

A G E N D A

LINCOLNTON CITY COUNCIL

March 2, 2017

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

March 2, 2017

7:00 p.m.

CALL TO ORDER – Mayor Ed Hatley

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 the minutes of the regular meeting held February 2, 2017

REGULAR AGENDA:

PUBLIC HEARINGS

(O-03-17)

- 4. Proposed amendment to the City's Code of Ordinances as follows:
Title XV. Land Usage – Chapter 150. Buildings; Construction and
Related Activities *ADD:* Section 150.100 – Minimum
Nonresidential Standards, in order to establish minimum
standards for maintenance of commercial buildings.**

Laura Elam, Planning Director

- 5. BIG-04-2017 – Application from Dr. Derrick Denman for Business
Incentive Grant for expansion of Lincoln Chiropractic offices
located at 108 Newbold Street.**

Laura Elam, Planning Director

(O-04-17)

- 6. Consideration of proposed Amendment to the City's Code of
Ordinances – Title IX – General Regulations – Chapter 94 –
Parades and Demonstrations and Title XI – Business Regulations –
Adding Chapter 116 – Street Performers; Permits Required**

TJ Wilson, City Attorney

PRESENTATION

- 7. Presentation from the Commissioner of the NC Department of Labor (OSHA Division) to the City's Distribution and Collections Department – Safety, Health Achievement Recognition Program (SHARP Award)**

**Debbie Rogers-Lowery, Safety Consultant
Compliance Training Associates
and
Cherie Berry, Commissioner of the NC Department of Labor**

RESOLUTION

(R-02-17)

- 8. Resolution honoring the upcoming retirement of Robert S. Buff III, Public Works Superintendent**

Mayor Ed Hatley

(R-03-17)

- 9. Resolution Opposing House Bill 64 – Moving Municipal Elections to Even numbered years**

Mayor Ed Hatley

CONTRACTS

(C-04-17)

- 10. Consideration of a contract between the City and East Coast Pyrotechnics for the 2017 Fireworks Display**

**Donna Flowers,
City Clerk**

(C-05-17)

- 11. Consideration of awarding bid to Southeastern Consulting Engineers for the Material for the Flint Street Electric Substation Upgrade**

Steve Peeler, Public Utilities Director

OTHER BUSINESS

12. Monthly Financial Report/Overtime Report

Steve Zickefoose, 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

**To discuss Property and Personnel
in accordance with NCGS 143-318.10 (a)(1)(5) & (6)**

NEWS MEDIA

ADJOURNMENT

ITEM #

1

APPROVAL

OF

REGULAR

AGENDA

ITEM #

2

APPROVAL

OF

CONSENT

AGENDA

ITEM #

3

REGULAR MEETING - FEBRUARY 2, 2017

The Mayor and City Council met in regular session on Thursday, February 2, 2017 at 7:00 pm in the Council Chambers of City Hall located at 114 West Sycamore Street, Lincolnton, NC 28092.

Mayor Hatley called the meeting to order and led the Pledge of Allegiance. The following Council members were in attendance:

SMITH BLACK EADDY JETTON

Councilman Eaddy made the motion unanimously approved the REGULAR AGENDA as presented.

Councilman Jetton made the motion unanimously approved the CONSENT AGENDA as follows:

- Approved minutes from January 5th regular meeting
- Approved (C-04-17) Contract/proposal for a Fair and Equitable Airport Funding Agreement between the City of Lincolnton and Lincoln County
- Approval of amendments to the City's Zoning Map as drafted and presented by the Planning Department based on zoning map amendments completed in calendar year 2016
- The following Call to Public Hearing for the March 2nd meeting:
Proposed Amendment to the City of Lincolnton Code of Ordinances to add Section 150.100, Minimum Nonresidential Standards, in order to establish minimum standards for maintenance of commercial buildings

REGULAR AGENDA:

APPLICATION FROM SEVEN EAGLES BUILDING GROUP REQUESTING THE RENEWAL OF A CONDITIONAL USE PERMIT TO CONSTRUCT A 33-UNIT CONDOMINIUM COMPLEX ON 5.25 ACRES IN THE CU-RMF DISTRICT. THE SUBJECT PROPERTY IS LOCATED ON LINCOLN COUNTRY CLUB PROPERTY APPROXIMATELY 650 FEET NORTH OF COUNTRY CLUB ROAD AND APPROXIMATELY 450 FEET EAST OF LITHIA INN ROAD NORTH OF THE DRIVING RANGE FACILITY (PARCEL ID 86678).

(CUP-1-2017)

Mayor Hatley opened the Public Hearing. Mark Carpenter, Zoning Administrator, reviewed the request from Seven Eagles Building Group for renewal of a conditional use permit for a 33 unit condominium complex at the above said location.

Mark said the conditional use permit was originally requested and approved in 2006 and then again in 2014. He said the LUDO states that the applicant has a

REGULAR MEETING - FEBRUARY 2, 2017

period of twenty-four months from the date of the issuance of the conditional use permit to secure a building permit for the development. If the applicant fails to obtain a building permit within the allotted time, the Zoning Administrator is to notify The applicant request it be renewed for an additional two years.

Mark said the request was presented to Planning Board at their last meeting and they did recommend approval of extending the CUP for a two year period.

Having no one wishing to speak to this item, Councilman Smith made the motion unanimously approved to close the public hearing.

Councilman Eaddy made the motion unanimously approved to approve the renewal of the CUP as requested and recommended by the Planning Board and staff.

**PROPOSED AMENDMENT TO THE CITY'S CODE OF ORDINANCES –
TITLE VII – TRAFFIC CODE – CHAPTER 74 – TRAFFIC SCHEDULES;
SCHEDULE VII. ADD:HOKE STREET – ENTIRE LENGTH OF THE
STREET FROM FLINT STREET TO THE DEAD-END PORTION PAST
CEDAR STREET – REDUCE SPEED LIMIT FROM 35 MPH TO 25
MPH:**

(O-02-17)

Mayor Hatley opened the Public Hearing. Rodney Jordan, Chief of Police reviewed the request to amend the City's Code of Ordinances as stated above. The Chief said as a result of calls and complaints of speeding on Hoke Street, he and his staff checked the area and concluded based on the width and length of the street that 35 mph is too fast for that area. He recommended amending the ordinance and posting signage of 25 mph speed limit on Hoke Street.

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

Councilman Smith made the motion unanimously approved to amend the ordinance, changing the speed limit from 35 mph to 25 mph on Hoke Street, as recommended by the Chief of Police. The change will become effective upon erection of the signage.

Councilman Jetton said he would like to see the speed limit changed from 35 mph to 25 mph all over town. He said, "It's just something to think about."

REGULAR MEETING - FEBRUARY 2, 2017

RECOGNITION OF THE RETIREMENT OF WAYNE HOUSER – VOLUNTEER FIREFIGHTER WITH LINCOLNTON FIRE DEPARTMENT FOR 22 YEARS:

Ryan Heavner, Fire Chief, called Wayne Houser up front along with Assistant Chief Brent Smith for a presentation from the Lincolnton Fire Department as he has served as a volunteer with the department for twenty-two years.

Chief Heavner thanked Mayor and Council for allowing him to do this presentation saying, “It is always good to showcase someone who has given this amount of time.”

Wayne Houser also thanked the Mayor and Council along with Chief Heavner. He said it has been a pleasure and honor to serve both Lincolnton and Lincoln County for over forty years total with his combined service with Boger City Fire Department. He said, “I will miss it and then people I work with.”

Mayor Hatley and Chief Heavner told Wayne to keep coming around and not to be a stranger upon retirement.

UPDATE ON ASPEN APARTMENTS PROJECT AND PROPERTY LOCATED AT 215 N. OAK STREET:

TJ Wilson, Jr. City Attorney, said the property located at the corner of Aspen Street and Pine Street that is a part of the Willie Heafner project proposing downtown apartments is finally to a close. He said, “There was a problem with an open alleyway along the property that we found when trying to convey the property but adjoining property owners were notified and signatures were obtained granting the necessary easements, closing the alleyway. So we are now in a position to convey the property and Mr. Heafner can get started on the proposed project.”

