

A G E N D A

LINCOLNTON CITY COUNCIL

February 6, 2014

7:00 p.m.

Council Chambers

City Hall

**FOR YOUR CONVENIENCE A COPY
OF TONIGHT'S AGENDA
IS AVAILABLE, LOCATED TO THE
RIGHT OF THE ENTRANCE TO THE
COUNCIL CHAMBERS**

**ANYONE WISHING TO SPEAK
DURING THE PUBLIC COMMENT
PORTION OF THE AGENDA
PLEASE SEE THE CITY CLERK
PRIOR TO THE MEETING TO SIGN
UP**

**NON-AGENDA ITEMS WILL BE
DISCUSSED AND SPEAKERS WILL
BE LIMITED TO THREE (3)
MINUTES**

**A COPY OF THE RULES FOR PUBLIC
COMMENT ARE AVAILABLE AT THE CITY
CLERK'S DESK**

**THANK YOU FOR ATTENDING
OUR MEETING
AND FOR YOUR INTEREST
IN THE CITY OF LINCOLNTON**

A G E N D A

LINCOLNTON CITY COUNCIL

**February 6, 2014
7:00 p.m.**

CALL TO ORDER – Mayor John O. Gilleland, Jr.

PLEDGE OF ALLEGIANCE

1. Approval of REGULAR AGENDA

2. Approval of CONSENT AGENDA

All items placed under Consent Agenda are considered routine, to be enacted by one motion without discussion. If a member of the Governing Body requests discussion of an item, the item will be removed from the Consent Agenda and considered separately.

3. Approval of January 9th regular meeting minutes

4. Approval of (R-04-13) Resolution of approval of local Water Supply Plan

5. Approval of (C-02-14) Mutual Aid and Assistance Agreement – Fire Marshal Services

6. Calls to Public Hearing for the March 6th, 2014 meeting:

CUP-2-2014 – Application from Lincolnton Business Center requesting a conditional use permit to operate a Distillery in the General Manufacturing and Commercial (GMC) District. The subject property is located at 315 Motz Avenue (Parcel ID 00419)

CUP-3-2014 – Application from Skygroup Carolinas, LLC requesting a conditional use permit to construct an Urgent Care Facility in the Planned Business (PB) and Special Highway Overlay (SHO) Districts. The subject property is located at the southeast corner of East Main Street and US Highway 321 (Parcel ID 87366)

REGULAR AGENDA:

PUBLIC HEARINGS

7. 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)

Laura Simmons, Planning Director

PUBLIC HEARINGS

- 8. A Public Hearing to receive comments on a proposed amendment to the City's Code of Ordinances as follows;**
TITLE VII – Traffic Code
Chapter 74 Traffic Schedules
SCHEDULE VII. Bonview Avenue, from North Aspen Street to Grove Street, reduce speed limit from 35 mph to 25 mph

Rodney Jordan, Chief of Police

- 9. A Public Hearing to receive comments on a proposed amendment to the City's Code of Ordinances as follows:**
TITLE XI. BUSINESS REGULATIONS
Chapter 114: Sidewalk Dining
Sections 114.01 through 114.09 – To allow any business that currently possesses or obtains through the Alcohol Law Enforcement (ALE) an “on premise” permit to be eligible to serve customers

PRESENTATION

- 10. Update from Lincolnton Police Department**

Rodney Jordan, Chief of Police

APPOINTMENTS

(APPT-02-14)

- 11. Applications were received for a vacancy for the Historic Properties Commission – One (1) Vacancy - *Two applicants – Mr. William Stark and Ms. Ellen Shuford Stone (Vacancy due to the resignation of Becky Burke)***

Mayor Gilleland

(APPT-03-14)

- 12. Appointment to the MPO Board – A City Councilmember who will be the voting delegate representing Lincolnton**

Mayor Gilleland

CONTRACT

(C-01-14)

- 13. Consideration of contract between the City and East Coast Pyrotechnics for the 2014 July 4th Celebration**

Jeff Emory, City Manager

RESOLUTION

(R-05-14)

- 14. Resolution supporting Trail Grant application**

Jeff Emory, City Manager

OTHER BUSINESS

- 15. Proposal from Pease and Associates regarding BOD (Biochemical Oxygen Demand) Limits at the Wastewater Treatment Plant**

Jeff Emory, City Manager
Steve Peeler, Director of PW&U

- 16. Update on the proposed Intersection Project – Generals Blvd and East Main Street**

Laura Simmons, Planning Director

- 17. Monthly Financial/ Overtime Report**

Jeff Emory, City Manager

PUBLIC COMMENT

Speakers will be limited to three (3) minutes to address Mayor and City Council concerning Non-Agenda items.

You must sign in with the City Clerk to be eligible to speak

CLOSED SESSION

In accordance with NCGS 143-318.11(a)(6)
To discuss personnel

NEWS MEDIA

ADJOURNMENT

ITEM #

1

APPROVAL

OF

REGULAR

AGENDA

ITEM #

2

APPROVAL

OF

CONSENT

AGENDA

ITEM #

3

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 6th 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 5TH 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:

REGULAR MEETING - JANUARY 9, 2014

An Ordinance to Amend the City of Lincoln 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 Lincoln 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.

REGULAR MEETING - JANUARY 9, 2014

- G. **Film Liaison.** City of Lincolnton staff member who administers the Film Ordinance and permit application process.
- H. **Film Permit.** A document issued by the City of Lincolnton 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 Lincolnton 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 Lincolnton 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 Lincolnton 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

REGULAR MEETING - JANUARY 9, 2014

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.

REGULAR MEETING - JANUARY 9, 2014

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.

REGULAR MEETING - JANUARY 9, 2014

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

REGULAR MEETING - JANUARY 9, 2014

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.

REGULAR MEETING - JANUARY 9, 2014

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.

REGULAR MEETING - JANUARY 9, 2014

- 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.

REGULAR MEETING - JANUARY 9, 2014

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:

REGULAR MEETING - JANUARY 9, 2014

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.

REGULAR MEETING - JANUARY 9, 2014

§ 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

DOGS AT LARGE

§ 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.

REGULAR MEETING - JANUARY 9, 2014

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

REGULAR MEETING - JANUARY 9, 2014

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 9th 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 Lincolnton 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 Lincolnton 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 21st 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 6th 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 Lincolnton regulates what a business owner can do on the sidewalk in front of their business. For example, our current ordinance allows for

REGULAR MEETING - JANUARY 9, 2014

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 6th 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.

REGULAR MEETING - JANUARY 9, 2014

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

REGULAR MEETING - JANUARY 9, 2014

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 1st. 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 8th.

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

REGULAR MEETING - JANUARY 9, 2014

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 Lincolnton. 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 Lincolnton, 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 Lincolnton.” Dale has brought at least twenty Medal of Honor recipients to Lincolnton 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

REGULAR MEETING - JANUARY 9, 2014

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 Lincolnton. 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.

DONNA C. FLOWERS, MMC
CITY CLERK

JOHN O. GILLELAND, JR.
MAYOR

ITEM #

4



North Carolina Department of Environment and Natural Resources

Division of Water Resources

Pat McCrory
Governor

Thomas A. Reeder
Director

John E. Skvarla, III
Secretary

July 18, 2013

Mr. Robert Pearson, Water Treatment Superintendent
Lincolnton Water Treatment System
P. O. Box 617
Lincolnton, NC 28092

Subject: LWSP Meets Minimum Criteria
Lincolnton Water Treatment System
PWSID#: 01-55-010
Lincoln County

Dear Pearson,

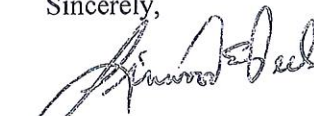
This letter is to notify you that our staff has reviewed the information contained in the 2012 Local Water Supply Plan (LWSP) update submitted by your office. Since all the required information is complete, the LWSP for Lincolnton's water system hereby meets the minimum criteria established in North Carolina General Statute 143-355 (l).

Your water system's 2012 LWSP is now viewable online from the *Local Water Supply Plans* link at <http://www.ncwater.org/>. The plan has been made available after our best efforts to screen any errors. As a final check, please review and report any mistakes or omissions to Dennis Ramsey, the review engineer. Unless notified otherwise, the Division of Water Resources considers your 2012 LWSP complete.

The 2012 LWSP must next be adopted by your water system's governing board; a model resolution is enclosed for guidance. A copy of the signed resolution must be submitted to Linwood Peele, Water Supply Planning Branch Chief, at the address printed at the bottom of this letter. The LWSP cannot be considered compliant with the requirements of NCGS 143-355(l) until an adopted resolution is received.

Thank you very much for your efforts to provide your customers with a safe and reliable supply of drinking water. We look forward to continuing to work with you in these efforts. Please contact Dennis Ramsey at dennis.ramsey@ncdenr.gov or (919) 707-9037 or me at linwood.peele@ncdenr.gov or (919)707-9024 if we can be of further assistance.

Sincerely,



Linwood E. Peele

Enclosure

1611 Mail Service Center, Raleigh, North Carolina 27699-1611
Location: 512 N. Salisbury St. Raleigh, North Carolina 27604
Phone: 919-707-9000 FAX: 919-733-3588
Internet: www.ncwater.org

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CITY OF LINCOLNTON

CITY COUNCIL

John O. Gilleland, Jr., Mayor
Larry Mac Hovis, Mayor Pro-Tem
Devin Rhyne
Martin A. Eaddy
John L. Cloninger



CITY MANAGER

JEFF EMORY
jeffemory@ci.lincolnton.nc.us

CITY CLERK

DONNA C. FLOWERS, CMC
donnaflowers@ci.lincolnton.nc.us

CITY ATTORNEY

THOMAS J. WILSON, JR.

RESOLUTION LOCAL WATER SUPPLY PLAN

WHEREAS, North Carolina General Statute 143-355 (1) requires that each unit of local government that provides public water services or plans to provide such services shall, wither individually or together with other such units of local government, prepare and submit a Local Water Supply Plan; and

WHEREAS, as required by the statute and in the interest of sound local planning, a Local Water Supply Plan for the City of Lincolnton, has been developed and submitted to the Lincolnton City Council for approval; and

WHEREAS, the Lincolnton City Council finds that the Local Water Supply Plan is in accordance with the provisions of North Carolina General Statute 143-355 (1) and that it will provide appropriate guidance for the future management of water supplies for the City of Lincolnton, as well as useful information to the Department of Environment and Natural Resources for the development of a state water supply plan as required by statute;

NOW, THEREFORE, BE IT RESOLVED by the Lincolnton City Council of the City of Lincolnton that the Local Water Supply Plan entitled, _____ dated _____, is hereby approved and shall be submitted to the Department of Environment and Natural Resources, Division of Water Resources; and

BE IT FURTHER RESOLVED that the Lincolnton City Council intends that this plan shall be revised to reflect changes in relevant data and projections at least once every five years or as otherwise requested by the Department, in accordance with the statute and sound planning practice.

This the 6th day of March 2014.

Name: _____

Title: _____

Signature: _____

ATTEST:

Lincolnton

2012 ✓

The Division of Water Resources (DWR) provides the data contained within this Local Water Supply Plan (LWSP) as a courtesy and service to our customers. DWR staff does not field verify data. Neither DWR, nor any other party involved in the preparation of this LWSP attests that the data is completely free of errors and omissions. Furthermore, data users are cautioned that LWSPs labeled **PROVISIONAL** have yet to be reviewed by DWR staff. Subsequent review may result in significant revision. Questions regarding the accuracy or limitations of usage of this data should be directed to the water system and/or DWR.

1. System Information

Contact Information

Water System Name:	Lincolnton	PWSID:	01-55-010
Mailing Address:	P.O. Box 617 Lincolnton, NC 28092	Ownership:	Municipality
Contact Person:	Robert Pearson	Title:	Water Treatment Plant Superintendent
Phone:	704-736-8970	Fax:	704-736-8979
Secondary Contact:	Donald T. Garbrick PE	Phone:	704-376-6423
Mailing Address:	2925 E. Independence Blvd. Charlotte, NC 28205	Fax:	704-322-6177

Distribution System

Line Type	Size Range (Inches)	Estimated % of Lines
Asbestos Cement	6-10	20.60 %
Cast Iron	6-10	37.20 %
Ductile Iron	6-24	37.20 %
Polyvinyl Chloride	6-12	5.00 %

What are the estimated total miles of distribution system lines? **230 Miles**
 How many feet of distribution lines were replaced during 2012? **1,680 Feet**
 How many feet of new water mains were added during 2012? **0 Feet**
 How many meters were replaced in 2012? **211**
 How old are the oldest meters in the system? **47 Year(s)**
 How many meters for outdoor water use, such as irrigation, are not billed for sewer services? **203**
 What is this system's finished water storage capacity? **7.700 Million Gallons**
 Has water pressure been unequale in any part of the system since last update? **No**

Programs

Does this system have a program to work or flush hydrants? **Yes, Monthly**
 Does this system have a valve exercise program? **Yes, Annually**
 Does this system have a cross-connection program? **Yes**
 Does this system have a program to replace meters? **Yes**
 Does this system have a plumbing retrofit program? **No**
 Does this system have an active water conservation public education program? **Yes**
 Does this system have a leak detection program? **No**

The City of Lincolnton will constantly work to reduce per capita water usage with leaks meter replacements and public education. The future per capita water demands will be evaluated annually and additional measures may be implemented as needed to ensure that the per capita water usage demands may be reduced.

