

The Mayor and City Council met in regular session at 7:00 p.m. on Thursday, May 6, 2021 in the Council Chambers of City Hall located at 114 West Sycamore Street, Lincolnton, North Carolina.

The following were in attendance:

White Poinsette Hatley Eaddy Jetton

Mayor Ed Hatley called the meeting to order, opening with a moment of silence, after which he asked those in attendance to stand for the Pledge of Allegiance. The following items were addressed with action taken as shown.

Councilwoman White made a motion to approve the *REGULAR AGENDA*. **Members voted 4-0 in favor of the motion.**

Mayor Hatley presented the *CONSENT AGENDA*. Two additional items, **(R-07-21) Resolution Authorizing the Chief of Police to enter into Law Enforcement Mutual Assistance Agreements with Other Law Enforcement Agencies** and a **Proclamation for National Police Week and May 15th, 2021 as Peace Officers Memorial Day**, were placed at councilmembers places, to be added. Councilman Eaddy requested that additional items be added.

Councilwoman Jetton made a motion to approve the amended *CONSENT AGENDA* items as follows:

- **Approval of Minutes for the April 1, meeting**
- **Resolution Authorizing the Disposition of Certain Personal Property by Private Sale (R-05-21)**
- **Resolution by City Council of the City of Lincolnton opposing Proposed Zoning Reform (R-06-21)**
- **Resolution Authorizing the Chief of Police to Enter into Law Enforcement Mutual Assistance Agreements with Other Law Enforcement Agencies (R-07-21)**
- **Proclamation - National Police Week and Peace Officers Memorial Day**

Members voted 4-0 in favor of the motion. (a copy of each resolution and the proclamation is attached to and made a part of these minutes)

ZMA-3-2021

APPLICATION FROM JAMES STEPHEN HIGH REQUESTING THE REZONING OF 5.95 ACRES OF LAND FROM THE GENERAL MANUFACTURING AND COMMERCIAL (GMC) DISTRICT TO THE RESIDENTIAL-25 (R-25) DISTRICT. THE SUBJECT PROPERTY IS LOCATED OFF TN UNNAMED PRIVATE DRIVE APPROXIMATELY 800 FEET SOUTHEAST OF THE INTERSECTION WITH STARTOWN ROAD (PARCEL ID 73265)

Mayor Ed Hatley opened the public hearing, directing Planning Director Laura Elam to speak to the item.

Mrs. Elam began, giving a brief, yet detailed overview of the request. Using overhead views of the property, Mrs. Elam was able to provide council with a visual of the exact location of the property and show the various land uses that surround the property. In terms of land use plan compliance, Mrs. Elam noted that the proposed rezoning not being consistent with the Land Use Plan, however, stated that the site was likely put into an industrial zoning classification at the time that zoning was originally established in the area due to having the same ownership as the adjoining industrial parcel immediately to the west. She informed that the area surrounding the property is primarily zoned for residential development and primarily developed for residential purpose.

In summary, Mrs. Elam listed the Planning Board and Staff recommended actions as follows:

1. Approval of rezoning of the property from GMC to R-25
2. Amendment of the land use plan to show the property in the Residential Suburban Planning Area
3. Approval of the Statement of consistency for approval of the rezoning request

Councilman Eddy questioned and voiced his concern with the property being rezoned and the County not having any say as the change could affect future expansion of the park they currently own.

Mr. J. Stephen High, the applicant, was in attendance. Mr. High spoke regarding the request, explaining the reason for requesting the rezoning and informing council of his plans to use the property for duplexes if the rezoning is approved. Mr. High also mentioned some of the due diligence steps he has already taken, such as talking with NCDOT.

Mr. Amnon Nachshon spoke against the request. Mr. Nachshon stated that he represented Shon Real Estate who is the owner of the adjacent property Parcel. He briefly expressed several concerns if the request is approved, such

as an increase in traffic and a space conflict. Councilwoman Poinsett commented on her observations during her site view of the property and her opinion regarding the appropriateness of the change.

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

Councilwoman Poinsette made a motion to approve the request for rezoning as recommended by Planning Board. Members voted 4-0 in favor of the motion

**RECOGNITION OF THE 2020 - 2021
LINCOLNTON STUDENT ADVISORY COUNCIL**

Mrs. Jill Eaddy, Advisor for the Lincolnton Student Advisory Council addressed Council to recognize the 2020-2021 council members. Mrs. Eaddy gave some background regarding when, how and why the council was started. She spoke to some of the things that has been accomplished by the council and to the positive impact it has on those that are a part. Mrs. Eaddy noted that although this year's council had a very limited number of in-person meetings due to COVID-19 restrictions, they persevered and made the best of the situation.

Mayor Hatley thanked Mrs. Eaddy, the Council Advisor, for her commitment over the past 30 years, as well as commented on the different perspectives that is gained from their input. At the encouragement of Councilman Jetton, Mrs. Eaddy was given a round of applause.

Sydney Hudson, a junior at North Lincoln High School, and Ashlynn Eurey, a senior at West Lincoln High School, thanked council for the opportunity to serve and expressed appreciation and gratitude for the experience. Each of the students reported on the various committee accomplishments and things the group worked on as a whole.

Sydney reported on the litter pick-up, the Angel Tree project and Education Committees tutoring program. Ashlynn informed Council of the 2021 Color Run to be held on May 22, 2021. She reported for the Business Committee who focused on supporting our small local business, explained the Valentine's day card project for Brian Center residents and gave an update on the current rail-trail stage project for the members that are apart of that committee.

In conclusion, Mayor Hatley thanked both Sydney and Ashlynn for attending and presented them with a lapel pin of the city seal.

BA-02-21
BUDGET AMENDMENT TO AMEND THE GENERAL FUND, THE BOGER CITY
FIRE DISTRICT FUND AND THE SPECIAL REVENUE FUND

Pam McBryde, Finance Director, presented the following amendment request.