We also have been working on infrastructure right of ways at the Inverness site but he feels that can be resolved fairly easily.

Mr. Wilson also told Council that the property located on Oak Street that the City acquired through unpaid zoning fines which allowed the City to get a judgment on the property, is scheduled to be sold on February 14th. He said this is the final step in this process and he has had several people approach him about the property and he feels the City will get their money out of the property and then we can sell it and move forward. TJ said he feels the neighbors will be satisfied with this and the potential clean up.

REGULAR MEETING - FEBRUARY 2, 2017

Councilman Eaddy thanked TJ for his efforts to complete this process. Dr. Eaddy said, "I hope our citizens will find out we are now pursuing derelict homes that are eyesores on this community and we have criteria in place, with neighbors contacting the City, we take that criteria and apply it and correct any eyesores violating our ordinance.

Mayor Hatley also thanked Mark Carpenter for all the work he has done on this project as our Zoning Administrator. The Mayor said often times those that are actually doing the work on these type complaints on behalf of the City are not recognized.

DISCUSSION OF PROPOSED CHANGES TO THE CITY'S CODE OF ORDINANCES – PUBLIC MEETINGS ON STREETS AND SIDEWALKS – BUSINESS PERMIT REQUIRED – SOLICITORS AND STREET PERFORMERS:

TJ Wilson, Jr. City Attorney told Council that the City Clerk has received many different ordinances from other municipalities regarding public meetings, gatherings on streets and sidewalks. He said Mrs. Flowers has spoken to the City Clerk in Greensboro, as that is the ordinance that may best suit Lincolnton to pattern an amendment to our Code of Ordinances by, and there has been no litigation or concerns from this ordinance as it pertains to events and festivals.

He said "It is a slippery slope but we are trying to get something that the police that can enforce that would be legally binding and held up if we were taking to court." Mayor Hatley reminded Council that the proposed ordinance in their packet, with revisions, was recently adopted by the City of Greensboro. He suggested that Council members review this and see if this is what you would like to see approved for Lincolnton. He said if so he would ask that a Public Hearing date be set to consider the amendment and seek input from our citizens.

Councilman Eaddy said "I like the direction of this and I think we should give our law enforcement clear direction for enforcement." Dr. Eaddy questioned if adoption of this ordinance would impede freedom of speech in anyway. The City Attorney said, "That is the real difficult part of this, is the first amendment right and not controlling it. That is not the intent and I think it is just going to have to be good judgment put out there and test how this will work, and I think we have good judgment in our Police Department. He said, "I think this is designed for events and people wanting to have communications that are not really part of the event."

Councilman Jetton questioned the difference between this ordinance and the one we currently have. TJ said this is more designed for festivals and special events held downtown and would require a permit. We do not want to impede upon anyone's freedom of speech that is not what this is designed to do. It should help guarantee the safety of our citizens at our events.

REGULAR MEETING - FEBRUARY 2, 2017

PUBLIC COMMENT:

Mr. Alan Hoyle spoke to Council regarding the US Constitution.

Mr. Scott Rabb spoke to Council also about the US Constitution and their obligation as elected officials to follow the US Constitution.

CLOSED SESSION:

Councilman Eaddy made the motion unanimously approved to enter into Closed Session in accordance with NCGS 143-318.11(a)(1)(5) to discuss property.

Councilman Jetton made the motion unanimously approved to return to regular session.

Mayor Hatley reported there was no action taken during the closed session portion of the meeting.

NEWS MEDIA:

There were no questions from the news media.

ADJOURNMENT:

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

ITEM #

4

MEMO TO: Mayor and City Council Members
FROM: Laura Elam, Planning Director
THROUGH: Steve Zickefoose, City Manager
SUBJECT: Consideration of Amendment to the City Code to Add a Commercial Maintenance Code
DATE: March 2, 2017

BACKGROUND

Many cities have an ordinance that outlines minimum standards for maintenance and sanitation of commercial properties. Typically, such an ordinance would be similar to a minimum housing ordinance with the potential to have the city mandate that the owner repair, vacate, remove or demolish a non-compliant structure.

As part of last year's budget planning session, City Council decided to consider adoption of a commercial maintenance code.

PROPOSED AMENDMENT

The proposed amendment would establish minimum standards for maintenance and sanitation of commercial properties based on the specific state enabling legislation and would include the following provisions:

No grandfathering

The ordinance would apply to all existing and future nonresidential structures in the city limits. Existing structures built prior to adoption would not be grandfathered.

Conditions that would constitute a violation

The following conditions would require repair, closing or demolition:

- Exterior walls not structurally sound,
- Roofs not structurally sound,
- Fire or wind damages rendering the building unsafe,
- Dilapidation, decay, unsanitary conditions or disrepair which is dangerous,
- Accumulations of garbage, trash creating health and sanitation problems; Garbage and waste to be in approved containers or stored in sanitary manner,
- Structures with loose or insufficiently anchored overhanging objects constituting a danger of falling,
- Structures with cracked or broken glass, loose shingles, loose wood, crumbling stone or brick, etc,

- Structures with objects protruding from walls or roofs which are unsafe or not properly secured such as abandoned electrical boxes, conduits, wires, sign brackets,
- Exterior porches, landings, balconies, stairs, or fire escapes which are not structurally sound. All exterior porches, landings, balconies, stairs, and fire escapes to be provided with banisters or railings,
- Windows with broken or cracked glass in danger of falling or shattering,
- Openings originally designed as windows, doors, loading docks or other means of ingress and egress which have been temporarily closed by boarding in an unsecure manner allowing unauthorized admittance, or
- Any combination of conditions rendering the structure dangerous or injurious to occupants or the public.

Enforcement Process

- If cost of repair does not exceed 50 % of value, then owner required to either repair to bring into compliance or to vacate and close within reasonable period of time.
- If cost of repair exceeds 50 % of value, then owner required to either repair to bring into compliance or to demolish within reasonable period of time.
- If owner fails to comply with an order to either repair or vacate and close, then enforcement officer submits to City Council an ordinance directing the enforcement officer to cause structure to be repaired or vacated and closed. If City Council adopts ordinance, then enforcement officer would cause structure to be vacated and closed.
- If owner fails to comply with an order to demolish or repair, then enforcement officer submits to City Council an ordinance directing the enforcement officer to cause structure to be demolished. If City Council adopts ordinance, then officer would cause structure to be demolished.

Limitations for historic structures

If structure is designated as local historic landmark, in a historic district, or listed in the National Register of Historic Places and City Council determines structure is of individual significance or contributes to the character of the district and the structure has not been condemned as unsafe, then an order issued by the enforcement officer and an ordinance approved by City Council may require that the structure be vacated and closed until brought into compliance. (No demolition)

Limitations for vacant manufacturing facilities or vacant industrial warehouses

- City can't require repairs to a vacant manufacturing facility or vacant industrial warehouse to preserve the original use.

- City may require structure to be vacated and closed but repairs may be required only when necessary to maintain structural integrity or to abate a safety hazard that can't be remedied by ordering the structure closed.

Vacated and closed nonresidential buildings or structures

- If City Council has adopted an ordinance or enforcement officer has issued an order requiring a structure to be repaired or vacated and closed, and the structure has been vacated and closed for 2 years, then if City Council finds that the owner has abandoned the intent to repair and that the continuation of the closed and vacated status would be harmful in that it would continue to deteriorate, create a safety hazard, be a threat to children or vagrants, attract persons intent on criminal activity, or contribute to blight and deterioration of property values in the area, then City Council may, after expiration of the two year period, adopt an ordinance requiring either demolition or repair within 90 days. If structure not demolished or repaired within 90 days, then enforcement officer would have structure demolished.
- In the case of a vacant manufacturing facility or vacant industrial warehouse, the structure must have been vacated and closed pursuant to an order or ordinance for 5 years before City Council can take this action.

Costs to be a lien on property

- Cost of repairs, vacating and closing or demolition to be a lien against the property.
- Cost is also to be a lien on any other real property of the owner located within the city limits except for the owner's primary residence. (Additional lien is inferior to all prior liens and to be collected as a money judgment).

