

# ***A G E N D A***

## ***LINCOLN TON CITY COUNCIL***

***June 28, 2018***

***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**

## **LINCOLN CITY COUNCIL**

**June 28, 2018**

**7:00 p.m.**

**CALL TO ORDER – Mayor Hatley**

**PLEDGE OF ALLEGIANCE**

**1. Approval of Regular Agenda**

**2. Approval of CONSENT AGENDA:**

*All items placed under the 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. Calls to Public Hearing for the August 2<sup>nd</sup> Meeting:**

**ZMA-01-2018 – Application from Jack E. Carswell requesting the rezoning of approximately .952 acres of land from residential-10 (R-10) to Neighborhood Business (N-B) District. The subject properties are in the northwest quadrant of North Grove Street and West Main Street Extension. The addresses are West main Street Extension (PIN 55464), 107 North Grove Street (PIN 2100) and 408 West Main Street (PIN 20999)**

### **REGULAR AGENDA**

#### **PUBLIC HEARING**

**(BIG-03-2018)**

**4. Consideration of a Business Incentive Grant to John Anderson to expand his building, located at 235 East Main Street, currently housing Southern Charm Winery**

**Laura Elam, Planning Director**

**PUBLIC HEARING**  
(O-07-2018)

5. Public Hearing to consider revisions to the City's Code of Ordinances regarding the Nuisance Ordinance – Sections 93.066, 93.068 to make minor changes to the provisions for notice, hearing, order to abate and failure of owner to abate.

Laura Elam, Planning Director

**PRESENTATION**

6. Recognition of the City's Water Treatment Plant receiving the "Gold Star" honor for systems that have received the prestigious NC Area Wide Optimization Award for 10 consecutive years of more. Lincolnton is one of four facilities to earn this recognition, and has received this award since 2002.

Mayor Hatley

**RESOLUTIONS**  
(R-10-18)

7. Consideration of resolution supporting term limits, which is approved would be submitted to the NC General Assembly

Mayor Hatley

**OTHER BUSINESS**

8. Update on Recycling Options

Richard Haynes, Assistant City Manager

9. Update on Building Inspections

Steve Zickefoose, City Manager  
Laura Elam, Planning Director  
Tanya Osborne, HR Director

**AGENDA**  
**JUNE 7, 2018**  
**Page 3**

**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 prior to the meeting to be eligible to speak*

**CLOSED SESSION**

**To discuss Personnel  
in accordance with NCGS 143.318.11(a)(1)(6)**

**NEWS MEDIA**

**ADJOURNMENT**

**ITEM #**

**1**

***APPROVAL***

***OF***

***REGULAR***

***AGENDA***

**ITEM #**

**2**

***APPROVAL***

***OF***

***CONSENT***

***AGENDA***

**ITEM #**

**3**

## **Donna Flowers**

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**From:** Laura Elam  
**Sent:** Tuesday, June 19, 2018 9:59 AM  
**To:** Donna Flowers  
**Cc:** Jean Q. Derby; Brett Hicks  
**Subject:** Items for June 28 agenda  
**Attachments:** morp062018.docx; council memo - nuisance ordinance.docx

Hi Donna,

The Planning Department has the following items for the agenda for the June 28 Council meeting:

### **PUBLIC HEARINGS**

There is one public hearing scheduled for the June 28 meeting as follows:

- Application from Planning Department for revisions to Sections 93.066, 93.067 and 93.068 of the City Code (Nuisance Ordinance) to make minor changes to the provisions for notice, hearing, order to abate and failure of owner to abate.

### **CALLS TO PUBLIC HEARING**

There is one call to hearing as follows:

- ZMA-1-2018- Application from Jack E. Carswell requesting the rezoning of approximately .952 acres of land from Residential-10 (R-10) to the Neighborhood Business (N-B) District. The subject property is located on the northwest quadrant of North Grove Street and West Main Street Extension, includes 408 West Main Street and 107 N. Grove Street and Tax Parcels 55464, 21000 and 20999.

### **MONTHLY REPORT**

The monthly report is attached.

