

REGULAR MEETING – AUGUST 3, 2023

The Mayor and City Council met in regular session on Thursday, August 3, 2023 at 7:00 p.m. in the Council Chambers of City Hall located at 114 West Sycamore Street, Lincolnton North Carolina.

The Following council members were present:

Demeny Poinsette Hatley Tipton Jetton

Mayor Ed Hatley opened the meeting, asking everyone to stand for a moment of silence before leading the Pledge of Allegiance.

Councilmember Poinsette made a motion to approve the *REGULAR AGENDA* as amended, with the addition of items number 4i - Historic Designation, 4j Resolution for a Clarifier replacement and a Closed Session. Members voted 4-0 in favor of the motion.

Councilmember Jetton made a motion to approve the *CONSENT AGENDA* as follow:

- Meeting Minutes - June 29, 2023 Regular Meeting
- Approval of Releases of \$100.00 or more for June 16th - July 15th, 2023
- R-09-23 - Resolution accepting offer for the American Rescue Plan Funding - 2022 Water AIA Project
- R-10-23 - Resolution accepting offer for the American Rescue Plan Funding - 2022 Waste Water AIA Project

Members voted 4-0 in favor of the motion.

Public Comment

Mayor Ed Hatley recognized individuals requesting to speak during the Public Comment portion of the meeting. Mr. Alan Hoyle addressed council regarding the lowering of the flags for the Sgt. John Howell 1st Responder Memorial Day the 26th of August and the importance of remembering those that have served and died as First Responders in Lincoln County. He also expressed his thoughts on the appointment of the new Chief of Police. Mayor Hatley took the opportunity to encourage everyone to commend the Police Department on a job well done.

Mr. Trent Mason spoke to the success of the recently held National Night Out, July 4th Celebration and the Alive After Five events. He also spoke to the RFP for the Welcome Center and increased activity from the Young Adult Committee going forward.

PUBLIC HEARING

CZ-6-2023

Application from Carolina Elite Builders, LLC requesting a conditional district rezoning of 0.139 acres of land from PB to R-8 CD for the purpose of constructing a residential duplex. The subject property is located at 1221 East Pine Street (Parcel ID 20471)

Mayor Ed Hatley opened the public hearing and recognized Planning Director Jean Derby to review the request. Ms. Derby began summarizing the request, informing of the applicants request to change the zoning of the .139 acre parcel from Planned Business to Residential-8 to build a two family home. She presented aerial and site view of the property, stating that the property is currently vacant, described the land uses in the area and noted a number of examples of permitted uses in the district as it is currently zoned. Ms. Derby reviewed staff comments regarding the request. She stated that Planning Board voted 7-0 in favor of approval and concluded with staff recommends as follows:

1. Recommend approval of rezoning of the property from PB to R-8
2. Approval of the statement of consistency for approval of the rezoning request
3. Zoning be effective upon receipt of signed conditions of approval

Ms. Derby noted that the property, as it is currently zoned is not consistent with the City's land use plan, so approving the rezoning request would made it consistent with the land use plan.

Councilmember Tipton made a motion to close the Public Hearing. Members voted 4-0 in favor of the motion.

Councilmember Demeny made a motion to approve as recommended by staff. Members voted 4-0 in favor of the motion.

CZ-7-2023

Application from Tracy Calhoun requesting a conditional district rezoning of 0.519 acres of land from R-8 to R-O CD for the purpose of using the existing residential structure on site as a Law Office

(downstairs) and Residential (upstairs). The subject property is located at 502 North Aspen Street (Parcel ID 20343)

Mayor Ed Hatley opened the public hearing and recognized Planning Director Jean Derby to review the request. Ms. Derby presented and reviewed the information regarding this request to change the zoning of the .519 acre parcel from Residential-8 to Residential Office to be used as a law office and residence. She informed that the subject property is a currently a single family home, with land uses in the area being a mixture of residential and commercial, and is surrounded by General Business, Residential Office and Residential-8 zoning. Street views of the property, as well as a preliminary site plan were provided for councils review. Some attention was directed to the strategies from the Land Use Plan. Both staff comments were noted and staff recommendations were acknowledged as follows:

1. Recommend approval of rezoning of the property from R-8 to R-O
2. Approval of the statement of consistency for approval of the Rezoning request
3. Zoning be effective upon receipt of signed conditions of approval

Some discussion was generated due to questions from Council.