Water Conservation

What type of rate structure is used? **Decreasing Block**
 How much reclaimed water does this system use? **0.000 MGD** For how many connections? **0**
 Does this system have an interconnection with another system capable of providing water in an emergency? **Yes**

2. Water Use Information

Service Area

Sub-System(s)	% of Service Population	County(s)	% of Service Population
---------------	-------------------------	-----------	-------------------------

South Fork Catawba River (03-2)

100 %

Lincoln

100 %

What was the year-round population served in 2012? **10,517**Has this system acquired another system since last report? **No**

Mr. Pease, This is a note, per our discussion, about our surface water transfer designation. We do supply water to Lincoln County, which is in a different sub-basin. However the part of the county which we supply is in our sub-basin area and is also primarily septic tank users. We also sell water to the City of Cherryville but this is only in emergency situations. We have only supplied the City of Cherryville for 6 hrs. in the past several years.

Water Use by Type

Type of Use	Estimated Connections	Estimated Average Use (MGD)	Non-Metered Connections	Non-Metered Estimated Use (MGD)
Residential	4,331	0.595	0	0.000
Commercial	686	0.404	0	0.000
Industrial	32	1.323	0	0.000
Institutional	14	0.025	0	0.000

How much water was used for system processes (backwash, line cleaning, flushing, etc.)? **0.344 MGD**

Water Sales

Purchaser	PWSID	Average Daily Sold (MGD)	Days Used	MGD	Contract Expiration	Recurring	Required to comply with water use restrictions?	Pipe Size(s) (inches)	Use Type
City of Cherryville	01-36-030	0.200	1	1.200	2024	Yes	Yes		Emergency
Lincoln County	01-55-035	0.220	365	1.000	2013	Yes	Yes	12	Regular

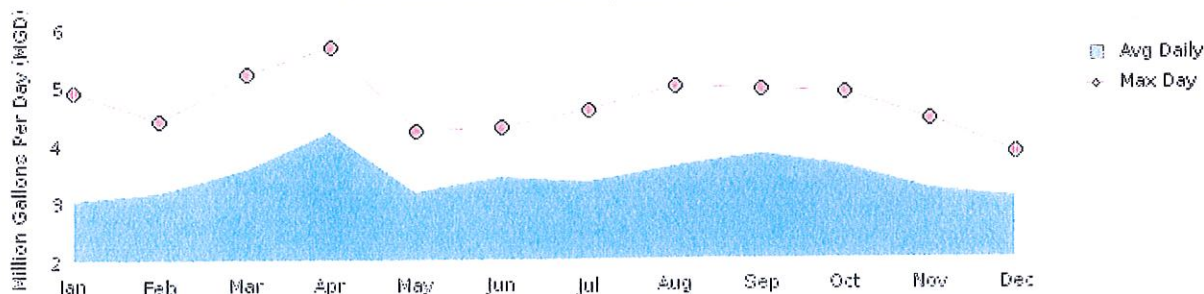
The contract with Cherryville reads as follows: Amount of water and limited warranty. Lincoln hereby agrees to make available for the sale to Cherryville up to 1,200,000 gallons per day. This amount may be increased or decreased as necessary by written consent of each party to this agreement during the term of the agreement. In addition, every three years, Lincoln shall increase Cherryville's available daily allocation by 200,000 gal. provided that Cherryville has purchased an average of 400,000 gallons per day from Lincoln over the previous 3 year period. Lincoln shall have no obligation to provide Cherryville with an available allocation that exceeds 2.0 MGD regardless of Cherryville's water needs. Lincoln may exceed this limit at its sole discretion. So by my definition Cherryville has not used 400,000 gallons per day in any year since its connection was made so the amount of the contract is still 1,200,000 gallons per day. Here is what the agreement says about termination: Duration and Termination: The term of the agreement may be extended beyond the initial twenty (20) year term if Lincoln determines that water can be available for sale beyond that date. Lincoln may terminate this agreement with two (2) year written notice to Cherryville, at any time prior to the above-stated twenty year anniversary if Lincoln is notified by NCDESR that it must begin the planning process for expansion of its water treatment plant. The contract was implemented in 2004, so it ended 20 years to 2004. That is how it goes to the expiration date of 2024.

3. Water Supply Sources

Monthly Withdrawals & Purchases

	Average Daily Use (MGD)	Peak Day Use (MGD)		Average Daily Use (MGD)	Peak Day Use (MGD)		Average Daily Use (MGD)	Peak Day Use (MGD)
Jan	2.991	4.886	May	3.154	4.223	Sep	3.779	4.933
Feb	3.137	4.387	Jun	3.422	4.280	Oct	3.596	4.853
Mar	3.568	5.214	Jul	3.325	4.568	Nov	3.187	4.407
Apr	4.191	5.680	Aug	3.572	4.968	Dec	3.024	3.822

Lincolnton's 2012 Monthly Withdrawals & Purchases



Surface Water Sources

Stream	Reservoir	Average Daily Withdrawal		Maximum Day Withdrawal (MGD)	Available Raw Water Supply		Usable On-Stream Raw Water Supply Storage (MG)
		MGD	Days Used		MGD	* Qualifier	
South Fork Catawba River		3.412	365	5.680	12.000	F	0.000

* Qualifier: C=Contract Amount, SY20=20-year Safe Yield, SY50=50-year Safe Yield, F=20% of 7Q10 or other instream flow requirement, CUA=Capacity Use Area Permit

Surface Water Sources (continued)

Stream	Reservoir	Drainage Area (sq mi)	Material?	Sub-Basin	County	Year Of Use	Use Type
South Fork Catawba River		390	Yes	South Fork Catawba River (03-2)	Lincoln		Regular

What is this system's off-peak raw water supply storage capacity? 20 Million gallons

Are surface water sources monitored? No,

Are you required to maintain minimum flows downstream of its intake or dam? No

Does this system anticipate transferring surplus water between river basins? No

Water Purchases From Other Systems

Seller	Permit	Average Daily Purchased (MGD)	Days Used	MGD	Contract Expiration	Recurring	Required to comply with water use restrictions?	Pipe Size(s) (Inches)	Use Type
City of Cherryville	01-36-030	0.000	0	1.200	2024	Yes	Yes		Emergency
Lincoln County	01-55-035	0.000	0	1.000	2013	No	Yes	12	Emergency

Water Treatment Plants

Plant Name	Permitted Capacity (MGD)	Is Raw Water Metered?	Is Finished Water Output Metered?	Source
City of Lincolnton WTP	9.000	Yes	Yes	South Fork of the Catawba River

Did average daily water production exceed 80% of approved plant capacity for five consecutive days during 2012? No

If yes, was any water conservation implemented?

Did average daily water production exceed 90% of approved plant capacity for five consecutive days during 2012? No

If yes, was any water conservation implemented?

Are peak day demands expected to exceed the water treatment plant capacity in the next 10 years? No

4. Wastewater Information

Monthly Discharges

	Average Daily Discharge (MGD)		Average Daily Discharge (MGD)		Average Daily Discharge (MGD)
Jan	2.500	May	2.600	Sep	2.300
Feb	2.700	Jun	2.500	Oct	2.400
Mar	2.500	Jul	2.200	Nov	2.100
Apr	2.300	Aug	2.600	Dec	2.100



How many sewer connections does this system have? 3,947

How many water service connections with septic systems does this system have? 1,253

Are there plans to build or expand wastewater treatment facilities in the next 10 years? No

Wastewater Permits

Permit Number	Permitted Capacity (MGD)	Design Capacity (MGD)	Average Annual Daily Discharge (MGD)	Maximum Day Discharge (MGD)	Receiving Stream	Receiving Basin
NC 0025496	6.000	6.000	2.400	5.200	South Fork of the Catawba River	South Fork Catawba River (03-2)

5. Planning

Projections

	2012	2020	2030	2040	2050	2060
Year-Round Population	10,517	12,823	14,875	17,255	20,015	23,217
Seasonal Population	0	0	0	0	0	0
Residential	0.595	0.731	0.833	0.949	1.101	1.254
Commercial	0.404	0.488	0.488	0.488	0.488	0.488
Industrial	1.323	1.266	1.468	1.703	1.975	2.288
Institutional	0.025	0.100	0.100	0.100	0.100	0.100
System Process	0.344	0.358	0.415	0.482	0.559	0.646
Unaccounted-for	0.492	0.538	0.604	0.680	0.772	0.873

Demand vs. Percent of Supply

	2012	2020	2030	2040	2050	2060
Surface Water Supply	12.000	12.000	12.000	12.000	12.000	12.000
Ground Water Supply	0.000	0.000	0.000	0.000	0.000	0.000
Purchases	0.000	0.000	0.000	0.000	0.000	0.000
Future Supplies		0.000	0.000	0.000	0.000	0.000
Total Available Supply (MGD)	12.000	12.000	12.000	12.000	12.000	12.000
Service Area Demand	3.183	3.481	3.908	4.402	4.995	5.649
Sales	0.220	1.000	1.000	1.000	1.000	1.000
Future Sales		0.000	0.000	0.000	0.000	0.000
Total Demand (MGD)	3.403	4.481	4.908	5.402	5.995	6.649
Demand vs. Percent of Supply	28%	37%	41%	45%	50%	55%



The purpose of the above chart is to show a general indication of how the long-term per capita water demand changes over time. The per capita water demand may actually be different than indicated due to seasonal populations and the accuracy of data submitted. Water systems that have calculated long-term per capita water demands based on a methodology that produces different results may submit their information in the notes field.

Your long-term water demand is 57 gallons per capita per day. What demand management practices do you plan to implement to reduce the per capita water demand (i.e. conduct regular water audits, implement a plumbing audit program, employ practices such as xeriscaping, harvesting or reclaimed water)? If these practices are covered elsewhere in your plan, indicate where the practices are discussed here.

Are there other demand management practices you will implement to reduce your future supply needs?

What supplies other than the ones listed in future supplies are being considered to meet your future supply needs?

How does the water system intend to implement the demand management and supply planning components above?

Additional Information

Has this system participated in regional water supply or water use planning? **No**

What major water supply reports or studies were used for planning?

Please describe any other needs or issues regarding your water supply sources, any water system deficiencies or needed improvements (storage, treatment, etc.) or your ability to meet present and future water needs. Include both quantity and quality considerations, as well as financial, technical, managerial, permitting, and compliance issues.

The Division of Water Resources (DWR) provides the data contained within this Local Water Supply Plan (LWSP) as a courtesy and service to our customers. DWR staff does not field verify data. Neither DWR, nor any other party involved in the preparation of this LWSP attests that the data is completely free of errors and omissions. Furthermore, data users are cautioned that LWSPs labeled **PROVISIONAL** have yet to be reviewed by DWR staff. Subsequent review may result in significant revision. Questions regarding the accuracy or limitations of usage of this data should be directed to the water system and/or DWR.

ITEM #

5

Mutual Aid
And
Assistance Agreement
Fire Marshal Services

This Mutual Aid and Assistance Agreement (the "Agreement") is made and entered into this _____th, day of _____, in the year _____ by and between **the City of Lincolnton, North Carolina**, a municipal corporation authorized and existing pursuant to the laws of the State of North Carolina (the "City"), and **Lincoln County**, a body corporate and politic authorized and existing pursuant to the laws of the State of North Carolina (the "County").

Whereas, the General Assembly of North Carolina did enact into law an act to authorize mutual aid and assistance between counties and municipal corporations whereby full authority may be exercised for the parties to send fire fighters and apparatus beyond their territorial limits (fire districts or county lines) which they normally serve, said act having been codified as N.C.G.S. §58-83-1, a copy of which is attached hereto as Exhibit "A;" and

Whereas, each of the parties hereto desires to render help to the other upon request, so long as said assistance will not compromise the service provided to each party's own respective citizens; and

Whereas, each of the parties hereto agrees to render services outside of its respective territory for the other party pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises contained herein, the parties do hereby covenant and agree as follows:

1. Upon a request for Fire Assistance by of one of the parties to this Agreement (the "Requesting Party"), the other party (the "Responding Party") shall, to the extent it is able to do so without compromising the safety of its own citizens, use its best faith efforts to send its personnel, apparatus and equipment to provide Fire Assistance to the Requesting Party.
2. As used herein, "Fire Assistance" shall mean assisting in any fire-related task that would or could normally be provided by such a party within its own territorial limits, including, but not limited to, fire-fighting, answering emergency or rescue calls, fire inspections and fire investigations.
3. The chief fire officer for the Requesting Party shall in all instances be in command of the particular situation for which Fire Assistance was requested as to the aspects of strategy, fire control tactics and overall direction of the operation. All orders or directions regarding the operation of the Responding Party shall be given by the fire officer in command of the Responding Party.
4. The Responding Party shall ensure that all personnel responding to the request for Fire Assistance are responsible persons who are trained to respond to the particular request for Fire Assistance. Except as provided herein below, the conduct and actions of the Responding Party's personnel shall be the responsibility of the Responding Party.

5. Each party to this Agreement shall assume all liability and responsibility for the death or injury to any personnel under its own command responding to the request for Fire Assistance, and shall hold the other party harmless from any such liability or responsibility, except as may be caused by gross negligence or the intentional wrongful acts of a party.

6. The Responding Party under the terms of this Agreement shall assume no responsibility or liability for property damaged or destroyed at a site due to providing Fire Assistance; said liability and responsibility shall rest solely with the Requesting Party within whose boundaries the property shall exist or the incident occurred.

7. The Responding Party under the terms of this Agreement shall assume all liability and responsibility for damage to its own apparatus and/or equipment as a result of providing Fire Assistance. The Responding Party shall assume all liability and responsibility for any damage caused by its own apparatus while en route to or returning from providing Fire Assistance.

8. The Requesting Party shall in no way be deemed liable or responsible for the personal property of the members of the Responding Party which may be lost, stolen, or damaged while performing its duties herein.

9. Each party to this Agreement shall assume all cost of salaries, wages, bonuses, or other compensation for its own personnel that provides Fire Assistance under the terms of this Agreement, and shall also assume all costs involving the use of apparatus, equipment, etc., used specifically in response to the request for Fire Assistance, and shall make no charge for such use to the Requesting Party. Notwithstanding the foregoing, any special extinguishing agents used for Fire Assistance by the Responding party from its own supply shall be paid for by the Requesting Party upon receipt of an itemized statement of costs for such extinguishing agents.