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

City Manager/Clerk	\$ -
Human Resources	(14,033)
Finance	-
General Expense	(10,000)
General Debt Service	-
Police	-
Fire	-
Public Works	-
Street	10,624
Equipment Services	13,409
Solid Waste	-
Planning/Zoning	-
Bus & Comm. Dev	-
Recreation	-
	<u>\$ (0)</u>

Section 3: To amend the Boger City Fire District Fund, the expenditures are to be changes as follows:

Boger Ciy Fire Tax	<u>\$ 200,000</u>
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Section 4: To amend the Boger City Fire District Fund, the revenues are to be changed as follows:

Fire District Tax	\$ -
Investment Income	-
Sales Tax/Grants	-
Fund Balance Appropriated	200,000
	<u>\$ 200,000</u>

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

Police CARES	\$ (440,204)
Fire CARES	(390,369)
	<u>\$ (830,573)</u>

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

Federal CARES	<u>\$ (830,573)</u>
	<u>\$ (830,573)</u>

TOTAL AMENDMENT	\$ (630,573)
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Councilwoman White made a motion to approve the budget amendment as presented. **Members voted 4-0 in favor of the motion**

PLEASANT RETREAT ACADEMY DISCUSSION

No discussion or action was needed on this item as Councilman Eaddy enlightened council members on the recent change of events surrounding the issue. Councilman Eaddy explained the details of what he had planned to propose, however due to action taken by County Commissioners, the building is being turned over to Preservation North Carolina. Councilman Eaddy did remind council members of the \$20,000.00 already allocated in next year's (2021-2022) budget to help with preservation efforts if a non-profit is formed or if the Historical Association takes ownership of the building.

(C-05-21)

CONSIDERATION OF AWARDING CHEMICAL BIDS FOR THE WATER AND WASTEWATER TREATMENT PLANT

Robert Pearson, Utilities Director, reported on the chemical bid opening which was held on Tuesday, April 13, 2021 at the Water Treatment Plant. Of the companies responding, recommendations are as follows:

Liquid Alum 8.23% - Univar USA, Inc. @ \$0.7424 per liquid gallon
Caustic Soda 50% - Brenntag Southeast, Inc. @ \$1.339 per liquid gallon
Chlorine – JCI Jones Chemical @ \$600.00 per cylinder
Orthophosphate 33% - Univar USA, Inc. @ \$3.79 per liquid gallon
Liquid Sodium Bisulfite (55 gal. drums) – Brenntag Southeast, Inc. @ \$112.00 per drum
Activated Carbon – Brenntag Southeast, Inc. @ \$31.75 per 50 lb. bag

Wastewater Treatment Chemicals

Liquid Sodium Hypochlorite 10% - Water Guard @ \$ 0.58 per liquid gallon
Liquid Sodium Bisulfite 38% - JCI Jones Chemical @ \$1.54 per liquid gallon

Councilman Jetton made a motion to approve the chemical bids as presented. Members voted 4-0 in favor of the motion.

(C-06-21)

APPROVAL OF CONTRACT FOR THE 2021 ALIVE AFTER FIVE CONCERT SERIES - FOR EVENTS HELD FROM 6PM - 10PM ON THE FOLLOWING DATES: JUNE 24TH, JULY 29TH, AUGUST 26TH, & SEPTEMBER 16TH

Mrs. Betty Flohr representing the Downtown Development Association, addressed council requesting approval of the 2021 Alive After Five concert series (the aforesaid document is attached to and made a part of these minutes). Mrs. Flohr informed that event permits have been approved, while several other required items are currently in process of being approved.

Although there were no questions for Mrs. Flohr from members of the governing board, Councilman Eaddy commented on the number of activities that are currently scheduled for the upcoming year.

Councilwoman Poinsette made the motion to approve the contract for the Alive After Five for this year. Members voted 4-0 in favor of the motion.

(P-03-21)

SPECIAL EVENTS POLICY UPDATES AND REVISIONS

Laura Morris, Community Relations Director, appeared before council to request approval of updates and revisions to the current Special Events Policy. Mrs. Morris explained that the proposed changes are an effort to clarify definitions, define the special events and create classifications and cost. She also mentioned clarifying new rules and regulation required to be enforced, such as fire code updates. She briefly spoke to all of the different departments that are involved in the events planning and how they work together, with each doing their part.

In response to a question from Councilman Eaddy, Ms. Morris assured that staff is available and can be reached 24 hour before, as well as during the event, in case an issue arises.

Councilwoman White made a motion to approve the policy updates and revisions. Members voted 4-0 in favor of the motion

CITY OF LINCOLNTON MASK MANDATE DISCUSSION

Mayor Ed Hatley opened the floor for discussion regarding the City's local mask mandate. Mayor Hatley asked for Council's input on what they felt the next step should be in regards to the local order due to the frequency of the changes being made. Councilman Eaddy expressed his concern on the issue, pointing out the difficulty in being able to respond quickly enough to the changes due to meeting on a monthly basis. Councilman Eaddy went on to say that while he does not want to send the wrong message, that mask are not important, Council is in a position to suspend the local mask mandate and ask citizens to follow the Governors executive order and well as the CDC guidelines. There was a small about of discussion regarding the vaccination numbers increasing and the restrictions being lifted.

Councilman Eaddy made a motion that the City mask mandate be dropped and that all citizens be encouraged to follow the Governors mandate and CDC guidelines. Members voted 4-0 in favor of the motion.

OFFICIAL PRESENTATION OF THE 2021-2022 BUDGET - PROPOSED FEE SCHEDULE - BUDGET MESSAGE

City Manager Ritchie Haynes came before the governing body to present the 2021-2022 budget, proposed fee schedule and budget message. Mr. Haynes began commenting on what he felt was a very successful budget work session, and thanking Council, department heads and their staff for the hard work that went into putting the proposed \$29,961,457 budget together. Mr. Haynes informed that the proposed budget includes no tax increase or utility rate increases. Nor is any fund balance being utilized.