The applicant, Ms. Tracy Calhoun, addressed council members regarding her request to rezone the property, giving a brief explanation of her intentions regarding the use of the property. Ms. Marsha Jordan spoke in favor of the request, providing her expert opinion as an experienced realtor in the area.

Councilmember Jetton made a motion to close the Public Hearing. Members voted 4-0 in favor of the motion.

Councilmember Poinsette made a motion to approve as recommended by staff. Members voted 4-0 in favor of the motion.

ZTA-3-2023

Application from Troy Motz requesting a Zoning Text Amendment of Section 153.031 (Definitions) of the Unified Development Ordinance. The proposed text amendment would change the definition of Express Fuel/Mini Mart to allow for 5,000 square feet of gross floor area instead of 3,600 square feet

Mayor Ed Hatley opened the public hearing and recognized Planning Director Jean Derby to speak to the item. Ms. Derby explained this request

being the first part of a two part request. She explained this request as a text amendment to change the definition of an Express Fuel Mini Mart as defined in City's Unified Development Ordinance. The new definition would remain the same, excluding the language that says "containing less than 3600 square feet of gross floor area".

Councilmember Tipton made a motion to close the Public Hearing. Members voted 4-0 in favor of the motion.

Councilmember Jetton made a motion to approve as recommended by staff. Members voted 4-0 in favor of the motion.

CZ-8-2023

Application from Troy Motz requesting a conditional district rezoning of 8.5 acres of land from PB to GB-CD for the purpose of constructing an Express Fuel/Mini Mart. The subject property is located on the south side of West NC27 Highway at the intersection of West NC 27 Highway and West NC 150 Highway (Parcel ID 21380)

Mayor Hatley opened the Public Hearing and recognized Planning Director Jean Derby to review the request. Ms. Derby began by giving a site summary, informing that the property is currently vacant and is surrounded by General Business, Planned Business and Residential- 8 zoning. Ms. Derby provided detailed information regarding the project, street views of the property and an example of what the project could look like. A site plan was provided and referenced.

Ms. Derby stated staffs feelings that the proposal is consistent with the Land Use Plan and directed councils attention to the various staff comments that would be conditions of approval. She also informed that Planning Board voted 7-0 in favor of approval of the request. Ms. Derby concluded listing the following actions recommended by staff:

1. Recommend approval of rezoning of the property from PB
2. Approval of the statement of consistency for approval of the Rezoning request
3. Zoning be effective upon receipt of signed conditions of Approval

Ms. Derby noted that the current zoning will allow the convenience, it would just have to be under 3600 sq. ft., and fuel sales would not be allowed between midnight and 6:00 a.m.

Councilmember Poinsette made a motion to close the public hearing. Members voted 4-0 in favor of the motion.

Councilmember Demeny made a motion to approve the request as recommended by staff. Members voted 4-0 in favor of the motion.

BA-06-23

Approval of an amendment to the Annual Budget Ordinance for the fiscal year ending June 30, 2024

Financer Director Pamela McBryde presented amendments to the budget as follows:

BE IT ORDAINED by the Governing Board of the City of Lincolnton, North Carolina, that the following amendment be made to the Annual Budget Ordinance for the fiscal year ending June 30, 2024.

Section 1: To amend the General Fund, the expenditures are to be changes as follows:

General Expense	\$	7,554
Recreation		103,425
	\$	110,979

Section 2: To amend the General Fund, the revenues are to be changed as follows:

Miscellaneous Other Revenue		95,000
Veterans Banner Project		8,425
	\$	110,979

General Fund: Reverse 6/30/2023 BA for Rail Trail Grant funds to unearned revenue/liability for FYE 6/30/2023. Reverse 6/30/2023 BA for Veterans Banner Project and ESAC deposits to unearned/liability for FYE 6/30/2023.