ITEM #

4

MEMO TO: Mayor and City Council Members

FROM: City of Lincoln Planning Department

DATE: June 28, 2018

RE: Business Incentive Grant (BIG-3-2018)

Application from John Anderson Family, LLC for Business Incentive Grant for building renovations for expansion of Southern Charm Winery at the Anderson Building at 117 N. Poplar Street

**Project Information**

- Location: 117 N. Poplar Street
- Use: Building renovations for expansion of Southern Charm Winery to include the following:
  - Renovate existing offset, unlevel flooring behind large, pull-up door by removing existing flooring and filling in with sand and concrete to create level floor
  - Install new flooring
  - Replace large wooden door with standard size door and brick in remaining area
  - Replace HVAC unit
  - Replace electrical service
  - Soundproof ceiling
  - Renovate bathroom
- Total project cost estimate: \$35,044.09
- Anticipated start: August 2018
- Anticipated completion: December 2018

**Request**

- \$15,000 for building renovations



DATE: 5/18/18

NAME OF APPLICANT: John Anderson Family LLC

PROJECT NAME: 112 N. Poplar Renovation

PROJECT DESCRIPTION: TEAR OUT Floor + pour concrete  
Floor behind large existing wood Rollup - Regrade + fill  
in + pave entire outside area - to expand wine shop  
new heat + AC - new flooring - replace 12 existing windows  
sound proof ceiling - refurbish bath -

replace large wooden door with standard size + brick remaining  
AREA

PROJECT ADDRESS: 112 N. Poplar St.

APPLICANT HOME ADDRESS: 233 1/2 E. Main St.

EMAIL ADDRESS: john@andersonpropertiesinc.com

TELEPHONE: 704 740 8008

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: 1 August 1, 2018

ANTICIPATED COMPLETION: 1 End of 2018

I have read and fully understand the requirements and guidelines of the City of Lincolnton 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 Sane, the business owner. I as the property  
owner have read and fully understand the requirements of the City of Lincolnton  
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)

## Renovations to 117 N. Poplar Street

|                                                                                                             |             |
|-------------------------------------------------------------------------------------------------------------|-------------|
| Bridges Floor sanding                                                                                       | \$4500      |
| Tod Lawing labor to prep floor for bridges                                                                  | \$2000      |
| Window cost                                                                                                 | \$3120.90   |
| Tear out and replace windows-Rodney Ross                                                                    | \$3900      |
| Heat and AC-Fords                                                                                           | \$4465      |
| Remove and replace existing entry doors                                                                     | \$655       |
| Grading and paving                                                                                          | \$9000      |
| Replace existing electrical service                                                                         | \$1500      |
| Bathroom rework                                                                                             | \$1350      |
| Larry Clark Builders-remove old floor behind large wooden door and fill with sand and concrete entire area- | \$11,800    |
| Clark- remove large old wooden door and replace with standard size door – brick around new door             | \$4500      |
| Prep work outside                                                                                           | \$2500      |
| Misc.                                                                                                       | \$4929.09   |
| Total                                                                                                       | \$54,219.99 |



ITEM #

5

**MEMO TO:** Mayor and City Council Members  
**FROM:** Laura Elam  
**THROUGH:** Steve Zickefoose, City Manager  
**SUBJECT:** Consideration of Amendment to the City Code to Modify Nuisance Ordinance  
**DATE:** June 28, 2018

### **BACKGROUND**

The City's Nuisance Ordinance outlines the below process the city staff is to use in making determinations of ordinance violations:

- If it appears that nuisance conditions exist, city staff notifies the owner of the reasons why the conditions may constitute a violation and that a hearing will be held not less than 10 and not more than 30 days after the notice.
- Owner has right to file an answer to the notice and appear in person or otherwise and give evidence at hearing.
- After the hearing, if city staff determines that the conditions constitute a nuisance, the city notifies owner of the conditions constituting the nuisance and orders abatement within 15 days from the notice.
- If owner fails to abate nuisance conditions within 15 days of notice, the city is to cause the condition to be removed or otherwise remedied.

