parking lot of his business located off of Pine Street. The event leaves trash on the streets and beer cans in his parking lot. Mr. Ledford said, “If it weren’t for Dale Punch there might not be an American Legion Post 30 in Lincoln.” Dale has brought at least twenty Medal of Honor recipients to Lincoln and the various high schools in the County. He said Dale has touched a lot of people’s lives and he is one of my very best friends.

Mr. Dale Punch, 131 Boulder Drive, gave a report about Hog Happenin’ and the costs to put on the event. Mr. Punch said under the advice of Councilmen Cloninger and Rhyne he attended the recent Hog Happenin meeting. The meeting was very informative. During that meeting Dale said he lost his temper and he apologized to Council for that. He gave Council a review of the meeting and expressed his concerns for a beer vendor serving on the committee. Dale felt the vendor serving was a conflict of interest as he is the sole vendor for beer for various events sponsored by the City or DDA.

Mr. Punch would like to see an accounting from DDA as to how much money is taken in and how the money is expended. Dale said he believes

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in honesty and accountability and believes the accounting should be checked out. Dale said, "Brad informed me paying city employees overtime is good for the City. As a tax payer I do not see how that is good for the City." Dale thanked the Mayor and Council members for their time and for the opportunity to speak.

Mr. Robert Tomlinson, 501 S. Grove Street, spoke against Hog Happening and in favor of Dale Punch. He echoed what others who spoke before him said.

Ms. Brooke Sherrill, 7041 Lackey Rd, spoke in favor of Hog Happenin. She told Council that she was learning the ropes as she would begin this year to serve as Chair of the Downtown Development Association. She looks forward to leading this group and to helping to continue to improve the viability of downtown Lincoln. Ms. Sherrill recapped the meeting that Dale spoke about, offering thanks to Dale for providing his input. She said, we are always looking for new ideas and citizens who want to get involved. She has served as a volunteer at the Hog Happenin' event and as a member of the committee, and does not feel that changes to the sale of alcohol need to be made. She said she talked with the Police Chief and that no alcohol related incidents occurred during this year's event.

Mr. Steve Peeler, Director of Public Works and Utilities, for the third month signed up to speak regarding employee benefits but declined to speak when called upon.

### **NEWS MEDIA:**

Mr. Wayne Howard of the Lincoln Herald had no questions but told Council he felt this was an interesting meeting. Mr. Howard encouraged those who expressed opinions about the DDA or Brad Guth or Hog Happening to speak privately to the City Manager. It is his hope that the bad feelings and negative comments can be handled through the City Manager not in a public meeting.

### **ADJOURNMENT:**

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

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

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**JOHN O. GILLELAND, JR.**  
**MAYOR**