REGULAR MEETING - FEBRUARY 6, 2014

The Mayor and City Council met in regular session on Thursday, February 6, 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 in the Pledge of Allegiance. The following Council members were in attendance:

RHYNE CLONINGER EADDY HOVIS

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

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

- Approved of January 9th regular meeting minutes
- Approved (R-04-13) Resolution of approval of local Water Supply Plan
- Approved(C-02-14) Mutual Aid and Assistance Agreement – Fire Marshal Services
- Approved the following 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:

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):

CUP-1-2014

Mayor Gilleland opened the Public Hearing. The City Clerk administered the oath to all those wishing to speak for or against the request. Laura Simmons, Planning Director reviewed the above stated request, the site description, the proposed tower location, the applicant's compliance with the LUDO noting exceptions. Laura ten read through the seven staff review committee comments and reviewed the five findings of fact that would need to be considered prior to approval of the request.

Laura concluded recommending on behalf of Planning Board and staff that the conditional use permit be approved subject to the staff review committee requirements being met. Laura did note that the concerns with the vegetation issue had been met.

Mr. Dave Pokela and Mr. Lewis Johnson of Nexson & Pruitt spoke on behalf of the request. Mr. Pokela asked that all materials regarding this request be made part of the record, including the letter from the FAA approving the tower height. He presented a short slide show for Council depicting the exact location of the tower. He discussed the rising demand for data transmission, noting high usage puts additional demand on infrastructure and increases additional needs. He told Council he felt all requirements of the staff and Planning Board had been met and recommended approval of the permit.

Mr. Robert Tomlinson, a resident of 501 S. Grove Street, spoke in favor of the request and suggested to Council that the tower be camouflaged if possible similar to the water tower on I-85 south that is shaped as a peach. This tower also houses a cell tower. He encouraged the multipurpose use of towers suggesting that we could erect an apple or solider as we are known statewide as host of the annual Apple Festival and Battle of Ramseur's Mill.

Upon conclusion of those signed to speak to the request, Councilman Cloninger made the motion unanimously approved to close the Public Hearing.

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

<u>Findings of Fact:</u>

1. Councilman Eaddy made the motion unanimously approved that the use would not endanger the public health or safety subject to compliance with the recommended conditions outlined by the staff review committee.
2. Councilman Hovis made the motion unanimously approved that the proposed site plan meets all required conditions and specifications with the noted exceptions.
3. Councilman Cloninger made the motion unanimously approved that the use should not substantially injure the value of adjoining or abutting property.

4. Councilman Eaddy made the motion unanimously approved that the use was in general conformity of the Lincolnton 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 noted by staff review committee.
5. Councilman Rhyne made the motion unanimously approved that the tower will not result in interference with the safe operation of aircraft in relation to existing or planned airport facilities.

Councilman Eaddy made the motion unanimously approved granting the conditional use permit as requested contingent upon the staff review committee comments being met.

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

Mayor Gilleland opened the Public Hearing. Rodney Jordan, Chief of Police, reviewed the proposed amendment to the City's Code of Ordinances as stated above.

He told Council that due to recent concerns of speed on Bonview Avenue. Ms. Sandy Dellinger, of 602 Bonview Avenue, appeared before Council in January asking the City to take a look at possibly putting the stop light back up on Bonview. Currently it is a caution light. She expressed concerns about not being able to get out of her driveway due to the volume and speed of traffic.

Chief Jordan met with Ms. Dellinger and discussed several options. The Chief felt the best course of action would be to reduce the speed limit on Bonview from 35 mph to 25 mph. He said if this was found not to remedy the problem then he may take a look at stop signs at the intersection of Bonview and High Street.

Councilman Rhyne made the motion to close the Public Hearing.

Councilman Cloninger made the motion unanimously approved to amend the City's Code of Ordinances as recommended, lowering the speed limit to 25 mph. The speed limit change will become effective upon erection of signage. The Public Works Director was instructed to have signage up as soon as possible.

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

Mayor Gilleland opened the Public Hearing. Brad Guth, Business & Community Development Director, reviewed the proposed amendment to the City's Code of Ordinances as stated above.

Brad said currently the City regulates what a business owner can do on the sidewalk in front of their business. Currently our ordinance allows alcohol to be served in a designated area but only if accompanied by food. The proposed 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.

He told Council the request stemmed from a recent business outreach meeting as Southern Charm Winery requested help from Business & Community Development to permit their patrons to enjoy being served a glass of wine in a sidewalk café in front of their business.

Council noted two key points regarding the proposed ordinance; (1) that it would not allow any business in downtown to serve alcohol without proper permitting from the Alcohol Beverage Control. (2) That Southern Charm Winery would be the only business affected at this time.

City Attorney TJ Wilson said a zoning compliance form would have to be submitted with any permit requests to Alcohol Law Enforcement (ALE), so no business would be allowed to sell on street without the proper permitting.