### **PROPOSED AMENDMENT**

The proposed amendment is modeled after the City of Gastonia's ordinance and would change the process so that violations of the Nuisance Ordinance that are related solely to unmowed grass could be handled differently than other types of nuisance ordinance violations.

For violations related solely to unmowed grass, the revised process would provide for a 10-day abatement period and no hearing would be offered or provided. After the expiration of the 10-day period, staff could initiate abatement of the nuisance without additional notification.

For all other types of nuisance conditions, the process would provide for a hearing only upon the request of the property owner and the abatement period would continue to be 15 days.

If a hearing is requested, the hearing would be held within 31 days. Subsequent to the hearing, the city could either revoke the initial order, issue a final order which differs from the initial order, or reinstate the initial order as a final abatement order. If the hearing results in either a final order with modifications or the reinstatement of the initial order as a final order, the owner would have 15 days to address the violation. If the violation is not addressed within the 15 day period, the city could then initiate abatement.

If no hearing is requested and the owner fails to abate the nuisance within 15 days, the city could initiate abatement.

|                            | <b>Current Process for All Types of Nuisance Ordinance Violations</b>                                                                                                                                                                 | <b>Proposed Process for Nuisance Ordinance Violations Related Solely To Unmowed Grass</b>                                | <b>Proposed Process for All Other Types of Nuisance Ordinance Violations</b>                                                                                                                                                                        |
|----------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Initial Notice</b>      | <ul style="list-style-type: none"> <li>●States conditions that may constitute a violation</li> <li>●Schedules a hearing to be held within 10 to 30 days</li> <li>● States that owner has right to give evidence at hearing</li> </ul> | <ul style="list-style-type: none"> <li>●States ordinance violation exists and orders abatement within 10 days</li> </ul> | <ul style="list-style-type: none"> <li>●States ordinance violation exists and orders abatement within 15 days</li> <li>●States hearing can be requested</li> <li>●Request must be made within 15 day abatement period</li> </ul>                    |
| <b>Hearing</b>             | <p>Yes</p> <p>All notices of nuisance ordinance violations automatically include a hearing</p>                                                                                                                                        | <p>No</p> <p>No hearing provided or offered for nuisance ordinance violations related solely to unmowed grass</p>        | <p>Only Upon Request</p> <ul style="list-style-type: none"> <li>●Hearing scheduled upon request of property owner</li> <li>●Request must be made within 15 day abatement period</li> <li>●Hearing to be within 31 days following request</li> </ul> |
| <b>Post Hearing Notice</b> | <ul style="list-style-type: none"> <li>●If determination is made that nuisance exists, City sends another notice with 15 day abatement period</li> </ul>                                                                              | N/A                                                                                                                      | <ul style="list-style-type: none"> <li>●City May Either Revoke Initial Order, Issue a Revised Order or Reinstate the Order</li> </ul>                                                                                                               |

### **STAFF RECOMMENDATION**

Staff recommends amendment of the City Code as outlined above. The proposed revised language is attached.

AN ORDINANCE TO AMEND THE  
LINCOLN CITY CODE  
TO MODIFY  
NUISANCE ORDINANCE

Section 1. Amend Section 93.066, 93.067 and 93.068(A) of the City Code as follows. Newly adopted language is underlined and **highlighted in yellow** and language to be deleted is ~~struck through~~ and **highlighted in red**.

~~93.066 NOTICE; HEARING.~~

~~If it appears that nuisance conditions exist, the city shall cause to be delivered or mailed to the owner of the property upon which the conditions exist a notice, stating the reasons why the conditions may constitute a violation and that a hearing will be held before the city staff at a place and time therein fixed, not less than ten nor more than 30 days after the delivery or mailing of the notice. The owner or any party in interest shall have the right to file an answer to the notice and to appear in person or otherwise, and give evidence at the place and time fixed in the notice. Any persons desiring to do so may attend the hearing and give evidence relevant to the matter heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in the hearings.~~