Ejectment

If an occupant fails to comply with an order to vacate a structure, the enforcement officer may file a civil action for removal in the nature of summary ejectment.

Appeals Process

Within 30 days of receipt of an order from the code enforcement officer, any person receiving an order may appeal in writing to the Board of Adjustment for extension of time or a variation from strict compliance with the ordinance based on

- Inability to comply within the time period due to clearly documented financial distress
- Clear and significant non-availability of services or equipment without fault of the applicant
- Other extenuating circumstances showing a good faith intention to comply when able to do so

Any person aggrieved by the decision of the BOA may petition superior court for an injunction if filed within 30 days of BOA decision.

**Amendment to the City of Lincolnton
Code of Ordinances to Establish
Minimum Nonresidential Building Standards**

(O-03-17)

Section 1. Add new Section 150.100, Minimum Nonresidential Building Standards, to read as follows:

MINIMUM NONRESIDENTIAL BUILDING STANDARDS

150.100 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, and shall apply in the interpretation and enforcement of this article:

Basic structural elements means the parts of a building which provide the principal strength, stability, integrity, shape and safety of the building, including, but not limited to, plates, studs, joists, rafters, stringers, stairs, sub-flooring, flooring, sheathing, lathing, roofing, siding, window frames, door frames, porches, railings, eaves, chimneys, flashing, masonry and all other essential components.

Building means any structure, place, or any other construction built for the shelter or enclosure of persons, animals, chattels or property of any kind or any part of such structure, shelter or property.

Code enforcement officer shall mean a code enforcement officer of the City of Lincolnton or any agent of the code enforcement officer who is authorized by the code enforcement officer to enforce the provisions of this article.

Nonresidential means any building or structure or portion of a building or structure occupied or intended to be occupied, in whole or in part, for a use other than a dwelling, home, residing place, living space or sleeping space for one (1) or more human beings, either permanently or transiently.

Occupant shall mean any person who is a tenant or has actual possession of a nonresidential building or structure or part thereof.

Operator shall mean any person who has charge, care, or control of a nonresidential building or structure, or part thereof.

Owner shall mean any person who alone, or jointly, or severally with others:

- (1) Shall have title in fee simple to any nonresidential building or structure, with or without accompanying actual possession thereof; or
- (2) Shall have charge, care or control of any nonresidential building or structure as owner or agent of the owner, or as executor, executrix, administrator, administration, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this article and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

Parties in interest means all individuals, associations, and corporations who have interests of record in a nonresidential building or structure and any who are in possession thereof.

Premises means any lot or parcel of land inclusive of any building or improvements located thereon.

Safe means a condition which is not likely to do harm to humans or to real or personal property.

Structure means anything constructed or placed upon a property which is supported by the ground or which is supported by any other structure, except a currently operable licensed vehicle.

Structurally sound means substantially free from flaw, defect, decay or deterioration to the extent that the building or structure or structural member is capable of adequately or safely accomplishing the purpose for which it was intended or designed.

Unsafe means a condition which is reasonably likely to do harm to humans or to real or personal property if not corrected or stopped.

Vacant manufacturing facility means any building or structure previously used for the lawful production or manufacturing of goods, which has not been used for that purpose for at least one (1) year and has not been converted to another use.

Vacant industrial warehouse means any building or structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one (1) year and has not been converted to another use.

150.101

Purpose.

In order to protect the health, safety and welfare of the city and its citizens, it is the purpose of this article to establish minimum standards of maintenance, sanitation, and safety relating to nonresidential buildings or structures, as expressly authorized by North Carolina General Statute 160A-439. This article provides for the repair, closing or demolition of nonresidential buildings or

structures as a result of a public necessity caused by conditions that are dangerous to the public health, safety and welfare.

150.102 Applicability and compliance.

- (A) The provisions of this article shall apply to all nonresidential buildings or structures which are now in existence or which may be built within the corporate limits of the city.
- (B) Every nonresidential building or structure and the premises on which it is situated shall comply with the provisions of this article, whether or not such building or structure shall have been constructed, altered, or repaired before or after the enactment of this article, and irrespective of any permits or licenses which have been issued for the use or occupancy of the building or structure or for the installment or repair of equipment or facilities. This article establishes minimum standards for all nonresidential buildings and structures and does not replace or modify standards otherwise established for the construction, repair, alteration, or use of the building or structure, equipment or facilities contained therein.

105.103 Maintenance standards for nonresidential buildings and structures.

All nonresidential buildings and structures shall be free of all conditions that are dangerous and injurious to the public health, safety, and welfare of occupants or members of the general public. Without limitation of the foregoing requirement, the existence of any of the following conditions shall be deemed to be dangerous to the public health, safety and welfare for which a public necessity exists for the repair, closing, or demolition of such building or structure and must be corrected in accordance with the provisions of this article:

- (A) Exterior walls that are not structurally sound, free from defects and damages, and capable of bearing imposed loads safely. Where a wall of a building has become exposed as a result of demolition of adjacent buildings, such wall must have all doors, windows, vents, or other similar openings closed with material of the type comprising the wall. The exposed wall shall be painted, stuccoed or bricked and sufficiently weatherproofed to prevent deterioration of the wall.
- (B) Roofs shall be kept structurally sound and shall be maintained in such a manner so as to prevent rain or other objects from penetrating into the interior of the building
- (C) Such damage by fire, wind, or other causes as to render the building unsafe.
- (D) Dilapidation, decay, unsanitary conditions, or disrepair, which is dangerous to the health and safety of the occupants or members of the general public.
- (E) Buildings and structures including their environs that have accumulations of garbage, trash, or rubbish, which creates health and sanitation problems.

All garbage and solid waste shall be in approved containers or stored in a safe and sanitary manner.

- (F) Buildings and structures that have loose and insufficiently anchored overhanging objects, which constitute a danger of falling on persons or property.
- (G) Buildings and structures that have cracked or broken glass, loose shingles, loose wood, crumbling stone or brick, loose or broken plastic, or other dangerous objects or similar hazardous conditions.
- (H) Buildings and structures that have objects and elements protruding from building walls or roofs, which are unsafe or not properly secured or which can create a hazard such as abandoned electrical boxes and conduits, wires, sign brackets and other brackets, and similar objects.
- (I) Exterior porches, landings, balconies, stairs, or fire escapes which are not structurally sound. All exterior porches, landings, balconies, stairs, and fire escapes shall be provided with banisters or railings properly designed and maintained to minimize the hazard of falling, and the same shall be kept sound, in good repair, and free of defects.
- (J) Windows containing broken or cracked glass that could be in danger of falling or shattering.
- (K) All openings originally designed as windows, doors, loading docks, or other means of egress or ingress which have been temporarily closed by boarding or other manner in a nonsecure manner so as to allow unauthorized admittance. If an opening is temporarily closed by boarding to secure the building or structure, the boarding shall be trim fit, sealed to prevent water intrusion, and the building or structure shall be maintained in a state that secures the building or structure from any unauthorized admittance from humans, animals, or birds.
- (L) Any combination of conditions which in the judgment of the code enforcement officer renders any building or structure dangerous or injurious to the health, safety, or general welfare of occupants or members of the general public.

105.104 Duties of the enforcement officer.

The code enforcement officer is hereby designated as the public officer to enforce the provisions of this article and to exercise the duties and powers herein prescribed. It shall be the duty of the code enforcement officer:

- (A) To investigate the conditions of nonresidential buildings and structures in the city and to inspect nonresidential buildings and structures located in the city in order to determine which nonresidential buildings and structures are not being maintained so that the health and safety of its occupants or members of the general public are jeopardized and for the purpose of carrying out the objectives of this article with respect to such nonresidential buildings and structures;

- (B) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect the repair or demolition of nonresidential buildings and structures which have not been properly maintained in compliance with minimum standards established by this article;
- (C) To keep a record of the results of inspections made under this article and an inventory of those non-residential buildings and structures which have not been properly maintained in compliance with the minimum standards established by this article;
- (D) To perform such other duties as may be herein prescribed.