Several citizens spoke regarding this request. Those who spoke in favor of the request were; Dwight Ramseur, Chris Goodson, Danielle Rhodes, Cindy Sherrill, Brooke Sherrill, John Anderson and Christine Poinsett.

Those speaking against the request were; Tom Hawk, Linda Auton, Dale Punch, and Robert Tomlinson. All expressed concerns lowering ordinance standards allowing the sale of alcohol without the food provision. They expressed concerns about the image drinking on the sidewalk may project for Lincolnton.

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

Councilman Eaddy made the motion unanimously approved to amend the ordinance as recommended by staff.

UPDATE FROM LINCOLNTON POLICE DEPARTMENT:

Rodney Jordan, Chief of Police, provided Council an overview on behalf of his department as to the services they provide to the citizens. He reviewed the personnel within the Police Department, thanking all staff and officers for the great job they do protecting and serving our community.

He reviewed the Police Activities report for 2013 noting there were 15,924 calls for service. 2,518 actual reportable crimes, 802 arrests made, 1110 citations issued and 744 motor vehicle crash reports. He compared these statistics to 2011 and 2012. Community service programs provided by the PD are the RUOK program, Adopt-A-Cop, School Resource Officer, Church Security, Personal Security, Business Alerts, Children' Library Readings, Boy Scout Talks, and unlocking vehicles for citizens who have locked there keys in their car.

Chief Jordan said the Police Department assisted with more than 30 planned special events in 2013 as well as numerous other events that did not fall under the special events category. He noted several recent changes adding a training facility, a Quartermaster Room where new officers can go through gently used uniforms and equipment, utilizing these items in an effort to save money. He said one challenge he faces is officer retention. Retention is more difficult since the City no longer provides family coverage to new hires. He concluded thanking the City and Mayor and Council for their continued support and funding for the department.

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)*:

(APPT-02-14)

Mayor Gilleland reviewed two applications that were received within the advertised timeframe for a vacancy to the Historic Properties Commission. Mr. Bill Stark and Mrs. Annette Stone both very qualified applicants submitted applications to serve on the HP Commission. Mayor Gilleland called for nominations from the two said applicants.

Councilman Hovis made the motion unanimously approved to appoint Mrs. Annette Stone to begin serving the unexpired term of Becky Burke on the Historic Properties Commission. Mrs. Stone will begin serving effective immediately through December 2016. At that time Mrs. Stone would be eligible for appointment to a first three year term should Council elect to appoint her. The City Clerk was directed to notify both individuals of Council's decision expressing their appreciation for their interest in serving the City.

APPOINTMENT TO THE MPO BOARD – A CITY COUNCILMEMBER WHO WILL BE THE VOTING DELEGATE REPRESENTING LINCOLNTON:

(APPT-03-14)

Mayor Gilleland called for a volunteer from City Council to begin serving on the Metropolitan Planning Organization (MPO) as a delegate for Lincolnton. Councilman Eaddy agreed to serve if nominated. He would be the voting member for the City for this organization.

Councilman Rhyne made the motion unanimously approved to appoint Councilman Eaddy to the MPO. Planning Director Laura Simmons will also attend these meetings on behalf of the City. The City Clerk was directed to notify the appropriate MPO official of Dr. Eaddy's appointment.

CONSIDERATION OF CONTRACT BETWEEN THE CITY AND EAST COAST PYROTECHNICS FOR THE 2014 JULY 4TH CELEBRATION:

(C-01-14)

Jeff Emory, City Manager, reviewed a proposal from East Coast Pyrotechnics to provide the 2014 fireworks display for the City. There has been no increase in price from this company in several years. Jeff explained the City has had an excellent working relationship with the company and their technicians. He recommended Council approve the contract as proposed.

Councilman Rhyne made the motion unanimously approved to enter into the contract with East Coast Pyrotechnics for the 2014 Fireworks Display for the City of Lincolnton in the amount of $ 10,000. The City Clerk will execute the contract and forward a copy to East Coast.

RESOLUTION SUPPORTING TRAIL GRANT APPLICATION:
(R-05-14)

Jeff Emory, City Manager, reviewed the following proposed resolution:

RESOLUTION IN SUPPORT OF APPLICATION FROM WANDERING AROUND LINCOLN COUNTY (WALC) FOR TIMKEN GRANT FOR CAROLINA THREAD TRAIL

WHEREAS, the Carolina Thread Trail is a regional trail network that will eventually reach 15 counties and over 2 million people, preserve the region's natural areas and provide opportunities for the exploration of nature, culture, science and history; and

WHEREAS, Wandering Around Lincoln County (WALC) is a group of community advocates dedicated to the establishment and construction of those sections of the Carolina Thread Trail network located within the boundaries of Lincoln County; and

WHEREAS, WALC has designated six sections of the planned Carolina Thread Trail network as its top priorities; and

WHEREAS, WALC's Priority One for Lincoln County is the construction of a 2.4 mile segment of the South Fork Cross County Trail which will include a bridge across the South Fork River; and

WHEREAS, despite being one of the smallest and less densely populated counties of the 15- county Carolina Tread Trail region, Lincoln County has been in the forefront of the planning process and when the South Fork Cross County Trail is completed, Lincoln County will have approximately 8 miles of trail on the ground which represents 11% of its total planned goal; and

WHEREAS, the Lincoln County Thread Trail project provides an opportunity for Timken to sponsor this particular section of the trail and bridge with signage for maximum visibility; and

WHEREAS, WALC is requesting a $200,000 grant from the Timken Foundation for construction of this 2.4 mile section of the South Fork Cross County Trail;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincolnton, North Carolina that it supports WALC's application to the Timken Foundation for grant funding for the South Fork Cross County Trail segment.