10. The members, employees and personnel of the Responding Party shall have all authority, rights, privileges and immunities afforded them pursuant to N.C.G.S. §58-83-1, as may be amended or replaced from time to time.

11. This Agreement may be terminated by the terminating party providing thirty (30) days' written notice to the non-terminating party.

City of Lincolnnton

Lincoln County

_____ Sign

_____ Print

_____ Title

_____ Sign

_____ Print

_____ Title

City Manager

City Clerk

EXHIBIT "A"

§ 58-83-1. Authority to send firemen and apparatus beyond territorial limits; privileges and immunities. A county, municipal corporation, fire protection district, sanitary district or incorporated fire department shall have full authority to send, or to decline to send, firemen and apparatus beyond the territorial limits which it normally serves. When responding to a call and while working at a fire or other emergency outside the territorial limits which it normally serves, members and employees of county, municipal corporation, fire protection district, sanitary district and incorporated fire departments shall have all authority, rights, privileges and immunities including coverage under the Workers' Compensation Laws, as they have when responding to a call and while working at a fire or other emergency inside the territorial limits normally served. A county, municipal corporation, fire protection district, sanitary district, or incorporated fire department, in attending an emergency or answering a call outside the limits of the county, municipal corporation, fire protection district, sanitary district, or other area normally served, shall have all authority, rights, privileges, and immunities that it would have in attending an emergency or answering a call inside the territorial limits normally served. (1965, c. 707; 1991, c. 636, s. 3.)

ITEM #

6

Donna Flowers

From: Mark Carpenter
Sent: Tuesday, January 28, 2014 8:41 AM
To: Donna Flowers; Daphne Ingram
Cc: Laura Simmons
Subject: Calls to Public Hearing for February CC Meeting

Donna and Daphne,

We have received the following calls to public hearing:

- CUP-2-2014-Application from Lincolnton Business Center requesting a conditional use permit to operate a Distillery in the General Manufacturing and Commercial (GMC) District. The subject property is located at 315 Motz Avenue (Parcel ID 00419).
- CUP-3-2014-Application from Skygroup Carolinas, LLC requesting a conditional use permit to construct an Urgent Care Facility in the Planned Business (PB) and Special Highway Overlay (SHO) Districts. The subject property is located at the southeast corner of East Main Street and U.S. Highway 321 (Parcel ID 87366).

Yesterday was the deadline for applications so these will be the only two. Let me know if you have questions.

Thanks

Mark A. Carpenter, AICP, CZO
Zoning Administrator
City of Lincolnton
P.O. Box 617
Lincolnton, NC 28092

Phone 704-736-8930
Fax 704-736-8939

ITEM #

7

MEMO TO: Mayor and City Council Members
FROM: Laura Simmons, Planning Director
THROUGH: Jeff Emory, City Manager
SUBJECT: Conditional Use Permit Application from SBA Network Services, LLC (CUP-1-14)
DATE: February 6, 2014

BACKGROUND

SBA Network Services, LLC is requesting that a conditional use permit be issued by the City Council allowing them to construct a 250-foot tall guyed wireless telecommunication tower 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). (See attached maps and site plan).

The tower, if approved and constructed, will serve as a communications tower for mobile phone companies. It will be designed with the capacity to accommodate multiple wireless service providers.

SITE DESCRIPTION

The site is located on the north side of Bethel Church Road approximately 100 feet east of the intersection of Bethel Church Road and Maiden Highway. The property is owned by Columbus and Helen Turner and currently has one single family dwelling and several accessory buildings located on it.

PROPOSED TOWER

The proposed tower location is approximately 600 feet north of Bethel Church Road. The tower will be located off the adjacent property boundaries more than 250 feet to provide an adequate fall zone. The applicant will lease a 100 foot by 100 foot area for the tower compound. The proposed compound will be secured by an 8-foot high chain link security fence and access to the facility will be provided via a 12 foot access road within a 30 foot ingress/egress easement off the existing driveway.

APPLICATION MATERIALS

The application materials submitted by the applicant include the following:

1. A letter indicating the following:
 - a. In the unlikely event of tower structural failure, the tower is designed to fall within the limits of the parent tract and won't endanger adjacent properties / uses.
 - b. An agreement is in place currently with an existing carrier that will occupy the highest portion of the tower if the conditional use permit is approved.
 - c. The proposed tower will be able to accommodate multiple wireless carriers.
 - d. The applicant anticipates only a negligible amount of traffic with approximately two equipment maintenance trips per carrier per month.
2. The applicant submitted RF mapping demonstrating the coverage need for the proposed tower and the mapping is enclosed.
3. The applicant submitted an impact statement from a real estate broker indicating the tower will not substantially injure the value of adjoining or abutting property and the statement is enclosed.
4. The applicant submitted the enclosed letter from the FAA certifying that the tower will not result in interference with safe operation of aircraft.

COMPLIANCE WITH CONDITIONAL USE PERMIT APPLICATION REQUIREMENTS

Section 153.236 of the Unified Development Ordinance requires that a conditional use permit application contain specific terms and meet specific requirements. The application meets the requirements of Section 153.236 with the following exceptions:

1. The site plan needs to address screening requirements for the equipment base area.
2. Approximate completion time of the tower must be noted on the site plan.

OTHER CONDITIONAL USE PERMIT REQUIREMENTS

Section 153.237 of the Unified Development Ordinance requires that four findings be determined by the City Council. They are as follows:

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan, and
2. The use meets all required conditions and specifications, and
3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity, and

4. The location and character of the use, if developed according to the 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.

ADDITIONAL REQUIREMENT FOR COMMUNICATION TOWERS

Section 153.238 (f) requires the following additional finding for communication towers:

5. That the tower will not result in the interference with the safe operation of aircraft in relation to existing or planned airport facilities.

STAFF REVIEW COMMITTEE COMMENTS

The Staff Review Committee had the following comments:

1. The Manager of the Lincolnton/Lincoln County Airport recommends that the tower height not exceed 200 feet.
2. NCDOT recommends that the sight distance for the driveway be increased to approximately 400 feet due to sight distance problems to the west of the proposed site.
3. SBA Network Services, LLC shall maintain general liability insurance coverage of at least \$1,000,000.
4. Provisions should be made for the removal of the tower at the expense of the owners within one year of its discontinued use.
5. The site plan should certify that the fall zone lies completely within the leased area and that no habitable structures will be located within the fall zone.
6. An erosion control permit must be obtained from Lincoln County.
7. Building and electrical permits must be obtained from Lincoln County Inspections.

COMPLIANCE WITH FINDINGS OF FACT

1. It does not appear that the use will endanger the public health or safety subject to compliance with the recommended conditions outlined by the Staff Review Committee.
2. The proposed site plan meets all required conditions and specifications with the exception of the two items noted above.

3. The use should not substantially injure the value of adjoining or abutting property.
4. The use is in general conformity with the Lincolnnton Land Use Plan and should be in harmony with the area in which it is to be located subject to compliance with the recommended conditions outlined by Staff Review Committee.
5. The FAA has certified that the tower will not result in interference with safe operation of aircraft in relationship to existing or planned airport facilities.

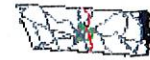
PLANNING BOARD RECOMMENDATION

The Planning Board recommends approval of the conditional use permit subject to Staff Review Committee conditions #2 - #7 and preservation of existing vegetation to meet the screening requirement.



Lincoln County, NC

Office of the Tax Administrator, GIS Mapping Division
Lincoln County and its mapping contractors assume no legal responsibility for the information contained on this map. This map is not to be used for land conveyance. The map is based on NC State Plane Coordinate System 1983 NAD.



Date: 1/23/2014 Scale: 1 Inch = 499 Feet



PHOTOS



PARCEL INFORMATION FOR 3634-45-5663

Parcel ID	16976	Owner	TURNER COLUMBUS JAMES JR TURNER HELEN		
Map	3634-01	Mailing	285 BETHEL CHURCH RD		
Account	08795	Address	PO BOX 1583 LINCOLNTON NC 28093-1583		
Deed	976-583	Recorded	2/14/1997	Sale Price	0
Land Value	\$234,759	Total Value	\$249,301	Previous Parcel	
----- All values are for tax year 2013. -----					
Description	LAND & HOME RD 1282			Deed Acres	30
Address	257 BETHEL CHURCH RD			Tax Acres	28.99
Township	LINCOLNTON			Tax/Fire District	BOGER CITY
Main Improvement	CAPE COD			Value	\$13,742
Main Sq Feet	1418	Stories	1	Year Built	1940
Zoning	Calculated			Voting Precinct	Calculated Acres
District	Acres			BOGER CITY (BC13)	12.03
R-25	28.99			HICKORY GROVE (HG17)	16.96
Watershed Class				Sewer District	
Not in a watershed	16.57			Not in the sewer district	28.99
WS-IVP	12.42				
2000 Census County				Tract	Block
37109				070200	2004
37109				070800	1048
Flood	Zone Description			Panel	
X	NO FLOOD HAZARD			3710363400	28.99

Scale: 1 Inch = 250 Feet

GIS

LINCOLN COUNTY

Thu Jan 23 12:46:12 EST 2014



Approximate
Tower
Location

Map Features		Right-of-Ways		Parcels		ETJ	
Road Easement	Creeks	Roads	Private Roads	City Jurisdictions	City of Lincoln (cont)	Town of Maiden	Lake Norman
Conflict Line	Interior Lot Line	Railroads	Public Walkway				
Major R vers, Creeks (cont)	Drainage Easement						
	Utility Easement						

Lincoln County and its mapping contractors assume no legal responsibility for the information contained on this map. This map is not to be used for land conveyance. The map is based on NC State Plane Coordinate System 1983 NAD. Lincoln County, NC Office of the Tax Administrator, GIS Division



SBA Communications Corporation
SBA Network Services, Inc.
4402 Stuart Andrew Blvd, Suite G
Charlotte, NC 28217

December 20, 2013

City of Lincolnton
Planning Department
Attn: Mark Carpenter, Zoning Administrator
114 W. Sycamore Street
Lincolnton, NC 28093

RE: SCI: Circle One CUP Application – Application Narrative

Mr. Carpenter:

SBA Network Services, LLC, on behalf of SCI Towers, LLC, is proposing the construction of a 250-foot guyed communication tower and associated facilities to be located at 257 Bethel Church Road, Lincolnton, NC (Parcel # 3634-45-5665).

The proposed communication tower and compound will be able to accommodate multiple wireless carriers. SCI has an agreement in place currently with an existing carrier that is willing to occupy the highest RAD once the CUP is approved by the City.

In brief, SCI will be:

- Erecting a 250-foot guyed tower and associated facilities inside a 100' x 100' lease/compound;
- The proposed compound will be secured by an 8-foot high chain-link security fence and;
- Access to the facility will be provided via 12' access road within a 30-foot ingress/egress easement off of the existing driveway; site related utilities will run inside this same easement.

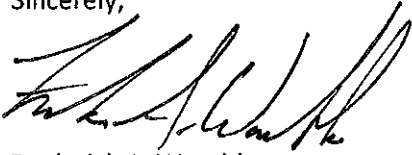
Additionally, please note the following:

- The proposed guyed tower will be sited to comply with the City's setback and fall zone requirements;
- The proposed guy anchors will be located within the tower's 250-foot fall zone radius;
- In the unlikely event of tower structural failure, the tower is designed to fall within the limits of the parent tract and won't endanger adjacent properties/uses and;
- The proposed use will generate a negligible amount of traffic, as SCI anticipates only 2 equipment maintenance trips per carrier per month.

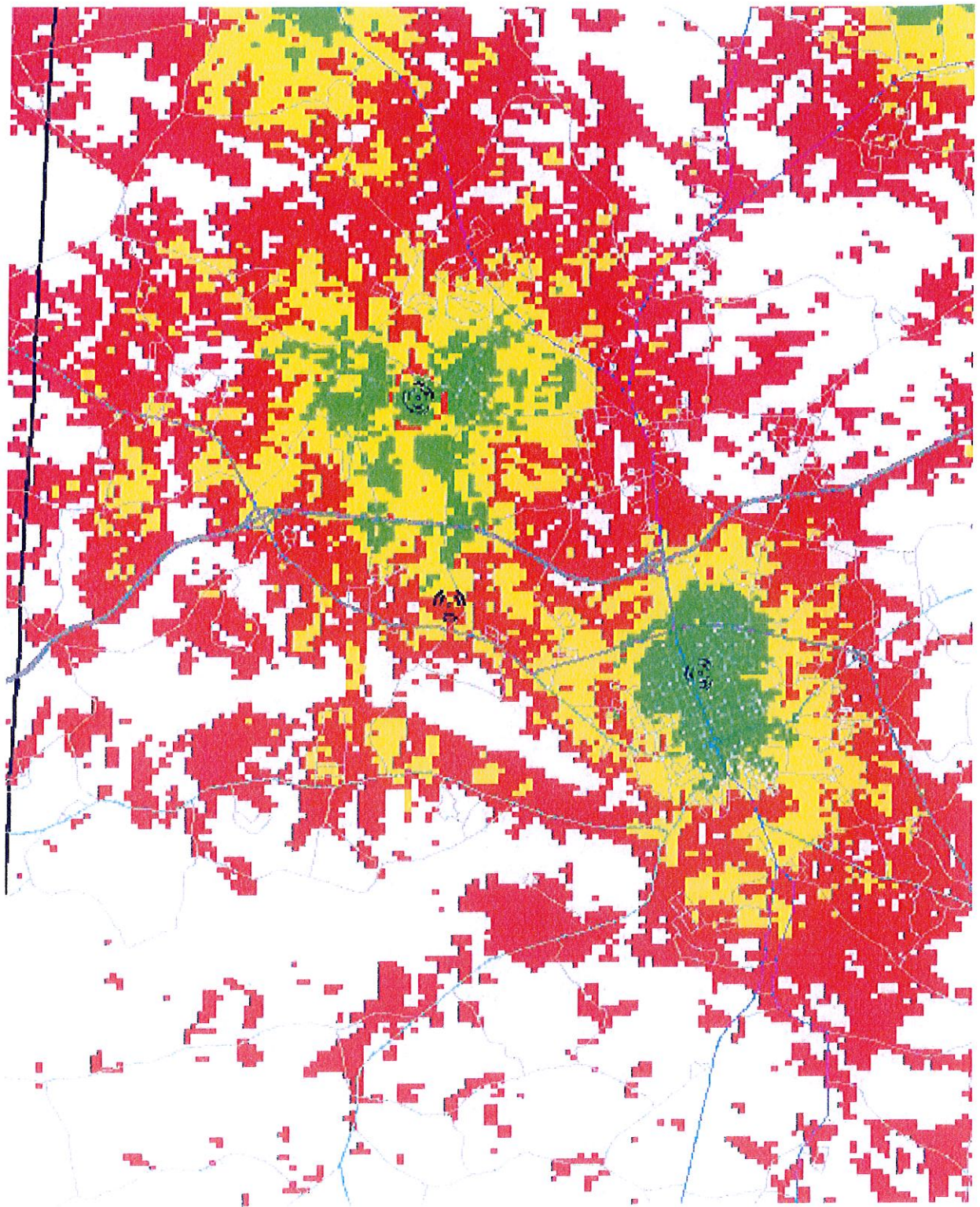
If you need any additional information pertaining to this matter, please contact me as soon as possible and I will respond promptly.