Mr. Haynes presented the recommendations and highlights as follows:

General Fund \$11,037,157

- No tax rate increase
- New Revenue- Property Tax- \$50,000
- New Revenue - Sales Tax- \$215,000
- Restored Revenue - Sales Tax- \$200,000; *FY2021 Covid-19 reduction*
- Implement Salary Study-Phase 1- \$260,000
- Retirement Rate Increase - \$45,000

REGULAR MEETING - May 6, 2021

- Retiree Health Insurance Increase- \$54,900
- Replace 10 Police vehicles- Enterprise
- Allot \$36,000 to Police Department for Capital
- Allot \$10,000 to Police Department for Misc. Equipment
- Allot \$7,500 to Fire Department for Capital
- Allot \$10,000 to Fire Department for Misc. Equipment
- Allot \$18,000 to Fire Department for Building Needs
- Providing year six funding for DDA administrative position- \$42,000
- Rail Trail Landscaping Fund- \$10,000
- Allot \$50,000 to Parks & Recreation for Capital as follows:
 - Rail Trail Cameras - \$15,000
 - Hollybrook Paving - \$21,000
 - Entry Gates- Betty Ross & Highland Drive - \$14,000
- \$150,000 from NCMVT for street paving/sidewalks
- Fund Balance Available \$3.4M = 31%

Water and Sewer Fund \$8,196,950

- No rate increase
- Retirement Rate Increase - \$18,480
- Allot \$130,000 to Water Treatment Plant as follows:
 - PLC - \$30,000
 - Valve Replacement - \$60,000
 - Floc Drives-(2) - \$25,000
 - Clad Trac Repairs-(2) - \$15,000
- Allot \$364,500 to Waste Water Treatment Plant as follows:
 - Rebuilt #3 Pump Head - \$25,000
 - DAF Parts - \$64,500
 - Aeration Basin Diffuser Head - \$100,000
 - Road Repair - \$45,000
 - Garage Roof - \$30,000
 - #3 Digester Lid - \$100,000
- Allot \$535,000 to Distribution and Collection as follows:
 - Clarks Creek Rebuild Upgrade - \$200,000
 - Lift Station Generator-Country Club - \$75,000
 - Lift Station Generator-27 West - \$50,000
 - Poplar Street Sewer Line - \$60,000
 - Hoyle Street Gravity Line - \$75,000
 - Southfork Crossing - \$75,000
- Fund Balance Available \$3.5M = 43%

Electric Fund \$7,797,350

- No increase in rates
- Retirement Rate Increase - \$5,640
- Allot \$433,000 to Electric Department for Capital as follows:
 - Yard Machine - \$150,000
 - Line Reel - \$20,000

REGULAR MEETING - May 6, 2021

- Gaston Street Improvements - \$100,000
- Traffic Controller - \$60,000
- Smart Phones-(3) - \$3,000
- Wash Pit - \$100,000
- Building Maintenance - \$90,000
- System Maintenance Increase - \$120,000
- Fund Balance Available \$1.4M = 20%

Powell Bill Fund \$305,000

- Paving of City Streets- \$140,000
- Maintenance of City Streets- \$120,000
- Capital Projects- \$45,000
- Fund Balance Available \$288,000 = 95%
- Capital - \$134,000

Boger City Fire District Fund \$985,000

- Implement Salary Study — Phase 1- \$28,150
- Retirement Rate Increase - \$5,160
- Salaries & Benefits- \$692,300
- Operational Costs- \$158,700

Mr. Haynes did inform Council that due to the continuing difficulty with getting and retaining qualified police officers, he plans to instruct Human Resources Director to include this group in the upcoming pay study as well as finding other benefits that may help with the retention of officers. Continuing on to the Schedule of Fees, Mr. Haynes briefly explained the fees that have been added or deleted, as well as some wording changes.

With no questions from members of the governing board, Councilman Jetton made a motion to set June 3rd, as a public hearing. Members voted 4-0 in favor of the motion.

Manager's Report/Activity Update

City Manager Ritchie Haynes reviewed the following executive summary report and activity update for members of council:

May 2021 Council Meeting							
Executive Summary							
March 2021 Year-To-Date							
		Budget 20-21	Actual 20-21	% of Budget	Budget 19-20	Actual 19-20	Difference
General Fund							
Fund 10	Revenues	10,911,910	9,751,768	89%	11,543,700	9,426,627	325,141
	Fund Balance	-	-	-	825,000	-	-
		10,911,910	9,751,768		12,368,700	9,426,627	325,141
	City Manager/Clerk	248,220	146,739		222,495	101,474	45,264
	Human Resources	317,020	220,874		262,720	160,259	60,615
	Finance	158,230	33,049		129,630	(63,150)	96,199
	General Expense	1,280,731	970,266		1,103,160	776,874	193,392
	General Debt Service	334,757	61,361		430,632	65,565	(4,204)
	Police	3,400,120	2,556,923		3,223,020	2,376,814	180,109
	Fire	2,234,100	2,362,218		2,364,700	1,758,599	603,619
	Public Works	45,660	20,080		43,010	(33,793)	53,872
	Street	829,825	461,114		1,329,225	622,183	(161,069)
	Equipment Services	211,770	165,337		122,970	72,535	92,802
	Solid Waste	692,375	348,550		908,855	733,515	(384,965)
	General Services	-	-		-	-	-
	Plannin/Zoning	497,239	266,749		557,420	237,472	29,277
	Bus & Comm. Dev	123,200	112,145		423,200	33,715	78,430
	Recreation	1,038,663	683,163		1,247,663	906,021	(222,857)
	Expenses	11,411,910	8,408,567	74%	12,368,700	7,748,082	660,486
	Difference		1,343,201			1,678,545	(335,344)
Water & Sewer Fund							
		Budget 20-21	Actual 20-21	% of Budget	Budget 19-20	Actual 19-20	Difference
Fund 61	Revenues	8,146,950	6,264,977	77%	7,146,949	5,990,996	273,981
	Fund Balance	-	-	-	3,725,010	-	-
		8,146,950	6,264,977		10,871,959	5,990,996	273,981
	Water Treatment	1,972,500	883,062		1,496,850	901,903	(18,841)
	Dist & Collection	2,032,900	1,539,330		3,652,160	2,613,160	(1,073,830)
	Wastewater	1,625,000	996,123		1,547,000	899,240	96,883
	W & S Intangibles	4,247,050	1,019,020		4,175,949	1,191,312	(172,292)
	Expenses	9,877,450	4,437,535	45%	10,871,959	5,605,615	(1,168,080)
	Difference		1,827,442			385,381	1,442,061
Electric Fund							
		Budget 20-21	Actual 20-21	% of Budget	Budget 19-20	Actual 19-20	Difference
Fund 63	Revenues	7,788,350	7,163,860	92%	7,937,102	6,110,358	1,053,502
	Fund Balance	-	-	-	2,330,000	-	-
		7,788,350	7,163,860		10,267,102	6,110,358	1,053,502
	Electric Dept.	8,696,830	6,046,616		10,267,102	5,971,376	75,241
	Expenses	8,696,830	6,046,616	70%	10,267,102	5,971,376	75,241
	Difference		1,117,244			138,983	978,261
Overtime	80+ hours		436,033			411,674	24,359

In addition to the report, City Manager Ritchie Haynes noted the retirement of Scott Cherry whose last day was April 29th. He also briefly updated council on the Water Street sidewalk project and the Welcome Center, with hopes of having a ribbon cutting soon. Mr. Haynes reported that the Motz Avenue Dog Park officially opened on May 1st and the addition of Boger City Fire Department, extending thanks to Chief Heavner and his staff for all of the extra man hours involved in making it happen.