~~93.067 ORDER TO ABATE.~~

~~—If a determination is made that the conditions constituting a public nuisance exist, the city shall notify, in writing, the owner, occupant or person in possession of the premises in question of the conditions constituting the public nuisance and shall order the prompt abatement thereof within 15 days from the receipt of the written notice.~~

**93.066 NOTICE AND ORDER TO ABATE.**

**(A) If a determination is made that the conditions constituting a public nuisance as described in Section 93.047 B-D exist, the city shall notify, in writing, the owner, occupant or person in possession of the premises in question of the conditions constituting the public nuisance and shall order the prompt abatement thereof within 15 days from the receipt of the written notice.**

**(B) If a determination is made that the conditions constituting a public nuisance as described in Section 93.047 A exist, the city shall notify, in writing, the owner, occupant or person in possession of the premises in question of the conditions constituting the public nuisance and shall order the prompt abatement thereof within 10 days from the receipt of the written notice. When a person has failed to comply with a notice of violation as described above, the city shall not be required to provide further notice of violation to that person with regard to the same property before taking any of the enforcement actions authorized under this Chapter.**

**93.067 HEARING**

**At any time before the expiration of the 15-day abatement period specified in Section 93.066(A), the owner or any party of interest may request a hearing before the city manager or his designee(s) to appeal the finding that a public nuisance as defined in Section 93.047 B-D exists**

on the premises. The request for a hearing must be in writing and must be filed with the City code enforcement officer. The officer shall fix a time for the hearing, and the initial abatement order shall be temporarily suspended pending such hearing. The hearing must be held by the city manager or his designee(s) within 31 calendar days following receipt of the request for hearing. At the hearing, the individual(s) affected by the order shall be given the opportunity to present evidence to refute the findings which supported the abatement order. Any persons desiring to do so may attend the hearing and give evidence relevant to the matter heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in the hearing.

Upon completion of the hearing, the city manager or his designee(s) shall consider the evidence and shall either revoke the initial order, issue a final order which differs from the initial order, or reinstate the initial order as a final abatement order.

#### 93.068 FAILURE OF OWNER TO ABATE.

(A) *City action.* ~~If any person, having been ordered to abate a public nuisance, fails, neglects or refuses to abate or remove the condition constituting the nuisance within 15 days from receipt of the order, the city shall cause the condition to be removed or otherwise remedied by having employees of the city go upon the premises and remove or otherwise abate the nuisance under the supervision of an officer or employee designated by the City Manager.~~ Upon the occurrence of either of the following conditions, the city shall cause said condition to be removed or otherwise remedied by having employees of the city and/or an independent contractor go upon the premises and remove or otherwise abate such nuisance under the supervision of an officer or employee designated by the City Manager:

(1) A hearing is requested and held under Section 93.067 resulting in either a final order with modifications or the reinstatement of the initial order as a final order, and such order is not complied with within 15 days from adjournment of the hearing.

(2) No hearing is requested or held, and the respondent having been ordered to abate such a public nuisance fails, neglects or refuses to abate or remove the condition constituting the nuisance within 15 days from receipt of said order.

Note: Section 93.068 (B) and (C) to remain unchanged.

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

ITEM #

6



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Release: IMMEDIATE  
Date: June 12, 2018

Contact: Christy Simmons  
Phone: 919-807-6376

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### **North Carolina honors 69 drinking water treatment plants**

**RALEIGH** – The N.C. Division of Water Resources has honored 69 water treatment plants for surpassing federal and state drinking water standards.

The division's Public Water Supply section has awarded the facilities the prestigious N.C. Area Wide Optimization Award, which is part of a state effort to enhance the performance of existing surface water treatment facilities.

In 2017, the state recognized four facilities with the "Gold Star" honor, which is an award for systems that have received the N.C. Area Wide Optimization Award for 10 consecutive years. They are Newton, Lincolnton, Marion and Henderson-Kerr Lake Regional Water Authority.