Thank you for your time and consideration.

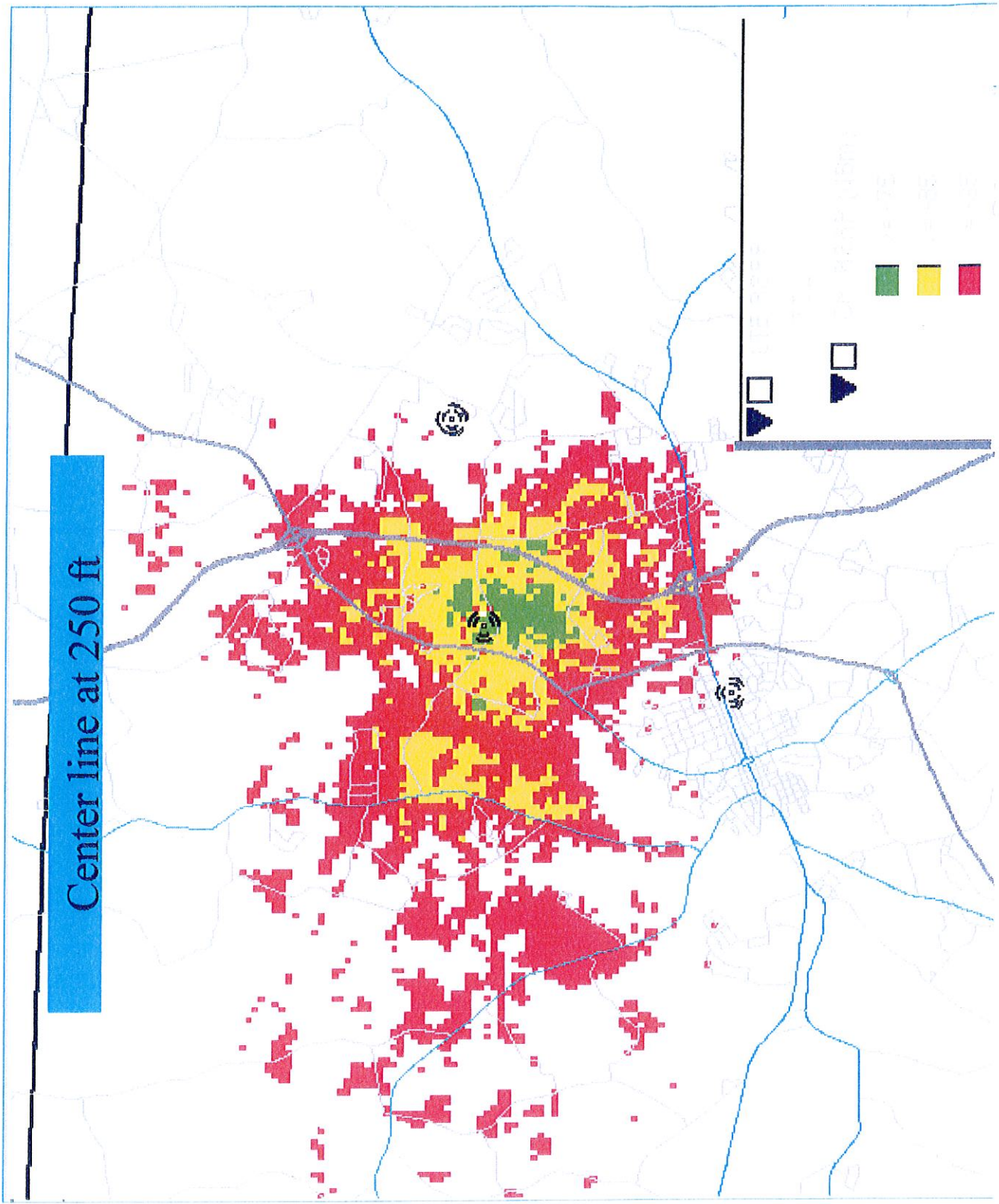
Sincerely,

A handwritten signature in black ink, appearing to read 'Frederick A. Womble', written in a cursive style.

Frederick A. Womble
Zoning and Permitting Manager
704.527.0003 ext. 2113



Center line at 250 ft



IMPACT STATEMENT

SCI TOWERS

SITE: SCI CIRCLE ONE

“LINCOLNTON NC”

*TO BE LOCATED NORTH OF 257 BETHEL CHURCH ROAD EAST
OF US HIGHWAY 327
LINCOLNTON, NC*

As per submitted plans

PREPARED BY:
GRAHAM HERRING COMMERCIAL REAL ESTATE
GRAHAM HERRING GRI
8052 GREY OAK DRIVE, RALEIGH, NORTH CAROLINA 27615

IMPACT STATEMENT

This report addresses whether the proposed use is in compliance with the purpose and intent of the plan of development of Lincolnton, N. C., Land Use and Zoning Ordinance, and is a compatible use in the area where it is to be located. In preparing this report, I inspected the site and surrounding areas in the district and reviewed the site plans for the facility provided by SCI TOWERS, LLC; for a Special Use Permit application. I have also consulted and reviewed with area appraisers, developers, tax authorities, planners and reviewed the public records in recent zoning cases in various jurisdictions in Lincolnton and Lincoln County, N C, and prior applications in surrounding communities.

PROPOSED FACILITY

The proposed facility will consist of a Two Hundred Fifty Foot (250.0 +/-') Guyed Communications Tower. The site will be comprised of a developed area as described in the site plans and engineering plans that were submitted. The fencing surrounding the site will be a chain link fence at least eight (8.0') feet in height, with three strands of barbed wire at the top comprising an additional height of one foot three inches, around the proposed expansion of the existing compound and located in the developed 100.0' X 100.0' ft. lease area as described in the plans that were submitted. There will be a four (4) inch thick gravel weed barrier inside the fenced area and extending one (1) inch outside the fenced area. Landscaping will meet or exceed the Ordinance requirements for this project. The area is zoned R 25. The parent tract is shown in the County Records as Pin #3634-45-5663; containing some 28.992 acres +/-, the lease area to be developed will be some 0.599 acres in size, as per the revised plans that were submitted.

BACKGROUND

In general we have found that the factors that primarily affect property values are use, zoning, topography, and market demand. As the factors change, so do the current market value and development potential of any parcel of real estate.

While the value of a parcel of real property may be affected by the use of adjoining or surrounding property, that use must be significant in its intrusiveness or lack of compatibility in order to override the primary factors that affect property values. Uses which generate significant traffic, noise, odor, or dangerous conditions are generally the types of uses which are so intrusive as to override the normal factors affecting property values, and result in a material adverse impact on surrounding properties. For example, hog farms, rock quarries, paper mills, manufacturing plants, adult entertainment establishments, and similar uses, are generally believed to have a negative impact on the value of surrounding properties. In addition, development of property in a manner, which is significantly incompatible with existing or planned use of surrounding property, can result in a negative impact on property immediately adjacent to the incompatible use.

Our examination of the effects of the existing transmission tower and broadcast tower sites on surrounding properties, and our examination of other studies on this subject and available data, indicates that, in general, these type towers are not the type of use, which is so intrusive as to have an inherently negative impact on surrounding properties so long as the setbacks are sufficient as to not cause an adjoining property to not be able to be used or developed for its highest and best use under the jurisdictions zoning restrictions.

SUMMARY

My personal inspection of the site and surrounding areas, and public records revealed the following:

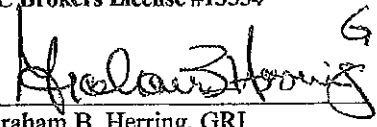
1. Located immediately to the west of the proposed site are rural agrarian uses, including single family homes, undeveloped wooded land, and facing US 321 a Lincolnton Schools Bus and support facility and other mixed commercial uses.
2. Located north of the proposed site are undeveloped rural agrarian uses that are heavily wooded, also cultivated, and scattered single family rural residential uses.
3. Located to the south of the proposed site are rural single family homes, rural agrarian uses, cultivated and undeveloped timber land.
3. Located immediately east of the proposed site is cultivated land and undeveloped timberland and scattered rural residential development.
4. That the visibility of the facility will be very limited at ground level from the residential areas, and in these and many other jurisdictions across the southeast, my review of industry data regarding all types of wireless transmission towers, indicates that, in general, wireless telecommunication tower facilities do not have an inherently deleterious effect on surrounding properties. Our review of the Facility to be constructed at the Site, and personal inspection of the Site and surrounding area, indicate that the planned facility is generally compatible with the area's existing and proposed uses, and developed as proposed it will have no substantial negative impact on existing or planned development of the surrounding properties.

Moreover, this Telecommunications Facility, built as planned, will have no detrimental or injurious effect on the property values of the surrounding neighborhood or other improved or unimproved properties in the general vicinity. Finally, the nature of this location, with its separation from the residential arterials located to the north of the proposed site, the unimproved areas and mixed uses nearby, wooded areas, is such that the proposed development will not create any negative aesthetic effects on scenic roadways or other unique natural features.

DISCLAIMER

This document is not to be construed as an appraisal of real property; developed or undeveloped. It is an assessment of empirical data and written expression of opinion of impact of this particular planned project, based on the experience of the author of this document. This document is not to be reproduced in whole or in part, nor is it to be used for any purpose other than the reason intended. No opinions of value or opinions of the correctness or accuracy of the engineering designs or plans submitted for this project are expressed, implied or intended by the author.

Graham B. Herring, GRI
NC Brokers License #30791
SC Brokers License #13554

 ^{GRI}
Date: 1/17/2014
Graham B. Herring, GRI

GRAHAM B. HERRING, GRI Qualifications

Licensed Real Estate Broker in North Carolina - 38 years
Licensed South Carolina Real Estate Broker – 10 Years

Graduate, REALTOR® Institute (GRI)

Graduate of the University of Pennsylvania/Wharton School Of Investment Real Estate

Certificate of Completion, United States Savings and Loan League Single Family

Residential Appraising Course.

Graduate of the North Carolina Homebuilders Institute

Graduate of the North Carolina Insurance Institute

Graduate of the International Shopping Center Institute School of Management and
Leasing

Qualified as an expert witness and testified regarding impact on
surrounding properties of telecommunications facilities in Commissions,
Councils and Board of Adjustments in over 1,000 hearings throughout
North Carolina, Virginia, Georgia, Florida and South Carolina.

Mortgage lending and appraisal; 6 Years (single family residential)

Land development (commercial and residential)

Shopping center development, leasing and sales

Industrial, office and institutional, commercial properties; development, leasing and sales.

Specialized computer enhanced photography (photo simulations)

Site acquisition, telecommunications, radio, television, and EMS/911 facilities

SHPO North and South Carolina/ remediation work

Residential/builder construction lending

GRAHAM B. HERRING, GRI
Graham B. Herring Real Estate
8052 Grey Oak Drive
Raleigh, North Carolina
919-971-2949



Mail Processing Center
Federal Aviation Administration
Southwest Regional Office
Obstruction Evaluation Group
2601 Meacham Boulevard
Fort Worth, TX 76193

Aeronautical Study No.
2013-ASO-11124-OE

Issued Date: 01/17/2014

Lee Chapman
SCI Towers
8000 South US Highway One
Suite 402
Port St Lucie, FL 34952

**** DETERMINATION OF NO HAZARD TO AIR NAVIGATION ****

The Federal Aviation Administration has conducted an aeronautical study under the provisions of 49 U.S.C., Section 44718 and if applicable Title 14 of the Code of Federal Regulations, part 77, concerning:

Structure:	Antenna Tower Circle One
Location:	Lincolnton, NC
Latitude:	35-30-17.48N NAD 83
Longitude:	81-14-09.19W
Heights:	903 feet site elevation (SE) 286 feet above ground level (AGL) 1189 feet above mean sea level (AMSL)

This aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided the following condition(s), if any, is(are) met:

As a condition to this Determination, the structure is marked/lighted in accordance with FAA Advisory circular 70/7460-1 K Change 2, Obstruction Marking and Lighting, a med-dual system - Chapters 4,8(M-Dual),&12.