In conclusion, Mr. Haynes informed Council of two upcoming events. The Spring Art Crawl on May 21st and Chalk the Walk on May 22nd. In response to Councilman Eaddy's questions, Mr. Haynes advised that the end of May/first of June was the target date for the new restaurant. He also

reported on the status of the parking lot with hopes in receiving bids by the end of May or the first of June 2021.

PUBLIC COMMENT:

No one requested to speak during the Public Comment portion of the meeting

NEWS MEDIA:

News media had no questions

ADJOURNMENT:

Councilman Jetton made the motion to adjourn the meeting. Members voted 4-0 in favor of the motion. Meeting was adjourned At 8:02 p.m.

**DAPHNE INGRAM
CITY CLERK**

**ED HATLEY
MAYOR**

CITY COUNCIL

Ed L. Hatley, Mayor
Martin A. Eaddy, Mayor Pro-Tem
Mary Frances White
Christine Poinsette
Roby Jetton



CITY MANAGER

Ritchie Haynes
rhaynes@lincolntonnc.org
CITY CLERK
Daphne Ingram
[dingram@lincolntonnc.org](mailto:d Ingram@lincolntonnc.org)
CITY ATTORNEY
Thomas J. Wilson, Jr.

(R-05-21)

**A RESOLUTION AUTHORIZING THE DISPOSITION OF CERTAIN PERSONAL
PROPERTY BY PRIVATE SALE**

WHEREAS, the Lincolnton City Council of the City of Lincolnton desires to dispose of certain surplus property of the City; and

NOW THEREFORE, BE IT RESOLVED by the Lincolnton City Council that:

1. The following described property is hereby declared to be surplus to the needs of the City:

Lincolnton Police Department Sign
Dedication Plaque from lobby
Parking Signs for the Chief, Captain, Community Service Lieutenant &
Crime Prevention Officer

2. The City Manager is authorized to dispose of the described property by private sale at a negotiated price.
3. The City Clerk shall publish notice summarizing this Resolution in accordance with G.S. 160A-267.
4. The sale may be consummated not earlier than 10 days from the date of publication.

Adopted this 6th day of May, 2021

Ed Hatley, Mayor

ATTEST:

Daphne Ingram, City Clerk

CITY COUNCIL

Ed L. Hatley, Mayor
Martin A. Eaddy, Mayor Pro-Tem
Mary Frances White
Christine Poinsette
Roby Jetton



CITY MANAGER

Ritchie Haynes
rhaynes@lincolntonnc.org
CITY CLERK
Daphne Ingram
dingram@lincolntonnc.org
CITY ATTORNEY
Thomas J. Wilson, Jr.

**A RESOLUTION BY THE CITY OF LINCOLNTON
OPPOSING SB 349/HB 401 ("INCREASE HOUSING OPPORTUNITIES")**

WHEREAS, the legislation proposed in SB 349/HB 401 ("Increase Housing Opportunities") would eliminate single family residential zoning statewide and eliminate other aspects of local zoning, eroding the rights of local property owners and the decisions of their locally elected officials to determine how development should occur in their communities and neighborhoods; and

WHEREAS, uniform legislation for all local governments under one statewide zoning mandate that would eliminate the single-family zoning designation and allow multi-family housing in every neighborhood would usurp local control, undermine the rights of existing property owners and damage existing home values; and

WHEREAS, the legislation represents a broad and comprehensive attack on local land use decision - making and the ability of local property owners to weigh in on what is and is not appropriate development in their neighborhoods and communities; and

WHEREAS, the legislation would obstruct the ability of locally elected officials to consider all interests when making land use decisions, including those of existing homeowners and property owners who stand to lose the most when incompatible uses are allowed adjacent to their property; and

WHEREAS, the legislation would severely diminish or even eliminate the ability of local government to determine what is best for its community or even allow community input or involvement in the decision-making process; and

WHEREAS, development would become uncontrolled and reckless with little to no regard for property owners rights, not to mention the added stress and demand on a local government's infrastructure which would eventually lead to declining property values; and

WHEREAS, city officials were elected by their citizens for a reason — to protect and preserve the quality of life that they have come to enjoy; and

WHEREAS, increased housing does not guarantee more affordable housing nor does this legislation.

NOW, THEREFORE BE IT RESOLVED that copies of this resolution are sent to our legislative delegation and to the leadership of the North Carolina General Assembly in an effort to stop SB 349/HB 401 from becoming law and to work together to find real ways to advance affordable housing opportunities.

Adopted this the _____ day of _____, 2021.

Ed Hatley, Mayor

ATTEST:

Daphne Ingram, City Clerk

CITY COUNCIL

Ed L. Hatley, Mayor
Martin A. Eaddy, Mayor Pro-Tem
Mary Frances White
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R-07-21

RESOLUTION AUTHORIZING THE CHIEF OF POLICE TO ENTER INTO LAW ENFORCEMENT MUTUAL ASSISTANCE AGREEMENTS WITH OTHER LAW ENFORCEMENT AGENCIES

WHEREAS, North Carolina General Statute 160A-288 promotes cooperation between law enforcement agencies by authorizing the head of any law enforcement agency to temporarily provide assistance to another agency in enforcing the laws of North Carolina if so requested in writing by the head of the requesting agency; and

WHEREAS, the assistance may comprise allowing officers of the agency to work temporarily with officers of the requesting agency and lending equipment and supplies; and

WHEREAS, while working with the requesting agency under the authority of this statute, and officer shall have the same jurisdiction, powers, rights, privileges, and immunities as the officer of the requesting agency, in addition to those he normally possesses; and

WHEREAS, while on duty with the requesting agency, the officer shall be subject to the lawful operational command of his superior officers in the requesting agency, but for personnel and administrative purposes, he shall remain under the control of his own agency, including for purposes of pay; and

WHEREAS, an officer shall be entitled to Workmen’s Compensation and the same benefits when acting pursuant to a law enforcement assistance agreement to the extent as though he were functioning within the normal scope of his duties.