Section 11: To amend the Special Revenue Fund, the expenditures are to be changed as follows:

SCIF Grants (Fund 50)	\$	312,174
	\$	312,174

Section 12: To amend the Special Revenue Fund, the revenues are to be changed as follows:

SCIF Grants (Fund 50)	\$	312,174
	\$	312,174

Special Revenue Fund: Reverse 6/30/2023 BA to move balance of SCIF grants to unearned revenue/liability.

Section 16: Appropriations are authorized by fund totals. The City Manager is authorized to reallocate fund appropriations among line item objects of expenditures and revenues as necessary during the budget year.

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Section 17: Copies of this Budget Ordinance shall be furnished to the Clerk to the Governing Board and to the Budget Officer and Finance Director to be kept on file by them for their direction in the disbursement of funds.

TOTAL AMENDMENT \$ 423,153

Adopted this 3rd day of August, 2023

Councilmember Tipton made a motion approve the amendment as presented. Members voted 4-0 in favor of the motion

Ms. McBryde provided council with the unaudited status of each of the city funds, reflecting the city's financial state at year end.

C-11-23

Approval of ATT contract for Redundant Links for City Facilities

Technology and Innovation Director Chris Jones presented a 36 month contract for AT&T backup links. Mr. Jones explained the solution, stating that in essence it will cover the city in the air and on the ground, 100% redundancy. He also informed this providing the ability to add station two and other locations not covered with the current fiber ring.

Councilmember Jetton made a motion to approve the contract as presented and requested. Members voted 4-0 in favor of the motion.

Appt-01-23 / C-12-23

Appointment of City Attorney/Contract Agreement

Mayor Ed Hatley reported that the council interviewed several candidates for the City Attorney vacancy. He stated that members came to an agreement on one candidate, that person being John Friguglietti.

Councilmember Poinsette made a motion to appoint Mr. John M. Friguglietti as the City Attorney. Members voted 4-0 in favor of the motion.

Mayor Hatley announced that Mr. Friguglietti will start immediately and expressed that he feels very fortunate to have someone of his caliber to represent the city.

Approval of Fire Department's request to submit an Application for a Matching Grant (50/50) to the NC League of Municipalities Safety Grant Program

Fire Chief Ryan Heavner addressed council to ask for approval to apply for a North Carolina League grant to purchase suppression resources for electric vehicles. Chief Heavner explained difficulty of putting out electric vehicles and with the introduction of lithium batteries, these resources would add another tool in the tool box in the event that a fire occurs. He informed that the grant would be used to purchase four (4) silicone fiberglass flame retardant blanket and briefly described how they work. Chief Heavner stated that the city's portion would be a little less than \$5,000.00 to match. **Councilmember Demeny made the motion to approve the request as submitted. Members voted 4-0 in favor of the motion.**

O-10-23

Amendment to the City of Lincolnton Code of Ordinances Parking Schedule in the 100 and 200 Block of Main Street

In response to a request from a number of the downtown merchants and customers, City Manager Ritchie Haynes presented to the following amendment to the City's Code of Ordinances for approval:

O-10-23
ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LINCOLNTON TO AMEND THE CODE OF ORDINANCES AS FOLLOWS:

Chapter 75 TRAFFIC SCHEDULES

SCHEDULES III: PARKING LIMITED TO TWO HOURS OR AS DESIGNATED IN THE SCHEUDLE BELOW

CHANGE:

Street Name	Parking Time Designation
Main Street 100 and 200 blocks	3 hours

This amendment shall become effective upon erection of the appropriate signage.

Amended this the 3RD day of AUGUST 2023.

Mr. Haynes explained that the request had been vetted through both the Parking Committee and the Traffic Safety Committee. He stated that there has also been conversations regarding this at the DDA Morning Meet Up and most agreed with making the change.

In conclusion, Mr. Haynes confirmed the recommendation to go to three (3) hour parking in the 100 and 200 block of Main Street, with the change taking place once signage has been changed.