It is required that FAA Form 7460-2, Notice of Actual Construction or Alteration, be e-filed any time the project is abandoned or:

☐ At least 10 days prior to start of construction (7460-2, Part I)
☒ Within 5 days after the construction reaches its greatest height (7460-2, Part II)

See attachment for additional condition(s) or information.

Any height exceeding 286 feet above ground level (1189 feet above mean sea level), will result in a substantial adverse effect and would warrant a Determination of Hazard to Air Navigation.

This determination expires on 07/17/2015 unless:

- (a) the construction is started (not necessarily completed) and FAA Form 7460-2, Notice of Actual Construction or Alteration, is received by this office.
- (b) extended, revised, or terminated by the issuing office.

- (c) the construction is subject to the licensing authority of the Federal Communications Commission (FCC) and an application for a construction permit has been filed, as required by the FCC, within 6 months of the date of this determination. In such case, the determination expires on the date prescribed by the FCC for completion of construction, or the date the FCC denies the application.

NOTE: REQUEST FOR EXTENSION OF THE EFFECTIVE PERIOD OF THIS DETERMINATION MUST BE E-FILED AT LEAST 15 DAYS PRIOR TO THE EXPIRATION DATE. AFTER RE-EVALUATION OF CURRENT OPERATIONS IN THE AREA OF THE STRUCTURE TO DETERMINE THAT NO SIGNIFICANT AERONAUTICAL CHANGES HAVE OCCURRED, YOUR DETERMINATION MAY BE ELIGIBLE FOR ONE EXTENSION OF THE EFFECTIVE PERIOD.

This determination does not constitute authority to transmit on the frequency(ies) identified in this study. The proponent is required to obtain a formal frequency transmit license from the Federal Communications Commission (FCC) or National Telecommunications and Information Administration (NTIA), prior to on-air operations of these frequency(ies).

This determination is based, in part, on the foregoing description which includes specific coordinates , heights, frequency(ies) and power . Any changes in coordinates , heights, and frequencies or use of greater power will void this determination. Any future construction or alteration , including increase to heights, power, or the addition of other transmitters, requires separate notice to the FAA.

This determination does include temporary construction equipment such as cranes, derricks, etc., which may be used during actual construction of the structure. However, this equipment shall not exceed the overall heights as indicated above. Equipment which has a height greater than the studied structure requires separate notice to the FAA.

This determination concerns the effect of this structure on the safe and efficient use of navigable airspace by aircraft and does not relieve the sponsor of compliance responsibilities relating to any law, ordinance, or regulation of any Federal, State, or local government body.

Any failure or malfunction that lasts more than thirty (30) minutes and affects a top light or flashing obstruction light, regardless of its position, should be reported immediately to (877) 487-6867 so a Notice to Airmen (NOTAM) can be issued. As soon as the normal operation is restored, notify the same number.

A copy of this determination will be forwarded to the Federal Communications Commission (FCC) because the structure is subject to their licensing authority.

If we can be of further assistance, please contact our office at (404) 305-7084. On any future correspondence concerning this matter, please refer to Aeronautical Study Number 2013-ASO-11124-OE.

Signature Control No: 202876654-205675365

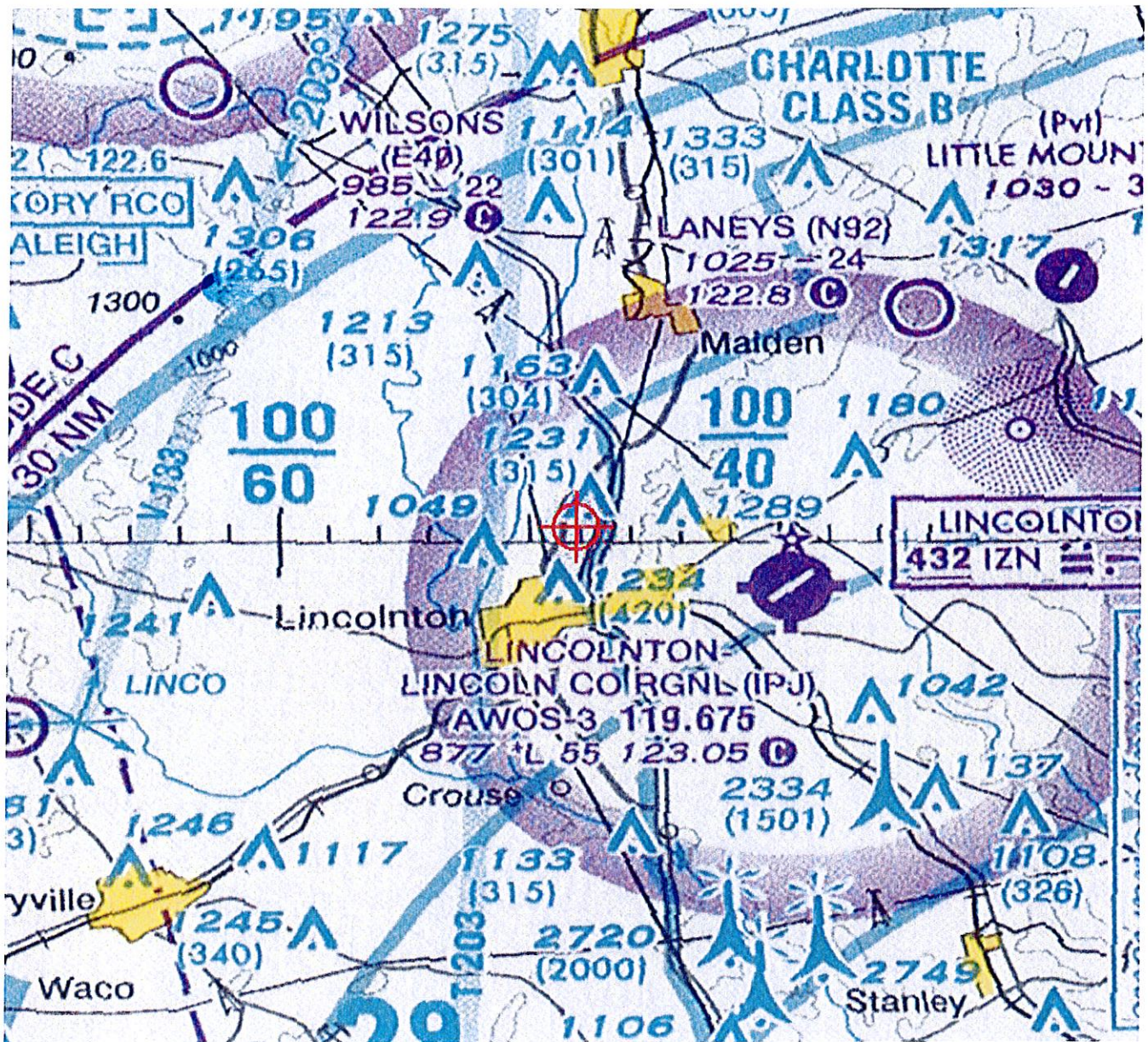
(DNE)

Darin Clipper
Specialist

Attachment(s)
Additional Information
Case Description

Frequency Data for ASN 2013-ASO-11124-OE

LOW FREQUENCY	HIGH FREQUENCY	FREQUENCY UNIT	ERP	ERP UNIT
698	806	MHz	1000	W
806	824	MHz	500	W
824	849	MHz	500	W
851	866	MHz	500	W
869	894	MHz	500	W
896	901	MHz	500	W
901	902	MHz	7	W
930	931	MHz	3500	W
931	932	MHz	3500	W
932	932.5	MHz	17	dBW
935	940	MHz	1000	W
940	941	MHz	3500	W
1850	1910	MHz	1640	W
1930	1990	MHz	1640	W
2305	2310	MHz	2000	W
2345	2360	MHz	2000	W



ITEM #

8

CITY OF LINCOLNTON

CITY COUNCIL

John O. Gilleland, Jr., Mayor
Larry Mac Hovis, Mayor Pro-Tem
John L. Cloninger
Devin Rhyne
Martin A. Eaddy



CITY MANAGER

JEFF EMORY
jeffemory@ci.lincolnton.nc.us

CITY CLERK

DONNA C. FLOWERS, CMC
donnaflowers@ci.lincolnton.nc.us

CITY ATTORNEY

THOMAS J. WILSON, JR.

PUBLIC HEARING

Notice is hereby given that the Mayor and City Council will hold a Public Hearing on Thursday, February 6, 2014 at 7:00 p.m. in the Council Chambers of City Hall, located at 14 West Sycamore Street to consider amending the City's Code of Ordinances as follows:

TITLE VII – Traffic Code Chapter 74 TRAFFIC SCHEDULES

SCHEDULE VII. Bonview Avenue, *from North Aspen Street to Grove Street*, - reduce speed limit from 35 mph to 25 mph

Parties in interest and citizens shall have the opportunity to be heard and may obtain further information of the hearing from the office of the City Clerk, located at City Hall, 114 West Sycamore Street, Monday through Friday from 8:30 am until 5:00 p.m.

**Advertise (2tl): Wednesday, January 22, 2014
Wednesday, January 29, 2014**

CITY OF LINCOLNTON POLICE DEPARTMENT

RODNEY JORDAN • CHIEF OF POLICE



PO BOX 617 • 627 EAST MAIN STREET
LINCOLNTON, NORTH CAROLINA 28093-0617
PHONE: (704) 736-8900 • FAX: (704) 736-8904

TO: Jeff Emory, City Manager
FROM: Chief R. Jordan
SUBJECT: High Street Bonview Intersection
DATE: December 30, 2013

After the last Council Meeting, I set up a meeting with Sandy Dellinger (602 Bonview Ave) at my office to discuss possible alternatives to the situation at the intersection of Bonview Ave. and High Street. After reviewing crash data for the last three years which included only two accidents at the intersection, we focused our attention to the speed limit. The police department has looked at the speed on Bonview Avenue which is currently listed at 35 miles per hour. It was determined that while most vehicles were obeying the speed limit the speeds seemed too fast due to the width of the road and close proximity to the houses.

Therefore, Ms. Dellinger and I are in agreement that the best course of action to try first would be to ask council to consider changing the speed limit on Bonview Avenue from 35 miles per hour to 25 miles per hour. This would be monitored by the police department for effectiveness and to ensure that motorists are aware of the new speed limit. If this alternative is deemed to be ineffective, then we could go back and look at possible stop signs at the intersection. Having stop signs instead of a traffic signal may help alleviate the last problem when we had with the light in reference to cars backing up and blocking drive ways.

For now, it is our recommendation that Council consider reducing the speed limit from 35 miles per hour to 25 miles per hour.

Cc: Donna Flowers
Mayor Gilliland
Members of Council

ITEM #

9

City of Lincolnton

City Council

John O. Gilleland Jr., Mayor
Larry Mac Hovis, Mayor Pro-Tem
John L. Cloninger
Devin Rhyne
Martin A. Eaddy



City Manager

Jeff Emory
jeffemory@ci.lincolnton.nc.us

City Clerk

Donna C. Flowers, CMC
donnaflowers@ci.lincolnton.nc.us

City Attorney

Thomas J. Wilson, Jr.

PUBLIC HEARING

Notice is hereby given that the Mayor and City Council will hold a Public Hearing on Thursday, February 6, 2014 at 7:00 p.m. in the Council Chambers of City Hall, located at 14 West Sycamore Street to consider amending the City's Code of Ordinances as follows:

TITLE XI. BUSINESS REGULATIONS

Chapter 114: Sidewalk Dining

Sections 114.01 through 114.09 – To allow any business that currently possesses or obtains through the Alcohol Law Enforcement (ALE) an “on premise” permit to be eligible to serve customers

A copy of the proposed ordinance amendment in its entirety is on file and may be reviewed in the City Clerk's Office. Parties in interest and citizens shall have the opportunity to be heard and may obtain further information of the hearing from the office of the City Clerk, located at City Hall, Monday through Friday from 8:30 am until 5:00 p.m.

**Advertise (2tl): Wednesday, January 22, 2014
Wednesday, January 29, 2014**

Memo

To: Mayor and City Council
From: Brad J. Guth
Date: January 28, 2014
Re: Sidewalk Café Public Hearing

Currently the city of Lincolnton regulates what a business owner can do on the sidewalk in front of their business. For example, our current ordinance allows for 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.

As a winery, Southern Charm 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.

In essence, this 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 its building.

BE IT ORDAINED BY THE LINCOLNTON CITY COUNCIL THAT THE CITY CODE OF ORDINANCES BE AMENDED AS FOLLOWS:

CHAPTER 12. STREETS AND SIDEWALKS

ADD:

SECTION 12-07 - SIDEWALK DINING

- (a) *General.* Notwithstanding any other provisions of this code to the contrary, sidewalk cafes or sidewalk dining shall be permitted in the central business district and central business transitional district as indicated on the official zoning map of the city and shall be subject to such regulations as are set forth in this section.
- (b) *Permit required.* No restaurant owner may operate a sidewalk cafe without first obtaining a permit from the city manager in accordance with the requirements of this article. As used in this section, the term city manager includes his authorized representative.
- (c) *Application.* Any restaurant owner desiring to operate a sidewalk cafe shall prepare and file an application with the city manager which shall contain the following information:
 - (1) The name, addresses, and telephone number of the restaurant desiring to operate a sidewalk cafe.
 - (2) The name, address, and telephone number of the restaurant operator.
 - (3) The type of food, beverage, or food product to be sold and served at the sidewalk cafe.
 - (4) The hours of operation of the restaurant and the proposed hours of operation of the sidewalk cafe.
 - (5) A site plan showing the section of sidewalk or pedestrian way to be used for the sidewalk cafe, and the section to be kept clear for pedestrian and fire lane use, and depicting the proposed placement of tables, chairs, umbrellas, trash receptacles, and other furnishings on the sidewalk or pedestrian way.
 - (6) Proof of an insurance policy, issued by an insurance company licensed to do business in the State of North Carolina, protecting the permittee and the city from all claims for damages to property and bodily injury, including death, which may arise from operation under or in connection with the permit. Such insurance shall name the city as additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date without 30 days advance written notice to the city. Such insurance shall afford minimum limits of (\$1,000,000.00) aggregate annually. In addition to the aforesaid general liability coverage provided by permittee on behalf of city, the permittee shall also offer

proof of a Liquor Liability policy or endorsement issued by an insurance company licensed to do business in the State of North Carolina, which protects the permittee and the city from all claims for damages to property or bodily injury, including death, which may arise from operation under or in connection with the permit (and specifically for the sale and consumption of alcoholic beverages as authorized by this ordinance). Such additional Liquor Liability policy or endorsement shall name the city as additional insured and shall provide that the policy or endorsement shall not terminate or be cancelled prior to the expiration date without 30 days written notice to the city. Such Liquor Liability insurance policy or endorsement shall afford minimum limits of One Million Dollars (\$1,000,000.00) aggregate annually.