NOW, THEREFORE, BE IT RESOLVED that the Lincolnton City Council designates the Police Chief of the City of Lincolnton as the “Head” of the City’s Police Department as the term is used in North Carolina General Statute 160A-288 and the said Police Chief is hereby delegated authority to make or grant requests pursuant to this statute.

BE, IT FURTHER RESOLVED that the Police Chief of the City of Lincolnton is hereby authorized to enter into agreements for exchanging law enforcement officers, equipment or supplies in accordance with the provisions of North Carolina General Statute 160A-288.

Adopted this the ____ day of _____, 2021.

Mayor Ed Hatley

ATTEST:

Daphne Ingram, City Clerk

CITY COUNCIL

Ed L. Hatley, Mayor
Martin A. Eaddy, Mayor Pro-Tem
Mary Frances White
Christine Poinsette
Roby Jetton



CITY MANAGER

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CITY ATTORNEY
Thomas J. Wilson, Jr.

Proclamation

WHEREAS, more than ever, our nation depends upon local law enforcement as our first line of defense and it is very important for the people of the City of Lincolnton and Lincoln County to know and understand the duties, responsibilities and challenges of our law enforcement officers and agencies; and

WHEREAS, the men and women of these agencies give of themselves day in and day out to preserve our homeland security; and we applaud them for recognizing their duty to serve the people by safeguarding life and property, by protecting people against violence and disorder, and by protecting the innocent against deception and the weak against oppression and intimidation; and

WHEREAS, in 2020, 295 peace officers and 10 from North Carolina alone were killed in the line of duty; and

WHEREAS, the members of law enforcement agencies of the City of Lincolnton and Lincoln County play a vital role in safeguarding the rights and freedom of our local citizens.

NOW, THEREFORE, BE IT RESOLVED that the Lincolnton City Council does hereby proclaim the week of May 9th through May 15th, 2021 as

NATIONAL POLICE WEEK And May 15, 2021 as **PEACE OFFICERS MEMORIAL DAY**

and join law enforcement officers nationwide in commemorating their fallen comrades and urge the citizens of Lincolnton to recognize and honor law enforcement officers, past and present.

BE IT FURTHER RESOLVED that the citizens of the City of Lincolnton acknowledge and appreciate the contributions made by their local law enforcement officers for handling the difficult situations they encounter on a daily basis as part of their jobs.

IN WITNESS WHEREOF, I have hereunto set my hand and caused this seal to be affixed, this the 3rd day of May, in the year of our Lord two thousand and twenty-one.

Ed Hatley, Mayor

ATTEST:

Daphne Ingram, Lincolnton City Clerk

CONTRACT

STATE OF NORTH CAROLINA
COUNTY OF LINCOLN

THIS CONTRACT AND AGREEMENT made and entered into on this the 6th day of May 2021, by and between **THE DOWNTOWN DEVELOPMENT ASSOCIATION OF LINCOLNTON, INC.**, a corporation existing and doing business under the laws of the State of North Carolina, party of the first part, (hereinafter referred to as DDA), and the **CITY OF LINCOLNTON**, a municipal corporation created and existing under the laws of the State of North Carolina, party of the second part, (hereinafter referred to as CITY);

WITNESSETH:

The parties to this Contract hereby recite and declare that:

- a. Section 131.01 of the Code of Ordinances of the City of Lincolnton was so amended by the Lincolnton City Council at its regular meeting on April 4th, 2002 to allow the City to authorize and regulate the possession and consumption of malt beverages and unfortified wine on the public streets, alleys, and parking lots which have been temporarily closed to regular traffic for special events.
- b. The DDA is the sponsor, promoter, and operator of the event known as the “Lincolnton Alive After Five” events, which will be staged in downtown Lincolnton on Thursday June 24, July 29, August 26, and September 16, 2021.
- c. At the request of the DDA, the City Council agreed, subject to the provisions and conditions hereinafter set forth, to allow the DDA to administer the sale and sampling of malt beverages, unfortified wine and distilled spirits to the public within the designated event area between Court Square and Poplar Street at designated location(s) and to supervise and monitor the consumption of said alcoholic beverages at and during the “Lincolnton Alive After Five” events in downtown Lincolnton in 2021.

NOW, THEREFORE, in consideration of the reasons and facts recited above, the mutual promises and covenants of the parties as herein set out and for other good and valuable consideration, the receipt of which is hereby respectively acknowledged by the parties, the parties agree as follows:

I.

That in accordance with and subject to the terms and conditions herein set forth, the DDA is authorized to administer the sale and sampling of malt beverages, unfortified wine and distilled spirits to the public at its “Lincolnton Alive After Five” events, which are scheduled to be held on Thursday June 24, July 29, August 26, and September 16, 2021.

II.

That all alcoholic beverages sold and served at the event will be sold and consumed within the confines of the designated event area, the location of which must be approved by the City. The DDA agrees to obtain, pay for, and comply with all governmental permits and licenses necessary for the sale and consumption of the alcoholic beverages.

That DDA agrees to provide at its expense capable and competent personnel to administer and monitor the sale, sampling and consumption of alcoholic beverages for the duration of the event. The DDA agrees that its personnel will exercise all due care and circumspection to refuse service or sale of alcoholic beverages to any minor or to any person who may appear to be under the influence of alcohol or any controlled substance.

That DDA will not sell or allow the consumption of any alcoholic beverage before 6:00 p.m. or after 10:00 p.m. on the day of each event.

III.

That DDA hereby agrees to indemnify and hold the City and its employees harmless from any claims, causes of action, loss or injury resulting from the sale and sampling of alcoholic beverages and subsequent consumption thereof by the public at the “Lincolnton Alive After Five” events. That DDA agrees to defend the City against any such claims of loss or injury filed against the City.

IV.

That DDA will obtain and pay for liability insurance coverage (in an amount satisfactory to the City) for itself and the City as a result of the sale of alcoholic beverages on the streets of the City during the “Lincolnton Alive After Five” events. That DDA will promptly provide a copy of said insurance policy (ies) to the City. All policies will designate the City as a named insured.

V.