105.105 Powers of the enforcement officer.

The code enforcement officer is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this article, including the following powers in addition to others herein granted:

- (A) To investigate nonresidential buildings and structures in the city to determine whether they have been properly maintained in compliance with the minimum standards established by this article so that the safety or health of the occupants or members of the general public are not jeopardized;
- (B) To administer oaths and affirmations, examine witnesses and receive evidence;
- (C) To enter upon premises for the purpose of making examinations and inspections provided that such entries shall be made in accordance with law and in such manner as to cause the least possible inconvenience to the persons in possession; and
- (D) To appoint and fix duties of such officers, agents, and employees as the code enforcement officer deems necessary to carry out the purposes of this article.

105.106 Inspections.

For the purpose of making inspections, the code enforcement officer is hereby authorized to enter, examine, and survey at all reasonable times, nonresidential buildings and structures. If entry upon the premises for purposes of investigation is necessary, such entry shall be made pursuant to a duly issued administrative search warrant in accordance with G.S. 15-27.2 or with permission of the owner, the owner's agent, a tenant, or other person legally in possession of the premises.

150.107 Procedure for Enforcement

- (A) ***Preliminary investigation.*** Whenever it appears to the code enforcement officer that any nonresidential building or structure has not been properly

maintained so that the safety or health of its occupants or members of the general public are jeopardized for failure of the property to meet the minimum standards established by this article, the code enforcement officer shall undertake a preliminary investigation.

(B) *Complaint and hearing.* If the preliminary investigation discloses evidence of a violation of the minimum standards established by this article, the code enforcement officer shall issue and cause to be served upon the owner of and parties in interest in the nonresidential building or structure a complaint. The complaint shall state the charges and contain a notice that a hearing will be held before the code enforcement officer at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the serving of the complaint, that the owner and parties in interest shall be given the right to answer the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the code enforcement officer.

(C) *Procedure after hearing.*

- (1) If, after notice and hearing, the code enforcement officer determines that the nonresidential building or structure has been maintained in that the property meets the minimum standards established by this article, the code enforcement officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof a copy of said determination.
- (2) If, after notice and hearing, the code enforcement officer determines that the nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards established by this article, the code enforcement officer shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order in accordance with the provisions of Subsection (C)(3) and (C)(4) of this section and subject to the limitations set forth in Sections 150.108 and 150.109.
- (3) If the code enforcement officer determines that the cost of repair, alteration, or improvement of the building or structure would not exceed fifty (50) percent of its then-current value, then the code enforcement officer shall state in writing the findings of fact in support of such determination and issue an order that requires the owner, within a reasonable time specified in the order, to either (i) repair, alter, or improve the nonresidential building or structure in order to bring it into compliance with the minimum standards established by this article or (ii) vacate and close the nonresidential building or structure for any use.
- (4) If the code enforcement officer determines that the cost of repair, alteration, or improvement of the building or structure would exceed fifty (50) percent of its then-current value, then the code enforcement officer shall state in writing the findings of fact in support of such

determination and issue an order that requires the owner, within a reasonable time specified in the order, to either (i) repair, alter or improve the nonresidential building or structure to bring it into compliance with the minimum standards established by this article or (ii) remove or demolish the nonresidential building or structure.

(D) *Failure to comply with order and ordinances.*

- (1) If the owner fails to comply with an order to either (i) repair, alter, or improve the nonresidential building or structure or (ii) vacate and close the nonresidential building or structure, City Council may adopt an ordinance ordering the code enforcement officer to cause such nonresidential building or structure to be repaired, altered, or improved in order to bring it into compliance with the minimum standards established by this article or to be vacated and closed. The property shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner(s) in the grantor index.
- (2) If the owner fails to comply with an order to remove or demolish the nonresidential building or structure, City Council may adopt an ordinance ordering the code enforcement officer to cause such nonresidential building or structure to be removed or demolished. No ordinance shall be adopted to require removal or demolition of a nonresidential building or structure until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established by the City Council. The property shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner(s) in the grantor index.

150.108 Limitations on orders and ordinances—Historic landmark or historic district.

Notwithstanding any other provision of this article, if the nonresidential building or structure is designated as a local historic landmark, listed in the National Register of Historic Places or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the City Council determines, after a public hearing, that the nonresidential building or structure is of individual significance or contributes to maintaining the character of the district, and the nonresidential building or structure has not been condemned as unsafe, an order issued by the code enforcement officer pursuant to 150.107(C) and an ordinance approved by City Council pursuant to 150.107(D) may require that the nonresidential building or structure be vacated and closed until it is brought into compliance with the minimum standards established by this article.

150.109 Limitations on orders and ordinances—Vacant manufacturing facility or vacant industrial warehouse.

Notwithstanding any other provision of this article, an order issued by the code enforcement officer pursuant to 150.107 (C) and an ordinance approved by City Council pursuant to 150.107(D) may not require repairs, alterations, or improvements to be made to a vacant manufacturing facility or a vacant industrial warehouse to preserve the original use. The order and ordinance may require such building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use.

150.110 Vacated and closed nonresidential buildings or structures.

(A) If the City Council has adopted an ordinance or the code enforcement officer has issued an order requiring the building or structure to be repaired or vacated and closed and the building or structure has been vacated and closed for a period of two (2) years pursuant to the ordinance or order, then if the City Council finds that the owner has abandoned the intent and purpose to repair, alter, or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety, and welfare of the city in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area, then City Council may, after the expiration of the two-year period, adopt an ordinance and serve such ordinance on the owner, setting forth the following:

- (1) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards is less than or equal to fifty percent (50%) of its then current value, the ordinance shall require that the owner either repair or demolish and remove the building or structure within 90 days; or
- (2) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards exceeds fifty percent (50%) of its then current value, the ordinance shall require the owner to demolish and remove the building or structure within 90 days.

In the case of a vacant manufacturing facility or a vacant industrial warehouse, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of five (5) years before City Council may take action under this section. The ordinance shall be recorded in the office of the register of deeds and shall be indexed in the name of the property owner in the grantor index.

- (B) If the owner fails to comply with the requirements of the ordinance within ninety (90) days, the code enforcement officer shall demolish and remove the nonresidential building or structure.

150.111 Methods of service of complaints and orders.

- (A) Complaints or orders issued by the code enforcement officer under this article shall be served upon persons either personally or by registered or certified mail and, in conjunction therewith, may be served by regular mail. When the manner or service is by regular mail in conjunction with registered or certified mail, and the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten (10) days after mailing, service shall be deemed sufficient. The person mailing the complaint or order by regular mail shall certify that fact and the date thereof, and such certificate shall be conclusive in the absence of fraud. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.
- (B) If the identities of any owner or the whereabouts of persons are unknown and cannot be ascertained by the code enforcement officer in the exercise of reasonable diligence, and the code enforcement officer makes an affidavit to that effect, then the serving of the complaint or order upon the unknown owners or other persons may be made by publication in a newspaper having general circulation in the city at least once no later than the time at which personal service would be required under the provisions of this article. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

150.112 Interim action by the code enforcement officer.

After failure of an owner of a nonresidential building or structure to comply with an order of the code enforcement officer issued pursuant to the provisions of this article and upon adoption by the City Council of an ordinance authorizing and directing the owner to do so, as provided by G.S. 160A-439(f) and Section 150.107 (D) of this article, the code enforcement officer shall proceed to cause such nonresidential building or structure to be repaired, altered, or improved to comply with the minimum standards established by this article, or to be vacated and closed or to be removed or demolished, as directed by the ordinance of the City Council. The code enforcement officer may cause to be posted on the main entrance of any nonresidential building or structure which is to be vacated and closed a placard with the following words: "This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful." Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a class 3 misdemeanor.

150.113 Costs, a lien on premises.

- (A) As provided by G.S.160A-439(i), the amount of the cost of any repairs, alterations, or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the code enforcement officer pursuant to Section 150.107 (D) or Section 150.110 shall be a lien against the real property upon which such costs were incurred. Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by Article 10, Chapter 160A of the North Carolina General Statutes. The amount of the costs shall also be a lien on any other real property of the owner located within the city limits except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.
- (B) If the nonresidential building or structure is removed or demolished by the code enforcement officer, the code enforcement officer shall offer for sale the recoverable materials of the building or structure and any personal property, fixtures, or appurtenances found in or attached to the building or structure and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the code enforcement officer, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the governing body to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

150.114 Ejectment.

If any occupant fails to comply with an order to vacate a nonresidential building or structure, the code enforcement officer may file a civil action in the name of the city to remove the occupant. The action to vacate shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying the nonresidential building or structure. The clerk of superior court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed ten (10) days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served and if at the hearing the code enforcement officer produces a certified copy of an ordinance adopted by the City Council pursuant to G.S. 160A-493(f) and Section 150.107 (D) to vacate the occupied nonresidential building or structure, the magistrate shall enter judgment ordering that the premises be vacated and all persons be removed. The judgment ordering that the nonresidential building or structure be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered under this subsection by the magistrate may be taken as provided in G.S. 7A-228, and the execution of the judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a

nonresidential building or structure who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless the occupant was served with notice, at least thirty (30) days before the filing of the summary ejectment proceeding, that the City Council has ordered the code enforcement officer to proceed to exercise his duties under G.S. 160A-493(f) and Section 150.107 (D) to vacate and close or remove and demolish the nonresidential building or structure.

150.115 Alternative remedies.

Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the City of Lincolnton to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this article by criminal process as authorized by G.S. 14-4 and Section 150.118 of this article and the enforcement of any remedy provided herein or in other ordinances or laws.

150.116 Appeals Process

- (A) Within thirty (30) days following receipt of an order from the code enforcement officer any person receiving such order, believing that the literal application of the ordinance will cause undue hardship or has been misconstrued, wrongly interpreted or applied, may appeal in writing to the City of Lincolnton Board of Adjustment for such relief as may be granted, after investigation of the grounds thereof, by way of a reasonable extension of time or a variation from strict compliance with the provisions of this ordinance. The circumstances justifying such findings related to hardship are:
- 1) Inability to comply within the time period provided in this article due to clearly documented severe financial distress; or
 - 2) The clear and significant non-availability of services or equipment with which to comply, without fault of the applicant; or
 - 3) Other extenuating circumstances showing a good faith intention on the part of the applicant or another to comply when able to do so.
- (B) Any person aggrieved by the decision of the Board of Adjustment may petition the Superior Court of Lincoln County for an injunction. Any such petition must be filed with Superior Court of Lincoln County within thirty (30) days from the date of the Board's decision.

150.117 Conflict with other provisions.

In the event any provision, standard or requirement of this article is found to be in conflict with any other ordinance or code of the city, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of health and safety of the citizens of the city shall prevail.

150.118

Violations; penalty.

- (A) It shall be unlawful for the owner of any nonresidential building or structure to fail, neglect, or refuse to repair, alter, or improve the same, or to vacate and close and remove or demolish the same, upon order of the code enforcement officer duly made and served in accordance with the provisions of this article, within the time specified in such order, and each day that any such failure, neglect or refusal to comply with such order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any nonresidential building or structure, with respect to which an order has been issued pursuant to Section 150.107 (C) of this article, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration, improvement, or its vacation and closing, and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.
- (B) The violation of any provision of this article shall constitute a misdemeanor, as provided by G.S. 14-4.
- (C) In addition to or in lieu of the other remedies provided by this article, any owner of a nonresidential building or structure that fails to comply with an order of the code enforcement officer within the time specified therein, shall be subject to a civil penalty in accordance with Section 150.999 (C).

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

ITEM #

5

MEMO TO: Mayor and City Council Members

FROM: Laura Elam, Planning Director

THROUGH: Steve Zickefoose, City Manager

DATE: March 2, 2017

RE: RE: Business Incentive Grant (BIG- 04-2017)

Application from Dr. Derrick Denman for Business Incentive Grant for an approximately 924 square foot expansion of Lincoln Chiropractic offices located at 108 Newbold Street

Project Information

- Location: 108 Newbold Street
- Use: Construction of additional office space to accommodate expansion of Lincoln Chiropractic office in order to allow room for a new chiropractor and new services for better patient care and faster results; better use of treatment and therapy rooms for advanced therapies to provide help to a wider range of patients suffering from more serious ailments
- Total project cost estimate: \$69,300
- Anticipated start: April/May 2017
- Anticipated Completion: October 2017

Request

- \$5,000 for expansion of existing business

See included maps and application for additional information.

City of Lincolnton Business Incentive Grant Application
Building Rehabilitations and Renovations and
Facade Improvements Which Encourage
Economic Development in Lincolnton

DATE:	<u>11/23/16</u>
NAME OF APPLICANT:	<u>Derrick W. Denman</u>
PROJECT NAME:	<u>Lincoln Chiropractic expansion</u>
PROJECT DESCRIPTION:	<u>Expanding Lincoln Chiropractic</u> <u>200-1000 sq. ft. behind my building to allow</u> <u>room for new chiropractor and new services</u> <u>for better patient care & faster results</u>
PROJECT ADDRESS:	<u>108 Newbold St.</u> <u>Lincolnton, NC 28092</u>
APPLICANT HOME ADDRESS:	<u>155 Anity Church Rd</u> <u>Iron Station, NC 28080</u>
EMAIL ADDRESS:	<u>amydenman@gmail.com</u>
TELEPHONE:	<u>704-735-8226 (office), 704-779-8887 (cell)</u>

If Property Owner differs from Business Owner, complete the following:

NAME OF PROPERTY OWNER:	_____
ADDRESS:	_____ _____
EMAIL ADDRESS:	_____
TELEPHONE:	_____

ATTACHMENTS REQUIRED (*incomplete applications will be returned to applicant*)

1. Provide an itemized cost estimate of all materials, supplies and labor costs of this project. (*Attach to application*)
2. Provide a sketch or scaled drawing of the proposed renovation work. (*Attach to application*)
3. Provide a current photograph of (1) the building itself and (2) within the context of the streetscape clearly showing the existing conditions of the proposed area of improvement. (*Attach to application*)
4. Written plans for future improvements to the building and proposed time frame for such work. (*Attach to application*)
5. Samples of all paint colors and awning fabrics (*if applicable*)
6. Copy of two-year lease, if leasing.
7. Provide anticipated start date and a proposed schedule of completion for the proposed improvements.

START DATE: Early 2017, Jan./Feb.
ANTICIPATED COMPLETION: March-April

I have read and fully understand the requirements and guidelines of the City of Lincoln Business Incentive Grant Program and agree to comply with all its requirements in full.


Signature of Applicant

PROPERTY OWNER CONSENT

If property owner differs from the business owner, I _____
Owner of the aforementioned property, consent to the proposed work being undertaken by _____, the business owner. I as the property owner have read and fully understand the requirements of the City of Lincoln Business Incentive Grant Program and agree with all the requirements set forth by the Grant Application and Guidelines.

Signature of Property Owner (if different from business owner)

January 18, 2017

Cost estimate for adding expanded office space at Lincoln Chiropractic located at 108 Newbold Street.

The the project cost should be approximately \$100,000. This includes \$69,300 for the building at \$75.00 per sq. ft. for 924 sq. ft. addition. Also, \$20,000 for the additional property that had to be purchased in order to expand the rear of the property and accommodate necessary setback requirements. The additional \$10,000 is for overages or unforeseen incidentals. Mr. Rick Landers will be the general contractor on this project.

This project has been seriously considered. The expansion of office space will provide better use of treatment and therapy rooms for cutting-edge therapies which will allow us to provide help to a wider range of people suffering from more serious ailments.

I am first paying off the property as my cash infusion toward this project and then plan to start the expansion in April or May depending on Mr. Lander's availability at the time.

Should you have any questions, please do not hesitate to contact me directly. My office number is: 704-735-8226 or my personal cell: 704-779-8887.

A handwritten signature in black ink, reading "Derrick W. Denman, DC, PA". The signature is fluid and cursive, with the initials "DC, PA" clearly visible at the end.

Derrick W. Denman DC, PA. Lincoln Chiropractic

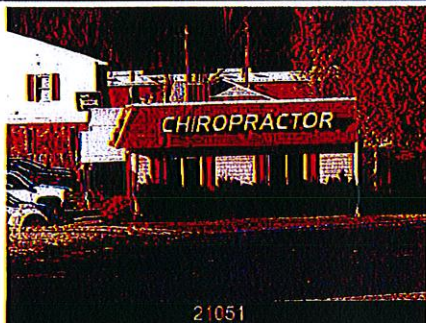


Lincoln County, NC

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: 11/28/2016 Scale: 1 Inch = 71 Feet



PHOTOS



21051



21051

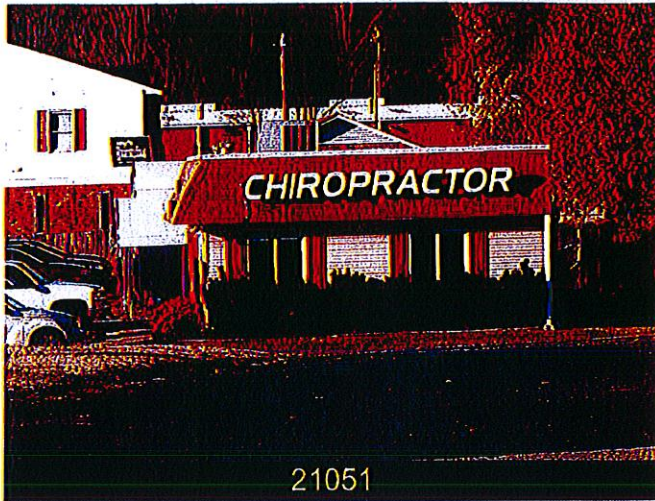
PARCEL INFORMATION FOR 3633-36-5294

Parcel ID	21051	Owner	DENMAN DERRICK DR DBA LINCOLN CHIROPRACTIC ***			
Map	3633-10	Mailing	PO BOX 637			
Account	0060308	Address	LINCOLNTON NC 28093-0637			
Deed	815-379	Recorded	12/28/1992	Sale Price	\$70,000	
Land Value	\$75,223	Total Value	\$139,235	Previous Parcel		
----- All values are for tax year 2016. -----						
Description	LOT & BLDG RD 1286			Deed Acres	0	
Address	108 NEWBOLD ST			Tax Acres	0.3	
Township	LINCOLNTON			Tax/Fire District	CITY OF LINCOLNTON	
Main Improvement		OFFICE		Value	\$60,804	
Main Sq Feet	1296	Stories	1 Year Built	1980		
Zoning	Calculated		Voting Precinct	Calculated Acres		
District	Acres		BOGER CITY (BC13)	0.31		
P-B	0.31		Sewer District			
Watershed Class			Not in the sewer district	0.31		
WS-IVP	0.31		Tract	Block		
2000 Census County			37109	070200	1004	0.27
37109			37109	070200	1007	0.04
Flood	Zone Description		Panel			
X	NO FLOOD HAZARD		3710363300	0.31		

LINCOLN COUNTY IMPROVEMENT PHOTOS

PIN 3633-36-5294

11/28/2016



All values are for tax year 2016.

Parcel ID	21051	Deed	815-379	Improvement	Area	Basement	Year Built	Value
PIN	3633-36-5294	Sale Date	12/28/1992	#1 OFFICE	1296	0		
Account	0060308	Sale Price	\$70,000	Market Value	\$60,804			
Owner	DENMAN DERRICK DR	Land Value	\$75,223	#2 ASPHALT PAVING	2500	0		
	DBA LINCOLN	Total Value	\$139,235	Market Value	\$2,531			
	CHIROPRACTIC	Deed Acres	0	#3 CAR SHED POLE 24X30 720		0		
	***	Tax Acres	0.3	Market Value	\$677			
Mailing	PO BOX 637	Zoning	P-B					
Address	LINCOLNTON NC 28093-0637	Fire District	CITY OF LINCOLNTON					
Description	LOT & BLDG RD 1286							
Address	108 NEWBOLD ST							
Township	LINCOLNTON							

ITEM #

6

TITLE XIII: GENERAL OFFENSES

Chapter

130. OFFENSES AGAINST PUBLIC PEACE AND SAFETY

131. OFFENSES AGAINST PUBLIC MORALS

132. OFFENSES AGAINST PROPERTY

133. WEAPONS

Lincolnton - General Offenses

§ 130.04 PUBLIC HOUSING APPLICANTS; SCREENING FOR FELONIES.

(A) In order to protect the residents of public housing and citizens in housing units surrounding the public housing areas and his or her properties by denying admission to public housing by a person who has been convicted of a felonious drug charge, felonious assault charge or other felonies, the following procedures for screening applicants to occupy public housing units are hereby adopted.

(B) Whenever an applicant applies for public housing units, the executive director of the housing authority of the city, functioning as the housing authority for public housing in the city, or his or her designee, shall screen all applicants for occupancy of a unit. The executive director or his or her designee shall require each applicant for admission to public housing to provide all necessary personal identification, including birth certificate, social security number and driver's license, if available, so that the Chief of Police or his or her designee may cause a thorough search to be made of local or state criminal convictions of the crimes enumerated above by use of the Police Information Network (PIN).

(C) The Chief of Police or his or her designee shall provide the findings made through the use of PIN to the executive director of the Lincolnton Housing Authority of the city or his or her designee, provided the housing authority has executed all necessary agreements with the police information network of the State Bureau of Investigation, Division of Criminal Information.

(Prior Code, § 10-23) (Ord. O-44-96, passed 8-1-1996)

§ 130.05 SPECIAL EVENTS AND FESTIVALS.

(A) The Chief of Police, or his or her designee, shall define an area within the city for the activities to be conducted and the duration of the activities. He or she shall have the authority to block streets to vehicular traffic, and control the conduct of participants and attendees of special events to the extent necessary to ensure public safety. The area as defined, and the duration of activities shall be clearly marked on maps posted on the barricades erected to block vehicular traffic, and shall be published prior to the events in the publication having general circulation in the Lincolnton/Lincoln County area prior to the event.

(B) During the time and area so designated, the following activities shall be forbidden:

(1) The movement of powered vehicles (except for public safety and public works/utilities vehicles or others as approved for short distance movement on festival grounds while accompanied by law enforcement or festival officials);

(2) Allowing animals not under the control of a competent person; animals not sufficiently near the owner or person in charge of the animal; not under his or her direct restraining control and disobedient to that person's commands; animal not restrained by chain, leash, harness or other mean of physical control; provided however, police canines and service dogs trained to provide assistance to special persons for sight, hearing, mobility; and

ITEM #

7

Donna Flowers

From: Debbie Rogers- Lowery [cta.debbie@bellsouth.net]
Sent: Friday, February 17, 2017 3:37 PM
To: Donna Flowers
Cc: Stephen H. Peeler; Clay Harrelson
Subject: Distribution and Collection Department - OSHA Public Sector SHARP Award Presentation - 03/02/17 - 7:00pm
Attachments: OSHA Public Sector SHARP Recognition Award - Lincolnton Distribution and Collection Department 021717.docx

Donna,

Per our conversation, I have attached the information regarding the OSHA Public Sector SHARP Award the Distribution and Collection Department will be receiving at the March 02, 2017 City Council meeting.

Let me know if you have any questions or need any additional information.

Thanks!

Debbie

****Please note new email address below****

Debbie Rogers-Lowery
Compliance Training Associates, Inc.
P.O. Box 669842
Charlotte, NC 28266-9842
704-622-0151 (cell)
cta.debbie@bellsouth.net

OSHA Public Sector SHARP Recognition Award

Lincolnton Distribution and Collection Department

The Lincolnton Distribution and Collection Department has achieved recognition as an OSHA Public Sector SHARP employer. The SHARP (Safety & Health Achievement Recognition Program) designation is awarded to Public Sector employers who are successful in protecting employees from death, injury and illness by implementing comprehensive and effective safety and health programs. In addition, the Department must achieve a rate of injuries and illnesses that is equal to or less than the three year average across the state for the particular entity.

The Lincolnton Distribution and Collection Department is one of a small handful in the state to achieve this recognition. The OSHA Public Sector SHARP Award will be presented to Steve Peeler, Clay Harrelson and the Distribution and Collection staff by Cherie Berry, NC Labor Commissioner, at the Lincolnton City Council Meeting on March 02, 2017 at 7:00pm.

ITEM #

8

CITY OF LINCOLNTON

CITY COUNCIL

Ed L. Hatley, Mayor
Martin A. Eaddy, Mayor Pro-Tem
David M. Black
Roby D. Jetton
Tim Smith



CITY MANAGER

Steve Zickefoose, MBA
szickefoose@lincolntonnc.org

CITY CLERK

Donna C. Flowers, MMC, NCCMC
donnaflowers@ci.lincolnton.nc.us

CITY ATTORNEY

Thomas J. Wilson, Jr..

RESOLUTION of Appreciation for

ROBERT S. BUFF III

(R-02-17)

WHEREAS, Robert S. Buff III, began employment with the City of Lincolnton on August 21, 1990 as a Sanitation Collector I in the Public Works Division. In 1993 he was promoted to Sanitation Equipment Operator II, then in 2000 he was named Solid Waste Supervisor, excelling in 2001 to his current position of Public Works Superintendent; and

WHEREAS, Robert S. Buff III, he has served as a member of the American Public Works Association (APWA); serving on the board of Directors since 2008 then as President of the Solid Waste Division of APWA in 2013. Through his membership to the American Public Works Association, North Carolina Division, he represented not only the City but North Carolina nationally. He has also served locally on the Apple Festival Board since 2004 and received the Main Street Civic Leadership Award in 2013; and

WHEREAS, Robert S. Buff III, has served the City well in the various capacities named above and should be commended for his service to the City and its citizens;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Lincolnton, that appreciation be shown to **Robert S. Buff III**, honoring him on his upcoming retirement on April 1, 2017 and that we extend congratulations and best wishes to him for continued success in all his future endeavors.

Adopted and presented this the 2nd day of March 2017.

DONNA C. FLOWERS, MMC
CITY CLERK

ED HATLEY
MAYOR

ITEM #

9

CITY OF LINCOLNTON

CITY COUNCIL
Ed L. Hatley, Mayor
Martin A. Eaddy, Mayor Pro-Tem
David M. Black
Roby D. Jetton
Tim Smith



CITY MANAGER
Steve Zickefoose, MBA
szickefoose@lincolntonnc.org
CITY CLERK
Donna C. Flowers, MMC, NCCMC
donnaflowers@ci.lincolnton.nc.us
CITY ATTORNEY
Thomas J. Wilson, Jr.,

RESOLUTION

OPPOSING HOUSE BILL 64 MOVING MUNICIPAL ELECTIONS TO EVEN NUMBERED YEARS

(R-03-17)

WHEREAS, Municipalities in North Carolina have a long standing history of being well managed - with no election improprieties or gross mismanagement of power; and

WHEREAS, we as local officials care for the health, safety and well-being of our citizens and the property encompassed within our municipalities; and

WHEREAS, we believe local officials, who live and work daily in the communities they represent, can best determine the specific needs of our citizens and our communities; and

WHEREAS, Municipal Elections are purposely held in odd numbered years and in the City of Lincolnton these elections are held every two years and are partisan;

WHEREAS, Municipal Elections are held in odd years with National and State Elections held in even years, in order to separate national elections from local government elections; and

WHEREAS, Sanitary District, Fire District and some School Board Elections are held in odd years; and

WHEREAS, the separation of National and State Elections from Municipal Elections allow citizens to focus on the issues and candidates that are of singular importance to their individual neighborhoods and communities.

NOW THEREFORE, BE IT RESOLVED that the Mayor and City Council of the City of Lincolnton are opposed to House Bill 64 which would move Municipal Elections to even number years due to the following reasons:

1. Elections in odd numbered years allows people to be informed regarding local issues and municipal candidates who can best serve their communities;
2. This bill is not necessary as citizens currently have the ability to move their elections to odd numbered years if they choose to do so by requesting local Legislative action;
3. There would be no cost savings as Municipal Governments pay for Municipal Elections;
4. Citizens should retain local control of their municipalities and Municipal Elections without the interference of National and State influences;
5. If moved to even number years to coordinate with National and State Elections, Municipal Elections would become driven by national issues and candidates.

BE IT FURTHER RESOLVED that a copy of this Resolution is recorded in the official minutes of the meeting of the Lincolnton City Council and a copy be provided to the State and Local Government II, House Standing Committee Members: Chairman John R. Bradford, II, Representatives: Jay Adams, John Autry, Cynthia Ball, James L. Boles, Jr., Beverly G. Boswell, Charles Graham, George Graham, Joe John, Phillip A. Lehman, Stephen M. Ross, John Sauls, Mitchell S. Setzer, Bob Steinburg, Sam Watford and Linda Hunt Williams.

Adopted this 2nd day of March, 2017.

ATTEST:

ED HATLEY
MAYOR

DONNA C FLOWERS MMC, NCCMC
CITY CLERK

ITEM #

10



February 3, 2017

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 previous events. The display will again incorporate electronic discharge for timing control and as always, the best of our new inventory.

If the proposed display meets your approval, please return the enclosed contract to secure your 2017 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

EAST COAST PYROTECHNICS, INC.
AGREEMENT

This contract entered in this 2nd of March A.D. 2017 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, 2017 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, 2017). 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. Certificate of Insurance will be provided prior to the event. All the entities listed on the Certificate of Insurance will be deemed as an additional insured per this contract.

Customer will provide the following items:

- (a) Sufficient area for the display, including a minimum spectator set back of 420 ft 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: March 2, 2017

Joel Matthews

PO 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: _____

City of Lincolnton
July 4th, 2017
\$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 Comets and Crackling Stars
36 Shot – 2 ½” Multi-Color Palm Tree with 36 Rising Tails
100 Shot – 1 ½” Silver Crossettes with Silver 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

ITEM #

11



TO: Richard Haynes, Assistant City Manager
FROM: Steve Peeler, Dir. Public Utilities
DATE: February 16, 2017
Subject: Material Bid Recommendation - South
Flint Street Substation Material

A handwritten signature in blue ink, located to the right of the header box. The signature is stylized and appears to be the name of the sender, Steve Peeler.

Please find attached the Letter of Recommendation and Bid Tabulation Sheets from Southeastern Consulting Engineers for the Material for the South Flint Street Electric Substation upgrade.

I request that this be placed on the first available City Council Agenda.

Attachments

CC: Chris Wilson, Electric Distribution System Superintendent
David Ramsey, Billing & Collection Supervisor/Purchasing Agent



Southeastern Consulting Engineers, Inc.

February 15, 2017

Mr. Steve Peeler
City of Lincolnton
P.O. Box 617
Lincolnton, North Carolina 28093-0617

Ref.: Material Bid Recommendation
Flint Street Substation 12.47 kV Material

Dear Steve:

The City received sealed proposals on February 2, 2017, from twelve (12) suppliers solicited for providing 12.47 kV electrical substation material and equipment for the above referenced project.

A tabulation of all the bids received is attached. The recommended bidder for each Schedule is listed below:

Schedule I – 15.5 kV Circuit Breaker (Qty. 2)

Schneider Electric
295 Tech Park Drive, Suite 100
LaVergne, Tennessee 37086

Total Bid: \$35,347.00
Delivery: 14-17 Weeks ARO

Schedule II – Voltage Regulators (Qty. 12)

Howard Industries, Inc.
3225 Pendor Road
Laurel, Mississippi 39440

Total Bid: \$148,800.00
Delivery: 8 Weeks ARO

600 MINUET LANE P.O. BOX 240436 CHARLOTTE, NC 28224
PHONE: (704) 523-6045 FAX: (704) 523-8317

Schedule III – SCADA & Metering Panel

Birmingham Control Systems
1250 Eighth Street West
Birmingham, Alabama 35204

Initial Bid	\$16,995.00
Deduct for Deleting extra Test Switches	(800.00)
Total Bid:	\$16,195.00
Delivery: 16 Weeks	

Schedule IV – Equipment House

VFP
1701 Midland Road
Salem, Virginia 24153

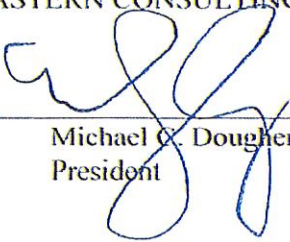
Initial Bid	\$54,291.00
Transportation	<u>2,650.00</u>
Total Bid:	\$56,941.00
Delivery: 16-18 Weeks ARO	

The total project cost for all four schedules is \$257,283.00. We recommend the City accept the proposals and issue purchase orders to the above vendors. Please note that these schedules and the total project cost do not include North Carolina Sales Tax. If you have any questions, please do not hesitate to contact us.

Sincerely,

SOUTHEASTERN CONSULTING ENGINEERS, INC.

By


Michael C. Dougherty, P.E.
President

MCD/lc
Enclosure

cc: Mr. Chris Wilson
Mr. David Ramsey



City of Lincoln
Lincolnton, North Carolina

BID TABULATION
Contract No. 16-43

Bid Opening: 2:00PM, February 2, 2017
12.47kV Substation Material

Bidder	Siemens	Schneider Electric	Howard	Anixter	Anixter
Location	Jackson, MS	LaVergne, TN	Laurel, MS	Wake Forest, NC	Wake Forest, NC
Phone	601.939.0550	615.287.3585	601.425.3151	919.554.8949 (ext.45986)	919.554.8949 (ext.45986)
Schedule I					
15.5kV Circuit Breaker	\$35,944.00	\$35,347.00		\$	\$
Service Engineer	\$10,412.00	\$9,460.00		\$	\$
Manufacturer	Siemens	Square D			
Delivery	17 weeks ARO	14-17 weeks ARO			
Schedule II					
Voltage Regulators w/ Ctrls	\$172,243.00		\$148,800.00	\$172,860.00	\$153,652.92
Voltage Regulators w/o Ctrls	\$155,590.00		\$136,800.00	No Bid	No Bid
Spare Regulator Ctr'l	No		\$1,675.00	Included	Included
Subbase/Stand	No		Included	Included	Included
Manufacturer	Siemens		Howard/Beckwith	Eaton/Cooper/SEL	GE/SEL
Delivery	14 weeks ARO		8 weeks ARO	21 weeks ARO	13 weeks ARO
Schedule III					
SCADA and Metering Panel	\$			\$	\$
Manufacturer					
Delivery					
Schedule IV					
Equipment House	\$			\$	\$
Manufacturer					
Delivery					

Notes:

1. Recommended Award



City of Lincoln
Lincolnton, North Carolina

BID TABULATION

Contract No. 16-43

Page 2

Bid Opening: 2:00PM, February 2, 2017
12.47KV Substation Material

Bidder	Anixter	Elgin	Birmingham Ctrl Sys.	Keystone	SEL
Location	Wake Forest, NC	Beckley, WV	Birmingham, AL	Des Moines, IA	Pullman, WA
Phone	919.554.8949 (ext.45986)	304.252.6243	205.252.2504	515.283.2567 x216	509.332.1890
Schedule I					
15.5kV Circuit Breaker	No Bid	No Bid	No Bid	No Bid	No Bid
Service Engineer					
Manufacturer					
Delivery					
Schedule II					
Voltage Regulators w/ Ctrls	\$154,929.00	No Bid	No Bid	No Bid	No Bid
Voltage Regulators w/o Ctrls	\$137,376.00				
Spare Regulator Ctrl	Included				
Subbase	Included				
Manufacturer	GE/Beckwith				
Delivery	13 weeks ARO				
Schedule III					
SCADA and Metering Panel		\$19,500.00	\$16,195.00	\$17,665.45	\$16,750.00
Manufacturer		Gilbert	Birmingham Ctrl Sys.	Keystone	SEL
Delivery		8-10 Weeks ARO	12 Weeks ARO	12-14 weeks ARO	16 weeks ARO
Schedule IV					
Equipment House	\$	\$	\$	\$	\$
Manufacturer					
Delivery					

Notes:

1. Recommended Award



City of Lincolnnton
Lincolnton, North Carolina

BID

Location
Phone

EP2

Des Moines, IA
515.262.8161

VFP

Salem, VA
540.977.0500

Modular Connections

Bessemer, AL
205.980.4565

Schedule I

15.5kV Circuit Breaker

Service Engineer

Manufacturer

Delivery

No Bid

No Bid

No Bid

Schedule II

Voltage Regulators w/ Ctrls

Voltage Regulators w/o Ctrls

Spare Regulator Ctrl

Subbase

Manufacturer

Delivery

No Bid

No Bid

No Bid

No Bid

Schedule III

SCADA and Metering Panel

Manufacturer

Delivery

\$21,511.00

EP2

13 Weeks ARO

Schedule IV

Equipment House

Manufacturer

Delivery

\$

\$56,941.00

1,2

\$68,147.00

\$

Modular Connections

16 weeks ARO

Notes:

1. Recommended Award
2. Includes \$2500 for onsite assistance

BID TABULATION

Contract No. 16-43

Bid Opening: 2:00PM, February 2, 2017
12.47kV Substation Material

ITEM #

12

March 2017 Council Meeting
Executive Summary
January 2017 Year-To-Date

General Fund			% of		
		16-17	Budget	15-16	Difference
Fund 10	Revenues	6,375,677.05	53.00%	6,209,408.36	166,268.69
	Personal Services	4,589,018.69		4,738,148.77	(149,130.08)
	Supplies & Materials	215,999.95		190,027.53	25,972.42
	Current Obligations	322,167.17		287,343.70	34,823.47
	Fixed Charges	(883,666.48)		(846,935.94)	(36,730.54)
	Capital Outlay	571,521.73		370,013.46	201,508.27
	Contracts/Grants	361,927.88		371,260.17	(9,332.29)
	Debt Service	55,189.28		32,499.28	22,690.00
	Expenses	5,232,158.22	51.00%	5,142,356.97	89,801.25
	Difference	1,143,518.83		1,067,051.39	76,467.44

Water & Sewer Fund			% of		
		16-17	Budget	15-16	Difference
Fund 61	Revenues	4,918,960.88	55.55%	5,127,533.38	(208,572.50)
	Personal Services	1,088,751.24		1,098,244.84	(9,493.60)
	Supplies & Materials	240,058.40		248,386.03	(8,327.63)
	Current Obligations	377,078.07		314,485.23	62,592.84
	Fixed Charges	800,290.10		838,933.55	(38,643.45)
	Capital Outlay	683,647.83		209,094.25	474,553.58
	Contracts/Grants	115,705.13		112,762.97	2,942.16
	Debt Service	135,573.86		160,730.52	(25,156.66)
	Inv., Interfund	221,139.31		221,139.31	-
	Expenses	3,662,243.94	50.42%	3,203,776.70	458,467.24
	Difference	1,256,716.94		1,923,756.68	(667,039.74)

Electric Fund			% of		
		16-17	Budget	15-16	Difference
Fund 63	Revenues	4,568,390.60	58.53%	4,441,663.88	126,726.72
	Personal Services	262,554.47		287,672.11	(25,117.64)
	Supplies & Materials	17,975.33		40,940.48	(22,965.15)
	Current Obligations	3,365,150.15		3,279,165.74	85,984.41
	Fixed Charges	520,048.85		538,405.28	(18,356.43)
	Capital Outlay	40,644.52		78,033.77	(37,389.25)
	Contracts/Grants	-		-	-
	Inv., Interfund	15,152.06		15,152.06	-
	Expenses	4,221,525.38	56.24%	4,239,369.44	(17,844.06)
	Difference	346,865.22		202,294.44	144,570.78

Overtime 80+ hours 165,478.00 177,873.00 (12,395.00)

Personal Services	Salaries and Benefits
Supplies & Materials	Supplies, Materials, Uniforms, Gas
Current Obligations	Building Maint, Repairs, Phone, Data, Travel
Fixed Charges	Insurance, Safety
Capital Outlay	Equipment, Vehicles, Construction
Contracts, Grants	Donations, Airport, 911, Animal, Fireworks, Drug Enforcement, Contracted Services
Debt Service	Bonds and Loans Payments

**CLOSED
SESSION**