- (7) A copy of all the permits and licenses issued by the county, state, or the city, including health and ABC permits and business licenses, necessary for the operation of the restaurant business, or a copy of the application for the permit if no permit has been issued. This requirement includes any permits or certificates issued by the city or other governmental authority, for exterior alterations or improvements to the restaurant.
 - (8) A sworn statement describing any violation by the restaurant operator of any laws, regulations, or ordinances relating to the possession, sale consumption, or transportation of intoxicating beverages or controlled substances during the five years immediately preceding the date of the permit application.
 - (9) Such additional information as may be requested by the city manager or his designee in order to determine compliance with this section.
 - (10) An annual fee in the amount of \$35.00 to cover the cost of processing and investigating the application and issuing the permit.
- (d) *Issuance of permit.* No permit for the operation of a sidewalk cafe may be issued unless the application is complete and the following requirements are met:
- (1) The sidewalk cafe must be associated with an operating restaurant such that it is under the same management and shares the same food preparation facilities, rest room facilities, and other customer convenience facilities as the restaurant. The sidewalk cafe must be operated under the same name as the restaurant and may not be open or operated at any time when the restaurant is not open for business.
 - (2) The operation of the sidewalk cafe must be clearly incidental to the associated restaurant business. The seating capacity of the sidewalk cafe may not be more than 50 percent of the interior seating capacity of the associated restaurant.
 - (3) The placement of tables, chairs and other furnishings as shown in the site plan must be done in such a manner that at least five feet of unobstructed space (as measured from the building facade or, in the absence of a building facade, a straight line connecting such building facades) remains on the sidewalk or pedestrian way for

the passage of pedestrians. No fire exits or lanes may be blocked and such must remain clear at all times. The pedestrian passage may not be used for the display of merchandise or for portable signs otherwise authorized.

- (4) The restaurant seeking to operate the sidewalk cafe must front on and open onto the sidewalk or pedestrian way proposed for the sidewalk cafe. The placement of tables, chairs, and other furnishings may not extend beyond the sidewalk or pedestrian way frontage of the associated restaurant, with the following exception: tables, chairs, and other furnishings may extend up to eight feet onto adjacent property frontage in either or both directions with the written permission (provided at the time of application) of the occupant of the adjacent property.
 - (5) The tables, chairs and other furnishings used in the sidewalk cafe shall not be anchored and shall be of a type of street furniture that is easily movable.
 - (6) Except as elsewhere permitted by the Code, the operation or furnishing of the sidewalk cafe shall involve no permanent alteration to or encroachment upon any street, sidewalk, or pedestrian way or to the exterior of the associated restaurant.
 - (7) Each sidewalk cafe shall provide adequate trash removal for its patrons. At the end of each business day and during operating hours, the operator shall remove all trash and debris of any sort from the sidewalk area. In addition, the operator shall remove from the sidewalk alongside and abutting properties any trash or debris originating as a result of the operation of the sidewalk cafe.
 - (8) Tables, chairs and other furnishings that remain on the sidewalk at times when the business is not in operation shall be secured in a manner that allows clear access from the street equal to or exceeding half of the frontage of the associated restaurant.
- (e) *Alcoholic beverages.* Notwithstanding any other provisions of this Code, alcoholic beverages may be served in approved sidewalk cafes provided that the following requirements are met:
- (1) The sidewalk cafe shall be part of a restaurant and shall otherwise be authorized, permitted, or licensed under the state law and this Code to serve and sell alcoholic beverages for on-premises consumption.
 - (2) The sidewalk cafe must be included as part of the premises for which an ABC permit is issued pursuant to state law, for the purpose of applying and enforcing state laws regarding the sale or consumption of alcoholic beverages.
 - (3) Signs shall be posted, visible at all exit points from the sidewalk cafe, that it is unlawful to remove alcoholic beverages from the premises.

- (4) The restaurant operator shall not have violated any law, regulation, or ordinance relating to the possession, sale, transportation or consumption of intoxicating beverages or controlled substances for the three years preceding the commencement of the sale of alcoholic beverages at the sidewalk cafe.
 - (5) No outdoor bar is allowed within the sidewalk cafe, nor shall outdoor preparation of alcoholic beverages be permitted except that unfortified wine may be decanted or beer poured at a table as part of a meal.
 - (6) Any alcoholic beverages served and consumed at an approved sidewalk cafe' must be served and consumed in glasses or cups which bear no markings other than the logo or the name of the business operating the sidewalk café.
 - (7) Any alcoholic beverages served and consumed at an approved sidewalk café can only be served to and consumed by a customer while that customer is consuming a meal purchased from the business operating the approved sidewalk café.
- (f) *Denial.* A permit may be denied if it is found that the application does not demonstrate compliance with this section and/or that the granting of the permit would not be in the public interest. Any applicant denied a permit to operate a sidewalk cafe shall receive a written statement outlining the grounds on which the denial is based. The applicant may appeal the denial of the permit to city, and city council may take such action as it shall find necessary. The finding and determination of city council shall constitute final action by the city.
- (g) *Terms and transfer.* Permits for a sidewalk cafe issued in accordance with the provisions of this article shall be issued for the period beginning July 1 or thereafter and expiring June 30 of each year. If a permittee discontinues the restaurant operation or the sidewalk cafe, no refund of the permit fee shall be made. Permits issued pursuant to this section shall not be transferable or assignable. Permits may prohibit operation of sidewalk cafes during special events and contain other conditions and restrictions as may be necessary to protect the public health, safety and welfare.
- (h) *Permit suspension.* The city manager may suspend a permit issued pursuant to this section if he finds one or more of the following conditions exist:
- (1) Violation of any provision of the county health department regulations or of this section.
 - (2) Violation of any law, regulation, or ordinance regarding the possession, sale, transportation, or consumption of intoxicating beverages or controlled substances.
 - (3) Operation of the sidewalk cafe in such a manner as to create a public nuisance or to constitute a hazard to the public health, safety, or welfare; specifically including failure to keep the cafe area clean and free of refuse.

- (4) Operation of the restaurant or sidewalk cafe in violation of any city, county or state law, ordinance, or regulation

Such permit suspension shall take effect immediately upon delivery of a citation to the restaurant operator or, in his absence, the person with supervisory authority over the operation of the restaurant and shall be reinstated once the city manager has verified that the condition has been remedied.

The restaurant operator may request a hearing contesting the suspension of the permit by filing written notice thereof upon the city manager. Such hearing shall be held and a written decision rendered within fifteen days of the date of receipt. Such decision of the city manager may be appealed to the city council by written notice thereof filed with the city clerk within fifteen days of the date of receipt of said decision.

- (i) *Permit revocation.* The city manager may revoke a permit issued pursuant to this section if he finds that the restaurant operator has:

- (1) Deliberately misrepresented or provide false information in the permit application.
- (2) Violated any provision of the county health department regulations or of this section.
- (3) Violated any law, regulation, or ordinance regarding the possession, sale, transportation, or consumption of intoxicating beverages or controlled substances.
- (4) Operated the sidewalk cafe in such a manner as to create a public nuisance or to constitute a hazard to the public health, safety, or welfare; specifically including failure to keep the cafe area clean and free of refuse.
- (5) Failed to maintain any health, business or other permit or license required by law or the operation of a restaurant business.
- (6) Fails to consistently maintain the sidewalk cafe in a neat and trash free manner.
- (7) Operated the restaurant or sidewalk cafe in violation of any city, county or state law, ordinance, or regulation.

In the event the city manager determines good grounds exist for the revocation of a permit issued under this section, he shall provide the restaurant operator a notice to show cause, stating with particularity the grounds therefore, why the sidewalk cafe permit should not be revoked. The restaurant operator shall be provided an opportunity for a hearing, following which the city manager shall render an order in writing. The restaurant operator may appeal any such order by filing a written appeal with the city clerk within 15 days of receipt thereof. City council shall conduct a hearing on the appeal and render its decision thereon. The finding and determination of city council shall constitute final action by the city.

This amendment shall become effective upon adoption.

This the 6th day of April, 2006.



DONNA C. FLOWERS, CMC
CITY CLERK



BOBBY G. HUITT
MAYOR



Proposed

GENERAL.

Notwithstanding any other provisions of this code to the contrary, sidewalk cafés or sidewalk dining shall be permitted in the Central Business District and Central Business Transitional District as indicated on the official zoning map of the city and shall be subject to regulations as are set forth in this chapter.

PERMIT REQUIRED.

No business owner may operate a sidewalk café without first obtaining a permit from the City Manager in accordance with the requirements of this chapter. As used in this section, the term CITY MANAGER includes his or her authorized representative.

APPLICATION.

Any business owner desiring to operate a sidewalk café shall prepare and file an application with the City Manager which shall contain the following information:

- (A) The name, addresses and telephone number of the business desiring to operate a sidewalk café;
- (B) The name, address and telephone number of the business operator;
- (C) The type of ~~DELETED food, beverage or food products~~ to be sold and served at the sidewalk café;
- (D) The hours of operation of the business and the proposed hours of operation of the sidewalk café;
- (E) A site plan showing the section of sidewalk or pedestrian way to be used for the sidewalk café, and the section to be kept clear for pedestrian and fire lane use, and depicting the proposed placement of tables, chairs, umbrellas, trash receptacles and other furnishings on the sidewalk or pedestrian way;
- (F) Proof of an insurance policy, issued by an insurance company licensed to do business in the state, protecting the permittee and the city from all claims for damages to property and bodily injury, including death, which may arise from operation under or in connection with the permit. The insurance shall name the city as additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date without 30 days advance written notice to the city. The insurance shall afford minimum limits of \$1,000,000 aggregate annually. In addition to the aforesaid general liability coverage provided by permittee on behalf of city, the permittee shall also offer proof of a liquor liability policy or endorsement issued by an insurance company licensed to do business in the state, which protects the permittee and the city from all claims for damages to property or bodily injury, including death, which may arise from operation under or in connection with the permit (and specifically for the sale and consumption of alcoholic beverages as authorized by this chapter). Additional liquor liability policy or endorsement shall name the city as additional insured and shall provide that the policy or endorsement shall not terminate or be cancelled prior to the expiration date without 30 days written notice to the city. The liquor liability insurance policy or endorsement shall afford minimum limits of \$1,000,000 aggregate annually;

(G) A copy of all the permits and licenses issued by the county, state or the city, including health and ABC permits and business licenses, necessary for the operation of the business, or a copy of the application for the permit if no permit has been issued. This requirement includes any permits or certificates issued by the city or other governmental authority, for exterior alterations or improvements to the building;

(H) A sworn statement describing any violation by the business operator of any laws, regulations or ordinances relating to the possession, sale consumption or transportation of intoxicating beverages or controlled substances during the five years immediately preceding the date of the permit application;

(I) Additional information as may be requested by the City Manager or his or her designee in order to determine compliance with this section; and

(J) An annual fee in the amount as set forth in the fee schedule to cover the cost of processing and investigating the application and issuing the permit.

ISSUANCE OF PERMIT.

No permit for the operation of a sidewalk café may be issued unless the application is complete and the following requirements are met.

(A) The sidewalk café must be associated with an operating business so that it is under the same management and shares the same preparation facilities, restroom facilities and other customer convenience facilities as the business. The sidewalk café must be operated under the same name as the business and may not be open or operated at any time when the business is not open for business.

(B) The operation of the sidewalk café must be clearly incidental to the associated business. The seating capacity of the sidewalk café may not be more than 50% of the interior seating capacity of the associated business.

(C) The placement of tables, chairs and other furnishings as shown in the site plan must be done in a manner that at least five feet of unobstructed space (as measured from the building façade or, in the absence of a building façade, a straight line connecting the building façades) remains on the sidewalk or pedestrian way for the passage of pedestrians. No fire exits or lanes may be blocked and must remain clear at all times. The pedestrian passage may not be used for the display of merchandise or for portable signs otherwise authorized.

(D) The business seeking to operate the sidewalk café must front on and open onto the sidewalk or pedestrian way proposed for the sidewalk café. The placement of tables, chairs and other furnishings may not extend beyond the sidewalk or pedestrian way frontage of the associated business, with the following exception: tables, chairs and other furnishings may extend up to eight feet onto adjacent property frontage in either or both directions with the written permission (provided at the time of application) of the occupant of the adjacent property.

(E) The tables, chairs and other furnishings used in the sidewalk café shall not be anchored and shall be of a type of street furniture that is easily movable.

(F) Except as elsewhere permitted by the code, the operation or furnishing of the sidewalk café shall involve no permanent alteration to or encroachment upon any street, sidewalk or pedestrian way or to the exterior of the associated business.