Councilmember Tipton made a motion to approve amendment to Code of Ordinances as presented. Members voted 4-0 in favor of the motion.

Request for Property Access – 948 N. Aspen Street
(Robert Bosh Tool Corporation)

Mayor Ed Hatley recognized City Manager Ritchie Haynes who presented a request for property access from WSP USA Environment & Infrastructure Inc., on behalf of Robert Bosh Tool Corporation to conduct activities to support the on-going environmental investigation of the former Bosh Lincolnton Manufacturing Division facility. Mr. Haynes provided some background information on the site, and explained the reason access is needed. He assured that granting the request would not affect the city in any way.

Councilmember Poinsette made a motion to approve the request for property access. Members voted 4-0 in favor of the motion.

C-13-23
Consideration/Approval of Americans with Disabilities
Transition Plan Proposal

City Manager Ritchie Haynes presented the proposed Americans With Disabilities Transition plan, which was discussed at the City's budget retreat. Mr. Haynes explained that Precision Infrastructure Management (PIM) would assist in the implementation and fulfilment of the requirements of Title II of the Americans With Disabilities Act (ADA) for ADA transition planning, by evaluating all of the sidewalks, curb cuts, and the Parks and Recreation facilities. Mr. Haynes informed that information will then be part of the hundred thousand dollar line item that was put in place for sidewalks. The plan will be utilized when making repairs, ADA curb cuts and upgrades.

Councilmember Tipton made a motion to approve the proposal as presented. Members voted 4-0 in favor of the motion.

O-11-23

Adoption of Ordinance Amending the City of Lincolnton Code of Ordinances – Title XIII: General Offenses by adding two sections: Loitering and Disorderly Conduct on Public Property and Urban Camping and Improper Use of Public and Private Places

City Manager Ritchie Haynes asked Major Brian Green to come forward and assist him in presenting the following amendment to city council for approval:

WHEREAS, the City of Lincolnton desires that streets and public areas be assessable and available to residents and the public at large; and

WHEREAS, the use of streets and public areas for camping purposes and storage of personal property interferes with the rights of others to use the areas for the purposes for which it is intended and may have adverse public health and safety impacts; and

WHEREAS, the purpose behind the addition of these sections is to maintain streets, parks and other public and private areas within the city in a clean, sanitary and accessible condition, and to adequately protect the health, safety and public welfare of the community, while recognizing that, subject to reasonable conditions, camping and camp facilities associated with special events can be beneficial to the cultural and educational climate in the city.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Lincolnton, North Carolina, as follows:

Section 1. Section 130.08 and Section 130.09 is hereby added to Title XIII: General offenses; Chapter 130: Offenses Against Public Peace and Safety, of the City of Lincolnton Code of Ordinances, as described in attached Exhibit A, and incorporated by this reference.

Section 2. All ordinances, resolutions or codes in conflict with the provisions of this Ordinance or Code adopted by this Ordinance are repealed.

Section 3. If any section, subsection, sentence, clause, phase or portion of this Ordinance or any part of these amendments to the Code of Ordinances adopted herein is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision will not be read to affect the validity of the remaining portions thereof.

Section 4. This ordinance will become effective upon adoption.

Passed and adopted this 3rd day of August, 2023

City Manager Ritchie Haynes spoke to the day to day battle of individuals putting tents on private property and how this amendment will help address that issue. He stated that this would also help the police

department when addressing the loitering issue. Mr. Haynes encouraged council to direct any questions to Major Green, who pointed out that the unlawful camping on public property protects the police department and gives officers the right to remove property after a 24 hour notice. There was some discussion and comments generated regarding the ordinance among council and staff.

Councilmember Demeny made a motion to approve (adopt) the ordinance as presented. Members voted 4-0 in favor of the motion.

Request from Local Churches to Declare Cemetery A Historic Designation/National Landmark

Mayor Ed Hatley, on behalf of Providence Baptist Church and Great Moores Chapel AMEZ Church, asked councilmembers to declare their support regarding the submission of the North Carolina Cemetery Site form to the North Carolina Office of State Archaeology regarding their respective church cemeteries. Mayor Hatley gave some background information, explaining the significance of the request, stressing the importance of protecting the cemetery going forward. He informed that Mr. Morris Cates has worked diligently on this project and is requesting councils support.

Councilmember Poinsette made a motion to adopt a proclamation in support of submitting this form. Members voted 4-0 in favor of the motion.

The following proclamation was drafted and signed by Mayor Hatley:

WHEREAS, it is fitting that the members of this governing board should recognize and support the endeavors of it's citizens that, through an abiding commitment to excellence, strive to preserve and maintain the many historic buildings and landmarks in this city; and

WHEREAS, the North Carolina Office of State Archaeology, through its Citizen Cemetery Site Form, allows non-professional members of the public to submit information relating to a wide variety of cemeteries across the state; and

WHEREAS, submission of the Citizen Cemetery Site Form to the North Carolina Office of State Archaeology (OSA) is a vital step to the historic preservation process and may help prevent cemeteries from being damaged and/or destroyed; and

WHEREAS, Providence Baptist Church and Greater Moore's Chapel AME Church wish to submit information relating to their respective historic church cemeteries located on Lentz Dr. and Newbold Street in Lincolnton, NC.

NOW, THEREFORE, I, Ed Hatley, Mayor of the City of Lincolnton, and the Lincolnton City Council Members, do hereby proclaim that we endorse and support the submission of these aforementioned documents.

We applaud the hard work and effort of all those involved and appreciate their commitment to excellence regarding this project.

Proclaimed on this the 3rd day of August, 2023.

R-11-23
Resolution Exempting Clarifier Replacement Project
(from G.S. 143-64.31)

City Manager Ritchie Haynes presented the resolution below, requesting council approval. He explained the necessity and urgency for council action as one clarifier is completely out of service and the other one is in poor condition. Mr. Haynes also explained that the city is being fined by the state, and will continue to be fined until this issue is resolved. He spoke to the plan for replacing the equipment, what needs to be done to address the problem and shared his recommendation for resolving the issue. The resolution was presented as follows:

RESOLUTION EXEMPTING CLARIFIER REPLACEMENT PROJECT

FROM G.S. 143-64.31

WHEREAS, G.S. 143-64.31 requires the initial solicitation and evaluation of firms to perform architectural, engineering, surveying, construction management-at-risk services, and design-build services (collectively "design services") to be based on qualifications and without regard to fee;

WHEREAS, the City proposes to enter into one or more contracts for design services for work on *Clarifier Replacement Project*; and

WHEREAS, G.S. 143-64.32 authorizes units of local government to exempt contracts for design services from the qualifications-based selection requirements of G.S. 143-64.32 if the estimated fee is less than \$50,000; and

WHEREAS, the estimated fee for design services for the above-described project is less than \$50,000.

NOW, THEREFORE, THE LINCOLNTON CITY COUNCIL RESOLVES:

Section 1. The above-described project is hereby made exempt from the provisions of G.S. 143-64.31.

Section 2. This resolution shall be effective upon adoption.

Councilmember Demeny made a motion to adopt the resolution as presented. Members voted 4-0 in favor of the motion.

OTHER BUSINESS

Manager's Report/ Activity Update

City Manager Ritchie Haynes gave his manager's report, reminding members of several dates for different events and activities around the city. Mr. Haynes recognized Tanner Bolton, who obtained his Grade 3 collections operator certificate, provided housing market information, social district information and an updated homeless taskforce report.

NEWS MEDIA:

Upon opening the floor, questions from Mr. Mike Powell with Lincoln Times News were asked and answered by staff.

CLOSED SESSION:

Councilmember Poinsette moved that the council enter closed session pursuant to G.S. 143-318.11(a)(5) to discuss property acquisition. The council voted 4-0 to enter closed session.

The Mayor and City Council members returned to open session.

ADJOURNMENT:

Being no further business, Councilmember Roby Jetton made a motion to adjourn. Members voted 4-0 in favor of the motion.

DAPHNE INGRAM, CMC
CITY CLERK

ED HATLEY
MAYOR