Awards are given each year to water systems that demonstrate outstanding turbidity removal, a key test of drinking water quality. Turbidity is a measure of the cloudiness or haziness of water caused by individual particles that can interfere with disinfection and provide a medium for microbial growth. Microbes are microscopic particles that occur naturally but can include harmful bacteria and viruses.

While all drinking water systems must meet strict state and federal drinking water standards, these systems met performance goals that are significantly more stringent. During 2017, more than 3.8 million North Carolina residents were served by these award-winning plants.

The award winners for 2017 are Andrews, Appalachian State University, Boone, Broad River Water Authority, Brunswick County, Burlington – Ed Thomas, Burnsville, Cape Fear Public Utility Authority – Wilmington-Sweeney, Cary, Charlotte Water – Franklin, Charlotte Water – Lee S. Duke, Charlotte Water – Vest, Cherryville, Concord – Coddle Creek, Concord – Hillgrove, Dallas, Davidson – Gregg W. Stabler, Eden – Robert A. Harris, Elkin, Fayetteville PWC – Hoffer, Forest City, Franklin, Greenville Utilities Commission – Charles Horne, Hamlet, Harnett County, Hendersonville, Henderson-Kerr Lake Regional Water Authority, Hickory, Hillsborough, Johnston County – East, Johnston County – West, Kannapolis, King, Lenoir, Lincoln County, Lincolnton, Madison, Maggie Valley Sanitary District, Marion, Mayodan, Montgomery County, Mooresville – Plant 2, Morganton – Catawba, Mount Airy – F.G. Doggett, Mount Airy – S. L. Spencer, Mount Holly, Newton, Norwood, Orange Water & Sewer Authority, Piedmont Triad Regional Water Authority – John F. Kime, Pilot Mountain, Pittsboro, Raleigh – D.E. Benton, Raleigh – E.M. Johnson, Robbinsville – Rock Creek, Sandford, Smithfield, Southern Pines, Tarboro, Thomasville, Tuckaseegee, Valdese, Waynesville – Allens Creek, Weaverville – Ivy River, Western Carolina University, Wilkesboro, Winston-Salem – P.W. Swann, Winston-Salem – R.A. Thomas, Winston-Salem – R.W. Neilson.

For more information, contact N.C. Drinking Water Protection Program Coordinator Rebecca Sadosky at [Rebecca.Sadosky@ncdenr.gov](mailto:Rebecca.Sadosky@ncdenr.gov) or 919-707-9096.

###

ITEM #

7

# 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](mailto:szickefoose@lincolntonnc.org)  
**CITY CLERK**  
Donna C. Flowers, MMC, NCCMC  
[donnaflowers@ci.lincolnton.nc.us](mailto:donnaflowers@ci.lincolnton.nc.us)  
**CITY ATTORNEY**  
Thomas J. Wilson, Jr.

## RESOLUTION

### TERM LIMITS FOR MAYOR AND CITY COUNCIL CITY OF LINCOLNTON, NORTH CAROLINA

(R-10-18)

**WHEREAS**, term limits improve citizen access to office; and

**WHEREAS**, term limits broaden the level of experience in a political body; and

**WHEREAS**, term limits assure that elected officials are responsive to the citizens; and

**WHEREAS**, term limits allow council members to focus on issues instead of re-election;

**NOW THEREFORE, BE IT RESOLVED** that the Mayor and City Council of the City of Lincolnton are proponents of term limits in Municipal offices:

**BE IT FURTHER RESOLVED** that a copy of this Resolution be recorded in the official meeting minutes of the City of Lincolnton and a copy be provided to the State and Local Government II, House Standing Committee Members:

Adopted this the 28<sup>th</sup> day of June, 2018.

ATTEST:

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**ED HATLEY**  
**MAYOR**

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

ITEM #

8

***NO BACK UP  
NECESSARY  
FOR THIS ITEM***

***REPORT WILL  
BE GIVEN THE  
NIGHT OF THE  
MEETING***

ITEM #

9

***NO BACK UP  
NECESSARY  
FOR THIS ITEM***

***REPORT WILL  
BE GIVEN THE  
NIGHT OF THE  
MEETING***

**CLOSED  
SESSION**