(G) Each sidewalk café shall provide adequate trash removal for its patrons. At the end of each business day and during operating hours, the operator shall remove all trash and debris of any sort from the sidewalk area. In addition, the operator shall remove from the sidewalk alongside and abutting properties any trash or debris originating as a result of the operation of the sidewalk café.

(H) Tables, chairs and other furnishings that remain on the sidewalk at times when the business is not in operation shall be secured in a manner that allows clear access from the street equal to or exceeding half of the frontage of the associated business.

ALCOHOLIC BEVERAGES.

Notwithstanding any other provisions of this code, alcoholic beverages may be served in approved sidewalk cafés provided that the following requirements are met.

(A) The sidewalk café shall be part of a business and shall otherwise be authorized, permitted or licensed under the state law and this code to serve and sell alcoholic beverages for on-premises consumption.

(B) The sidewalk café must be included as part of the premises for which an ABC permit is issued pursuant to state law, for the purpose of applying and enforcing state laws regarding the sale or consumption of alcoholic beverages.

(C) Signs shall be posted, visible at all exit points from the sidewalk café, that it is unlawful to remove alcoholic beverages from the premises.

(D) The business operator shall not have violated any law, regulation or ordinance relating to the possession, sale, transportation or consumption of intoxicating beverages or controlled substances for the three years preceding the commencement of the sale of alcoholic beverages at the sidewalk café.

(E) No outdoor bar is allowed within the sidewalk café, nor shall outdoor preparation of alcoholic beverages be permitted, except that unfortified wine may be decanted or beer poured at a table.

(F) Any alcoholic beverages served and consumed at an approved sidewalk café must be served and consumed in glasses or cups which bear no markings other than the logo or the name of the business operating the sidewalk café.

(G) ~~Any alcoholic beverages served and consumed at an approved sidewalk café must be served and consumed in glasses or cups which bear no markings other than the logo or the name of the business operating the sidewalk café.~~

DENIAL.

A permit may be denied if it is found that the application does not demonstrate compliance with this section and/or that the granting of the permit would not be in the public interest. Any applicant denied a permit to operate a sidewalk café shall receive a written statement outlining the grounds on which the denial is based. The applicant may appeal the denial of the permit to city, and City Council may take action as it shall find necessary. The finding and determination of City Council shall constitute final action by the city.

TERMS AND TRANSFER.

Permits for a sidewalk café issued in accordance with the provisions of this chapter shall be issued for the period beginning July 1 or thereafter and expiring June 30 of each year. If a permittee discontinues the business operation or the sidewalk café, no refund of the permit fee shall be made. Permits issued pursuant to this section shall not be transferable or assignable. Permits may prohibit operation of sidewalk cafés during special events and contain other conditions and restrictions as may be necessary to protect the public health, safety and welfare.

PERMIT SUSPENSION.

(A) The City Manager may suspend a permit issued pursuant to this section if he or she finds one or more of the following conditions exist:

- (1) Violation of any provision of the County Health Department regulations or of this section;
- (2) Violation of any law, regulation or ordinance regarding the possession, sale, transportation or consumption of intoxicating beverages or controlled substances;
- (3) Operation of the ~~restaurant or~~ sidewalk café in a manner as to create a public nuisance or to constitute a hazard to the public health, safety or welfare; specifically including failure to keep the café area clean and free of refuse; and/or
- (4) Operation of the business or sidewalk café in violation of any city, county or state law, ordinance or regulation.

(B) The permit suspension shall take effect immediately upon delivery of a citation to the business operator or, in his or her absence, the person with supervisory authority over the operation of the business and shall be reinstated once the City Manager has verified that the condition has been remedied.

(C) The business operator may request a hearing contesting the suspension of the permit by filing written notice thereof upon the City Manager. The hearing shall be held and a written decision rendered within 15 days of the date of receipt. The decision of the City Manager may be appealed to the City Council by written notice thereof filed with the City Clerk within 15 days of the date of receipt of the decision.

PERMIT REVOCATION.

(A) The City Manager may revoke a permit issued pursuant to this section if he or she finds that the business operator has:

- (1) Deliberately misrepresented or provide false information in the permit application;
- (2) Violated any provision of the County Health Department regulations or of this section;
- (3) Violated any law, regulation or ordinance regarding the possession, sale, transportation or consumption of intoxicating beverages or controlled substances;
- (4) Operated the sidewalk café in a manner as to create a public nuisance or to constitute a hazard to the public health, safety or welfare; specifically including failure to keep the café area clean and free of refuse;
- (5) Failed to maintain any health, business or other permit or license required by law or the operation of a business;
- (6) Fails to consistently maintain the sidewalk café in a neat and trash free manner; and/or
- (7) Operated the business or sidewalk café in violation of any city, county or state law, ordinance or regulation.

(B) In the event the City Manager determines good grounds exist for the revocation of a permit issued under this section, he or she shall provide the business operator a notice to show cause, stating with particularity the grounds therefor, why the sidewalk café permit should not be revoked. The business operator shall be provided an opportunity for a hearing, following which the City Manager shall render an order in writing. The business operator may appeal any order by filing a written appeal with the City Clerk within 15 days of receipt thereof. City Council shall conduct a hearing on the appeal and render its decision thereon. The finding and determination of City Council shall constitute final action by the city.

ITEM #

10

ITEM #

11

City of Lincolnton

City Council

John O. Gilleland Jr., Mayor
Larry Mac Hovis, Mayor Pro-Tem
John L. Cloninger
Devin Rhyne
Martin A. Eaddy



City Manager

Jeff Emory
jeffemory@ci.lincolnton.nc.us

City Clerk

Donna C. Flowers, CMC
donnaflowers@ci.lincolnton.nc.us

City Attorney

Thomas J. Wilson, Jr.

BOARD VACANCY

The City of Lincolnton is accepting applications from City residents who are interested in serving on the Lincolnton-Lincoln County Historic Properties Commission. Currently we have one vacancy for this board.

Information concerning the duties and responsibilities of this board and applications are available online at www.ci.lincolnton.nc.us or at the office of the City Clerk located at 114 West Sycamore Street, Lincolnton, NC. or you may call Donna Flowers at (704)736-8980 to obtain more information. Applications will be accepted through Friday, January 31, 2014 until 5:00 p.m.



**Application for Boards/Commissions/Committees
Lincolnton City Council**

Please complete each section

Full Name WILLIAM E. STARK Date of Birth 12/07/1945

Home Address 301 WEST MAIN ST, LINCOLNTON 28092

Home Phone (704) 240-4055

Current Employer RETIRED

Job Title NA Years in current position NA

Business Phone (252) 605-1773 Fax NA

E-Mail Address STARK - FAMILY @ CHARTER. NET

Prior Duties : ENVIRONMENTAL ENGR. - U.S. ARMY FORCPS; L.A. - 7TH ARMY TRNG. COMMAND
EUROPE; PAPE ARCHITECT - MCAS BEAUFORT, SC.

Other employment history GM AND L.A. OF BCS ENGINEERING AND LAND PLANNING
BEAUFORT, SC

It is the City Council's goal to maintain a balance of membership on its
Boards/Commissions/Committees based on race, gender and Council Ward residency.

Council Ward No. _____

Male ☒ Female _____

White ☒ Black _____ Native American _____ Asian _____ Other _____

Board/Commission/Committee Applying For (list only one per form)

HISTORIC PROPERTIES COMMISSION

Generally, the Council desires to broaden participation on Boards /Commissions
/Committees for as much citizen involvement as possible; therefore, a goal is to limit appointees
to no more than 1 Board/Commission/Committee. Therefore, please list any other
Board/Commission/Committee on which you currently serve:

NONE

Why are you interested in serving on this Board/Commission/Committee? I HAVE A LIFE-LONG
INTEREST IN ARCHITECTURE, LANDSCAPE ARCHITECTURE AND HISTORY.

Interest/Skills/Areas of Expertise/Professional Organization/Activities

RESTORATION OF HISTORIC STRUCTURES, ARCHITECTURAL AND
L.A. DESIGN, REGISTERED LANDSCAPE ARCHITECT (S.C.) /
ENVIRONMENTAL ENGINEER.

Affirmation of Eligibility:

Has any formal charge of professional misconduct, criminal misdemeanor or felony ever been filed against you in any jurisdiction?

Yes _____ No X _____ If yes, please explain disposition _____

Is there any conflict of interest or other matter that would create problems or prevent you from fairly and impartially discharging your duties as a appointee of the City Council? Yes _____
No X _____

If yes, please explain

IF APPROVAL IS REQUESTED FOR AN EXTERIOR ARCHITECTURAL MODIFICATION
TO OUR HOME (SHADDO LAWN) VIA THE H.P.C., I WILL NOT PARTICIPATE IN
ANY VOTE.

I understand this application is public record and I certify that the facts contained in this application are true and correct to the best of my knowledge. I authorize and consent to background checks and to the investigation and verification of all statements contained herein as deemed appropriate. I further authorize all information concerning my qualifications to be investigated and release all parties from all liability for any damages that may result from this investigation. I understand and agree that any misstatement may be cause for my removal from any Board/Commission/ Committee. I understand regular attendance to any Board/Commission/Committee is important and, accordingly, I further understand that if my attendance is less then the standards established for any such body that this is cause for removal. Lacking any written standards for attendance by any Board/Commission/Committee it is expected that I will attend at least 75% of all meetings during any one calendar year to maintain my seat on any Board/Commission/Committee to which I may be appointed. This form will remain on file in the Office of the City Clerk and requests for updates will be sought prior to any consideration for reappointment (or future appointment) to any Board/Commission/Committee.

Signature

[Handwritten Signature]

Date

01/19/2014

Form is invalid if not signed and dated

Return completed for to:

Donna C. Flowers

City Clerk's Office

P.O. Box 617

Lincolnton, North Carolina 28092

Phone: (704) 736-8980

Fax: (704) 736-8995

Email: donnaflowers@ci.lincolnton.nc.us

Do not submit any resumes or attachments

Applicants are required to be a resident of the City of Lincolnton



**Application for Boards/Commissions/Committees
Lincolnton City Council**

Please complete each section

Full Name Ellen Annette Shuford Stone Date of Birth 1/8/42
Home Address 123 West Church St., Lincolnton, NC 28092
Home Phone 704-732-2861
Current Employer retired from Lincoln DSS - 10/2017 -
Job Title _____ Years in current position 25 yrs. of service
Business Phone _____ Fax _____
E-Mail Address annettestone17@yahoo.com
Duties _____

Other employment history teacher / social worker

**It is the City Council's goal to maintain a balance of membership on its
Boards/Commissions/Committees based on race, gender and Council Ward residency.**

Council Ward No. 1

Male _____ Female ☒

White ☒ Black _____ Native American _____ Asian _____ Other _____

Board/Commission/Committee Applying For (list only one per form)

LINCOLNTON-LINCOLN County Historic Properties Commission

Generally, the Council desires to broaden participation on Boards /Commissions
/Committees for as much citizen involvement as possible; therefore, a goal is to limit appointees
to no more than 1 Board/Commission/Committee. Therefore, please list any other
Board/Commission/Committee on which you currently serve:

Why are you interested in serving on this Board/Commission/Committee? I am interested
in helping in some way to preserve Lincolnton's heritage -
and to help younger generations appreciate this heritage -
also to learn more about our town and County's
history - as an almost life long native I have
a compelling interest in doing what I can to
encourage this appreciation in others

Interest/Skills/Areas of Expertise/Professional Organization/Activities

Reading - walking - interested in history -
skills in preparing - presenting materials -
meeting and greeting people

Affirmation of Eligibility:

Has any formal charge of professional misconduct, criminal misdemeanor or felony ever been filed against you in any jurisdiction?

Yes _____ No ☒ If yes, please explain disposition _____

Is there any conflict of interest or other matter that would create problems or prevent you from fairly and impartially discharging your duties as a appointee of the City Council? Yes _____
No ☒

If yes, please explain

I understand this application is public record and I certify that the facts contained in this application are true and correct to the best of my knowledge. I authorize and consent to background checks and to the investigation and verification of all statements contained herein as deemed appropriate. I further authorize all information concerning my qualifications to be investigated and release all parties from all liability for any damages that may result from this investigation. I understand and agree that any misstatement may be cause for my removal from any Board/Commission/ Committee. I understand regular attendance to any Board/Commission/Committee is important and, accordingly, I further understand that if my attendance is less then the standards established for any such body that this is cause for removal. Lacking any written standards for attendance by any Board/Commission/Committee it is expected that I will attend at least 75% of all meetings during any one calendar year to maintain my seat on any Board/Commission/Committee to which I may be appointed. This form will remain on file in the Office of the City Clerk and requests for updates will be sought prior to any consideration for reappointment (or future appointment) to any Board/Commission/Committee.

Signature Allen Annelle S. Stone Date 1/31/14
Form is invalid if not signed and dated

Return completed for to:

Donna C. Flowers

City Clerk's Office

P.O. Box 617

Lincolnton, North Carolina 28092

Phone: (704) 736-8980 Fax: (704) 736-8995 Email: donnaflowers@ci.lincolnton.nc.us

Do not submit any resumes or attachments
Applicants are required to be a resident of the City of Lincolnton

ITEM #

12

Donna Flowers

From: johngilleland@gillelandrealty.com
Sent: Tuesday, January 21, 2014 1:53 PM
To: Larry Mac Hovis; Devin Rhyne Home; Martin Eaddy; John Les Cloninger
Cc: Donna Flowers; Jeff Emory
Subject: FW: MPO Board Information

Councilmen:

I know everyone is busy but I thought I would throw this out one more time just to see if anyone is interested... Please take a look at the meeting schedule and information below and see if you are interested in being on this board. We could miss opportunities for grants if we do not have an elected official sitting on this board.