That the City reserves the exclusive right to modify, cancel, and rescind this Contract at any time hereafter if, in its sole discretion, the sale and consumption of alcoholic beverages at any “Lincolnton Alive After Five” event has resulted in problems that are detrimental to the health, welfare, or well-being of the City or its citizens.

VI.

That it is further understood and agreed by both parties that no promises or agreements not herein expressed have been made to or by either party hereto, and that this Contract contains the entire agreement between the parties hereto, and that the terms and conditions of the Contract are contractual and not a mere recital.

VII.

That this Contract may be amended only by written instrument signed and executed by the parties hereto.

IN WITNESS WHEREOF, the party of the first part has caused this instrument to be signed in its corporate name by its duly-authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, and the party of the second part has caused this instrument to be signed by its Mayor and attested by its Clerk, the day and year first above written.

DOWNTOWN DEVELOPMENT ASSOCIATION OF LINCOLNTON, INC.

By: _____
Tommy Huskey, Chairman

Attest:

Betty Flohr, Executive Director

CITY OF LINCOLNTON

By: _____
Ed Hatley, Mayor

Attest:

Daphne Ingram, City Clerk (**Municipal Seal**)



City of Lincolnton – Special Event Policy

Section 1. Purpose

The City of Lincolnton supports special events, including festivals, shows, performances and programs as these events contribute to quality and promote the community. The City provides general services and operational support for special events to ensure public safety, to create an environment for a well-organized special event and to ensure a pleasant experience for participants. Adequate advance planning and coordination are key components to the success and safety of any outdoor special event.

The City of Lincolnton has developed this Special Events Policy to facilitate advance planning, coordinate scheduling and arrange for appropriate city services and support operations to serve the event in a timely manner. Event Organizers are required to secure a Special Event Permit in advance of the event date.

Section 2. Definitions of Terms in this Policy are defined as follows:

2-1. Special Event.

A special event is defined as a pre-planned event, whether publicly and/or privately sponsored, which is proposed to be held on public property, including but not limited to parks, streets and/or sidewalks. All special events require a Special Event Permit issued by the City of Lincolnton. There are two categories of Special Events:

- a. Park and/or Street Festival - Park and/or Street Festival means an organized neighborhood or public gathering on a public right-of-way (street, sidewalk, parking lot or alley) or public park on a specified date at a specific time in a designated area that may or may not require street closures or an admission fee to enter and participate.
- b. Procession/Parade/Organized Competitive Event - Procession/Parade means a public or private march, run, cortege, walk, cavalcade, autocade, parade of any kind, other gathering of persons that occurs upon public right-of-way, park or both in an area used for vehicular traffic. Organized Competitive Event means any planned race, walk, derby, or event that involves a contest of skill and/or strength and takes place upon public right-of-way or park.

2-2. Event Classification & Costs.

a. City-Sponsored/Operated Special Events

Events that are created, planned, and implemented by City Departments or Agencies. Funding for City sponsored events is reviewed annually during the budget process. All fees are waived for events falling within this category. City may seek sponsorships to offset event costs.

b. City Co-Sponsored Special Events (Signature Events)

Events that are created, planned, and implemented by non-City Agencies. Support for the co-sponsored events may include in-kind services from City staff based on regular staff hours, waiver of some or all fees, and/or financial support limited to funds approved in City's annual budget. Cost recovery expenses are to be paid to City agencies and may include staff overtime, supplies, materials, and other direct expenses.

c. Non-City Sponsored Special Events

Events that are created, planned, and implemented by non-City Agencies. The City does not provide financial support for these events and expects to be reimbursed for all costs associated with the activity, including overtime expenses, supplies, materials, and permit fees. In the case of Non-Profit Events, the City may, upon approval by the City Manager, assist with the event/activity operation by providing some services from City staff at no charge. Event organizers of a Non-Profit Special Event must submit a current IRS 501(c)3 Statement.

2-3. Event Organizer. A representative of the sponsoring organization or the individual in charge of planning and implementing the special event. The person submitting the permit application must be an adult age 18 years or older.

2-4. Events and Facilities Supervisor. City of Lincoln staff member who administers the Special Events Policy and permit application process.

2-5. Special Events Permit. An approval document issued by the City of Lincoln upon completion of the application process that officially schedules the event and identifies requirements for appropriate city services and operations after payment of any required fees.

2-6. City Services. Services provided by the City of Lincoln in support of special events, including regular and over-time staff hours, supplies, and/or other services.

Section 3. Application of this Policy

This policy shall apply to all events taking place in the public right-of-way or for which the event organizer is requesting use of city resources, services, or personnel. Examples of outdoor special events include, but are not limited to, festivals, concerts, parades, runs and rallies.

Note: The following activities are exempt from this outdoor special event policy:

- a. Funeral processions,
- b. Group demonstrations or lawful picketing on sidewalks, subject to Chapter 94 of the Lincoln City Code, and
- c. Sidewalk dining, subject to Chapter 14 of the Lincoln City Code
- d. Filming activities are covered under the City of Lincoln Film Policy.

Section 4. Special Events Permit

4-1. Application Procedure. At the beginning of the event planning process, the Event Organizer should contact the City of Lincoln Events and Facilities Supervisor to assess needs for City of Lincoln services and operational support and to obtain a copy of the Special Events Permit Application.

- a. The Event Organizer should complete the application with required attachments and return it to the Events and Facilities Supervisor no later than 45 days prior to an event. Applications for special events that include a request for a temporary closure of a state-maintained street are advised that the North Carolina Department of Transportation requires closure notification be submitted to NCDOT for approval no later than 120 days prior to the event.
- b. The Events and Facilities Supervisor will review the application for completeness and route the application to the appropriate City staff for acknowledgement of service and operations support for the event and for comment. When all requirements listed on the application have been met, the Events and Facilities Supervisor will issue a Special Event Permit to the Event Organizer for the specific event at the specified times and locations.
- c. The City of Lincoln reserves the right to deny event activities that, in the City's view, pose a threat to public health and safety and/or if determined that the City or Event Organizer will be unable to provide adequate services to ensure public health and safety during the event. The Events and Facilities Supervisor may convene the appropriate City staff to meet with the Event Planner prior to issuing the permit and as needed after the permit is issued to facilitate coordination of activities and services.

4-2. Change in Plans. The permit is issued based on the conditions outlined in the permit application. The Event Organizer must notify the Events and Facilities Supervisor about any changes in plans, activities and/or service requirements as soon as possible, and no later than three weeks prior to the event so that accommodations can be made, if feasible. If accommodations for the proposed changes are not feasible, then the Event Planner must follow the arrangements specified in the permit application.