Adopted this 6th day of February, 2014.

Councilman Eaddy made the motion unanimously approved to adopt the resolution as presented and to forward a copy to the Timken Foundation.

PROPOSAL FROM PEASE AND ASSOCIATES REGARDING BOD (BIOCHEMICAL OXYGEN DEMAND) LIMITS AT THE WASTEWATER TREATMENT PLANT:

Jeff Emory, City Manager and Steve Peeler, Director of PW&U reviewed a quote for a study to determine the cost to increase BOD limits for area industrial users that are currently or could become sewer customers of the City.

The City Manager and Mr. Peeler both reiterated to Council that while they feel we need a plan for the future should a industry increase usage or consider locating within the corporate limits, there is no immediate demand for a study.
In the proposed scope of work, a study would be completed determining the maximum biological and hydraulic capacity of the City's existing Wastewater Treatment Plant based on historical loading values over the past five years. Work would also be done to optimize the City's existing pretreatment program. The total cost for a study to be completed from Pease and Associates was $ 18,300.00, and could be completed by April 1st if approved.

The City Manager said there are no current funds budgeted for this study so a budget amendment would be necessary. Funds would have to be expended from the Water and Sewer Fund. Mr. Emory and Mr. Peeler both felt Pease and Associates, who designed the Wastewater Treatment Plant upgrade, would be the best engineering firm to provide a study as they would know the workings of the plant.

After some discussion, Council directed the City Manager to get several quotes for completion of a study and report his findings at our March City Council meeting.

UPDATE ON THE PROPOSED INTERSECTION PROJECT – GENERALS BLVD AND EAST MAIN STREET:

Laura Simmons, Planning Director, told Council that staff is continuing to work with NCDOT on this project. They have been 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.

Several options have been discussed, one which could include a complete resurfacing of the intersection, additional southbound left turn lane on Generals Blvd which provide for more efficient traffic flow, and as well as installation of medians for safety reasons.

Laura concluded saying, "There are still many details that need to be discussed and finalized and any conceptual agreement or formal agreement between the City and the State would be subject to City Council approval. Laura will continue to keep Council abreast of the status of this project.

MONTHLY FINANCIAL/ OVERTIME REPORT:

Jeff Emory, City Manager, gave a brief review of the City's current finances and monthly overtime report. He noted the report provided from Finance was as of December 2013 and we are at the half way point for this fiscal year.

Jeff said while the General Fund balance is up from last year, he still remains concerned about the Water and Sewer Fund as this fund is $ 347,000 to the negative as compared to last year and $ $ 33,884.17 to the positive compared to last year in the Electric Fund.

A copy of the report for each month is maintained in the Finance Directors office and can be obtained for review.

PUBLIC COMMENT:

Mr. Dale Punch spoke to Council regarding Medal of Honor Recipient Ty Carter coming to Lincolnton on Friday, May 23rd. Plans are ongoing for the event but Mr. Carter will be at the Lincoln Cultural Center at 9:00 am for the event and he would like for Mayor and Council to attend if possible. Invitations will follow by mail closer to the date.

Mr. Robert Tomlinson spoke thanking the Fire and Police Chief along with Mr. Peeler and other City workers for the great job performed during the recent snow storm. He referenced a letter to the editor that appeared in the Lincoln Times News formally thanking everyone for their service. He expressed concerns about Mr. Brad Guth's, B&CD Director, attendance at City Council meetings. The City Manager replied that no department head is required to attend the meeting unless he ask them to attend, provided they have no part in the meeting or have to address and agenda item.

Mr. Steve Peeler, Director of PW&U, signed to speak but declined when called upon.

NEWS MEDIA:

There were no questions from the news media.

CLOSED SESSION:

Councilman Rhyne made the motion unanimously approved to enter into Closed Session in accordance with NCGS 143-318.11(a)(6) to discuss personnel.

Mayor Gilleland told those in attendance that Council would meet in the conference room for the closed session portion of their meeting. Others could stay seated in the Council Chambers. Councilman Eaddy was assigned to take the minutes of the Closed Session portion of the meeting.

Councilman Rhyne made the motion unanimously approved to return to Regular Session.

Mayor Gilleland reported there was no action taken in Closed Session.

ADJOURNMENT:
Councilman Cloninger made the motion unanimously approved to adjourn the meeting.

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