Thanks for your consideration,

John

Jeff: The Gaston Cleveland Lincoln MPO Board meetings occur the fourth Thursday of every other month (unless there is a change related to a holiday) as follows:

January 23
March 27
May 22
July 24
September 25
December 3

The meetings begin at 6:30 pm. Dinner is served starting at 5:45 but it is entirely optional. The meeting location is the Police Community Room located at 200 Long Avenue, Gastonia. I will be happy to drive the member or alternate to the meetings since I attend anyway.

The attendance requirements that we discussed are outlined in the MPO Board bylaws which the Board adopted on September 24, 2013. The below are the relevant provisions of the bylaws that are related to MPO Board attendance:

Section 4 - Attendance:

Each voting member representative and/or his or her alternate shall be expected to attend each meeting. Gaston - Cleveland - Lincoln MPO Board Bylaws Page 4

The MPO Board and all its sub-committees shall conduct their business in compliance with the State of North Carolina's Open Meetings Law.

Section 5 – Good Standing

A voting member is not in Good Standing if its representative or alternate has failed to attend three (3) consecutive meetings, provided notice has been given in accordance with Section 4. Upon the third absence of a member, the Chair will send to the Chief Administrative Officer of the jurisdiction or agency of the member in question a letter indicating the number of absences and requesting that the individual be instructed to attend. A member that is not in Good Standing because of absences will automatically become in Good Standing when its representative attends two (2) successive meetings.

A voting member is not in Good Standing if that member has not paid its portion of the local match share of the Unified Planning Work Program for three quarters, successive or not, per the *Memorandum of Understanding*. A member that is not in Good Standing because of non-payment will automatically become in Good Standing upon remitting payment for the three unpaid quarters and most recent quarter.

ITEM #

13



January 28, 2014

Ms. Donna Flowers
City of Lincolnton
P.O. Box 617
Lincolnton, NC 28093

Dear Ms. Flowers:

Thank you for your continued interest in East Coast Pyrotechnics.

Enclosed, please find a display outline, and contract for your review. Keep in mind that this proposal represents a complete turnkey display. East Coast will provide all necessary material, qualified technicians and 5 million dollars liability insurance coverage. In addition, we will work with the local authorities to secure the required discharge permit.

The proposed display package will contain the same high quality special effect and brilliant color effect materials as displayed during the 2013 event. The display will also incorporate electronic discharge to control the timing of the display.

If the proposed display meets your approval, please return the enclosed contract to secure your 2014 event. There is no need for deposit at this time; East Coast will invoice for 50% deposit April 1st.

If you should have any questions, please do not hesitate to contact me at (800) 238-5114 or joel@eastcoastpyro.com at anytime.

As always, I look forward to the opportunity to be of service.

Sincerely,

Joel Matthews
Event Producer

City of Lincolnton
July 4th, 2014
\$10,000.00 Proposal Synopsis

Opening

3 – 3” Silver Titanium Salutes with Rising Tails
120 Shot – 1 ½” Red, White & Blue Peony “Z Shape”

Body

120 – 3” Caliber Shells
110 – 4” Caliber Shells
58 – 5” Caliber Shells
20 – 6” Caliber Shells

Low Level Segment

300 Shot – 1” Red & Green Light Crackle Flower
36 Shot – 2 ½” Multi-Color Palm Tree with 36 Rising Tails
100 Shot – 1 ½” Multi-Color Crossette with Rising Tails

Grand Finale

100 Shot – 2” Assorted Color Stars & Salutes with Rising Tails
36 Shot – 2 ½” Assorted Color Peony & Salutes with 36 Rising Tails
50 – 3” Assorted Color Dahlia & Crown Shells
60 – 3” Variegated Color Peony & Chrysanthemum Shells
30 – 3” Silver Titanium Salutes with Rising Silver Tails

Suggested Duration: 15 – 18 minutes

EAST COAST PYROTECHNICS, INC.
AGREEMENT

This contract entered in this 28th day of January A.D. 2014 by and between EAST COAST PYROTECHNICS, INC. of Catawba, S.C. and City of Lincolnton (customer) of City Lincolnton State NC.

WITNESSETH: EAST COAST PYROTECHNICS, INC. for and in consideration of the terms hereinafter mentioned, agrees to furnish to the CUSTOMER one (1) Fireworks Display(s) as per agreement made and accepted and made a part hereof, including the services of our Operator to take charge of and fire display under the supervision and direction of the Customer, said display to be given on the evening of July 4, 2014 Customer Initial _____, weather permitting, it being understood that should inclement weather prevent the giving of this display on the date mentioned herein the parties shall agree to a mutually convenient alternate date, within six (6) months of the original display date. Customer shall remit to the first party an additional 15% of the total contract price or additional expenses in presenting the display on an alternate date. The determination to cancel the show because of inclement or unsafe weather conditions shall rest within the sole discretion of EAST COAST PYROTECHNICS, INC. In the event the customer does not choose to reschedule another date or cannot agree to a mutually convenient date, EAST COAST PYROTECHNICS, INC. shall be entitled to 40% of the contract price for costs, damages and expenses. If the fireworks exhibition is cancelled by CUSTOMER prior to the display, CUSTOMER shall be responsible for and shall pay EAST COAST PYROTECHNICS, INC. on demand, all EAST COAST PYROTECHNICS, INC.'s out of pocket expenses incurred in preparation for the show including but not limited to, material purchases, preparation and design costs, deposits, licenses, and employee charges.

EAST COAST PYROTECHNICS, INC. agrees to furnish all necessary fireworks display materials and personnel for fireworks display in accordance with the program approved by the parties. Quantities and varieties of products in the program are approximate. After final design, exact specifications will be supplied upon request. EAST COAST PYROTECHNICS, INC. enters this agreement contingent upon its ability to secure delivery of product for the display.

It is further agreed and understood that the CUSTOMER is to pay EAST COAST PYROTECHNICS, INC. the sum of \$10,000.00 (50% deposit due April 1, 2014). A service fee of 1 ½% per month shall be added if account is not paid in full within 30 days of the show date.

EAST COAST PYROTECHNICS, INC. will obtain Commercial Liability and Property Damage and Workers Compensation insurance.

Customer will provide the following items:

- (a) Sufficient area for the display, including a minimum spectator set back of 420 feet at all points from the discharge area.
- (b) Protection of the display area by roping-off or similar facility.
- (c) Adequate police protection to prevent spectators from entering display area.
- (d) Search of the fallout area at first light following a nighttime display.

It is further agreed and mutually understood that nothing in this contract shall be constructed or interpreted to mean a partnership, both parties being hereto responsible for their separate and individual debts and obligations, and neither party shall be responsible for any agreements not stipulated in this contract. Customer agrees to pay any and all collection costs, including reasonable attorney's fees and court costs incurred by EAST COAST PYROTECHNICS, INC. in the collection or attempted collections of any amount due under this agreement and invoice. Signor of this contract personally guarantees full payment of this agreement.

The parties hereto do mutually and severally guarantee terms, conditions, and payments of this contract, these articles to be binding upon the parties, themselves, their heirs, executors, administrators, successors and assigns.

EAST COAST PYROTECHNICS, INC.

By _____

Date Signed: January 28, 2014

Joel Matthews

P.O. Box 209

Catawba, SC 29704

P803.789.5733

F803.789.6440

joel@eastcoastpyro.com

CUSTOMER

By: _____

It is duly authorized agent, who represents he/she has full authority to bind the Customer

Date Signed: _____

(Please Type or Print)

Name: _____

Address: _____

Phone: _____

Email: _____

Billing Email: _____

ITEM #

14

***BACK UP FOR THIS ITEM
WILL BE FORWARDED
TO YOU VIA EMAIL
PRIOR TO
CITY COUNCIL MEETING***

CITY OF LINCOLNTON

CITY COUNCIL

John O. Gilleland, Jr., Mayor
Larry Mac Hovis, Mayor Pro-Tem
John L. Cloninger
Devin Rhyne
Martin A. Eaddy



CITY MANAGER

JEFF EMORY
jeffemory@ci.lincolnton.nc.us

CITY CLERK

DONNA C. FLOWERS, MMC
donnaflowers@ci.lincolnton.nc.us

CITY ATTORNEY

THOMAS J. WILSON, JR.

January 27, 2014

Mr. Regis Eger, Plant Manager
The Timken Company
1000 Timken Place
Iron Station, NC 28080

Dear Mr. Eger:

On behalf of the City of Lincolnton, I am writing you to express support for Lincoln County's WALC (Wondering Around Lincoln County) application for a \$200,000.00 grant from the Timken Company. This money will go towards the construction of Phase II of the South Fork Cross Country Trail. This project is priority #1 of Lincoln County's six priorities in aggressively working toward the seventy-one miles of planned trail segments.

I know firsthand how successful a rail-trail can be. The Marcia H. Cloninger Rail Trail is currently a 1.6 mile trail that runs through downtown Lincolnton, and connects two of the City's parks. The trail is widely used and we eventually would like to extend the trail even further.

The Marcia H. Cloninger Rail Trail and proposed South Fork Cross Country Trail are all part of the Carolina Thread Trail effort. We support this effort and hope that you will give your sincere consideration to funding this grant request.

Sincerely,

John O. Gilleland, Jr.
Mayor

ITEM #

15

PROPOSEAL FOR PROFESSIONAL SERVICES
Lincolnton WWTP
January 20, 2014

1. SCOPE OF WORK

It is the intent of the City of Lincolnton to investigate the maximum biological and hydraulic capacity of the City's existing Wastewater Treatment Plant based on historical loading values over the past five years. In addition, Pease will work with Lincolnton's staff to optimize the pre-treatment program. Based on the initial evaluation of influent characteristics, wastewater data will be used to create multiple options that the City will use to determine existing and potential capacity of the facility. It is the intent of this project to define existing conditions of the WWTP and Pre-treatment program and establish clear options available for the City to allow new industry discharge into the plant.

Engineer will provide Services for the Project, which consist of the Scope of Services as outlined below:

1. Review pre-treatment program and develop a program to optimize existing distribution of allocations
2. Establish available capacity of the existing wastewater treatment plant based on current loading.
3. Determine minor improvements to the existing wastewater treatment plant to improve capacity of the existing facility.
4. Establish 5-year program for improvements to the facility.
5. Prepare a report which will, as appropriate, meet the needs of the owner to discuss alternatives and cost estimates for review by council. The outline of the wastewater treatment plant evaluation plan is as follows:
 - a. Executive Summary
 - b. Description of Project
 - c. Evaluation of existing Pre-treatment allocations
 - d. Current Characteristics of Influent
 - e. Existing Facilities
 - i. Influent Pump Station
 - ii. Grit Removal Structure
 - iii. Primary Treatment Structure
 - iv. Aeration Basins
 - v. Final Clarifier
 - vi. RAS Pump Station
 - vii. DAF
 - viii. Digester Facilities
 - f. Optimization of existing facilities
 - g. Capital Improvement Plan
 - i. Do nothing
 - ii. 5-year plan
 - h. Conclusion and Recommendations

2. COMPENSATION

- (a) Total compensation, including but not limited to all incidental expenses, for the scope of services designated above, shall not exceed Eighteen Thousand Three Hundred Dollars (\$18,300.00). Engineer will invoice the City, on a monthly basis, for services performed. Engineer's invoice shall be based upon the percentage of services performed as of the date of the invoice.

3. TIME

Engineer proposes to have the services set forth completed by April 1, 2014

ITEM #

16

MEMO TO: Mayor and City Council Members
THROUGH: Jeff Emory
FROM: Laura Simmons
SUBJECT: Status Update on Potential Project to Improve Intersection of East
Main Street and Generals Boulevard
DATE: February 6, 2014

Staff is continuing to work with NCDOT on a potential improvement project for the intersection of East Main Street and Generals Boulevard. We are discussing the possibility of a City/State partnership on the project in which the City and the State pool their resources to allow for a more comprehensive project that works for both the City and the State.

The discussions to date have focused on an improvement project that accomplishes not only the City's initial goals for the intersection but also a complete repave of the intersection, an additional southbound left turn lane on Generals Boulevard providing for increased capacity and better traffic flow at the intersection and installation of medians for safety reasons.

NCDOT staff is currently in the process of conducting a safety study of the intersection so that they can potentially seek additional funding for the project. The discussions with the state regarding funding of the project would have the City's contribution limited to the 20% local match for the CMAQ grant and the State contribution being the funding necessary for a repave of the intersection, the additional turn lane, construction inspection and oversight and project administration. The City's 20 % local match would be \$116,250.00 and recently adopted State legislation allows use of State Powell Bill funds for the match.

Many details still need to be discussed and finalized and any conceptual agreement between the City and the State would be subject to City Council approval prior to any formal agreement.

Please contact me if you have any questions or concerns.

February 2014 Council Meeting

Executive Summary

December 2013 Year-To-Date

Comparative for Budgetary Purposes - After Closing 2013 Fiscal Year

		13-14	% of Budget	12-13	Difference
General Fund					
Fund 10	Revenues	4,908,843.36	44.93%	4,625,964.32	282,879.04
	Expenses	4,132,017.91	42.80%	4,342,823.02	(210,805.11)
	Difference	776,825.45		283,141.30	493,684.15
Water & Sewer Fund					
Fund 61	Revenues	4,220,136.28	48.40%	4,511,132.60	(290,996.32)
	Expenses	3,044,395.85	40.59%	2,988,025.42	56,370.43
	Difference	1,175,740.43		1,523,107.18	(347,366.75)
Electric Fund					
Fund 63	Revenues	3,546,938.54	45.09%	3,487,863.37	59,075.17
	Expenses	3,469,403.53	52.03%	3,444,212.53	25,191.00
	Difference	77,535.01		43,650.84	33,884.17
Overtime		153,141.12		140,660.89	12,480.23

CLOSED
SESSION