4-3. Permit Amendments. The Events and Facilities Supervisor shall document changes in plans in writing as an amendment to the Special Events Permit and circulate to respective City departments.

Section 5. Locations for Special Events

5-1. Events Located Within Right-of-Way. Many outdoor special events involve a temporary street closure. If the special event involves the temporary closure of a public street, use of sidewalks or other public property including event activities using parking spaces on city streets, the event organizer will need approval from the City. If the special event involves the closure of a state-maintained street, the event will also need to be approved by the North Carolina Department of Transportation. NCDOT requires 120 advance notification to approve all special events that request to temporarily close a state-maintained street. The city will facilitate this approval process but cannot guarantee NCDOT approval for requests made less than 120 days before the planned event.

5-2. Pre-Designated Routes for Organized Runs or Races. The City of Lincolnton has several pre-designated routes available for organized runs or races. Run or race event organizers are encouraged to utilize one of these pre-designated routes.

5-3. City Facilities. Event organizers may also consider use of the following City of Lincolnton public facilities that are available for outdoor special events subject to approval by the Parks and Recreation Department:

- a. Betty G. Ross Park
- b. Highland Drive Park
- c. City Park
- d. First Federal Park

Section 6. Charges and Fees

6-1. Schedule of Fees. The City may collect fees for one or more of the activities included with the special event, as outlined by the City of Lincolnton Fee Schedule. Fees may also be charged by agencies other than the City of Lincolnton for required permits and/or services. It is the Event Organizer's responsibility to identify and pay such fees.

6-2. Payment of Fees. Payment of any required fees is due to the City prior to receipt of the outdoor special event permit.

Section 7. Rules, Regulations and Requirements for Special Events

7-1. Availability/Visibility of Event Organizers Prior to and During the Event. During setup and the event itself, the Event Organizer or a designee must be on-site at all times. The Event Planner should be prepared to handle questions and problems regarding the event, such as resolving disputes among vendors, rain delays and coordination of City services.

7-2. Care of Public Property. The Event Organizer shall ensure that public property is protected from damage other than normal wear and tear, including, but not limited to, vandalism; damage to grass, shrubbery, or trees; damage to monuments, benches, or other amenities; damage to utilities and damage to sidewalks, asphalt in streets and parking lots.

7-3. Removal of Publicity Items. The Event Organizer is responsible for removal of any flyers, banners, posters and/or temporary signs placed in public areas to publicize the event immediately following the end of the event.

7-4. No Posting on Poles or Regulatory Signs. In accordance with City of Lincolnton regulations, event signs are not allowed to be attached to electric utility poles or to regulatory signs.

7-5. Permits from Other Agencies. The Event Organizer is responsible for securing any other required permits, permissions, or services from agencies other than the City of Lincolnton that may have jurisdiction over activities at the special event. A copy of these permits must be provided to the City for the Special Event file.

7-6. Insurance. Special Events require a Certificate of Insurance covering the specific event in the minimum aggregate amount of one million dollars (\$1,000,000). Insurance coverage must name the City of Lincolnton as an additional insured.

7-7. Fire Prevention. Event activities must comply with the City of Lincolnton and the North Carolina State Fire Code as administered by the City Fire Marshal.

7-8. Waste Disposal. It is unlawful to dispose of solid and/or liquid wastes in rivers, creeks, drainage ways, storm sewers, streets, parking lots or park areas. It is the responsibility of the sponsoring organization to arrange for proper disposal of grease and/or hazardous materials generated at the special event.

7-9. Portable Restrooms. It is the responsibility of the event organizer to provide adequate on-site restrooms to meet the specific needs of the event. The required number and location of restrooms for any event shall be determined by the City.

7-10. Tents/canopies.

- a. No tents and/or canopies shall be staked. All tents and/or canopies shall be secured or weighted down at all corners.
- b. No tent and/or canopy shall be erected within fifteen (15) feet of a fire hydrant or obstruct any building exit or doorway.
- c. Tents and/or canopies may not entirely block streets. A minimum of 14 feet clearance width and 13.5 feet overhead height for fire vehicle access must be maintained on all streets.
- d. Tents over cooking and/or open flames shall be required to have an attached label indicating flame resistance by National Fire Protection Association (NFPA), North Carolina State Fire Marshall, or other approved testing agency.
- e. There are additional requirements for tents and/or canopies depending on size and use. Tents and/or canopies 700 square feet or less, or when the aggregate total of multiple tents and/or canopies side by side do not exceed 700 square feet without a fire break of twelve feet, are exempt from being certified as flame retardant if all the following are met:
 - i. No enclosing side walls are present.
 - ii. No cooking or open flames.
 - iii. A minimum of twelve feet clearance is present from other structures or tents.
 - iv. At least one UL rated 2A, 10B or 10C extinguisher shall be provided for all tents exceeding 500 square feet or any size tent where there is cooking with open flames. When cooking areas include deep fryers, one (1) Class K portable fire extinguisher shall be provided for every four (4) fryers. Additional extinguishers may be required after the inspection. All required fire extinguishers shall bear a tag by a certified company verifying that the fire extinguisher has been inspected within the last 12 months. LP Gas use shall be restricted to cylinders no larger than 125 gallons water capacity (100 pounds of gas). Cylinders shall be secured to prevent over-turning.

7-11. Pets. No pets shall be allowed in the event area during Special Events unless authorized as a part of the application review. Exception shall be made for persons requiring the use of trained service animals. Service animals shall have proper identification. Service animals that pose a direct threat to others by growling, lunging, or otherwise menacing people can be barred from public access.

7-12. Alcohol. Any Special Events that serve beer, wine, spirits or other alcoholic beverages will require a contract with the City of Lincolnton approved by City Council and must adhere to all North Carolina Alcoholic Beverage Control rules, regulations and requirements.

Section 8. Provision of City of Lincolnton Services and Operational Support to Event

With proper advance notification as outlined in the Special Events Permit process, the City of Lincolnton can provide the following services and operational support for special events:

8-1 . Public Safety. Routine police and fire services are provided by the City of Lincolnton.

- a. The Police and Fire Departments will assess the need for traffic and/or crowd control and emergency response in advance based on information provided on the Special Event Permit Application and/or interviews with the event coordinator.
- b. During event set up, implementation and follow-up, public safety officials may open or close areas or take other actions that may impact the event in order to preserve public safety.
- c. The City of Lincolnton reserves the right to suspend an activity or activities if circumstances pose a threat to public health and safety and/or to public or private property.
- d. Police and fire personnel stationed on location at the event by the City are subject to being called away for emergencies in other areas of the City.
- e. The City of Lincolnton Police and Fire Departments reserve the right to determine the number of on duty and/or off duty public safety personnel needed to safely accommodate the event. If the City determines that off duty public safety personnel are required to safely accommodate the special event, hourly charges may apply for the off-duty personnel as determined by the City Police and Fire Departments.

8-2. Street closings. Upon request, the City can provide barrels, cones, and/or barricades for blocking of streets in accordance with the required deadlines prior to the event.

- a. The Event Organizer may be required to set up barrels, cones and/or barricades that the City has delivered to the event venue.
- b. Any outdoor special event request that includes a request to temporarily close a state-maintained street requires the approval of the NC Department of Transportation and submittal of the application a minimum of 120 days in advance of the event.

8-3. Solid waste services. Upon request, the City may provide delivery of temporary garbage containers to the event location prior to the event.

- a. The Event Organizer may need to place the containers in the desired location.
- b. The City will remove temporary containers at the conclusion of the event and may require that the Event Organizer consolidate containers into a single location.

8-4. Electrical and water services. Upon request, the City may provide electrical and water connections for the event.

8-5. Publicity resources. While it is the responsibility of the Event Organizer and/or sponsoring organization to notify the public about the event, the City may be able to assist with event publicity through the City's community calendar listings, the City's web site, social media and/or city outdoor signage.

Section 9. General Restrictions

9-1. Natural or civil disasters. In the event of natural or civil disasters, the City reserves the right to cancel all outstanding special event permits within the City limits. Should evacuation of a street or neighborhood be deemed necessary by fire, police, or other emergency authorities, all outstanding permits for that area are null and void. Permits will be re-granted as soon as possible following a safety evaluation by the City.

9-2. Public Safety. The City reserves the right to change, modify, update, or waive provisions of these policies where necessary for the public's safety.

9-3. Permit Cancellation or Restriction. The City reserves the rights to cancel special event permits and/or take further restrictive actions where necessary to assure adherence to these standards.

Section 10. Disclaimer of Liability; Indemnity

Every person and/or organization to whom a Special Event Permit is issued and every person who attends an Special Event acknowledges and agrees that the City of Lincolnton, its elected officials and employees, shall not be held liable for any injury, loss, damage, liability or obligation arising out of, or connected in any manner with, the planning, permitting, or conduct of an Special Event.

Every person and/or organization to whom a Special Event Permit is issued, as a condition of the issuance of the Outdoor Special Events Permit, agrees to indemnify and hold harmless the City of Lincolnton.

SPECIAL EVENT RELEASE AND INDEMNITY AGREEMENT

AGREEMENT TO RELEASE AND INDEMNIFY THE CITY OF LINCOLNTON, NC FOR

SPECIAL EVENT: _____

TO BE HELD ON: _____ from _____ to _____
Day/Date/Time

AT LOCATION: _____

Entity/Event Organizer

In consideration of the issuance of the special event permit by the City of Lincolnton, NC (hereinafter "City") to _____ (hereinafter "Event Organizer") for the above event (hereinafter the "event") and other good and valuable consideration, Event Organizer hereby agrees as follows:

The Event Organizer shall release, indemnify, keep and save harmless the City, its officers, officials, agents and employees (hereinafter collectively "Releasees") from any and all responsibility or liability for any and all damage or injury of any kind or nature whatever (including death resulting therefrom) to all persons, whether, officers, officials, agents or employees of the City or third persons, and to all property proximately caused by, incident to, resulting from, arising out of or occurring in connection with Event Organizer's use or occupancy of trails, sidewalks, rights-of-way and/or pedestrian ways or alternative routes located within the City as may be permitted pursuant a permit (or by any person acting for Event Organizer or for whom Event Organizer is or is alleged to be in any way responsible), whether such claim is based in whole or in part on contract, tort (including alleged active or passive negligence or participation in the wrong) or upon an alleged breach of any duty or obligation on the part of Releasees.

The provisions of this agreement shall include any claims for equitable relief or for damages (compensatory or punitive) against the Releasees including alleged injury to the business of any claimant, and shall include any and all losses, damages, injuries, settlements, judgments, decrees, awards, fines, penalties, claims, cost and expenses. Expenses as used herein shall include without limitation the costs incurred by Releasees in connection with investigating any claim or defending any action, and shall also include reasonable attorney's fees by reason of the assertion of any such claim against Releasees. Event Organizer expressly understands and agrees that any insurance protection required as a condition to the issuance of the permit herein applied for, or otherwise provided by Event Organizer, shall in no way limit Event Organizer's responsibility to release, indemnify, keep and save harmless and defend Releasees as herein provided. Permittee expressly accepts those portions of trails, sidewalks, rights-of-way and/or pedestrian ways to be used for the event identified in Event Organizer's application for a permit and any alternative route used in their present condition.

The intention of Event Organizer and the City is that this release and indemnity be incorporated into any permit for the event issued by the City. It is further the intention of the Event Organizer and the City that this release and indemnity be broadly construed and applied in favor of Releasees, subject to the limitations, if any, set forth in N.C.G.S. 5 22B-1.

AGREED BY: _____
Signature & Printed Name Date

OF: _____
Organization Name



City of Lincolnton

114 W Sycamore Street
Lincolnton, North Carolina 28092
(704) 736-8980 * Fax (704) 736-8995



Special Event Permit for: _____

Day/Date/Time: _____

Departmental Review & Approval

FIRE DEPARTMENT

Name of official: _____ Date: _____ Approved: Yes No

Conditions:

POLICE DEPARTMENT

Name of official: _____ Date: _____ Approved: Yes No

Conditions:

PUBLIC SERVICES – Solid Waste/Streets

Name of official: _____ Date: _____ Approved: Yes No

Conditions:

PARKS AND RECREATION

Name of official: _____ Date: _____ Approved: Yes No

Conditions:

EVENTS & FACILITIES

Name of official: _____ Date: _____ Approved: Yes No

Conditions:

NOTES: