

1. Agenda Packet

Documents:

[FEBRUARY 5, 2019 AGENDA PACKET.PDF](#)

2. Meeting Materials

Documents:

[AFTER ACTION MEMORANDUM.PDF](#)

[LENOIR FIRE DEPARTMENT STATION 3 BID CERTIFICATION.PDF](#)

[LENOIR FIRE DEPARTMENT STATION 3 UPLIFT BIDS.PDF](#)

AGENDA



**CITY OF LENOIR
CITY COUNCIL MEETING
905 WEST AVENUE
TUESDAY, FEBRUARY 5, 2019
5:00 P.M.**



I. CALL TO ORDER

- A. Moment of Silence & Pledge of Allegiance
- B. Appointment of City Attorney: Pursuant to N.C.G.S. §160A-173 and the City's Code of Ordinances, Chapter 2, Administration, Section 2-96, City Council shall appoint a City Attorney who shall be licensed to engage in the practice of law in the state of North Carolina.

II. MATTERS SCHEDULED FOR PUBLIC HEARING

- A. Continued; Ordinance; Conditional Zoning District; 211 Arrowood Street: A public hearing will be continued from the January 15 City Council meeting to consider adoption of an Ordinance designating 211 Arrowood Street comprised of 48.5 acres, more or less, as Conditional Zoning District #5 (CZ-5) on the City's Official Zoning Map; directing amendment of the Official Zoning Map; providing for severability, and an effective date. **Note:** This item was tabled at the January 15 City Council meeting in order for Staff to submit additional information regarding density and traffic.

III. CONSENT AGENDA ITEMS

- A. Minutes: Approval of the minutes of the City Council Meeting of Tuesday, January 15, 2019, as submitted.
- B. Minutes: Approval of the closed session minutes of the City Council Meeting of Tuesday, January 15, 2019 as reviewed by the City Attorney, City Manager and City Council.
- C. Minutes: Approval of the minutes of the Committee of the Whole Meeting of Tuesday, January 22, 2019.
- D. Resolution; Gryphon Environmental, LLC: Approval of the Resolution to Pre-Procure Dryer Equipment from Gryphon Environmental, LLC for the City's Biosolids Facility at the Lower Creek Wastewater Treatment Plant.

IV. REQUESTS AND PETITIONS OF CITIZENS

V. REPORTS OF BOARDS AND COMMISSIONS

VI. REPORT AND RECOMMENDATIONS OF THE CITY MANAGER

A. Items of Information

- 1. The movie "*Green Book*" will be shown at the Martin Luther King, Jr. Center on Saturday, February 9 beginning at 5:00 p.m. in commemoration of Black

History Month.

2. The City/County Services Committee will meet on Monday, February 11 at 11:45 a.m.
3. The Caldwell County Economic Development Commission will meet on Tuesday, February 12 at 8:00 a.m.
4. The Lenoir ABC Store will meet on Thursday, February 14 at 2:00 p.m.
5. The Lenoir Tourism Development Authority will meet on Thursday, February 14 at 4:00 p.m. at City Hall, Third Floor,
6. The Lenoir Business Advisory Board will meet on Thursday, February 14 at 6:00 p.m. at City Hall, Third Floor,
7. The City Council will hold its annual Planning Retreat on Friday, February 15 at 8:00 a.m. at the Blue Ridge Energy Meeting Room.
8. The Recreation Advisory Board will meet on Monday, February 18 at 6:00 at the Optimist Park Clubhouse

B. Items for Council Action

1. Bid Award; Fire Station No. 3: City Staff will present the bid recommendation award to City Council prior to the Council meeting on Tuesday, February 5.

VII. REPORT AND RECOMMENDATIONS OF THE CITY ATTORNEY

VIII. REPORT AND RECOMMENDATIONS OF THE MAYOR

- A. Board Announcement; Vacancies: Mayor Gibbons will announce for the general public the appointment of Patricia Kaye Reynolds to serve a term on the Lenoir Planning Board. This appointment will be placed on the February 19 agenda for consideration of approval by City Council. Ms. Reynolds will be replacing Merlin Perry who recently retired off of the Board.

Mayor Gibbons will also announce that vacancies exist on the Lenoir Housing Authority Board and the Lenoir Tourism Development Authority.

IX. REPORT AND RECOMMENDATIONS OF COUNCIL MEMBERS

X. ADJOURNMENT

CITY OF LENOIR**COUNCIL ACTION FORM: February 5, 2019****I. Agenda Item:**

An ordinance designating 211 Arrowood Street comprised of 48.5 acres, more or less, as Conditional Zoning District #5 (CZ-5) on the City's Official Zoning Map; directing amendment of the Official Zoning Map; providing for severability, and an effective date.

II. Background Information:

See attached CZ-5 ordinance and summary sheet. This item was originally considered by the Lenoir Planning Board on December 17, 2018. The Planning Board recommended approval of the ordinance, and called for a public hearing to be held on January 15, 2019 at the regularly scheduled City Council meeting.

On January 15, 2019, the Lenoir City Council held a public hearing to consider this request. Originally, the ordinance would have allowed for development up to 7.2 du/acre "by right" and additional density allowance of up to 10 du/acre when supported by a traffic study. In response to citizen comments made during the public hearing, Council directed staff to revise the language in the ordinance to reflect the densities currently allowed for single family development in the R-12 district (3.6 du/acre), with a lower maximum density cap when supported by a traffic study (108 units, consistent with an expired 2003 approval on the subject site). This ordinance reflects the motion approved by Council in that meeting, which tabled action on the item until the Feb. 5, 2019 meeting.

III. Staff and Planning Board Recommendation:

Planning staff and the Planning Board recommend that City Council approval of the Conditional Zoning District 5 (CZ5) ordinance as presented.

IV. Reviewed by:

City Attorney: _____

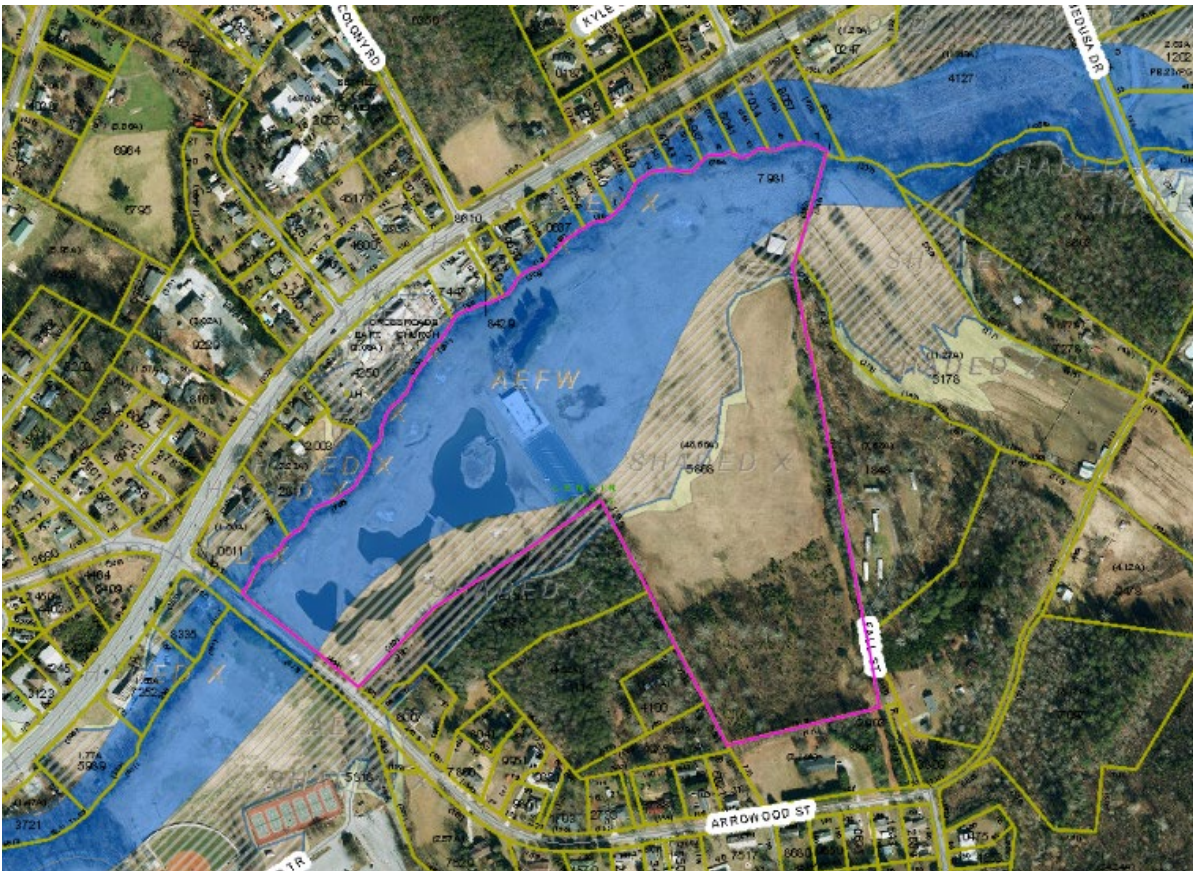
Finance Director: _____


Planning Director: _____

Arrowood CZ-5: Highlighted Changes to Ordinance following January 15, 2019 Public Hearing:

Highlights of the Revised CZ-5 zoning district:

- Legalizes appropriate non-residential uses for the existing restaurant building
- Legalizes additional residential housing types, including higher density attached and detached single family homes, townhomes, multi-family apartments, and assisted living facilities.
- Sets a “by right” density cap of 3.6 dwelling units per acre, which is consistent with the density allowed for single family homes “by right” in the R-12 zoning district. (Density is calculated only for acreage outside of the floodway – AEFW)
- Allows development at densities greater than 3.6 dwelling units only when such development is supported by a Traffic Impact Analysis (TIA) that shows that it will not have an adverse impact on the surrounding road network, and makes any off-site improvements recommended by the analysis additional conditions of approval. Caps the overall development rights at 108 dwelling units (consistent with previous approvals). Also requires a TIA for any development proposed to generate more than 500 daily trips.
- Requires a secondary access point for any development of 30 dwelling units or greater, consistent with the requirements of the NC Fire Code. Specifies that the preferred location for this access point be via Falls Street. (Note: Additional title work/survey work will need to be done to establish the exact location of the Falls Street ROW. Ensuring legal access is the responsibility of the property owner/developer. If a secondary access point cannot be established, the overall development capacity of the subject property will be limited to less than 30 dwelling units.)



*Please note that the staff report submitted previously used a land area calculation based on a survey submitted with a previous application, which indicated the property outside of the floodway was only 16 acres. Based on GIS maps, it appears the area is approximately 25 acres. This would need to be verified by a surveyor prior to permitting, and the actual acreage will be used to calculate the density of the project.

**AN ORDINANCE OF THE CITY COUNCIL OF LENOIR,
NORTH CAROLINA, DESIGNATING CERTAIN LAND
GENERALLY LOCATED SOUTH OF WILKESBORO BLVD.,
NORTH AND EAST OF ARROWOOD ST., AND WEST OF FALL
ST., AND COMPRISED OF 48.66 ACRES, MORE OR LESS, AS
CONDITIONAL ZONING DISTRICT #5 (CZ-5) ON THE CITY'S
OFFICIAL ZONING MAPS; DIRECTING AMENDMENT OF
THE OFFICIAL ZONING MAP; PROVIDING FOR
SEVERABILITY, AND AN EFFECTIVE DATE.**

Whereas, at its regularly scheduled meetings of December 17, 2018, the Lenoir Planning Board considered zoning application case number CZ-5, requesting the Conditional Zoning district designation, for approximately 48.66 acres of land, described by the legal description attached to this ordinance as **Exhibit “A”** (hereinafter the “Property”); and

Whereas, the property owner desires to allow the re-use of the existing commercial building on the property, and provide for the development of the remainder of the property with multi-family housing, necessitating the need for Conditional Zoning; and

Whereas, based upon the evidence presented to the Lenoir Planning Board, including the information and analysis contained in the staff report for application case number CZ-5, and subject to certain conditions, the Lenoir Planning Board recommended that the Lenoir City Council approve said conditional zoning application and adopt an ordinance in accordance therewith; and

Whereas, the Lenoir Planning Board has found that approval of the application is consistent with the City’s adopted Comprehensive Plan, which calls for creation of more housing opportunities for people

at all stages of life and concentrating density away from environmental sensitive and flood-prone areas; and

Whereas, the Lenoir City Council hereby finds that this ordinance is consistent with the intent and purpose of the Conditional Zoning designation as established by Appendix A, Article V, Section 502, Lenoir City Code; and

Whereas, the Lenoir City Council hereby finds and declares that this ordinance and these amendments are in the best interest of the public health, safety, and welfare; and

NOW, THEREFORE, LET IT BE ENACTED BY THE CITY COUNCIL OF THE CITY OF LENOIR, NORTH CAROLINA, AS FOLLOWS:

SECTION 1. ZONING. After due notice and public hearing, and pursuant to Appendix A, Article XIV of the Lenoir City Code, and other relevant portions of the Lenoir City Code, the zoning designation for the Property is hereby changed from the R-15 and R-12 zoning districts to Conditional Zoning district on the City's Official Zoning Map (to be denoted as "CZ-5").

SECTION 2. OTHER DEVELOPMENT LAWS. Except as expressly provided otherwise by this ordinance, the CZ-5 zoning district remains subject to all applicable federal, state, and local laws, and nothing in this ordinance shall be construed to exempt the Property from the lawful authority or jurisdiction of any federal, state, or local agency.

SECTION 3. DEFAULT ZONING DISTRICT. Except as expressly provided otherwise by this ordinance, the Property shall be governed by the land development regulations of the R-12 zoning district.

SECTION 4. SPECIAL CONDITIONS. The Conditional Zoning district for the Property is subject to the following special conditions:

1. **Concept Plan.** Subject to any modifications expressly contained in the text of this ordinance, development and maintenance of the Property must be consistent with the concept plan attached to this ordinance as **Exhibit "B"** (hereinafter the "Concept Plan"). In the event of a conflict between the text of this ordinance and the Concept Plan, the text of this ordinance shall control. References in this ordinance to lots, parcels, buildings, phases, and other development features refer to such features as identified on the Concept Plan.
2. **Variances.** Zoning variances to the standards of the default zoning district not modified by this ordinance may be approved pursuant to the procedures set forth in Appendix A, Article XIII, Section 1312.1 of the Lenoir City Code.
3. **Modification.** The special conditions specific to the CZ-5 zoning district may only be modified by application for a zoning map amendment following the procedures outlined in Appendix A, Article VIII, Section 820 of the Lenoir City Code.
4. **Permitted Uses.** In addition to the uses allowed in the R-12 zoning district, the following additional uses are permitted:

- a. Existing Building (Labeled “A” on Concept Plan): Club house, country club, restaurant (with or without on-premise alcohol), non-residential amenities for residential development (computer labs, community rooms, etc.), offices, light retail, and day care uses.
 - b. Upland Property (Labeled “D” on Concept Plan): Cluster developments, multi-family developments, bungalow courts, patio homes, duplexes, zero-lot-line single family developments, townhomes, assisted living facilities, and nursing homes.
 - c. Floodway Property (Labeled AE-FW on the Concept Plan): The only permitted uses of the floodway property, except for the existing development, are passive recreation/open space, walking trails, and golf courses.
5. **Density.** Residential uses shall be limited to a maximum density of 3.6 dwelling units/acre, except when a Traffic Impact Analysis is submitted to the City Planning Director showing that higher densities will not have adverse impacts on the surrounding transportation networks. In no case shall the total number of residential units exceed 108 units. Density calculation shall be based on the land area outside of the AE-FW Special Flood Hazard Area (approximately 24 acres). For assisted living facilities and nursing homes that have shared kitchen facilities and common areas, with either single occupancy or shared occupancy rooms, each 2 patient beds shall be considered one dwelling unit.
6. **Minimum Lot Size and Frontage.** There shall be no minimum lot size or public roadway frontage required for individually platted residential lots (i.e. townhomes, patio homes, etc.), as long as the parent tract for the residential development maintains a minimum frontage of 40 ft. on Arrowood Street. If private roads are developed in conjunction with platted lots, a homeowner’s association must be established to provide for the ongoing maintenance of private roads. If the northern portion of the parcel containing the existing building is to be subdivided separately an access easement along the private driveway for use by both the upland acreage and the existing building will be required.
7. **Traffic Study Required.** Any residential development generating more than 500 daily trips (based on ITE trip generation rates for the proposed development type) or exceeding 3.6 du/acre requires a Traffic Impact Analysis and all traffic improvements necessary to mitigate the impacts of the development on the surrounding street network shall be considered a part of the requirements of this section. This requirement shall only be waived by the City Council, after recommendation by the Planning Board, through the Conditional Use Permit process.
8. **Ingress and Egress.** The access point from Arrowood Street shall be maintained, and shall be available for use by the existing building as well as future residential development. A secondary access point must be provided for any development containing 30 or more residential units, which may be a private street. Fall St., labeled as “E” on the Concept Plan, is the preferred location for the secondary access. An alternative location for ingress/egress may be approved in lieu of opening Fall St., when supported by a Traffic Impact Analysis.
9. **Bufferyards and Maintenance.** A 15-foot vegetated buffer will be maintained or established around the entire upland portion of the site (excluding ingress/egress points) planted in accordance with the bufferyard standards of the Lenoir Zoning Ordinance. See buffer areas labeled “F” on the Concept Plan.
10. **Special Flood Hazard Areas.** Development shall not be expanded in the portions of the site located within the AE-FW Special Flood Hazard Area, except as allowed by the Lenoir Flood Damage Prevention Ordinance.
11. **Lighting.** All new and replacement light fixtures shall be fully cut-off and shielded so as to prevent light spill-over onto adjacent properties.
12. **Design.** Residential uses shall meet the open space and recreational space requirements of the Lenoir Zoning Ordinance. All units shall have either a covered entrance with a front-gabled roof or a front porch. Buildings containing more than one residential dwelling shall be articulated using a combination of architectural features, material changes, changes in roof lines, and projections and recesses to break up the massing of the building. Minimum roof pitch shall be 4:12. For detached dwellings, a minimum of 3 variations of front facades must be used, and no two immediately adjacent structures shall have the same façade.

13. **Sidewalks.** A 5-ft. wide sidewalk shall be provided to give direct pedestrian access from the upland portion "D" of the site to the existing building "A." A 5-ft. wide sidewalk shall be provided to give a direct pedestrian connection to Arrowood Street. 8 ft. wide asphalt greenways may be utilized as an alternative to 5-ft. standard sidewalks.
14. **Signage.** Building-mounted signage shall follow the sign rules of the B-2 zoning district for the existing non-residential building. All other development shall follow the sign standards for residential districts. On Arrowood Street, in order to accommodate ground-mounted signage for the existing building and upland residential development, one monument sign up to 8 ft. tall and 50 sq. ft. of copy area is permitted. On Fall St., or any other secondary access point located at least 300 ft. away from the existing driveway, an additional monument sign is permitted at a maximum height of 6 ft. with a maximum copy area of 32 sq. ft. The signs allowed under this section for both the commercial and residential portions of the site may be located within easements for private roads opened to serve this development and still be considered to be "on premise" signs.

SECTION 5. SEVERABILITY. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 6. EFFECTIVE DATE. This ordinance takes effect upon adoption.

DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Lenoir, North Carolina, by the City Clerk of the City of Lenoir, North Carolina, the 4th day of January and the 11th day of January, 2019.

DONE, THE PUBLIC HEARING, at a regular meeting, the 15th day of January, 2019.

DONE, ENACTED ON FINAL PASSAGE, by an affirmative vote of the a majority of a quorum present of the City Council of the City of Lenoir, North Carolina, at a regular meeting, this 5th day of February, 2019.

BY THE MAYOR/MAYOR PRO TEMPORE OF THE CITY OF LENOIR, NORTH CAROLINA:

Mayor/Mayor Pro Tempore

ATTEST, BY THE CLERK OF THE CITY COUNCIL OF THE CITY OF LENOIR, NORTH CAROLINA:

City Clerk

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EXHIBIT "A"

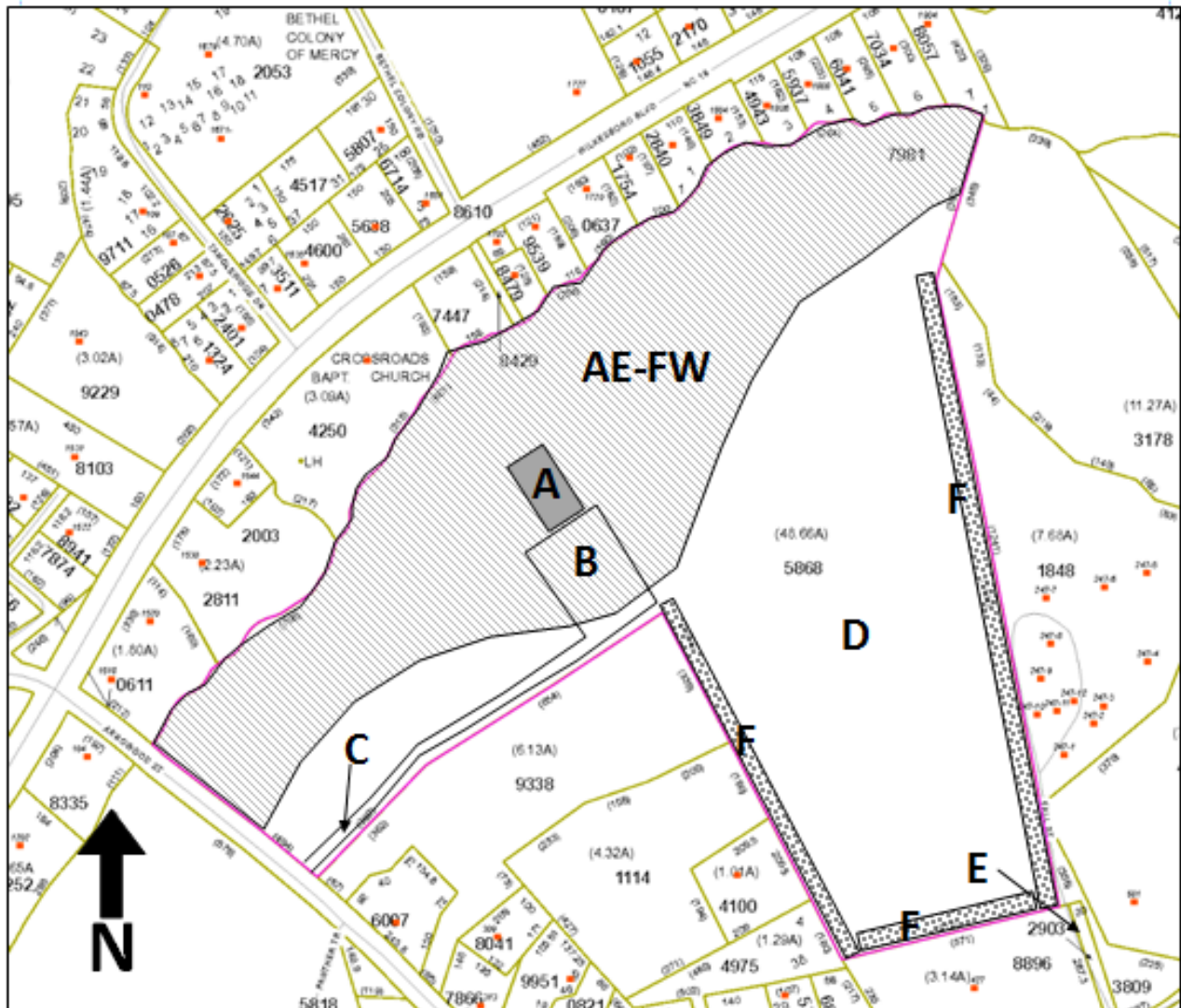
BEGINNING at a PK Nail (set) in a bridge over Lower Creek on Arrowood Street (SR-1709), said PK Nail being located S 47° 26' 00" E, 201.26 feet from a PK Nail in the centerline of Arrowood Street at the edge of Hwy. 18 (Wilkesboro Blvd.)

Preceding thence from said PK Nail (set), the point of beginning, leaving Arrowood Street and with Lower Creek for 3 calls: N 47° 53' 43" E, 575.92 feet; N 31° 45' 24" E, 463.18 feet; N 51° 10' 56" E, 294.45 feet to a point in Lower Creek and a common corner with the Gregory B. Barlow (694/29) property; thence leaving Lower Creek and with the Barlow property, N 24° 55' 06" W, passing a 3/4" Rebar at 225.16 feet and continuing 27.70 feet for a total distance along this bearing of 252.86 feet to a point in Hwy 18; thence with Hwy 18, N 62° 52' 52" E, 20.00 feet to a point in Hwy 18; thence leaving Hwy 18, S 24° 55' 06" E, passing a 3/4" Iron Pipe Set at 40.00 feet and continuing with the Barlow property, 208.69 feet for a total distance along this bearing of 248.69 feet to a point in Lower Creek and a common corner with the Barlow property; thence with Lower Creek for 2 calls: N 62° 39' 38" E, 87.97 feet; N 63° 31' 08" E, 113.87 feet to a point in Lower Creek and a common corner with the William Simmons (1047/1082) property; thence leaving Lower Creek and with the Simmons property, N 29° 39' 53" W, passing a 3/4" IPF at 25.00 feet and continuing 185.21 feet for a total distance along this bearing of 210.21 feet to a PK Nail in the margin of Hwy 18 and being a common corner with the Simmons property and NCDOT (1047/1015) property; thence with NCDOT, N 62° 32' 10" E, 160.70 feet to a 3/4" IPS in the margin of Hwy 18 and a common corner with the NCDOT property and the Basil G. Carswell (1086/443) property; thence leaving the margin of Hwy 18 and with the Carswell property, S 24° 55' 06" E, passing a 3/4" IPS at 160.00 feet and continuing 17.50 for a total distance along this bearing of 177.60 feet to a point in Lower Creek and a common corner with the Carswell property; thence with Lower Creek for 19 calls: N 58° 49' 23" E, 90.65 feet; N 56° 56' 09" E, 43.14 feet; N 50° 26' 53" E, 36.08 feet; N 30° 50' 42" E, 46.12 feet; N 60° 54' 26" E, 68.25 feet; N 56° 38' 43" E, 29.78 feet; N 74° 11' 13" E, 34.22 feet; S 83° 46' 03" E, 37.84 feet; N 72° 55' 34" E, 58.61 feet; N 74° 47' 39" E, 60.45 feet; N 77° 30' 06" E, 31.06 feet; S 85° 28' 00" E, 58.15 feet; S 87° 22' 33" E, 54.72 feet; N 86° 10' 49" E, 44.15 feet; N 82° 21' 27" E, 40.02 feet; N 73° 32' 39" E, 30.36 feet; S 82° 25' 20" E, 90.08 feet; S 57° 54' 09" E, 46.31 feet; S 70° 01' 37" E, 17.76 feet to a point in Lower Creek; thence leaving Lower Creek and with the Herbert E. Bryant (1066/221) property, S 22° 64' 02" W, passing a 3/4" IPS at 24.00 feet and continuing 380.61 feet for a total distance along this bearing of 404.61 feet to a 42" Ash tree in a fence line and a common corner with the Betty Jean Vines (907/201) property; thence with the Vines property, S 08° 44' 25" E, 1238.19 feet to a 1" IPF in the fence line and being a common corner with the Vines property and the Bryan K. Carlton (367/291) property; thence S 08° 51' 18" E, 223.80 feet to a 1/2" IPF; thence S 78° 41' 05" W, 533.75 feet to an axle in the line of the Thomas Pipes (411/641) property; thence with the Pipes property, N 24° 26' 46" W, 189.30 feet to a 4" I Beam and a common corner with the Pipes property and the Benny Bowen (1185/1252) property; thence with the Bowen property, N 23° 41' 03" W, 209.49 feet to a 1/2" IPF and being a common corner with the Bowen property and the J.F. Barnett (217/621) property; thence with the Barnett property, N 23° 48' 41" W, 186.26 feet to a Concrete (886/207) property; thence with the Carlton property, N 21° 11' 18" W, 330.84 feet to a 3/4" IPS; thence continuing with the Carlton property, along a ditch line, S 32° 53' 34" W, 40.00 feet to a 3/4" IPS; S 61° 25' 08" W 248.65 feet, S 61° 43' 52" W, 334.95 feet; S 53° 02' 58" W, 129.97 feet; S 45° 16' 41" W, 295.95 feet to a PK Nail in Arrowood Street; thence with Arrowood Street, N 50° 10' 00" W 495.90 feet to the point of Beginning.

Containing 2155341.587 ± square feet, or 49.48 ± Acres, by Computer, as surveyed by D & D Land Surveyors, 05/27/97.

Being the same property as conveyed from James E. Parlier and wife, Ellen Louise Parlier to R & R Enterprises, a North Carolina General Partnership, by Deed dated May 30, 1997, and recorded in Book 1192, at Page 783, Caldwell County Registry.

EXHIBIT "B" CONCEPT PLAN



Concept Plan Legend:

- A: Existing building, originally developed as a club house for Camelot Golf Club
- B: Existing Parking lot developed for Camelot Golf Club
- C: Primary ingress/egress
- D: Upland property reserved for permitted residential uses in accordance with CZ-5
- E: Private road to be opened to provide secondary access point for residential development
- F: Buffer areas — to be maintained and/or installed with residential development

(AE-FW is the non-encroachment floodway area)

**LENOIR CITY COUNCIL
TUESDAY, JANUARY 15, 2019
6:00 P.M.**

PRESENT: Mayor Gibbons presiding. Councilmembers present were Beal, Perdue, Perkins, Rohr, Stevens, Thomas and Willis. Also in attendance were City Manager Hildebran, City Clerk Cannon and City Attorney Blair.

I. CALL TO ORDER

- A. The meeting was opened by a moment of silence followed by the Pledge of Allegiance led by Mayor Gibbons.

**EXPRESSION OF SYMPATHY;
SHIRLEY CANNON:**

- B. On behalf of City Council, Mayor Gibbons extended sympathy to City Clerk Shirley Cannon upon the passing of her husband, Rex Cannon, in December and asked everyone to keep Shirley and her family in their thoughts and prayers.

Mayor Gibbons also asked everyone to remember Lester Whittington, Martin Luther King, Jr. Center Manager, in their thoughts and prayers as he continues to recover from a recent illness.

COMMENDED; CITY

- STAFF:** C. On behalf of City Council, Mayor Gibbons commended the Lenoir Fire Department for the great job they did at controlling the recent fire at the former Broyhill Occasional Furniture plant located on Virginia Street and for keeping everyone safe and protected. There were no injuries reported during the fire and none of the surrounding businesses experienced any damage.

Mayor Gibbons also thanked the surrounding Fire Departments including the Town of Hudson, Town of Gamewell and Town of Granite Falls along with other City personnel that provided assistance during this incident. Mayor Gibbons remarked it was a great example of the City's "*Service Beyond Measure*" Customer Service Program. In addition, Mayor Gibbons thanked the Public Utilities Department for all of their hard work in repairing a water main break on US Highway 321 over the weekend.

**SIGNAGE; WEST CALDWELL LADY WARRIORS, 1985 & 1986
CHAMPIONS:**

- D. Councilmember Crissy Thomas thanked City Staff along with the Public Works Department for the sign placed in the gym at West Caldwell High School in honor of the West Caldwell Lady Warriors winning the 3A State Basketball Championships in 1985 and 1986. Ms. Thomas stated the unveiling event was well attended and appreciated by everyone. She remarked this was a

nice collaborative effort between City Staff and former team members to finalize this project.

**COMMENDED; BERNHARDT
FURNITURE COMPANY:**

- E. On behalf of City Council, Mayor Gibbons commended Bernhardt Furniture Company for being chosen as one of the top six corporations that received the 2018 Governor's International Exports Award. Mayor Gibbons stated that Bernhardt Furniture is the oldest business in Caldwell County.

**RECEIPENTS OF AWARDS FROM THE
EDC CELEBRATION LUNCHEON:**

- F. Mayor Gibbons announced that Automated Solutions received the Industry of the Year Award at the Caldwell County Economic Development Celebration Luncheon held today while Aiken Controls received the Innovation Award. Mr. Alvin Daughtridge, Vice-President, Fairfield Chair, received the Legacy Award and Mrs. Laura Easton, President and Chief Executive Officer, UNC Healthcare, received the Herman Anderson Award.

Mayor Gibbons commended each of these individuals for their outstanding service and dedication to the community.

II. MATTERS SCHEDULED FOR PUBLIC HEARINGS

**ORDINANCE; NO THROUGH TRUCKS; BRADFORD STREET &
LUTZ STREET:**

- A. A public hearing was held to consider a request as submitted by City Staff, Public Works and the Police Department to consider designating a portion of Bradford Street SW and Lutz Street SW (in its entirety) with "No through Truck" signage by ordinance. The public right-of-way width of Bradford Street is twenty-five feet and the public right-of-way of Lutz Street is sixteen feet. These streets are located in the R-6 Residential Zoning District. A portion of Bradford Street is used as the primary truck access for an industry. The posting would not include this portion of Bradford Street. The City's Charter Code of Ordinances, Appendix B, Traffic, Section 123 – "No through Trucks" will be amended to include this portion of Bradford Street SW and Lutz Street SW (in its entirety) as "No through Trucks".

A copy of the ordinance and two maps of Bradford Street and Lutz Street are hereby incorporated into these minutes by reference. (Refer to pages 12 -16).

Mayor Gibbons opened the public hearing to receive public comments regarding Staff's "No through Truck" request.

There being no public participation, Mayor Gibbons closed the public hearing and asked Council for action.

Upon a motion by Councilmember Rohr, Council voted 7 to 0 to adopt the

submitted Ordinance to designate a portion of Bradford Street SW and Lutz Street SW (in its entirety) as “No through Trucks” as described above and as recommended by City Staff. The City’s Charter Code of Ordinances, Appendix B, Traffic, Section 123 – “No through Trucks” will be amended to include this portion of Bradford Street SW and Lutz Street SW (in its entirety) as “No through Trucks”.

**CONDITIONAL USE PERMIT; RESURRECTION
HOPE CHURCH OF GOD; 732 STACEY PLACE:**

- B. A quasi-judicial public hearing was held to consider a Conditional Use Permit for property located at 732 Stacey Place, NCPIN#2758052325, for a proposed youth day care center with the following conditions:
1. Student attendance is limited to a maximum of 23 students on site at any given time.
 2. Any new lighting for the daycare use shall be fully cut-off and shielded so as to eliminate and minimize light spill-over onto adjacent residential properties.
 3. Traffic flow of the student drop-off line must allow for five stacking spaces before the drop off point, as well as an adequate turn radius for cars exiting the parking lot. This may be accomplished through temporary setup of cones and barriers, in order to allow the parking lot to function normally during off-hours and church use.
 4. Additional ground-mounted signage is allowed for one sign no taller than 3-feet and limited to 3.2 square-feet of sign copy area. Reconfiguration of copy area on the existing church monument sign to include day care signage is allowed. Signs of corrugated plastic are prohibited.
 5. Valid permits and inspections must be obtained for this use, including and any other federal, state, or local regulation that applies.
 6. If the use has not been established within 24 months of the adoption of the Conditional Use Permit, the approval shall be considered null and void.

Mayor Gibbons opened the public hearing to receive public comments regarding the Conditional Use Permit request.

Planning Director Jenny Wheelock was sworn in by the City Clerk. She stated the applicant, leader of the day care and a representative of the church was present should Council have any questions.

Director Wheelock verified the Findings of Fact as listed on page 4 of the Staff Report is true and correct to the best of her knowledge.

(A copy of Finding of Facts was submitted as evidence and hereby incorporated into the minutes. Refer to page 17).

In addition, Director Wheelock clarified the day care center would operate out of the lower level of the community hall building which is one of two buildings located at the rear of the property.

There being no further public participation, Mayor Gibbons closed the public

hearing and asked Council for action.

Upon a motion by Mayor Pro-Tem Willis, Council voted 7 to 0 to approve the Conditional Use Permit for property located at 732 Stacey Place with the above listed six conditions as described above and the Findings of Fact Report in the submitted Staff Report as recommended by City Staff.

**TABLED; ORDINANCE; CONDITIONAL ZONING DISTRICT;
211 ARROWOOD STREET:**

- C. A public hearing was held to consider adoption of an Ordinance designating 211 Arrowood Street comprised of 48.5 acres, more or less, as Conditional Zoning District #5 (CZ-5) on the City's Official Zoning Map; directing amendment of the Official Zoning Map; providing for severability, and an effective date.

Mayor Gibbons opened the public hearing to receive public comments regarding the proposed ordinance.

A copy of the ordinance is hereby incorporated into these minutes by reference. (Refer to pages 18-23.)

Planning Director Wheelock reminded Council that conditional zoning is the zoning of property that can't otherwise seem to fit into one of the City's current zoning development standards. As background information, she stated the applicant is requesting a Zoning District for a property with an existing (inactive) restaurant and clubhouse, to accommodate multi-family developments at low to medium densities, along with allowances to re-use the existing restaurant building. The base zoning district for this request is proposed as R-12, but she reported this zoning district is unique in what it would allow to be built there. The permitted uses include town homes, garden apartments, or patio homes on the upward portion of the property with buffer yards plus it requires certain access for transportation purposes. Director Wheelock also stated, due to the property having a lot of environmental issues, she doesn't want to propose straight commercial zoning for this area.

Director Wheelock pointed out that the parcel includes fifteen (15) acres located in the floodplain. She stated there is potential for apartments and stated the Planning Department uses a maximum density standard to calculate what could be developed on the property. She further stated the ordinance requires two (2) access points. It was noted that a developer could build some residential by-right, but if they build above this quota, it would trigger a traffic study to be done and they would be required to make any necessary improvements. Director Wheelock also reported the maximum amount of units under the existing zoning is fifty-four (54).

In addition, Director Wheelock stated this property does not have a lot of road frontage. The City's current code calls for every lot to have road frontage to Faw Street, which hinders development. Director Wheelock reported that Staff is currently working on updating the City's zoning ordinance and she will

be proposing a residential commercial zoning that would allow multi-family by-right in the near future.

Director Wheelock re-stated Faw Street is a private street and developers would have to secure that access. She emphasized they cannot go across the floodplain in order to gain access to Wilkesboro Boulevard.

Nicholas Brown, 1348 Mountain Circle Drive, addressed Council and stated he represents the applicant who was unable to be present at the meeting. Mr. Brown shared several possible tenants are seeking to purchase the property, so the applicant chose to go through the zoning process in order to better market the property plus have the option to lease the restaurant in the future. Under the current zoning, the building may not be leased. He stated this step may be good for the City and also commented that it was only speculation as to what the applicant's actual plans are for the property.

Councilmember Rohr asked for clarification regarding access to the property.

Mr. Brown explained that Faw Street was the previous access when the facility was Camelot and pointed out it was a small private street which is now overgrown. He commented the potential new owners would have to address the egress/ingress issue and shared the street and parking lot were resurfaced two years.

Mrs. Jeanie Cline, 317 Arrowood Street SE, stated she also represents her son who lives at 323 Arrowood Street SE and stated her family home place is located at 321 Arrowood Street SE and currently up for sale. Mrs. Cline emphasized the future plans for apartments and condos are a concern due to the additional traffic and reiterated this property is in the floodplain. Mrs. Cline remarked she did not have an issue with a restaurant being in the former Camelot building, but she and her neighbors are opposed to an apartment complex that was discussed at the recent Planning Board meeting. She pointed out that Arrowood Street is a very populated area and it's not feasible to think the street can handle all of the additional traffic.

Mrs. Cline stated Hibriten High School and William Lenoir Middle School are located there and all the school traffic utilizes Arrowood street. A mobile home home park is at the end of Arrowood Street and these residents also use Faw Street. Mrs. Cline suggested the City conduct a traffic study and reported there are a number of potholes on Arrowood which is mainly City owned and maintained. She further shared that NCDOT has plans to close the bridge on Arrowood in order to replace it and traffic will then have to be directed through Hibriten High School during this construction project.

Mrs. Cline stated it would not be feasible to use Faw Street if the population increases and reiterated individuals would not have an access to Wilkesboro

Boulevard due to the floodplain. She shared the proposed plan is for motorists to use Faw Street and then travel through the mobile home park to exit the neighborhood. Mrs. Cline commented her family has lived in this neighborhood for 66 years and asked Council to give careful consideration to this request. She restated she doesn't want this proposed project to add to the existing traffic problem.

Amy Johnson Dunlap, 402 Arrowood Street, addressed Council and stated her property, which consists of three acres, abuts Faw Street. She stated she was not opposed to Camelot as a restaurant, but she is not in favor of 150 additional units in her neighborhood plus the possibility of 300 more cars. Ms. Dunlap stated she counted 39 units in her neighborhood, but that didn't include the mobile home park or the homes on one street. She expressed concern about her property value and commented the apartments may change the make-up and dynamics of the neighborhood. Ms. Dunlap also cited traffic issues and suggested the City's vegetated buffer requirements be increased from 15-feet to 30-feet.

Mr. Henry Tomlinson, 304 Tomlinson Court, stated his basic concern was the two schools and the potential for problems since the schools were in such close proximity to the proposed apartments. He remarked the apartment complex may have tenants that could be drug dealers or sex offenders and expressed his support of Ms. Dunlap's suggestion to increase buffer requirements to 30-feet.

Director Wheelock stated the primary goal is public safety and to have a second way to exit the property.

There being no further public participation, Mayor Gibbons closed the public hearing and asked Council for action.

Councilmember Beal inquired about the access points and conditional zoning.

Director Wheelock reported there were some right-of-way issues with the map and how residents believed them to be. She added the Planning Board also did not want to make a condition that may hinder future projects. She clarified the private road would be Arrowood Street and Faw Street would be secondary on the backside of the property.

Director Wheelock further explained the zoning ordinance would legalize some appropriate non-residential uses in order to continue to use the existing building. She stated the issue is to determine what is the maximum amount of units allowed and how the City will mitigate it. Director Wheelock also stated the City has ordinances that address traffic standards and further clarified applicants for future projects would have to go through the permitting process.

Councilmember Perdue stated this issue is procedural and he is less enamored with conditional use permits. He commented if Council had zoned the property correctly in 2003, they wouldn't be having this issue. Mr. Perdue emphasized that Council needs to make the right decision and, due to a lot of unknowns regarding

egress and ingress, he doesn't feel that he has enough information to make a decision at this time.

Director Wheelock stated a standard zoning change would correct this issue and reported that Staff is currently looking at creating a new residential commercial zoning district which would allow multi-family development by right. She referred to the amount of floodplain on the property and remarked that conditional zoning as a tool makes sense for this area.

In addition, Director Wheelock informed Council the proposed ordinance allows for 7.2 dwelling units per acre which was the amount previously approved. She also mentioned this density falls below the industry standard of 1,000 trips over a twenty-four hour period which is 10 dwelling units based on a traffic study. Director Wheelock further shared she is looking at tiered in order to allow flexibility for the developer should they meet all of the standards. It was noted that 3.6 dwelling units (homes) are allowed by-right per acre and that apartments generate less trips.

As examples, Director Wheelock pointed out the development approved near Bo's Entertainment would have 17 dwelling units per acre, but it is proposed to be a four-story building. The Linkside apartment complex has 7 to 8 dwelling units per acre which is about the maximum density.

Mayor Pro-Tem Willis led a discussion regarding the use of the property and the potential sale of the Camelot facility.

Councilmember Rohr referred to the comments made by Ms. Dunlap and Mr. Tomlinson regarding the proposed apartments, but pointed out from a legislative standpoint, the main concern is access because the potential owners may not have any access to the back end of property. Mr. Rohr stated he was philosophically opposed to conditional zoning and suggested Council just straight rezone this property. Mr. Rohr remarked he is looking forward to residential commercial zoning when it is approved.

Director Wheelock pointed out she is unsure whether commercial zoning would fit this property due to the existing building located there.

Mayor Pro-Tem Willis stated he would be in favor to take suggestions for how to make more access points, but pointed out the same concerns regarding appropriate access for fire, police, etc. remains even after the Board amends the ordinance.

Following much discussion, City Council was in consensus to send this matter back to Staff to in order for them to amend the ordinance to further clarify density and mitigate traffic impacts.

Upon a motion by Councilmember Rohr, Council voted 7 to 0 to table the Ordinance designating 211 Arrowood Street comprised of 48.5 acres, more or less, as Conditional Zoning District #5 (CZ-5) on the City's Official Zoning Map,

until the next City Council meeting of Tuesday, February 5 to allow Staff to present additional information as requested by City Council.

ORDINANCE; COMMUNICATION TOWERS & SMALL WIRELESS FACILITIES:

- D. A public hearing was held to consider adoption of an Ordinance which contains language for the regulation of small wireless facilities, as well as a modification to the existing regulations for communication towers to allow for tower heights up to 165-feet (an increase from the current maximum height of 110-feet) in the City limits. These changes are proposed in order to ensure consistency with federal and state law and to provide better opportunities for cell coverage for the citizens of Lenoir-especially related to the expansion of 5G technology.

A copy of the ordinance is hereby incorporated into these minutes by reference. (Refer to pages 24-39).

Mayor Gibbons opened the public hearing to receive public comment regarding the proposed ordinance.

Director Wheelock pointed out that several businesses who can't find sites to meet the City's current standards and setbacks for cell towers have contacted the Planning Department regarding this issue. She explained the proposed ordinance is modeled after Winston Salem's and has been reviewed by City Attorney Blair and Jared Wright, Public Works Director. Director Wheelock also stated the ordinance meets the legal sufficiency standard and will not have telephone cable.

City Attorney Blair further reported the ordinance also contains language to address any aggressiveness from providers.

As information, Director Wheelock also shared that cell towers that have lights are over 200-feet in height.

Mayor Pro-Tem Willis noted he serves on the National League of Cities Information, Technology and Communication Board and commented the Board addresses this issue with officials in Washington, DC, frequently to make sure small communities are protected by the legal language in the ordinance.

There being no further public participation, Mayor Gibbons closed the public hearing and asked Council for action.

Upon a motion by Councilmember Rohr, Council voted 7 to 0 to adopt the Ordinance to allow for tower heights up to 165-feet and to ensure consistency with federal and state law and to provide better opportunities for cell coverage for the citizens of Lenoir-especially related to the expansion of 5G technology as recommended by City Staff.

**ZONING REQUEST;
515 REALTY STREET:**

- E. A public hearing was held to consider a Zoning Request for property located at 515 Realty Street, NCPIN#2i749638920, to be rezoned from General Business (B-2) to Heavy Industrial (I-2) for the purpose of industrial development.

Mayor Gibbons opened the public hearing to receive public comment regarding the proposed zoning request.

There being no public participation, Mayor Gibbons closed the public hearing and asked Council for action.

Upon a motion by Councilmember Stevens, Council voted 7 to 0 to rezone property located at 515 Realty Street from (B-2) General Business to (I-2) Heavy Industrial as recommended by City Staff.

III. CONSENT AGENDA ITEMS

- A. Upon a recommendation by City Manager Hildebran, the following Consent Agenda items were submitted for approval:
1. Minutes: Approval of the minutes of the City Council Meeting of Tuesday, December 4, 2018, as submitted.
 2. Capital Project Ordinance; Fire Station III: Approval of a Capital Project Ordinance in the amount of \$1,635, 615.00 for the Fire Station III Capital Project. (A copy of the project ordinance is hereby incorporated into these minutes by reference. Refer to page 40).
 3. FY2018-19 Budget Amendments: Approval of Budget Amendment Ordinance 2019-01 in the amount of \$528,560.00 for the FY2018-2019 Fiscal Year. (A copy of the budget amendment is hereby incorporated into these minutes by reference. Refer to page 41).
 4. FY2018-2019 Annual Audit Contract: Approval of the FY2018-2019 Annual Audit Contract in the amount of \$31,533.00 as submitted by S. Eric Bowman, PA. (A copy of the audit contract is hereby incorporated into these minutes by reference. Refer to pages 42-48.)

Upon a motion by Councilmember Thomas, Council voted 7 to 0 to approve the above listed items on the Consent Agenda as presented and as recommended by City Manager Hildebran.

IV. REQUESTS AND PETITIONS OF CITIZENS

V. REPORTS OF BOARDS AND COMMISSIONS

VI. REPORT AND RECOMMENDATIONS OF THE CITY MANAGER

- A. Items of Information

HOLIDAY

CLOSING: 1. City offices will be closed on Monday, January 21 in observance of the Martin Luther King, Jr. Holiday.

COMMITTEE OF THE

WHOLE: 2. The Committee of the Whole will meet on Tuesday, January 22 at 8:30 a.m. at city Hall, Third Floor, former Council Chambers.

PLANNING

BOARD: 3. The Planning Board will meet on Monday, January 28 at 5:30 p.m.

FOOTHILLS REGIONAL AIRPORT

AUTHORITY: 4. The Foothills Regional Airport Authority will meet on Wednesday, January 30 at noon.

CITY COUNCIL

PLANNING RETREAT:

5. City Council will conduct its annual Planning Retreat on Friday, February 15 at 8:00 a.m. at Blue Ridge Energy Corporation's Meeting Room.

MARTIN LUTHER KING, JR. DAY

BREAKFAST:

6. The Martin Luther King, Jr. Center will host the 5th Annual Martin Luther King, Jr. Breakfast on Saturday, January 19. Mayor Pro-Tem Jillian Johnson, City of Durham, is the guest speaker.

MLK MEMORY MARCH &

CELEBRATION:

7. The Lenoir Chapter of the NAACP along with the City of Lenoir Recreation Department is hosting an MLK Memory March and Celebration on January 21 at 1:30 p.m. The March will begin at the J. E. Broyhill Park and end at the Martin Luther King, Jr. Center.

BLACK HISTORY

MONTH: 8. February is 2019 Black History Month. The following events are scheduled to be held at the Martin Luther King, Jr. Center located at 313 Greenhaven Drive.

➤ Jazz Show (The Groove Masters Band) – Saturday, February at 7:00 p.m.

➤ Movie Night ("Green Book") – Saturday, February 9 at 5:00 p.m.

➤ MLK Blood Drive – Saturday, February 12 from 2:00-6:30 p.m.

➤ Quiz Bowl/Essay Contest – Thursday, February 21 at 6:00 p.m.

B. ITEMS FOR COUNCIL ACTION

VII. REPORT AND RECOMMENDATIONS OF THE CITY ATTORNEY

VIII. REPORT AND RECOMMENDATIONS OF THE MAYOR

**ANNOUNCEMENT; VACANCY; LENOIR
PLANNING BOARD:**

- A. Mayor Gibbons announced that a vacancy exists on the Lenoir Planning Board due to the retirement of Merlin Perry. Interested individuals may apply online at www.cityoflenoir.com or pick up an application at City Hall located at 801 West Avenue.

Mayor Gibbons further announced the following terms are up for re-appointment and each of these individuals wish to serve another term. These re-appointments will be placed on the February 19 agenda for consideration of approval by City Council.

Lenoir Tourism Development Authority	– Matt Underwood
Lenoir Business Advisory Board	– Sean Williams and Kimmie Rogers
Lenoir Housing Authority	– Debbie Smith
Parks and Recreation Advisory Board	– Michael Dineen and James Robertson

IX. REPORT AND RECOMMENDATIONS OF COUNCIL MEMBERS

**CLOSED
SESSION:**

- A. Pursuant to N.C.G.S. §143-319.11(a), (6), and upon a motion by Councilmember, Perdue, which carried unanimously, City Council entered into closed session to discuss the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee.

**OPEN
SESSION:**

- B. Upon a motion by Councilmember Rohr, Council voted 7 to 0 to return to open session.

X. ADJOURNMENT

- A. There being no further business, the meeting was adjourned at 8:55 p.m.

Shirley M. Cannon, City Clerk

Joseph L. Gibbons, Mayor

**AN ORDINANCE OF THE CITY COUNCIL OF LENOIR,
NORTH CAROLINA, AMENDING APPENDIX B OF THE
LENOIR CITY CODE RELATED TO THE ENFORCEMENT OF
TRAFFIC REGULATIONS, PROVIDING FOR CODIFICATION,
AND AN EFFECTIVE DATE.**

Whereas, Section 123 of the Lenoir Traffic Ordinance lists City streets where “No Through Truck” traffic is allowed; and

Whereas, Section 123 of the Lenoir Traffic Ordinance currently includes only a portion of “Norwood Street” as prohibited to through truck traffic; and

Whereas, an increase in truck traffic resulting in damage to public and private property on both Bradford Street SW and Lutz Street SW has occurred; and

Whereas, the recorded public right-of-way width for Bradford Street SW is twenty-five feet, and the recorded public right-of-way width for Lutz Street SW is sixteen feet; and

Whereas, Bradford Street SW and Lutz Street SW are located within the R-6 Residential Zoning District; and

Whereas, the posting of “No Through Trucks” signage at the discretion of the City of Lenoir Public Works Department and Police Department would deter heavy, multi-axle vehicles from entering these densely populated, residential streets; and

Whereas, the posting of “No Through Trucks” signage would allow enforcement of this ordinance by the City of Lenoir Police Department on Bradford Street SW and Lutz Street SW; and

Whereas, the Lenoir City Council hereby finds and declares that this ordinance and these amendments are in the best interest of the public health, safety, and welfare; and

**NOW, THEREFORE, LET IT BE ENACTED BY THE CITY COUNCIL OF THE CITY
OF LENOIR, NORTH CAROLINA, AS FOLLOWS:**

**SECTION 1. Appendix B, Section 123, of the Code of Ordinances, City of Lenoir, North Carolina,
“is hereby amended to read as follows:**

Sec. 123.- No through trucks.

<u>STREETS</u>	<u>FROM</u>	<u>TO</u>	<u>BLOCKS</u>	<u>QUADRANT</u>
Norwood Street	Intersection of Morganton Boulevard (NC 18)	McLean Drive		
<u>Bradford Street</u>	<u>Intersection of</u> <u>Virginia Street</u>	<u>875 linear feet</u> <u>southwest of</u> <u>intersection of</u> <u>Virginia Street</u>		<u>SW</u>
<u>Lutz Street</u>	<u>Intersection of</u> <u>Columbus Street</u>	<u>End</u>		<u>SW</u>

SECTION 2. CODIFICATION. The City Clerk shall cause the Code of Ordinances of Lenoir, North Carolina to be amended as provided by this ordinance and may renumber, re-letter, and rearrange the codified parts of this ordinance if necessary to facilitate the finding of the law.

SECTION 3. EFFECTIVE DATE. This ordinance takes effect upon adoption.

DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Lenoir, North Carolina, by the City Clerk of the City of Lenoir, North Carolina, this _____ day of _____ and this _____ day of _____, 2018.

DONE, THE PUBLIC HEARING, AND ENACTED ON FINAL PASSAGE, by an affirmative vote of the a majority of a quorum present of the City Council of the City of Lenoir, North Carolina, at a regular meeting, this _____ day of _____, 2019.

BY THE MAYOR/MAYOR PRO TEMPORE OF THE CITY OF LENOIR, NORTH CAROLINA:

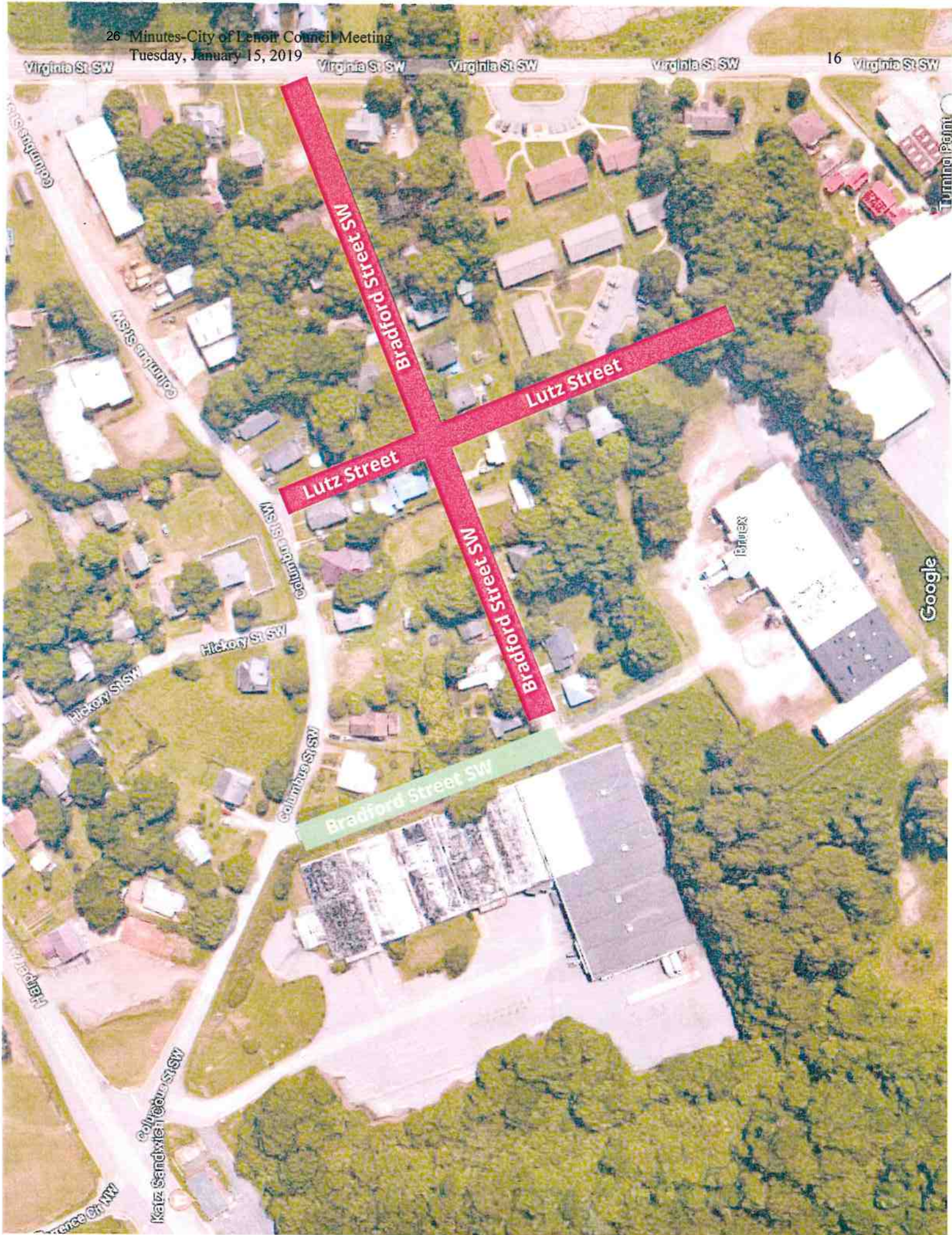
Mayor/Mayor Pro Tempore

ATTEST, BY THE CLERK OF THE CITY COUNCIL OF THE CITY OF LENOIR, NORTH CAROLINA:

City Clerk

****[Remainder of page intentionally left blank.]****





FINDINGS

No Conditional Use Permit shall be approved unless the Planning Board and City Council find that:

1. The proposed conditional use will comply with all height, yard, lot and area requirements and other regulations of the district in which it is located unless otherwise specified. *The development will comply with most requirements of non-residential uses in the R-9 district, with the exception of the 15' wide vegetated bufferyard for a use that abuts a residence, in which a 3-5' retaining wall on site will accommodate. Because the existing development will not expand, this legally non-forming condition is allowed to remain.*
2. All driveways will be designed with respect to such matters as proper ingress and egress for automobiles in order to minimize traffic congestion and increase pedestrian safety and conveniences. *There is one existing driveway into the church parking lot, and the limited size of the use ensures that it will not cause congestion.*
3. Off-street parking and loading areas will be provided in compliance with the Zoning Ordinance. *There are over 25 parking spaces in the primary parking lot adjacent to the social hall, as well as a paved parking area on the southern section of the property across the street. This more than complies with the required 3 spaces per the Zoning Ordinance. The applicant has also shown how the drop off line will flow through the primary parking lot to allow for 5 stacking spaces before the drop-off point.*
4. The establishment of the conditional use will not hinder the normal and orderly development and improvement of surrounding property for uses already permitted in the district. *The subject property is on a dead-end street. Only four single-family dwellings use the street to access Walt Arney Road. The large parking areas and walkways can contain the pick-up and drop-off traffic that the day-care will generate.*
5. Any required screening and landscaping will be designed or planted with full consideration of the effectiveness of individual plant types, dimensions, and characteristics in minimizing the noise, glare, visual impacts and other economic effects on adjoining properties. *A landscape plan was not submitted. The church buildings are positioned on a lower elevation than the adjacent single-family residence. An on-site retaining wall between the primary parking lot and the single family residence shields lights and noise created by parking traffic.*
6. Any permitted signs and proposed exterior lighting will be designed to reduce glare and to mitigate any adverse effects of sign size and height; so as to make the signs aesthetically pleasing and compatible with adjoining properties. *This development is currently planning to use a directional sign less than 3 ft. in height and less than 3.2 sq. ft. in copy area. Any exterior lighting will be incidental to the needs of the day care use, and will be designed to be fully cut-off and shielded from neighboring residential property.*
7. The exterior architectural appearance and functional plan of any proposed building or structure will not vary greatly from any buildings or structures already construction or in the course of construction in the immediate vicinity or from the character of the applicable district, so as to cause a substantial depreciation in the property values of the immediate vicinity. *The subject property is developed as a church, and the proposed use will be inside the existing social hall of the church. There are no proposed changes to the exterior of the social hall to accommodate this use.*
8. The type, size, hours of operations, location of the use upon the site, and intensity of the proposed conditional use will not be harmful or annoying to surrounding properties. *The proposed use of the property is accessory to the church. The applicant has stated that the day care will operate Mondays through Fridays during the school year, with some summer activities between the hours of 8am and 3pm. While this applicant proposes an intensification of the existing use, the impacts of 15-23 children will be minor and should not have overly adverse impacts on the few residences nearby.*

**AN ORDINANCE OF THE CITY COUNCIL OF LENOIR,
NORTH CAROLINA, DESIGNATING CERTAIN LAND
GENERALLY LOCATED SOUTH OF WILKESBORO BLVD.,
NORTH AND EAST OF ARROWOOD ST., AND WEST OF FALL
ST., AND COMPRISED OF 48.66 ACRES, MORE OR LESS, AS
CONDITIONAL ZONING DISTRICT #5 (CZ-5) ON THE CITY'S
OFFICIAL ZONING MAPS; DIRECTING AMENDMENT OF
THE OFFICIAL ZONING MAP; PROVIDING FOR
SEVERABILITY, AND AN EFFECTIVE DATE.**

Whereas, at its regularly scheduled meetings of December 17, 2018, the Lenoir Planning Board considered zoning application case number CZ-5, requesting the Conditional Zoning district designation, for approximately 48.66 acres of land, described by the legal description attached to this ordinance as **Exhibit "A"** (hereinafter the "Property"); and

Whereas, the property owner desires to allow the re-use of the existing commercial building on the property, and provide for the development of the remainder of the property with multi-family housing, necessitating the need for Conditional Zoning; and

Whereas, based upon the evidence presented to the Lenoir Planning Board, including the information and analysis contained in the staff report for application case number CZ-5, and subject to certain conditions, the Lenoir Planning Board recommended that the Lenoir City Council approve said conditional zoning application and adopt an ordinance in accordance therewith; and

Whereas, the Lenoir Planning Board has found that approval of the application is consistent with the City's adopted Comprehensive Plan, which calls for creation of more housing opportunities for people

at all stages of life and concentrating density away from environmental sensitive and flood-prone areas; and

Whereas, the Lenoir City Council hereby finds that this ordinance is consistent with the intent and purpose of the Conditional Zoning designation as established by Appendix A, Article V, Section 502, Lenoir City Code; and

Whereas, the Lenoir City Council hereby finds and declares that this ordinance and these amendments are in the best interest of the public health, safety, and welfare; and

NOW, THEREFORE, LET IT BE ENACTED BY THE CITY COUNCIL OF THE CITY OF LENOIR, NORTH CAROLINA, AS FOLLOWS:

SECTION 1. ZONING. After due notice and public hearing, and pursuant to Appendix A, Article XIV of the Lenoir City Code, and other relevant portions of the Lenoir City Code, the zoning designation for the Property is hereby changed from the R-15 and R-12 zoning districts to Conditional Zoning district on the City's Official Zoning Map (to be denoted as "CZ-5").

SECTION 2. OTHER DEVELOPMENT LAWS. Except as expressly provided otherwise by this ordinance, the CZ-5 zoning district remains subject to all applicable federal, state, and local laws, and nothing in this ordinance shall be construed to exempt the Property from the lawful authority or jurisdiction of any federal, state, or local agency.

SECTION 3. DEFAULT ZONING DISTRICT. Except as expressly provided otherwise by this ordinance, the Property shall be governed by the land development regulations of the R-12 zoning district.

SECTION 4. SPECIAL CONDITIONS. The Conditional Zoning district for the Property is subject to the following special conditions:

1. **Concept Plan.** Subject to any modifications expressly contained in the text of this ordinance, development and maintenance of the Property must be consistent with the concept plan attached to this ordinance as **Exhibit "B"** (hereinafter the "Concept Plan"). In the event of a conflict between the text of this ordinance and the Concept Plan, the text of this ordinance shall control. References in this ordinance to lots, parcels, buildings, phases, and other development features refer to such features as **identified on the Concept Plan.**
2. **Variances.** Zoning variances to the standards of the default zoning district not modified by this ordinance may be approved pursuant to the procedures set forth in Appendix A, Article XIII, Section 1312.1 of the Lenoir City Code.
3. **Modification.** The special conditions specific to the CZ-5 zoning district may only be modified by application for a zoning map amendment following the procedures outlined in Appendix A, Article VIII, Section 820 of the Lenoir City Code.
4. **Permitted Uses.** In addition to the uses allowed in the R-12 zoning district, the following additional uses are permitted:

- a. Existing Building (Labeled "A" on Concept Plan): Club house, country club, restaurant (with or without on-premise alcohol), non-residential amenities for residential development (computer labs, community rooms, etc.), offices, light retail, and day care uses.
 - b. Upland Property (Labeled "D" on Concept Plan): Cluster developments, multi-family developments, bungalow courts, patio homes, duplexes, zero-lot-line single family developments, townhomes, assisted living facilities, and nursing homes.
 - c. Floodway Property (Labeled AE-FW on the Concept Plan): The only permitted uses of the floodway property, except for the existing development, are passive recreation/open space, walking trails, and golf courses.
5. **Density**. Residential uses shall be limited to a maximum density of 10 dwelling units/acre. Density calculation shall be based on the land area outside of the AE-FW Special Flood Hazard Area (approximately 16 acres). For assisted living facilities and nursing homes that have shared kitchen facilities and common areas, with either single occupancy or shared occupancy rooms, each 2 patient beds shall be considered one dwelling unit.
6. **Minimum Lot Size and Frontage**. There shall be no minimum lot size or public roadway frontage required for individually platted residential lots (i.e. townhomes, patio homes, etc.), as long as the parent tract for the residential development maintains a minimum frontage of 40 ft. on Arrowood Street. If private roads are developed in conjunction with platted lots, a homeowner's association must be established to provide for the ongoing maintenance of private roads. If the northern portion of the parcel containing the existing building is to be subdivided separately an access easement along the private driveway for use by both the upland acreage and the existing building will be required.
7. **Traffic Study Required**. Any residential development exceeding 7.2 dwelling units/acre or generating more than 726 daily trips (based on ITE trip generation rates for the proposed development type) requires a Traffic Impact Analysis and all traffic improvements necessary to mitigate the impacts of the development on the surrounding street network shall be considered a part of the requirements of this section. This requirement shall only be waived by the City Council, after recommendation by the Planning Board, through the Conditional Use Permit process.
8. **Ingress and Egress**. The access point from Arrowood Street shall be maintained, and shall be available for use by the existing building as well as future residential development. A secondary access point must be provided, which may be a private street. Fall St., labeled as "E" on the Concept Plan, is the preferred location for the secondary access. An alternative location for ingress/egress may be approved in lieu of opening Fall St., when supported by a Traffic Impact Analysis.
9. **Bufferyards and Maintenance**. A 15-foot vegetated buffer will be maintained or established around the entire upland portion of the site (excluding ingress/egress points) planted in accordance with the bufferyard standards of the Lenoir Zoning Ordinance. See buffer areas labeled "F" on the Concept Plan.
10. **Special Flood Hazard Areas**. Development shall not be expanded in the portions of the site located within the AE-FW Special Flood Hazard Area, except as allowed by the Lenoir Flood Damage Prevention Ordinance.
11. **Lighting**. All new and replacement light fixtures shall be fully cut-off and shielded so as to prevent light spill-over onto adjacent properties.
12. **Design**. Residential uses shall meet the open space and recreational space requirements of the Lenoir Zoning Ordinance. All units shall have either a covered entrance with a front-gabled roof or a front porch. Buildings containing more than one residential dwelling shall be articulated using a combination of architectural features, material changes, changes in roof lines, and projections and recesses to break up the massing of the building. Minimum roof pitch shall be 4:12. For detached dwellings, a minimum of 3 variations of front facades must be used, and no two immediately adjacent structures shall have the same façade.
13. **Sidewalks**. A 5-ft. wide sidewalk shall be provided to give direct pedestrian access from the upland portion "D" of the site to the existing building "A." A 5-ft. wide sidewalk shall be provided to give a

direct pedestrian connection to Arrowood Street. 8 ft. wide asphalt greenways may be utilized as an alternative to 5-ft. standard sidewalks.

14. **Signage.** Building-mounted signage shall follow the sign rules of the B-2 zoning district for the existing non-residential building. All other development shall follow the sign standards for residential districts. On Arrowood Street, in order to accommodate ground-mounted signage for the existing building and upland residential development, one monument sign up to 8 ft. tall and 50 sq. ft. of copy area is permitted. On Fall St., or any other secondary access point located at least 300 ft. away from the existing driveway, an additional monument sign is permitted at a maximum height of 6 ft. with a maximum copy area of 32 sq. ft. The signs allowed under this section for both the commercial and residential portions of the site may be located within easements for private roads opened to serve this development and still be considered to be "on premise" signs.

SECTION 5. SEVERABILITY. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 6. EFFECTIVE DATE. This ordinance takes effect upon adoption.

DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Lenoir, North Carolina, by the City Clerk of the City of Lenoir, North Carolina, the 7th day of July and the 14th day of July, 2017.

DONE, THE PUBLIC HEARING, AND ENACTED ON FINAL PASSAGE, by an affirmative vote of the a majority of a quorum present of the City Council of the City of Lenoir, North Carolina, at a regular meeting, this 18th day of July, 2017.

BY THE MAYOR/MAYOR PRO TEMPORE OF THE CITY OF LENOIR, NORTH CAROLINA:

Mayor/Mayor Pro Tempore

ATTEST, BY THE CLERK OF THE CITY COUNCIL OF THE CITY OF LENOIR, NORTH CAROLINA:


City Clerk

****[Remainder of page intentionally left blank.]****

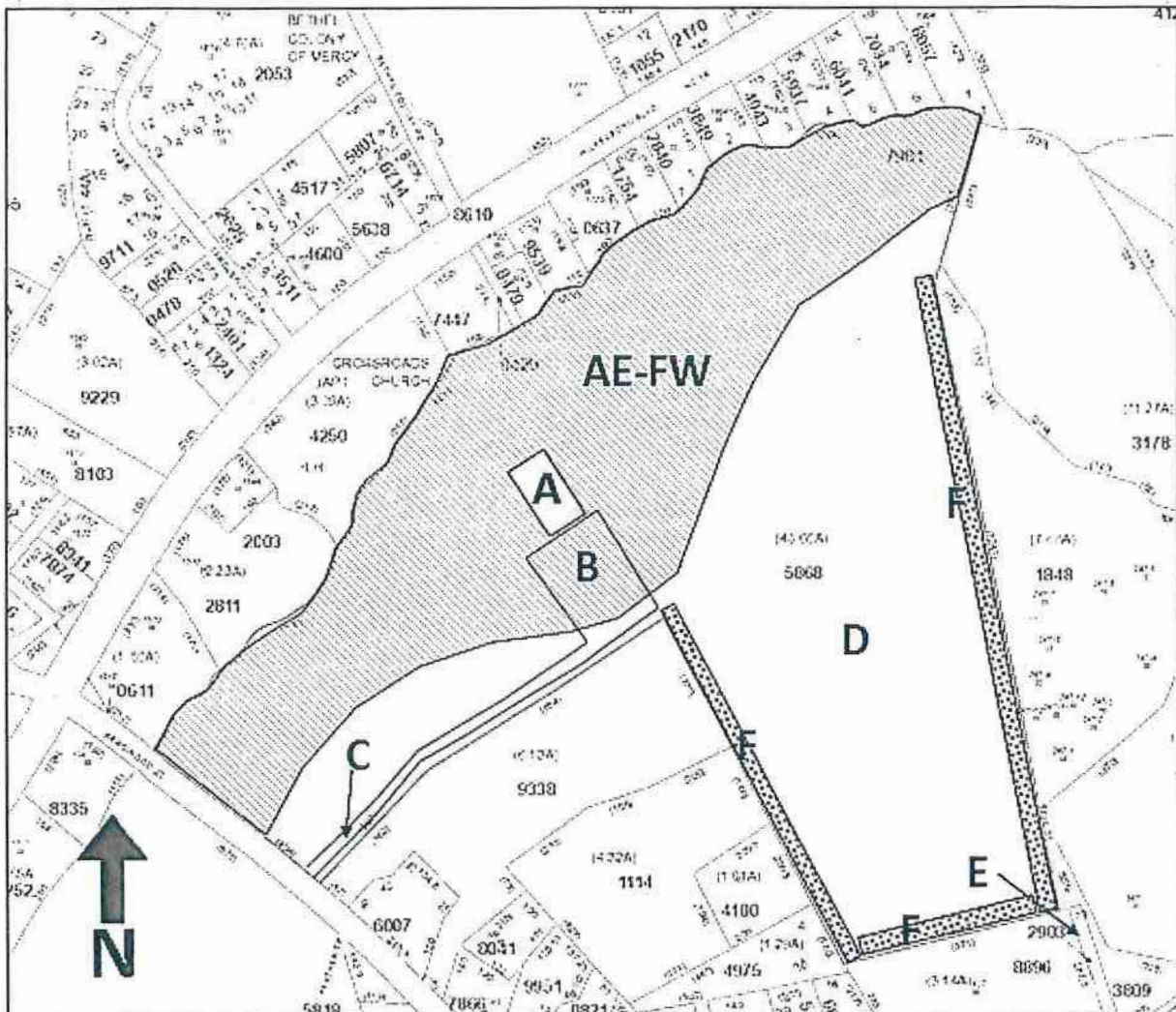
BEGINNING at a PK Nail (set) in a bridge over Lower Creek on Arrowood Street (SR-1709), said PK Nail being located S 47° 26' 00" E, 201.26 feet from a PK Nail in the centerline of Arrowood Street at the edge of Hwy. 18 (Wilkesboro Blvd.)

Preceding thence from said PK Nail (set), the point of beginning, leaving Arrowood Street and with Lower Creek for 3 calls: N 47° 53' 43" E, 575.92 feet; N 31° 45' 24" E, 463.18 feet; N 51° 10' 56" E, 294.45 feet to a point in Lower Creek and a common corner with the Gregory B. Barlow (694/29) property; thence leaving Lower Creek and with the Barlow property, N 24° 55' 06" W, passing a 3/4" Rebar at 225.16 feet and continuing 27.70 feet for a total distance along this bearing of 252.86 feet to a point in Hwy 18; thence with Hwy 18, N 62° 52' 52" E, 20.00 feet to a point in Hwy 18; thence leaving Hwy 18, S 24° 55' 06" E, passing a 3/4" Iron Pipe Set at 40.00 feet and continuing with the Barlow property, 208.69 feet for a total distance along this bearing of 248.69 feet to a point in Lower Creek and a common corner with the Barlow property; thence with Lower Creek for 2 calls: N 62° 39' 38" E, 87.97 feet; N 63° 31' 08" E, 113.87 feet to a point in Lower Creek and a common corner with the William Simmons (1047/1082) property; thence leaving Lower Creek and with the Simmons property, N 29° 39' 53" W, passing a 3/4" IPF at 25.00 feet and continuing 185.21 feet for a total distance along this bearing of 210.21 feet to a PK Nail in the margin of Hwy 18 and being a common corner with the Simmons property and NCDOT (1047/1015) property; thence with NCDOT, N 62° 32' 10" E, 160.70 feet to a 3/4" IPS in the margin of Hwy 18 and a common corner with the NCDOT property and the Basil G. Carswell (1086/443) property; thence leaving the margin of Hwy 18 and with the Carswell property, S 24° 55' 06" E, passing a 3/4" IPS at 160.00 feet and continuing 17.50 for a total distance along this bearing of 177.60 feet to a point in Lower Creek and a common corner with the Carswell property; thence with Lower Creek for 19 calls: N 58° 49' 23" E, 90.65 feet; N 56° 56' 09" E, 43.14 feet; N 50° 26' 53" E, 36.08 feet; N 30° 50' 42" E, 46.12 feet; N 60° 54' 26" E, 68.25 feet; N 56° 38' 43" E, 29.78 feet; N 74° 11' 13" E, 34.22 feet; S 83° 46' 03" E, 37.84 feet; N 72° 55' 34" E, 58.61 feet; N 74° 47' 39" E, 60.45 feet; N 77° 30' 06" E, 31.06 feet; S 85° 28' 00" E, 58.15 feet; S 87° 22' 33" E, 54.72 feet; N 86° 10' 49" E, 44.15 feet; N 82° 21' 27" E, 40.02 feet; N 73° 32' 39" E, 30.36 feet; S 82° 25' 20" E, 90.08 feet; S 57° 54' 09" E, 46.31 feet; S 70° 01' 37" E, 17.76 feet to a point in Lower Creek; thence leaving Lower Creek and with the Herbert E. Bryant (1066/221) property, S 22° 64' 02" W, passing a 3/4" IPS at 24.00 feet and continuing 380.61 feet for a total distance along this bearing of 404.61 feet to a 42" Ash tree in a fence line and a common corner with the Betty Jean Vines (907/201) property; thence with the Vines property, S 08° 44' 25" E, 1238.19 feet to a 1" IPF in the fence line and being a common corner with the Vines property and the Bryan K. Carlton (367/291) property; thence S 08° 51' 18" E, 223.80 feet to a 1/2" IPF; thence S 78° 41' 05" W, 533.75 feet to an axle in the line of the Thomas Pipes (411/641) property; thence with the Pipes property, N 24° 26' 46" W, 189.30 feet to a 4" I Beam and a common corner with the Pipes property and the Benny Bowen (1185/1252) property; thence with the Bowen property, N 23° 41' 03" W, 209.49 feet to a 1/2" IPF and being a common corner with the Bowen property and the J.F. Barnett (217/621) property; thence with the Barnett property, N 23° 48' 41" W, 186.26 feet to a Concrete Monument and being a common corner with the Barnett property and the John Bryan Carlton (886/207) property; thence with the Carlton property, N 21° 11' 18" W, 330.84 feet to a 3/4" IPS; thence continuing with the Carlton property, along a ditch line, S 32° 53' 34" W, 40.00 feet to a 3/4" IPS; S 61° 25' 08" W 248.65 feet, S 61° 43' 52" W, 334.95 feet; S 53° 02' 58" W, 129.97 feet; S 45° 16' 41" W, 295.95 feet to a PK Nail in Arrowood Street; thence with Arrowood Street, N 50° 10' 00" W 495.90 feet to the point of Beginning.

Containing 2155341.587 ± square feet, or 49.48 ± Acres, by Computer, as surveyed by D & D Land Surveyors, 05/27/97.

Being the same property as conveyed from James E. Parlier and wife, Ellen Louise Parlier to R & R Enterprises, a North Carolina General Partnership, by Deed dated May 30, 1997, and recorded in Book 1192, at Page 783, Caldwell County Registry.

EXHIBIT "B"
CONCEPT PLAN



Concept Plan Legend:

- A: Existing building, originally developed as a club house for Camelot Golf Club
- B: Existing Parking lot developed for Camelot Golf Club
- C: Primary ingress/egress
- D: Upland property reserved for permitted residential uses in accordance with CZ-5
- E: Private road to be opened to provide secondary access point for residential development
- F: Bufferyard areas — to be maintained and/or installed with residential development

(AE-FW is the non-encroachment floodway area)

**AN ORDINANCE OF THE CITY COUNCIL OF LENOIR,
NORTH CAROLINA, AMENDING APPENDIX A OF THE
LENOIR CITY CODE RELATED TO THE PERFORMANCE
STANDARDS FOR COMMUNICATION TOWERS,
ESTABLISHING REVIEW PROCEDURES FOR SMALL
WIRELESS FACILITIES, PROVIDING FOR SEVERABILITY,
CODIFICATION, AND AN EFFECTIVE DATE.**

Whereas, Sections 910-2 of the Lenoir Zoning Ordinance contain performance standards for communication towers, which always require a Conditional Use Permit; and

Whereas, the intent of these regulations is stated as “to allow...towers...while minimizing adverse visual and operational effects of towers through careful siting, design, and screening; to avoid potential damage to adjacent properties through proper setbacks; and to maximize the use of communication towers and existing structures to reduce the number of towers necessary to provide for the communication needs of Lenoir and surrounding areas;” and

Whereas, the current height limitation of 110 ft. limits opportunities for co-location (where multiple providers locate equipment on a single tower), increasing the need for additional towers in order to meet the growing demand for cellular service; and

Whereas, as cell phone use has dramatically increased since these regulations were first adopted, and towers have become more commonplace in our landscape, the general public has grown more accepting of towers within the community because it allows for more comprehensive cellular service; and

Whereas, Caldwell County recently amended their regulations to allow for towers at a maximum height of 195 ft., citing the need to increase cell coverage in Caldwell County; and

Whereas, allowing additional height on cell towers will increase the opportunities for co-location as well as provide better coverage in hilly areas, reducing the number of towers needed to provide continuous cellular coverage for multiple providers within the City limits; and

Whereas, the City desires to encourage wireless infrastructure investment by providing a fair and predictable process for the deployment of small wireless facilities, while enabling the City to promote the management of the rights-of-way in the overall interest of the public health, safety and welfare; and

Whereas, the City recognizes that small wireless facilities are critical to delivering wireless access to advanced technology, broadband and 9-1-1 services to homes, businesses, and schools within the City; and

Whereas, the City recognizes that small wireless facilities, including facilities commonly referred to as small cells and distributed antennae systems, often may be deployed most effectively in the public rights-of-way; and

Whereas, the City intends to fully comply with state and federal law to the extent it preempts local municipal control; and

Whereas, the Lenoir Planning Board finds and declares that this ordinance and these amendments consistent with the City's adopted Comprehensive Plan, which calls for limiting the number of new towers as well as for the ongoing accommodation of infrastructure upgrades to support growth and quality of life for Lenoir's residents; and

Whereas, the Lenoir City Council hereby finds and declares that this ordinance and these amendments are in the best interest of the public health, safety, and welfare, particularly considering the use of wireless communication by public safety officials; and

NOW, THEREFORE, LET IT BE ENACTED BY THE CITY COUNCIL OF THE CITY OF LENOIR, NORTH CAROLINA, AS FOLLOWS:

SECTION 1. Appendix A, Article IX of the Code of Ordinances, City of Lenoir, North Carolina, "Special Review Procedures for Conditional Uses" is hereby amended to read as follows:

910 Communication Towers

It is the intent of this Ordinance to allow communication towers for mobile telephone services and other radio and television information services, while minimizing adverse visual and operational effects of towers through careful siting, design, and screening; to avoid potential damage to adjacent properties through proper setbacks; and to maximize the use of communication towers and existing structures to reduce the number of towers necessary to provide for the communication needs of Lenoir and surrounding areas.

Communication towers shall be a conditional use in all zoning districts except the B-5, B-6 and B-7 zoning districts, and shall be subject to approval by the Lenoir City Council, following review and recommendation by the Lenoir Planning Board, provided that the structure adheres to all of the following conditions in addition to those specified by Section 900 (Conditional Uses) of this Ordinance.

910.1 Communication towers shall at all times comply with Federal Communications Commission (FCC) standards for radio frequency emissions.

910.2 Prior to the issuance of a Conditional Use Permit, the applicant shall be required to provide certificates of insurance demonstrating it has a minimum of \$1,000,000 in general liability insurance covering any liability arising out of its construction or operation of the communication facility. The applicant shall be required to maintain such coverage in full force and effect until such time as all above-

ground portions of the facility have been removed and all other conditions of its Maintenance & Removal Agreement have been satisfied.

910.3 Applicants shall ~~first~~ consider properties owned by the City of Lenoir or other government entity before considering private properties as locations for communication towers. The Planning Department will provide an inventory of City-owned properties. Public properties shall be subject to the same restrictions as private properties. If suitable public properties cannot be located, justification shall be provided which clearly explains why the public properties are not suitable and what alternatives were considered.

910.4 An application ~~for a~~ Conditional Use Permit shall ~~be~~ accompanied by a copy of an executed lease requiring the applicant to remove all above-ground portions of communication towers no later than ninety (90) days after cessation of operations. In addition, each applicant for a communication tower shall ~~execute~~ a facility maintenance/removal agreement prior to issuance of the Conditional Use Permit. Said agreement shall bind the applicant and the applicant's successors-in-interest to properly ~~maintain~~ the exterior appearance of and ultimately remove the facility in compliance with the provisions of this Ordinance and any conditions of approval. It shall further bind them to pay all costs for monitoring compliance with, and enforcement of, the agreement and to reimburse the City for all costs incurred to perform any work required of the applicant by the agreement that the applicant fails to perform. Such costs shall include, but not be limited to, administrative and job supervision costs. It shall also specifically authorize the City and/or its agents to enter onto the property and undertake said work so long as the City has first provided the applicant the following written notices at the applicant's last known address:

A. An initial compliance request identifying the work needed to comply with the agreement and providing the applicant at least thirty (30) days to complete the work; and

B. A follow-up notice of default specifying the applicant's failure to comply with the work within the time period specified and indicating the City's intent to commence the required work within ten (10) days.

C. All portions of abandoned or unused communication towers located above ground that are not removed within ninety (90) days of the cessation of operations, the facility may be removed as provided in the applicant's Maintenance/Removal Agreement by the City and the costs of removal recovered from the applicant's bond or other security.

910.5 Any communication tower in existence on the date of enactment of this Ordinance which does not comply in all respects with these provisions shall be deemed a nonconforming use. In the event such facility shall be destroyed, or suffer damage in excess of 50% of the tax value of the facility's improvements, such facility shall not be repaired or replaced and shall be removed unless any replacement facility complies in all respects with the provisions of this Ordinance. Except in the case of destruction or damage in excess of 50% of the tax value of the facility's improvements, technological upgrades of electronics and antennas are permitted, consistent with this ordinance.

910.6 Applications shall require payment of a nonrefundable \$2500 fee. This fee may be reduced to \$1000 when applicant is utilizing existing publicly- owned structures or land.

910.7 An applicant for a Conditional Use Permit for a communication tower that includes a new or additional tower or increase in tower height, shall be required to post a \$10,000 cash bond, or other security satisfactory to the City, to secure costs of removing all above ground portions of a communication tower (not including any part of the foundation) in the event the applicant shall fail to do

so within ninety (90) days of cessation of operation of the facility. The applicant shall be required to continue such bond or other security until such time as the facility has been removed and all other requirements of its Maintenance/Removal Agreement have been satisfied.

910.8 No communication tower shall be approved if an electric transmission tower is located within a one quarter mile radius (1320 feet) laterally of the proposed telecommunications tower site and if road access and necessary utilities can be obtained within a one quarter mile radius (1320 feet) of the existing electric transmission tower, unless the applicant can demonstrate that sufficient easements or other interests in real property cannot be obtained to accommodate the communication facilities, or that the electric utility owning the electric transmission tower is unwilling to allow its use for communication facilities, or if the planned equipment would exceed the structural capacity of the existing electrical transmission tower.

910.9 Electric transmission towers less than one hundred ten (110) feet in height may be replaced by metal electric transmission towers up to one hundred ten (110) feet in height. Such replacement shall be at the discretion of the electric utility which owns or operates the electric transmission tower, taking into account safety, service disruptions, structural capacity and structure life or duty cycle. For purposes of this Section, such replacement electric transmission tower shall be deemed to be an existing structure.

910.10 The tower shall be of a monopole design, engineered and constructed to permit the co-location of at least three additional users.

910.11 The exterior appearance of all buildings associated with the tower shall be similar to residences in the general area.

910.12 No tower shall exceed the height of 165 feet, which is measured from base of tower to top of tower.

910.13 The City Council may require that the applicant apply to the Federal Aviation Administration (FAA) for compliance with FAA standards for a dual lighting system rather than a red and white marking pattern, when such marking pattern is determined to be aesthetically blighting due to the visibility of the tower.

910.14 The base of the tower shall be surrounded by a fence or wall at least eight feet (8') in height unless the tower co-locates on a structure that makes such fence or wall impractical, as determined by the City. Such fences or walls shall be screened in accordance with Section 712 (Buffering and Screening) of this Ordinance.

910.15 No advertising or signage is permitted on any tower or antenna.

910.16 The City Council may require any other conditions, such as tower height or appearance, to mitigate the impact of the tower on adjacent properties and land uses.

910.17 Modifications that are otherwise consistent with this ordinance and do not substantially change existing towers shall be allowed without requiring additional review as a Conditional Use when the modifications:

- A. Do not increase the height of the tower by more than 10 percent;
- B. Will not extend more than 20 ft. from the tower;
- C. Will add no more than one equipment shelter or four equipment cabinets; and
- D. Will not involve excavation outside the tower site or existing utility or access easements

Modifications that do not meet the above standards may be allowed, but require review and approval as a Conditional Use and must meet all standards for such uses.

911 Communication towers in residential zoning districts:

911.1 The tower shall be setback from any property line or structure not associated with the tower by a distance of not less than 200 feet, unless the Planning Board and City Council find that due to existing topography, vegetation, adjacent commercial or industrial development, or technical practicality, a lesser setback would still be harmonious with the surrounding area and meet the intent of this Ordinance. In no case shall the setback be less than 50% of the height of the tower, and towers must be designed to collapse within a radius of half the tower height. In no case shall a tower be approved that is located within 200 ft. of any off-site residential structure.

911.2 Buildings associated with communication towers located in residential zoning districts may not be used as an employment center for any worker. This provision does not prohibit periodic maintenance or monitoring of equipment and ~~instruments~~. Such buildings shall have brick veneer and a pitched roof.

912 Communication towers located in non-residential zoning districts (excluding B-5, B-6 & B-7):

912.1 The tower shall be setback from any property line or structure not associated with the tower by a distance not less than 50% of the tower's height.

912.2 The exterior appearance of all buildings associated with the tower shall be compatible with structures in the general area.

913 Small Wireless Facilities

913.1 Purpose and Scope

- (a) Purpose. The purpose of this Section is to establish policies and procedures for the placement of small wireless facilities in rights-of-way within the City's jurisdiction, which will provide public benefit consistent with the preservation of the integrity, safe usage, and visual characteristics of the City rights-of-way and the City as a whole. This ordinance is not intended to prohibit or regulate small cell systems based on factors outside the City's authority, as established by State or Federal Law.
- (b) Intent. In enacting this Chapter, the City is establishing uniform standards to address issues presented by small wireless facilities, including, without limitation, to:
 - (1) Prevent interference with the use of, or damage to, streets, sidewalks, alleys, parkways, public utilities, public views, certain City corridors, and other public ways and places;
 - (2) Prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;
 - (3) Prevent interference with the facilities and operations of facilities lawfully located in rights-of-way or on public property;
 - (4) Protect against environmental damage, including damage to trees;
 - (5) Preserve the character of the neighborhoods in which facilities are installed; and

(6) Facilitate rapid deployment of small cell facilities to provide the benefits of advanced Wireless Services.

(c) Conflicts with Other Sections. This Section supersedes all Sections or parts of Sections adopted prior hereto that are in conflict herewith, to the extent of such conflict.

913.2 Definitions. The following definitions shall apply to this Section:

(a) "Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of Wireless Services.

(b) "Applicable Codes" means any uniform code such as building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to Persons, to the extent consistent with the terms of this Chapter.

(c) "Applicant" means any Person who submits an application and is a Wireless Provider.

(d) "Application" means a request submitted by an Applicant (i) for a Permit to collocate small wireless facilities or (ii) to approve the installation or modification of a Utility Pole, City Utility Pole, or Wireless Support Structure.

(e) "City" refers to the City of Lenoir.

(f) "City-Owned Pole" means (i) a Utility Pole owned or operated by the City in City right-of-way, including a Utility Pole that provides lighting or traffic control functions, such as light poles and traffic signals and (ii) a pole or similar structure owned or operated by the City in City right-of-way that supports only Wireless Facilities.

(g) "City Code" means the City of Lenoir Municipal Code, as amended from time to time.

(h) "Collocate" means to install, mount, maintain (other than routine maintenance), modify, operate, repair, or replace Wireless Facilities on or adjacent to a Wireless Support Structure, City-Owned Pole, or Utility Pole. "Collocation" has a corresponding meaning.

(i) "Day" means calendar day.

(j) "Emergency" is a condition that (1) constitutes a clear and immediate danger to the health, welfare, or safety of the public or (2) has caused or is likely to impair the use of facilities in the right-of-way and/or result in loss or impairment of the services provided.

(k) "Facility(ies)" means wireless telecommunication facilities.

(l) "FCC" means the Federal Communications Commission of the United States.

(m) "Fee" means a one-time charge.

(n) "Law" means federal, state, or local law, statute, common law, code, rule, regulation, order, or ordinance.

(o) "Modification" means a change to an existing wireless facility that involves any of the following: expansion, alteration, enlargement, intensification, reduction, or augmentation, including, but not limited to, changes in size, shape, color, visual design, or exterior material. "Modification" does not include repair, replacement or routine maintenance, if those actions do not involve a change to the existing facility involving any of the following: expansion, alteration, enlargement, intensification, reduction, or augmentation.

(p) "Monopole" means a structure composed of a pole or tower used to support Antennae or related equipment. A monopole also includes a monopine, monopalm, and similar structures, camouflaged to resemble faux trees or other faux objects.

(q) "Permit" means a written authorization required by the City to perform an action or initiate, continue, or complete a project.

(r) "Pole" means a single shaft of wood, steel, concrete, or other material capable of supporting the equipment mounted thereon in a safe and sufficient manner, as the City, in its sole and absolute discretion shall determine, and as required by provisions of the City Code and other Applicable Codes.

(s) "Person" means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, and includes the City.

(t) "Rate" means a recurring charge.

(u) "Rights-of-Way" or "ROW" means the area on, below, or above a roadway, highway, street, sidewalk, alley, utility easement, or similar property, but does not include federal interstate highways.

(v) "Small Wireless Facility" means a Wireless Facility that meet(s) both of the following qualifications: (i) each Antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an Antenna that has exposed elements, the Antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet and (ii) all other wireless equipment associated with the Wireless Facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, stealth or concealment elements, telecommunications demarcation boxes, ground-based enclosures/cabinets, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

(w) "Utility Pole" means a pole or similar structure that is used in whole or in part for the purpose of carrying electric distribution lines, cables, or wires for telecommunication, cable, or electric service, or for lighting. Such term shall not include structures supporting only Wireless Facilities.

(x) "Wireless Facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (i) equipment associated with wireless communications and (ii) radio transceivers, Antennae, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes Small Wireless Facilities. The term does not include the Wireless Support Structure or improvements on, under, or within which the equipment is collocated, to which the equipment is attached or within which the equipment is enclosed.

(y) "Wireless Infrastructure Provider" means any Person, including a Person authorized to provide telecommunications service in the state, that builds or installs wireless communication transmission equipment, wireless facilities, or Wireless Support Structures, but that is not a Wireless Services Provider.

(z) "Wireless Provider" means a Wireless Infrastructure Provider or a Wireless Services Provider.

(aa) "Wireless Services" means any services, whether at a fixed location or mobile, provided using Wireless Facilities.

(bb) "Wireless Services Provider" means a Person who provides Wireless Services.

(cc) "Wireless Support Structure" means a freestanding structure, such as a monopole or tower, either guyed or self-supporting, a billboard, or other existing or proposed structure designed to support or capable of supporting Wireless Facilities. Such term shall not include a Utility Pole or City-Owned Pole.

All terms defined in the singular shall have a comparable meaning when used in the plural, and vice versa.

913.3 Permitted Use; Application and Fees

(a) Permitted Use: Collocation of a Small Wireless Facility or a new or modified Utility Pole or Wireless Support Structure for the collocation of a Small Wireless Facility, that meet the height requirements of § 160A-400.55(c)(2), shall be classified as permitted uses and subject only to administrative review under Section 913.4 if they are collocated (i) in a City right-of-way, within any zoning district or (ii) outside of City rights-of-way, on property zoned other than as single-family residential property.

(b) Permit Required. No Person shall place or collocate a Small Wireless Facility in the public rights-of-way, without first filing the appropriate Application and obtaining a Permit therefore, except as otherwise provided in this Chapter.

(c) Permit Application. Applications for Permits filed pursuant to this Chapter shall be on a form, paper or electronic, provided by the City. The Applicant may designate portions of its Application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential", by clearly marking each page of such materials accordingly.

(d) Application Requirements. Applications shall be made by the Wireless Provider or its duly authorized representative and shall contain the following:

(1) A sealed plan, prepared by a Professional Engineer, Architect, Landscape Architect or other Professional authorized to practice land development in North Carolina.

(2) The Applicant's current name, address, telephone number, and e-mail address, as well as current contact information for responsible parties

(3) All Applications shall be submitted to the City's Public Works Department, which shall be the sole source of communications to and from the City (other than when Council or its committees consider an Application).

(4) The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the Applicant with respect to the filing of the application.

(5) A general description of the proposed work and the purposes and intent of the Small Wireless Facility, provided that, per N.C.G.S. § 160A-400.54 (d)(2), a Wireless Provider shall not be required to provide more information to obtain a Permit than communications service providers that are not Wireless Providers and provided, furthermore, that, pursuant to § 160A-400.52 (c), with respect to an

Application for the placement or construction of a new Wireless Support Structure or the substantial modification of an existing Wireless Support Structure, a Wireless Provider shall not be required to provide information pertaining to the Wireless Provider's designed service, customer demand for its service, the specific need for the Wireless Support Structure, including whether the Wireless Support Structure is intended to add additional wireless coverage or capacity, the quality of the Wireless Provider's service to or from a particular site or area, or any proprietary, confidential, or other business information to justify the need for the Wireless Support Structure, including propagation maps and telecommunications traffic studies. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed.

(6) A site plan, with sufficient detail to show the proposed location of items the Applicant seeks to install, modify, or collocate in the right-of-way, including any manholes or poles and the size, type, and depth of any conduit, enclosure, or other equipment.

(7) Provide certification that the Wireless Facilities, Wireless Support Structures, any new or modified Utility Poles and City-Owned Poles, and all other system components will not interfere with any existing public or private utilities, public safety, and other systems.

(8) Provide certification that the Small Wireless Facility, Wireless Support Structure, and new or modified Utility Pole or City-Owned Pole shall comply with the City Code and all Applicable Codes, approved plans, and prior and existing conditions of approval.

(9) A Wireless Provider shall demonstrate and certify that they have or will have access to power at the site of the proposed Wireless Facility, Wireless Support Structure, or new or modified Utility Pole or City-Owned Pole within thirty (30) calendar days of the Permit's issuance, and that power will be maintained to the site until the Wireless Facility is activated.

(10) An Application must include an attestation that Small Wireless Facilities will be collocated on the Utility Pole, City-Owned Pole, or Wireless Support Structure within six (6) months of approval, and that the Small Wireless Facilities will be activated for use by a Wireless Services Provider, in order to provide service, no later than one year from the Permit issuance date, unless the City and the Wireless Provider agree to extend this period or a delay is caused by a lack of commercial power at the site.

(11) An Applicant seeking to collocate Small Wireless Facilities at multiple locations within the City's jurisdiction shall be allowed, at the Applicant's discretion, to file a consolidated application for no more than twenty-five (25) separate facilities and receive a single Permit for the collocation of all the Small Wireless Facilities meeting the requirements of the ordinance, Applicable Codes, the City Code, and all other applicable federal and state laws and regulations. The City may remove Small Wireless Facility collocations from a consolidated application and treat separately those for which incomplete information has been provided or which the City will deny. The City may issue a separate Permit for each collocation the City approves.

(12) The Applicant asserts, to the best of the Applicant's knowledge, and under penalty of perjury, the truth of the information contained in the Application.

(13) Photo depictions of the proposed installation, modification, or collocation from the four (4) cardinal directions.

(14) Copies of any previously issued Permits for the Small Wireless Facilities, Wireless Support Structures, Utility Poles, City-Owned Poles, or other components of the system.

(e) Permit Conditions. A Permit for the collocation of the Small Wireless Facility shall provide that the collocation must commence (begin field construction) within six (6) months of approval and that the Small Wireless Facility shall be activated no later than one (1) year from the Permit issuance date, unless the City and the Wireless Provider agree to extend this period or a delay is caused by a lack of commercial power at the site. In addition, the Applicant shall be required to obtain all otherwise applicable work Permits including, by way of example and not by way of limitation, Permits for work that will involve excavation in the right-of-way, affect traffic patterns or obstruct vehicular traffic in the right-of-way. All Permits shall be conditioned on: (i) the Applicant's continuous compliance with the City Code and all Applicable Codes, approved plans, and prior and existing conditions of approval and (ii) the City's right to inspect and monitor the Small Wireless Facility, Wireless Support Structure, Utility Pole, and/or City-Owned Pole for compliance.

(f) Applicant. Applicant shall maintain compliance with the City Code, all Applicable Codes, all approved plans, all prior and existing conditions of approval, and all other applicable laws, regulations, rules, and codes. The City shall have the right, but not the obligation, to inspect and monitor all Small Wireless Facilities, Wireless Support Structures, Utility Poles, and City-Owned Poles for compliance.

(g) Routine Maintenance and Replacement. An Application shall not be required for: (i) routine maintenance or (ii) the replacement of a Small Wireless Facility with another Small Wireless Facility that is substantially similar or smaller in size, weight, and height, and that does not defeat or alter any concealment, stealth, or camouflage elements present on the Small Wireless Facility. Otherwise, an application is required and any replacement shall be in accordance with the provisions of this ordinance.

(h) Information Updates. Any amendment to information contained in an Application shall be submitted, in writing, to the City within thirty (30) days after the change necessitating the amendment. If the information is submitted before the Application has been approved, the City shall have another thirty (30) days from the date on which the new information was submitted to review the revised Application.

(i) Fees. The fee for submitting an application shall be one hundred dollars (\$100.00) per Small Wireless Facility for the first five Small Wireless Facilities addressed in an Application, plus fifty dollars (\$50.00) for each additional Small Wireless Facility addressed in the Application.

913.4 – Administrative Review and Approval Process

This Section applies to applications for Permits that meet the requirements specified in Subsection 3(A).

(a) Review for completeness. An Application subject to this Administrative Review section shall be deemed complete, unless the City provides notice, in writing, to the Applicant within thirty (30) days of submission or within some other mutually agreed-upon timeframe. The notice shall identify the deficiencies in the Application which, if cured, would make the application complete. The Application shall be deemed complete on resubmission if the additional materials cure the deficiencies identified.

(b) Applications. Applicants who/which intend to submit application with more than ten (10) proposed location sites shall be required to schedule and attend a pre-application conference with staff from the City's Public Works Department to discuss the application prior to its submission.

(c) Time Limits for Review of Completed Applications. An Application for a collocation, which is neither an eligible facilities request, per subsection 913.4 (e), below, nor the installation of a new Wireless

Support Structure, Utility Pole, or City-Owned Pole, and is subject to this Administrative Review section shall be processed on a non-discriminatory basis and shall be deemed approved if the City fails to approve or deny the Application within forty-five (45) days from the time the Application is deemed complete or, alternatively, within some other mutually agreed-upon timeframe, to which the City and the Applicant agree.

(d) Denial of Permit. The City may deny an Application for a Permit, subject to this Administrative Review section, on the basis that it does not meet: 1) the Applicable Codes or the City Code, 2) local code provisions or regulations that concern public safety, objective design standards for decorative Utility Poles, Utility Poles, generally, or reasonable and non-discriminatory stealth and concealment requirements, including screening and landscaping for ground-mounted equipment (ground cabinets, etc.), 3) public safety and reasonable spacing requirements for poles and ground-mounted equipment in the right-of-way, or 4) local, state, and federal historic district laws and regulations in and/or enacted pursuant to or consistent with Part 3C of Article 19 of Chapter 160A of the North Carolina General Statutes, 47 U.S.C. 332(c)(7), 47 U.S.C. 1455(a), or the National Historic Preservation Act of 1966, 54 U.S.C. 300101 et seq. The City shall (i) document the basis for a denial, including the specific code provisions on which the denial was based, and (ii) send the documentation to the Applicant on or before the day the City denies an Application. The Applicant may cure the deficiencies identified by the City and resubmit the Application within thirty (30) days of the denial, without paying an additional Application fee. The City shall approve, deny, or identify any continuing deficiencies in, the revised Application within thirty (30) days of the date on which the Application was re-submitted. Any subsequent review shall be limited to the deficiencies cited in the prior denial. If the cited deficiencies are not cured within one-hundred-twenty (120) calendar days of the date of the City's written notice to the Applicant, thereof, the Application shall automatically be deemed withdrawn on the one-hundred-twentieth (120th) calendar day.

(e) Review of Eligible Facilities Requests. Notwithstanding any other provision of this Chapter, the City shall approve and may not deny qualifying applications for eligible facilities requests, which meet the requirements of federal and state law, within sixty (60) days from the date of the Application's submission or forty-five (45) days from the date the Application is deemed complete, whichever comes first, or, alternatively, within some other mutually-agreed time frame, to which the City and the Applicant agree. The City shall process and review all qualifying eligible facilities requests according to the requirements and procedures established in 47 CFR 1.40001(c) and N.C.G.S. § 160A-400.53.

913.5 Small Wireless Facilities in the ROW; Maximum Height; Other Requirements

(a) Maximum Size of Permitted Use. A Wireless Provider may collocate Small Wireless Facilities along, across, upon, and under any City right-of-way, subject to the requirements of this ordinance and applicable federal and state laws, rules, and regulations. Subject to this ordinance and applicable federal and state laws, rules, and regulations, a Wireless Provider may also place, maintain, modify, operate and replace associated Utility Poles, City-Owned Poles, conduit, cable, and related appurtenances and facilities along, across, upon, and under any City right-of-way. The placement, maintenance, modification, operation and replacement of Utility Poles and City-Owned Poles associated with the collocation of Small Wireless Facilities, along, across, upon, and under any City right-of-way shall be classified as Permitted uses and subject only to administrative review or approval under subsection 913.4 if the Wireless Provider meets the following requirements:

(1) Each new Utility Pole and each modified or replacement Utility Pole or City-Owned Pole installed in the right-of-way shall not exceed fifty (50) feet above ground level.

(2) Each new Small Wireless Facility in the right-of-way shall not extend more than ten (10) feet above the Utility Pole, City-Owned Pole or Wireless Support Structure on which it is collocated.

(3) Nothing in this section shall be construed to prohibit the City from allowing Utility Poles, City-Owned Poles, or Wireless Facilities that exceed the limits set forth herein.

(4) Relay towers and other towers taller than fifty (50) feet shall be considered communication towers for purposes of this ordinance and, regardless of whether the towers are located within the public right-of-way or no, all relay and other towers taller than fifty (50) feet shall be treated as Conditional Uses under Appendix A, Section 910 of the City Code.

(b) Other Requirements. Any Wireless Provider that seeks to construct or modify a Utility Pole, Wireless Support Structure, or Wireless Facility shall be subject to the following requirements:

(1) Collocations of Small Wireless Facilities are preferred on existing poles, where feasible.

(2) Installations of Small Wireless Facilities are preferred at property lines and street corners where feasible.

(3) Wireless Facilities shall be located such that they do not interfere with public health or safety facilities, equipment, or operations, such as, but not limited to, a fire hydrant, fire station, fire escape, water valve, underground vault, valve housing structure, or any other public health or safety facility or equipment. New Wireless Facilities shall not be installed directly over any water, sewer, refuse, drainage, gas, steam, power, or electrical main, service line, or other infrastructure, without the City's and the line owner's express, prior, written consent.

(4) New, modified/alterd, and replacement Wireless Support Structures, erected, modified/alterd, or replaced for the installation or collocation of Small Wireless Facilities shall be made of the same type of material as existing poles in the immediate area. Applicant may request a variance of this provision from the City Manager.

(5) Any tree-disturbing activity necessary for the installation or collocation of Small Wireless Facilities shall comply with the City's landscaping requirements for streetscapes, parking lot landscaping, bufferyards, and other landscaping provisions of Appendix A of the Lenoir City Code.

(6) Wireless Support Structures shall not be lighted or marked by artificial means, except when mounted on an existing light pole or where illumination is specifically required by the Federal Aviation Administration or other federal, state, or local laws, rules, or regulations. Notwithstanding the preceding sentence, the mounting of Small Wireless Facilities on light poles is Permitted, subject to the requirements of this ordinance, Applicable Codes and the City Code.

(7) A Wireless Provider shall repair, at its sole cost and expense, any damage, including, but not limited to, subsidence, cracking, erosion, collapse, weakening, or loss of lateral support to state, City, public, and private streets, sidewalks, walks, curbs, gutters, trees, parkways, street lights, traffic signals, above- and below-ground utility lines and systems (including, but not limited to, water, sewer, drainage, gas, and power/electricity), and all other public and private improvements of any kind or nature, that result from any activities performed in connection with the occupation, installation, collocation, maintenance, inspection, repair, or replacement of a Wireless Facility, Wireless Support Structure, City-Owned Pole, or Utility Pole in the public right-of-way. The Wireless Provider shall restore such areas, structures, and systems to the same functional equivalence that existed prior to the activity that necessitated the repairs. The Wireless Provider shall maintain all Wireless Facilities, Wireless Support Structures, and other facilities and system elements in a neat and clean manner.

(8) Small Wireless Facilities shall not be permitted in historic districts, except in compliance with the FCC's Nationwide Programmatic Agreement for the Collocation of Wireless Antennae Executed by the FCC, the National Conference of State Historic Preservation Officers, and the Advisory Council on Historic Preservation.

(9) All Small Wireless Facilities, Wireless Support Structures, new or replacement Utility Poles and City-Owned Poles, and their associated Wireless Facilities shall be camouflaged, disguised, hidden, and blended in with the surrounding environment to the maximum extent practicable.

(10) No Wireless Facility may bear any signs or advertising devices other than certifications, warnings, or other information, as required by federal or state law and/or regulation or by the City Code.

(11) New Wireless Facilities on existing poles shall comply with otherwise applicable rules imposed by the pole owner and City including, when applicable, the National Electric Safety Code.

(c) Undergrounding Provisions. Applicants for use of a City right-of-way shall comply with the City's undergrounding requirements, prohibiting the installation of above-ground structures in the City rights-of-way, without prior zoning approval, provided the City's requirements (i) are non-discriminatory with respect to the type of utility, (ii) do not prohibit the replacement of structures existing at the time of the requirements' adoption, and (iii) allow for a waiver process. Applicants may seek a special use permit to place above-ground structures in areas where the undergrounding requirements apply.

Notwithstanding anything to the contrary herein, in no instance shall a utility pole, City-Owned Pole, or Wireless Support Structure exceed forty (40) feet above ground level in any area zoned single-family residential, where the existing utilities are installed underground, unless the City grants a waiver or variance approving a taller Utility Pole, City-Owned Pole, or Wireless Support Structure. Such waiver shall be requested in writing by the applicant, and shall be approved by the City Manager, in consultation with the Planning Director and the Public Works Director.

913.6 – Effect of Permit

(a) Authority Granted; No Property Right or Other Interest Created. A Permit from the City authorizes an Applicant to undertake only certain activities in accordance with, and subject to, this Chapter and any other party's pre-existing rights in the right-of-way. A Permit from the City does not create a property right or grant authority to the Applicant to impinge upon the rights of others who may already have an interest in the rights-of-way.

(b) Duration. Construction of a collocation of a Small Wireless Facility shall commence within six (6) months of approval and shall be activated for use (operational) no later than one (1) year from the Permit issuance date, unless the City and the Applicant agree to extend this period or a delay is caused by a lack of commercial power at the site. If construction of the collocation is not commenced within six (6) months of approval, the Permit will automatically expire six (6) months following approval. If the Small Wireless Facility is not activated/placed into operation within one (1) year from the date of the Permit's issuance, the Permit will automatically expire one [1] year from the date of the Permit's issuance.

(c) Post Construction. The Applicant must submit as-built drawings in an acceptable GIS format, as determined by City staff, in its sole and absolute discretion, as soon as reasonably practicable, but no later than one-hundred-twenty (120) days after the completion of the installation or collocation and, in no

event, later than fifteen (15) months following the date of the Permit's issuance. The Applicant shall submit and maintain current contact information for the party responsible for the Wireless Facility, on a form to be supplied by the City.

913.7 Removal, Relocation or Modification of Small Wireless Facility in the ROW

(a) Notice. Within ninety (90) calendar days following written notice from the City, the Wireless Provider shall, at its own ~~expense~~, protect, support, temporarily or permanently disconnect, remove, relocate, change, or alter the position of any Small Wireless Facilities within the right-of-way, if the City has determined, in its sole and absolute discretion, that such protection, support, disconnection, removal, relocation, change, or alteration, is necessary for the construction, installation, operation, inspection, maintenance, repair, ~~rehabilitation~~, expansion, ~~relocation~~, or removal of any City improvement or the provision or continuation of the City's operations or services in, upon, over, or under the City's right-of-way.

(b) Emergency Removal or Relocation of Facilities. The City retains the right and privilege to disconnect, cut, modify/alter, move, or remove any Small Wireless Facility, Wireless Support Structure, Utility Pole, or City-Owned Pole located within the rights-of-way of the City, as the City, in its sole and absolute discretion, determines is necessary, appropriate, or useful in response to any public health or safety need or emergency. If circumstances permit, as the City, in its sole and absolute discretion shall determine, the City shall notify the Wireless Provider and afford the Wireless Provider an opportunity to move its own facilities prior to disconnecting, cutting, modifying/altering, moving, or removing a facility. The City shall, in any event, notify the Wireless Provider after disconnecting, cutting, modifying/altering, moving, or removing a Small Wireless Facility if the City has not already notified the Wireless Provider.

(c) Abandonment of Facilities. The City may require a Wireless Services Provider to remove an abandoned Wireless Facility within one-hundred-eighty (180) days of abandonment. Should the Wireless Services Provider fail to timely remove the abandoned Wireless Facility, the City may cause such Wireless Facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the Wireless Services Provider. A Wireless Facility shall be deemed abandoned at the earlier of the date that the Wireless Services Provider indicates, in any way, that it is abandoning such facility or the date that is one-hundred-eighty (180) days after the date that such Wireless Facility ceases to transmit a signal, unless the Wireless Services Provider gives the City reasonable evidence that it is diligently working to place such Wireless Facility back in service.

(d) Liability; Assumption of the Risk. Applicant, by applying for and accepting a Permit, assumes all risk of liability for damages that may occur to Persons or property on account of the collocation, installation, occupation, presence, existence, operation, maintenance, modification, repair, replacement, relocation, or removal of the facilities covered by the Permit, or the proposed work, whether completed by the Applicant or the Applicant's agent or contractor. Applicant shall procure and maintain in continuous effect, for the duration of the encroachment, liability insurance to protect the City from liability and damages on account of injuries to workers, as provided by law, and to protect the City from liability and damages occasioned by the collocation, installation, presence, existence, occupation, operation, maintenance, modification, repair, replacement, relocation, or removal of the facilities covered by the Permit, or the proposed work, whether completed by the Applicant or the Applicant's agent or contractor, and from any liability or damages pertaining to the City's disconnection, cutting, modification/alteration, removal, or relocation of any Wireless Facilities, Wireless Support Structures, Utility Poles, or City-Owned Poles Applicant has installed or modified or on which Applicant has collocated. Applicant shall provide the City, together with the Application and, thereafter, within ten (10) calendar days of demand, original, signed certificates of insurance to show that the Applicant carries insurance in the required levels and coverages, as specified by the City's Risk Management Office. Applicant shall also provide the City certificates of insurance from any subcontractors the Applicant engages to perform work pursuant to the

Permit. Both the Applicant's and its subcontractors' insurance certificates shall name the City an additional insured (in the Applicant's case, for the duration of the encroachment; in the Applicants' subcontractors' cases, for the duration of the work the subcontractors perform and for one (1) year thereafter).

(e) Release, Indemnification, and Covenant Not to Sue. By applying for and accepting a Permit, Applicant agrees to release, defend, indemnify, and hold harmless the City and its Council, boards, commissions, officials, officers, agents, volunteers, and employees from and against any and all losses, damages, liabilities, claims, demands, suits, costs, and expenses, including, but not limited to, court costs and reasonable attorneys' fees, resulting from the Applicant's alleged and actual acts or omissions, or ~~those~~ of its ~~officers~~, agents, or ~~employees~~, in connection with the ~~permitted~~ work or the collocation, installation, occupation, presence, existence, operation, maintenance, modification, repair, replacement, relocation, or removal of the facilities covered by the Permit. This indemnity provision shall be applicable regardless of the merit or outcome of such claim or suit. By applying for accepting a Permit, Applicant also covenants not to sue over mater released herein.

913.8 Attachment to City-Owned Poles in the Rights-of-Way

(a) Exclusivity. Any arrangement with any Person for the right to collocate on City-Owned Poles shall not be exclusive.

(b) Collocation on City-Owned Poles. Any Wireless Provider may collocate on City-Owned Poles on just, reasonable, and non-discriminatory rates, terms, and conditions, subject to the requirements of this Ordinance, the Applicable Codes, City Code, and other applicable federal and state laws, rules, and regulations. A request to collocate under this section may be denied only if there is insufficient capacity or for reasons of safety, reliability, and generally applicable engineering principles, and those limitations cannot be remedied by rearranging, expanding, or otherwise reengineering the facilities at the reasonable and actual cost of the City, to be reimbursed by the wireless provider. In granting a request under this section, the City shall require the requesting entity to comply with applicable safety requirements, including the National Electrical Safety Code and the applicable rules and regulations issued by the Occupational Safety and Health Administration.

(c) Rates, Terms, and Conditions. Following receipt of the first request from a Wireless Provider to collocate on a City-Owned Pole, the City Manager or the City Manager's designee shall, within sixty (60) days, establish the rates, terms, and conditions for the use of, or attachment to, City-Owned Poles. Notwithstanding anything else in this section, the rate for collocation of Small Wireless Facilities on City-Owned Poles shall not exceed fifty dollars (\$50) per City-Owned Pole, per year.

(d) Make-Ready Work. The City will provide a good-faith estimate for any make-ready work necessary to enable the City-Owned Pole to support the requested collocation, including pole replacement, if necessary, and to meet the City Code, Applicable Codes, or industry standards, within sixty (60) days after receipt of a complete application. Make-ready work, including any pole replacement, shall be completed within sixty (60) days of the written acceptance of the good-faith estimate by the Applicant. Fees for make-ready work shall not include costs related to pre-existing or prior damage or non-compliance or any consultant fees or expenses.

SECTION 2. SEVERABILITY. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 3. CODIFICATION. The City Clerk shall cause the Code of Ordinances of Lenoir, North Carolina to be amended as provided by this ordinance and may renumber, re-letter, and rearrange the codified parts of this ordinance if necessary to facilitate the finding of the law.

SECTION 4. EFFECTIVE DATE. This ordinance takes effect upon adoption.

DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Lenoir, North Carolina, by the City Clerk of the City of Lenoir, North Carolina, this _____ day of _____ and this _____ day of _____, 2019.

DONE, THE PUBLIC HEARING, AND ENACTED ON FINAL PASSAGE, by an affirmative vote of the a majority of a quorum present of the City Council of the City of Lenoir, North Carolina, at a regular meeting, this _____ day of _____, 2019.

BY THE MAYOR/MAYOR PRO TEMPORE OF THE CITY OF LENOIR, NORTH CAROLINA:

Mayor/Mayor Pro Tempore

ATTEST, BY THE CLERK OF THE CITY COUNCIL OF THE CITY OF LENOIR, NORTH CAROLINA:

City Clerk

****[Remainder of page intentionally left blank.]****

Capital Project Ordinance for the City of Lenoir

FIRE STATION III CAPITAL PROJECT

BE IT ORDAINED by the City Council Members of the City of Lenoir, North Carolina that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1: The project to authorize activities for Fire Station III Capital Project to include the expenditure of loan funds and local funds for the purchase of the facility, as well as the design, construction, and project administration for Fire Station III. The project is to be funded utilizing the Rural Development Revolving Loan Fund through Blue Ridge Electric Membership Corporation and local funds.

Section 2: The officers of this unit are hereby directed to proceed with the capital project within the terms of the budget contained herein.

Section 3: The following amounts are appropriated for the project:

Purchase of Facility	\$ 1,028,615.00
Upfit/Renovations	\$ 400,000.00
Furnishings/Equipment	<u>\$ 207,000.00</u>
Total Expenditures	\$ 1,635,615.00

Section 4: The following revenues are anticipated to be available to complete this project:

Rural Development Revolving Loan Fund (0% interest)	\$ 1,360,000.00
Local funding	<u>\$ 275,615.00</u>
Total Revenue	\$ 1,635,615.00

Section 5: The Finance Officer is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the requirements of the Project Ordinance.

Section 6: The Finance Officer is directed to report, on a quarterly basis, on the financial status of each project element in Section 3.

Section 7: The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this capital project in every budget submission made to this Board.

Section 8: Copies of this capital project ordinance shall be furnished to the Budget Officer and the Finance Officer for direction in carrying out this project.

Adopted this _____ day of January, 2019.

Mayor

Clerk

**2018-2019 Fiscal Year
Budget Amendment Ordinance 2019-01
15-Jan-19**

Request for amendments to be made to the annual budget ordinance for the fiscal year ending June 30, 2019 as follows:

Section 1. To amend the General Fund - the appropriations are to be changed as follows:

Item 1: Allocate funds for the purchase of Servco Property on Morganton Blvd, Lenoir NC.

Acct. No.		Increase - Budgeted Amount
10-00-4110-570	Purchase of Land	150,000.00
10-00-3991-901	Budget Amendment from Fund Balance	150,000.00
	Net increase in appropriation to the General Fund for this item	150,000.00

Item 2: Appropriate funds for the FNI (Stormwater) Plan.

Acct. No.		Increase - Budgeted Amount
10-40-4910-440	Contracted Services - Planning	102,945.00
10-00-3991-901	Budget Amendment from Fund Balance	102,945.00
	Net increase in appropriation to the General Fund for this item	102,945.00

Item 3: Allocate funding for Fire Station III Capital Project

Acct. No.		Increase - Budgeted Amount
40-20-3982-900	Fire Station III -General Fund Transfer	275,615.00
10-00-3991-901	Budget Amendment from Fund Balance	275,615.00
	Net increase in appropriation to the General Fund for this item	275,615.00

	Total Change to the General Fund	Decrease Balance
		528,560.00

CONTRACT TO AUDIT ACCOUNTS

The of and	Governing Board City Council
	Primary Government Unit City of Lenoir
	Discretely Presented Component Unit (DPCU) (if applicable)

Primary Government Unit, together with DPCU (if applicable), hereinafter referred to as Governmental Unit(s)

and	Auditor Name S. Eric Bowman, PA
	Auditor Address PO Box 1476, Morganton, NC 28680

Hereinafter referred to as Auditor

for	Fiscal Year Ending 06/30/19	Audit Report Due Date 10/31/19
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Must be within four months of FYE

hereby agree as follows:

1. The Auditor shall audit all statements and disclosures required by U.S. generally accepted auditing standards (GAAS) and additional required legal statements and disclosures of all funds and/or divisions of the Governmental Unit(s). The non-major combining, and individual fund statements and schedules shall be subjected to the auditing procedures applied in the audit of the basic financial statements and an opinion shall be rendered in relation to (as applicable) the governmental activities, the business- type activities, the aggregate DPCUs, each major governmental and enterprise fund, and the aggregate remaining fund information (non-major government and enterprise funds, the internal service fund type, and the fiduciary fund types).
2. At a minimum, the Auditor shall conduct his/her audit and render his/her report in accordance with GAAS. The Auditor shall perform the audit in accordance with *Government Auditing Standards* if required by the State Single Audit Implementation Act, as codified in G.S. 159-34. If required by OMB *Uniform Administration Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) and the State Single Audit Implementation Act, the Auditor shall perform a Single Audit. This audit and all associated audit documentation may be subject to review by Federal and State agencies in accordance with Federal and State laws, including the staffs of the Office of State Auditor (OSA) and the Local Government Commission (LGC). If the audit requires a federal single audit performed under the requirements found in Subpart F of the Uniform Guidance (§200.501), it is recommended that the Auditor and Governmental Unit(s) jointly agree, in advance of the execution of this contract, which party is responsible for submission of the audit and the accompanying data collection form to the Federal Audit Clearinghouse as required under the Uniform Guidance (§200.512).

If the audit and Auditor communication are found in this review to be substandard, the results of the review may be forwarded to the North Carolina State Board of CPA Examiners (NC State Board).

County and Multi-County Health Departments: The Office of State Auditor will require Auditors of these Governmental Units to perform agreed upon procedures (AUPs) on eligibility determination on certain programs. Both Auditor and Governmental Unit agree that Auditor shall complete and report on these AUPs on

eligibility determination as required by OSA and in accordance with the instructions and timeline provided by OSA.

3. If an entity is determined to be a component of another government as defined by the group audit standards, the entity's auditor shall make a good faith effort to comply in a timely manner with the requests of the group auditor in accordance with AU-6 §600.41 - §600.42.

4. This contract contemplates an unmodified opinion being rendered. If during the process of conducting the audit, the Auditor determines that it will not be possible to render an unmodified opinion on the financial statements of the unit, the Auditor shall contact the LGC staff to discuss the circumstances leading to that conclusion as soon as is practical and before the final report is issued. The audit shall include such tests of the accounting records and such other auditing procedures as are considered by the Auditor to be necessary in the circumstances. Any limitations or restrictions in scope which would lead to a qualification should be fully explained in an attachment to this contract.

5. If this audit engagement is subject to the standards for audit as defined in *Government Auditing Standards*, 2011 revisions, issued by the Comptroller General of the United States, then by accepting this engagement, the Auditor warrants that he/she has met the requirements for a peer review and continuing education as specified in *Government Auditing Standards*. The Auditor agrees to provide a copy of the most recent peer review report to the Governmental Unit(s) and the Secretary of the LGC prior to the execution of an audit contract. Subsequent submissions of the report are required only upon report expiration or upon auditor's receipt of an updated peer review report. If the audit firm received a peer review rating other than pass, the Auditor shall not contract with the Governmental Unit(s) without first contacting the Secretary of the LGC for a peer review analysis that may result in additional contractual requirements.

If the audit engagement is not subject to *Government Accounting Standards* or if financial statements are not prepared in accordance with U.S. generally accepted accounting principles (GAAP) and fail to include all disclosures required by GAAP, the Auditor shall provide an explanation as to why in an attachment to this contract or in an amendment.

6. It is agreed that time is of the essence in this contract. All audits are to be performed and the report of audit submitted to LGC staff within four months of fiscal year end. If it becomes necessary to amend this due date or the audit fee, an amended contract along with a written explanation of the delay shall be submitted to the Secretary of the LGC for approval.

7. It is agreed that GAAS include a review of the Governmental Unit's (Units') systems of internal control and accounting as same relate to accountability of funds and adherence to budget and law requirements applicable thereto; that the Auditor shall make a written report, which may or may not be a part of the written report of audit, to the Governing Board setting forth his/her findings, together with his recommendations for improvement. That written report shall include all matters defined as "significant deficiencies and material weaknesses" in AU-C 265 of the *AICPA Professional Standards (Clarified)*. The Auditor shall file a copy of that report with the Secretary of the LGC.

8. All local government and public authority contracts for audit or audit-related work require the approval of the Secretary of the LGC. This includes annual or special audits, agreed upon procedures related to internal controls, bookkeeping or other assistance necessary to prepare the Governmental Unit's (Units') records for audit, financial statement preparation, any finance-related investigations, or any other audit-related work in the State of North Carolina. Invoices for services rendered under these contracts shall not be paid by the Governmental Unit(s) until the invoice has been approved by the Secretary of the LGC. (This also includes any progress billings.) [G.S. 159-34 and 115C-447] All invoices for Audit work shall be submitted in PDF format to the Secretary of the LGC for approval. The invoice marked 'approved' with approval date shall be returned to

the Auditor to present to the Governmental Unit(s) for payment. Approval is not required on contracts and invoices for system improvements and similar services of a non-auditing nature.

9. In consideration of the satisfactory performance of the provisions of this contract, the Governmental Unit(s) shall pay to the Auditor, upon approval by the Secretary of the LGC, the fee, which includes any costs the Auditor may incur from work paper or peer reviews or any other quality assurance program required by third parties (federal and state grantor and oversight agencies or other organizations) as required under the Federal and State Single Audit Acts. This does not include fees for any pre-issuance reviews that may be required by the NC Association of CPAs (NCACPA) Peer Review Committee or NC State Board of CPA Examiners (see Item 12).

10. If the Governmental Unit(s) has/have outstanding revenue bonds, the Auditor shall submit to LGC staff, either in the notes to the audited financial statements or as a separate report, a calculation demonstrating compliance with the revenue bond rate covenant. Additionally, the Auditor shall submit to LGC staff simultaneously with the Governmental Unit's (Units') audited financial statements any other bond compliance statements or additional reports required by the authorizing bond documents, unless otherwise specified in the bond documents.

11. After completing the audit, the Auditor shall submit to the Governing Board a written report of audit. This report shall include, but not be limited to, the following information: (a) Management's Discussion and Analysis, (b) the financial statements and notes of the Governmental Unit(s) and all of its component units prepared in accordance with GAAP, (c) supplementary information requested by the Governmental Unit(s) or required for full disclosure under the law, and (d) the Auditor's opinion on the material presented. The Auditor shall furnish the required number of copies of the report of audit to the Governing Board upon completion.

12. If the audit firm is required by the NC State Board, the NCACPA Peer Review Committee, or the Secretary of the LGC to have a pre-issuance review of its audit work, there shall be a statement in the engagement letter indicating the pre-issuance review requirement. There also shall be a statement that the Governmental Unit(s) shall not be billed for the pre-issuance review. The pre-issuance review shall be performed prior to the completed audit being submitted to LGC Staff. The pre-issuance review report shall accompany the audit report upon submission to LGC Staff.

13. The Auditor shall submit the report of audit in PDF format to LGC Staff when (or prior to) submitting the final invoice for services rendered. The report of audit, as filed with the Secretary of the LGC, becomes a matter of public record for inspection, review and copy in the offices of the LGC by any interested parties. Any subsequent revisions to these reports shall be sent to the Secretary of the LGC along with an Audit Report Reissued Form (available on the Department of State Treasurer website). These audited financial statements, excluding the Auditors' opinion, may be used in the preparation of official statements for debt offerings by municipal bond rating services to fulfill secondary market disclosure requirements of the Securities and Exchange Commission and for other lawful purposes of the Governmental Unit(s) without requiring consent of the Auditor. If the LGC Staff determines that corrections need to be made to the Governmental Unit's (Units') financial statements, those corrections shall be provided within three business days of notification unless another deadline is agreed to by LGC staff.

If the OSA designates certain programs to be audited as major programs, as discussed in Item 2, a turnaround document and a representation letter addressed to the OSA shall be submitted to LGC Staff.

14. Should circumstances disclosed by the audit call for a more detailed investigation by the Auditor than necessary under ordinary circumstances, the Auditor shall inform the Governing Board in writing of the need for such additional investigation and the additional compensation required therefore. Upon approval by the

Secretary of the LGC, this contract may be modified or amended to include the increased time, compensation, or both as may be agreed upon by the Governing Board and the Auditor.

15. If an approved contract needs to be modified or amended for any reason, the change shall be made in writing, on the Amended LGC-205 contract form and pre-audited if the change includes a change in audit fee (pre-audit requirement does not apply to charter schools). This amended contract shall be completed in full, including a written explanation of the change, signed and dated by all original parties to the contract. It shall then be submitted to the Secretary of the LGC for approval. No change to the audit contract shall be effective unless approved by the Secretary of the LGC, the Governing Board, and the Auditor.

16. A copy of the engagement letter, issued by the Auditor and signed by both the Auditor and the Governmental Unit(s), shall be attached to this contract, and shall be incorporated by reference as if fully set forth herein as part of this contract. In case of conflict between the terms of the engagement letter and the terms of this contract, the terms of this contract shall take precedence. Engagement letter terms that conflict with the contract are deemed to be void unless the conflicting terms of this contract are specifically deleted in Item 26 of this contract. Engagement letters containing indemnification clauses shall not be accepted by LGC Staff.

17. Special provisions should be limited. Please list any special provisions in an attachment.

18. A separate contract should not be made for each division to be audited or report to be submitted. If a DPCU is subject to the audit requirements detailed in the Local Government Budget and Fiscal Control Act and a separate audit report is issued, a separate audit contract is required. If a separate report is not to be issued and the DPCU is included in the primary government audit, the DPCU shall be named along with the parent government on this audit contract. DPCU Board approval date, signatures from the DPCU Board chairman and finance officer also shall be included on this contract.

19. The contract shall be executed, pre-audited (pre-audit requirement does not apply to charter schools), and physically signed by all parties including Governmental Unit(s) and the Auditor, then submitted in PDF format to the Secretary of the LGC.

20. The contract is not valid until it is approved by the Secretary of the LGC. The staff of the LGC shall notify the Governmental Unit and Auditor of contract approval by email. The audit should not be started before the contract is approved.

21. Retention of Client Records: Auditors are subject to the NC State Board of CPA Examiners' Retention of Client Records Rule 21 NCAC 08N .0305 as it relates to the provision of audit and other attest services, as well as non-attest services. Clients and former clients should be familiar with the requirements of this rule prior to requesting the return of records.

22. This contract may be terminated at any time by mutual consent and agreement of the Governmental Unit(s) and the Auditor, provided that (a) the consent to terminate is in writing and signed by both parties, (b) the parties have agreed on the fee amount which shall be paid to the Auditor (if applicable), and (c) no termination shall be effective until approved in writing by the Secretary of the LGC.

23. The Governmental Unit's (Units') failure or forbearance to enforce, or waiver of, any right or an event of breach or default on one occasion or instance shall not constitute the waiver of such right, breach or default on any subsequent occasion or instance.

24. There are no other agreements between the parties hereto and no other agreements relative hereto that shall be enforceable unless entered into in accordance with the procedure set out herein and approved by the Secretary of the LGC.

25. E-Verify. Auditor shall comply with the requirements of NCGS Chapter 64 Article 2. Further, if Auditor utilizes any subcontractor(s), Auditor shall require such subcontractor(s) to comply with the requirements of NCGS Chapter 64, Article 2.
26. All of the above paragraphs are understood and shall apply to this contract, except the following numbered paragraphs shall be deleted (See Item 16 for clarification).
27. The process for submitting contracts, audit reports and invoices is subject to change. Auditors and units should use the submission process and instructions in effect at the time of submission. Refer to the N.C. Department of State Treasurer website at <https://www.nctreasurer.com/slg/Pages/Audit-Forms-and-Resources.aspx>.
28. All communications regarding audit contract requests for modification or official approvals will be sent to the email addresses provided on the signature pages that follow.

FEES FOR AUDIT SERVICES

For all non-attest services, the Auditor shall adhere to the independence rules of the AICPA Professional Code of Conduct and *Governmental Auditing Standards* (as applicable). Bookkeeping and other non-attest services necessary to perform the audit shall be included under this contract. However, bookkeeping assistance shall be limited to the extent that the Auditor is not auditing his or her own work or making management decisions. The Governmental Unit shall designate an individual with the suitable skills, knowledge, and/or experience necessary to oversee the services and accept responsibility for the results of the services. Financial statement preparation assistance shall be deemed a "significant threat" requiring the Auditor to apply safeguards sufficient to reduce the threat to an acceptable level. The Auditor shall maintain written documentation of his or her compliance with these standards in the audit work papers.

Fees may not be included in this contract for work performed on Annual Financial Information Reports (AFIRs), Form 990s, or other services not associated with audit fees and costs. Such fees may be included in the engagement letter, but may not be included in this contract or in any invoices requiring approval of the LGC. See Items 8, 9, and 12 for details on other allowable and excluded fees.

Prior to submission of the completed audited financial report, applicable compliance reports and amended contract (if required) the Auditor may submit invoices for approval for services rendered, not to exceed 75% of the total of the stated fees below. If the current contracted fee is not fixed in total, invoices for services rendered may be approved for up to 75% of the prior year audit fee. Should the 75% cap provided below conflict with the cap calculated by LGC staff based on the prior year audit fee on file with the LGC, the LGC calculation prevails.

20 NCAC 03 .0505: All invoices for services rendered in an audit engagement as defined in 20 NCAC 3 .0503 shall be submitted to the Commission for approval before any payment is made. Payment before approval is a violation of law.

PRIMARY GOVERNMENT FEES

Primary Government Unit	City of Lenoir
Audit	\$ 95 per hour per person
Writing Financial Statements	\$ 95 per hour per person
All Other Non-Attest Services	\$ 95 per hour per person
75% Cap for Interim Invoice Approval	\$31,533.00

DPCU FEES (if applicable)

Discretely Presented Component Unit	
Audit	\$
Writing Financial Statements	\$
All Other Non-Attest Services	\$
75% Cap for Interim Invoice Approval	\$

SIGNATURE PAGE

AUDIT FIRM

Audit Firm S. Eric Bowman, PA	
Authorized Firm Representative (typed or printed) S. Eric Bowman	Signature 
Date 12-10-18	Email Address sericbowmanpa@bellsouth.net

GOVERNMENTAL UNIT

Governmental Unit City of Lenoir	
Date Primary Government Unit Governing Board Approved Audit Contract (Ref: G.S. 159-34(a) or G.S. 115C-447(a))	
Mayor/Chairperson (typed or printed) Joe L. Gibbons	Signature 
Date 1-15-19	Email Address josephlgibbons@yahoo.com

Chair of Audit Committee (typed or printed, or "NA") N/A	Signature
Date	Email Address

GOVERNMENTAL UNIT – PRE-AUDIT CERTIFICATE

(Pre-audit certificate not required for charter schools)

Required by G.S. 159-28(a1) or G.S. 115C-441(a1)

This instrument has been pre-audited in the manner required by The Local Government Budget and Fiscal Control Act or by the School Budget and Fiscal Control Act.

Primary Governmental Unit Finance Officer (typed or printed) Donna Bean	Signature 
Date of Pre-Audit Certificate	Email Address dbean@ci.lenoir.nc.us

**COMMITTEE OF THE WHOLE
CITY HALL, THIRD FLOOR
TUESDAY, JANUARY 22, 2019
8:30 A.M.**

PRESENT: Mayor Pro-Tem Willis presiding. Committee members Gibbons, Perdue, Perkins, Stevens and Thomas.

City Manager Hildebran, City Clerk Cannon, Public Information Officer Harris, Police Chief Phelps, Fire Chief Hair, Economic Development Director Horn, Finance Director Bean, Recreation Director Story, Planning Director Wheelock, Public Utilities Director Thomas, and Public Works Director Wright.

ABSENT: Councilmembers Jonathan Beal and T.J. Rohr.

OTHERS: Virginia Annable, *News-Topic*, Andy Honeycutt, MeterSys, and Andy Lovingood and Joel Whitford, McGill Associates.

I. CALL TO ORDER

A. Mayor Pro-Tem Willis welcomed everyone and called the meeting to order.

II. CITIZEN COMMENT PERIOD

III. COMMITTEE ITEMS

A. Public Utilities/Public Works

1. Presentation; Biosolids Project: Mr. Joel Whitford, McGill Associates, presented a power point presentation regarding the Gryphon Dryer System for the City's Biosolids Facility Improvements Project. Mr. Whitford discussed the equipment replacement and upgrades and shared the advantages of the Gryphon Dryer which are the start-up & shut-down times, unique evaporative & pressure differential process, safety & maintenance and the equipment scale & cost. In addition, Andy Lovingood stated the dryer has five (5) patents, including various thermodynamic and mechanical advancements. These patented systems and components make it unique, less expensive to purchase and install, and more economic to operate.

Mr. Whitford shared the City of Lenoir considered four (4) belt dryers, and selected the Pressure Differential Dryer by Gryphon. It was noted that thermal belt drying was selected by the City as the best technology to meet current and future biosolids management needs.

Public Utilities Director Thomas reminded Council the City was approved for a Clean Water State Revolving Fund (SRF) loan in the amount of \$6,600,000 at 1.53% interest to finance the project. The NC Division of Water Infrastructure (DWI) administers the

project funding and reviews all project documents. Director Thomas shared the City plans to negotiate a direct purchase for the Gryphon dryer prior to the construction bidding process. The DWI indicated that pre-procurement is acceptable when performed in accordance with N.C.G.S. §143-129(e),(6). Since the Gryphon Dryer falls under the category of a need product and is available from only one source, the City may proceed with pre-procurement of the equipment purchase. The major steps in the pre-procurement process involve (1) the submittal of dryer equipment information and design calculations to the DWI, and (2) the approval of the purchase by City Council in an open meeting. **Note:** This item will be placed on the February 5 Agenda for consideration of approval by City Council.

2. Presentation; MeterSys Water Metering Project: Director Thomas introduced Mr. Andy Honeycutt, MeterSys, who presented a power point presentation regarding Advanced Metering Infrastructure (AMI) Bid Summary and Recommendations. The City previously contracted with MeterSys to undertake a complete analysis of its metering practices and the feasibility of utilizing advanced metering technology.

Mr. Honeycutt reviewed the Procurement Timeline to Date; Vendor Bid Financial Comparison Summary; AMI's Comparison Matrix-Key Offerings; Remote Disconnect Meter Comparison; Network Comparison; Customer Portal Comparison; Vendor Shortlist Comparison Scoring Matrix-Final; Pricing Shortlist Best and Final; and the Vendor Recommendations Basis. Based on their findings, Mr. Honeycutt stated the City review committee recommends the City award the bid of \$272.21 per meter (price includes node) to Mueller Systems. The estimated cost of ownership through year ten is \$4,385,980. It was noted customers will be given notice if the City is going to cut off their water meter. The key offerings of Muller include the following options:

- a) Real-Time Two-Way Communication – Demand Reads
- b) Remote Disconnect Meter
- c) Utility Billing Integration with Customer Portal
- d) Utilizes Existing Meter Lids and Boxes
- e) Distribution Leak Detection
- f) Smart City Capabilities – LoRa (Long Range is a patented digital wireless data communication technology).
- g) Accelerated Installation Schedule (12-month)

Mr. Honeycutt shared Staff will be able to detect if water is going through the meter while it is cutoff. **Note:** This item will be placed on the February 19 Agenda for consideration of approval by City Council.

2. Radford Thomas, Public Utilities Director, updated City Council on the following item:
 - a) Director Thomas stated the second filter has been installed at the Water Treatment Plant and weather conditions continue to delay the timeline of this project.

B. Public Works

1. Public Works Director Jared Wright updated City Council on the following projects:

- a) Commended Staff for all their hard work during the large snow removal in December, recent flooding events, and for the removal of brush/leaf debris. He reported that residents should now begin to bag any leaves they need picked up and place them at the curb.
- b) Reported the Hospital Avenue Sidewalk Design Project is 90% complete and noted there will be one to two right-of-way impacts on the property, but City Staff will take care of the right-of-way acquisition.
- c) Will present an update on the downtown two-way traffic study at an upcoming meeting.
- d) Reported Staff will be completing the grading and paving on the northern section of the Railtrail to Robbins Street at a cost savings to the City. Director Wright shared that a consultant with Google is designing the Greenway project behind the car wash that is being demolished on Morganton Boulevard. The Greenway route will be from Harrisburg Road to North Main to Harper Avenue. It was also noted the City is working on the east section of the Greenway off of Sherlee Street.
- e) Reported some flooding recently occurred on Powell Road and Pennell Street.

IV. COMMUNITY DEVELOPMENT

- A. Lenoir Tourism Development Authority: The Lenoir Tourism Development Authority (LTDA) did not meet in December. Minutes of the November 8, 2018 meeting were submitted as information. Kaylynn Horn, Economic Development Director, reported the Board's next meeting will be held on Thursday, February 14.

Director Horn shared the Board held a strategic planning session on December 13 which went very well. She also reported that several board members will be attending the 365 Conference in Wilmington on March 31 through April 2.

- B. Lenoir Business Advisory Board: The Lenoir Business Advisory Board met on Thursday, January 10. Minutes of the November 8 meeting were submitted as information. Kaylynn Horn, Economic Development Director, reported the barbeque festival was a success along with the "Command Center" that was staffed by volunteers during the event.

Note: Councilmember Perdue left the meeting at 9:47 a.m.

- C. Planning Board: The Planning Board met on Monday, January 21. Planning Director Jenny Wheelock presented a report of current projects.

1. Update; Historic Preservation Commission: Director Wheelock presented a report on Development Activity for 2018 and Enforcement Activity for 2018 as information. (A copy of the report is attached to these minutes as information).

Next, she introduced Lauren McKinny, the City's new Planning Technician, who was in attendance at the meeting. In addition, Director Wheelock presented a memorandum outlining the steps for establishing a Historic Preservation and Designating Local landmarks.

Director Wheelock explained the City doesn't currently have a Historic Preservation Committee (HPC), and therefore, is not able to designate local historic districts or local landmarks. She stated in order to move forward with designating certain properties as local landmarks, City Council would need to adopt an ordinance establishing an HPC. It was noted the existing Planning Board can be identified as the body to fill this role, and then the newly created HPC can initiate the landmark process.

It was the consensus of City Council to move forward with this process and Director Wheelock stated she would follow-up with an application.

2. Update; Environmental Protection Agency (EPA): Director Wheelock reminded Council the City took over Stormwater Management from Caldwell County in 2007. The City has stormwater agreements with the surrounding municipalities. Director Wheelock reported the City has been audited by the Environmental Protection Agency (EPA) and it was discovered the City is currently operating under the County's ordinance. The City also received a notice of violation. She explained the City would be restructuring its stormwater program in the near future.

Public Works Director Jared Wright stated the City is currently working with EPA officials and will be presenting a plan for Council's consideration of approval.

- D. Financial Summary: Finance Director Bean reviewed the Financial Summary as of December 31, 2018. The over/under balance in the General Fund is \$3,170,458.74, Downtown District (\$85,727.29), and Water & Sewer Fund \$1,403,600.43. Director Bean stated revenue remains above expenditures and reported the City collected \$1,657,739.58 in sales tax as of December 31 for a change of 7.61%. (A copy of the December financial summary is attached to these minutes as information).
- E. Recommended Staffing Changes; Fire Department & Public Works: Director Bean presented a proposed Staffing recommendation in order to accommodate the new Fire Station No. III and a recommendation for the Street Department. (A copy of the recommendation changes is attached to these minutes as information).

Director Bean stated the Department will promote three Lieutenants to Captains and three Firefighter II's to Driver/Operators in order to maintain the current chain of command. These changes will be effective when Station III is operational. It was noted this reorganization will allow a staffing level of nine (9) Captains and six (6) Lieutenants.

Currently only one (1) person is assigned to the Rescue Truck at all times. When Station III is operational, it is recommended to re-organize and maintain a minimum of two (2) personnel on the Rescue Truck at Headquarters to ensure the safety of personnel during responses. This will allow for the Rescue Truck to function like the rest of the apparatus when there is an assigned Officer and an assigned Driver/Operator for each apparatus. This re-organization will require

promoting three (3) Firefighters II's to the ranks of Driver/Operator for the Rescue Truck at Headquarters.

In addition, Director Bean presented a recommendation from Staff to reclassify the position of Master Equipment Operator to Labor Supervisor due to the individual performing Labor Supervisor tasks due to the work load shift when the Street Department required the responsibility of the Brush Truck. She further shared the individual has taken the responsibility of supervising the Street Crew and has experienced an increase in the after hour call backs.

Motion

Upon a motion by Councilmember Stevens, Council voted 5 to 0 to approve the above described Staffing Changes for the Fire Department and the Street Department as recommended by Finance Director Bean.

- F. **Proposed Amendments/Personnel Resolution Policy:** Director Bean presented Staff's recommendation (as highlighted) to the City's Personnel Resolution in order to clarify policies and align with the City's current pay plan. (A copy of the proposed changes is attached to these minutes as information).

Director Bean presented the following changes for the Personnel Resolution:

- The current Personnel Resolution uses percentages as guidelines for employee salaries rather than referring to the classifications used in the Pay Plan (hiring, minimum and maximum). The revisions will align the Resolution with the Pay Plan. (Page 11, Section 5)
- Add clarifying information regarding garnishments. (Page 14, Section 14)
- Remove terminology "Applicant Interest Card" as this form is no longer used in hiring practices. (Page 15, Section 3)
- Revert back to the previous Resolution allowing internal candidates to complete a supplemental form to accompany their original application rather than being required to complete an entirely new application packet. This change will reduce redundancy and be more efficient. (Page 16, Section 5)
- Update the Employment of Relatives Section to add clarifying information. (Page 19, Section 5)
- Add outside reference information to the Substance Abuse Policy. (Page 20, Section 10)
- Add Retiree Health Insurance Policy to the Personnel Resolution. There is no change in the policy only the addition to the Resolution. (Page 21, Section 3)

Motion

Upon a motion by Councilmember Perkins, Council voted 5 to 0 to approve the proposed amendments to the City's Personnel Policy and described above and as recommend by Finance Director Bean.

- G. **Parks & Recreation Advisory Board:** The Parks & Recreation Advisory Board's next meeting is Monday, February 18. Kenny Story, Recreation Director, presented the following report.

- 1) All current programs are going well.
- 2) February is Black History Month and all scheduled activities are listed on the February calendar. This information is also available on the City's website at www.cityoflenoir.com.
- 3) Areas of the J. E. Broyhill Park are being graded and seeded as part of the ongoing improvements project.

H. Update; Public Communications: Joshua Harris, Public Information Officer, reviewed the highlights of the Communications Reports for December. Activity included 224 social posts, 19 photos, 9 news releases, and 3 videos. In addition, he stated there are 166 new followers and the website has experienced 27,624 views. The City's Facebook account experienced 18,300 views and YouTube 107 views.

Director Harris stated his goal is to launch the City's new website on July 1. He also mentioned he may create a page about stormwater issues on the website.

VI. PUBLIC SAFETY

- A. Police Department; Proposed Golf Cart Ordinance: Police Chief Brent Phelps informed Council the Department has received a request from Jon Thomson in support of legalizing golf carts in the City of Lenoir. Chief Phelps stated this issue was previously brought before Council by former Police Chief Scott Brown in April 2017, but City Council was not in favor of moving forward with this project due to a number of safety issues.

Chief Phelps pointed out the town of Maiden, Morganton and Newton have ordinances, but commented he does have some safety concerns. Chief Phelps stated N.C.G.S. §20-121.1 authorizes the operation of a low speed vehicle on certain streets and highways with the following restrictions:

- a) posted speed limit is 35 mph
- b) vehicle shall be registered and insured
- c) vehicle shall be equipped with headlamps, stop lamps, turn signal lamps, tail lamps, reflectors, parking brakes, rearview mirrors, windshields, windshield wipers, speedometer, seat belts and a vehicle identification number
- d) vehicle has to pass inspection with the local DMV office along with proof of insurance plus pay a registration fee

Chief Phelps reported if Council wishes to adopt an ordinance regulating golf carts, they would need to place restrictions in an ordinance along with language regarding liability. Following a brief discussion by City Council, Chief Phelps stated he would submit a draft ordinance for review at the February Committee of the Whole meeting.

- B. Fire Department: Fire Chief Ken Hair reported everything is on track regarding Fire Station III and stated the water line has been installed.

V. OTHER

- A. February Calendar: By consensus of the Council, the calendar for the month of February was approved by Council listing various meetings and events. The following event was highlighted:

VI. Adjourn:

There being no further business; the meeting was adjourned at 10:27 a.m.

Attachments

2018 Development Activity and 2018 Enforcement Activity Report
Memorandum-Establishment of Historic Preservation Committee
Financial Summary
Proposed Staffing Changes

2018
DEVELOPMENT ACTIVITY

ZONING PERMITS

(2017 = 97)

113

STORMWATER PERMITS

(2017 = 5)

CITY: 9 OTHER: 3

12

FLOODPLAIN DEVELOPMENT

(2017 = 1)

3

DISCRETIONARY LAND USE

(2017 = 2)

CUP = 2

Variance = 1

3

ZONING MAP AMENDMENTS

(2017 = 7)

4

TEXT AMENDMENTS

(2017 = 4)

3

ANNEXATIONS

(2017 = 3)

0

MAJOR SUBDIVISIONS

(2017 = 3)

0

TEMPORARY ADVERTISING

(banners & wind-blown devices) (2017 = 8)

11

BACKYARD HEN PERMITS

(2017 = 1)

2

2018

ENFORCEMENT ACTIVITY

SIGN VIOLATIONS

(2017= 29)

23

STORMWATER VIOLATIONS

(2017 = 3)

4

MINIMUM HOUSING ABATEMENT

(2017 = 34) CITY ABATED: 5 OWNER ABATED: 24

29

STRATEGIC FORECLOSURES REFERRED TO ATTORNEY

7

COMPLETED FORECLOSURES

1

SOLD TO PRIVATE OWNERS

1

MOBILE HOME PARK PERMITS

PASSED INSPECTION

17

TOTAL SPACES

242

PARKS CLOSED

0

PLANNING DEPARTMENT MEMORANDUM

CITY OF LENOIR, 801 WEST AVENUE, LENOIR, NC 28645

TO: Scott Hildebran, City Manager
FROM: Jenny Wheelock, Planning Director
DATE: January 10, 2019
SUBJECT: Establishing a Historic Preservation Commission and Designating Local Landmarks

The City of Lenoir currently does not have a local Historic Preservation Commission (HPC), and as such, is not able to designate local historic districts or local landmarks. Should the Council want to move forward with designating certain properties as local landmarks, they would first have to adopt an ordinance establishing an HPC (the existing Planning Board can be identified as the body to fill this roll), and then the newly created HPC can initiate the landmark process.

Below is an outline of what this process could look like, with potential dates for completion, subject to modification by the City Council and the State Historic Preservation Office (please note these dates assume the various decision making bodies take action on the same night the item is presented to them, and as such this represents a "best case" scenario):

A. Establishing the Planning Board as the HPC

1. City Council briefed on process; timeline (January 22, 2019 – Committee of the Whole)
2. Planning Board considers the Historic Preservation Ordinance, makes a recommendation to City Council about adoption, and calls for a public hearing (January 28, 2019)
3. Notice of the Hearing: Publication in the Lenoir News-Topic (February 8 and 15, 2019)
4. Public Hearing (at Council) and Adoption of the Historic Preservation Ordinance, designating the Planning Board as Lenoir's Historic Preservation Commission (February 19, 2019)
5. Adoption of Rules of Procedure and Design Guidelines by the HPC (February 25, 2019 – Planning Board meeting)

B. Establishing a Local Landmark

1. A report on the historical significance is prepared, including an assessment of the "special significance" of the property (January/February 2019 – mostly complete already)
2. Lenoir HPC reviews report, directs staff to submit the report to the State Historic Preservation Office for review and comment, and calls for a public hearing (February 25, 2019 Planning Board meeting)

3. State comment period – 30 days (during this time, an ordinance will be drafted in anticipation of moving forward with adoption)
4. Notice of the HPC Hearing: Publication in the Lenoir News-Topic (March 15 and 22, 2019), letters mailed to property owners within 125 ft. of the subject property (March 15, 2019), sign posted on the property (March 15, 2019).
5. Public Hearing of the landmark ordinance before the HPC. HPC hears public comment, considers state comments, and the report. Makes a recommendation to the City Council on the ordinance, and calls for a public hearing (March 25, 2019*)
6. Notice of the Council Hearing: Publication in the Lenoir News-Topic (April 5 and 12, 2019), letters mailed to property owners within 125 ft. of the subject property (April 5, 2019), sign posted on the property (April 5, 2019).
7. Public Hearing and adoption of the landmark ordinance by the City Council (April 16, 2019)
8. Ordinance recordation, notice to the local tax office (April 17, 2019)

*Please note that this hearing date is scheduled to occur just shy of the 30 days allotted to the SHPO by state statute for review. SHPO staff's familiarity with the properties, as well as the fact that they are already engaged with the City of Lenoir in this process, gives me good reason to believe we will have comments earlier than 30 days. However, this cannot be guaranteed and failure to have comments back by the hearing will necessitate that the HPC table the item to a later date, which would impact the remainder of the time line presented.



**City of Lenoir
Financial Summary
As of 12/31/2018**



General Fund					
	2018-2019 Budget	12/31/2018	% of Budget	Change from Previous Year	12/31/17
Total Revenue	\$ 17,090,331.00	\$ 11,257,677.45	66%	\$ 54,616.36	\$ 11,203,061.09
Expenditures	\$ 17,090,331.00	\$ 8,087,218.71	47%	\$ 263,018.02	\$ 7,824,200.69
Over/Under	\$ -	\$ 3,170,458.74		\$ (208,401.66)	\$ 3,378,860.40

Downtown District					
	2018-2019 Budget	12/31/2018	% of Budget	Change from Previous Year	12/31/2017
Revenues	\$ 183,736.00	\$ 2,490.25	1%	\$ -	\$ 1,203.70
Expenditures	\$ 183,736.00	\$ 88,218.04	48%	\$ 5,911.17	\$ 82,306.87
Over/Under	\$ -	\$ (85,727.79)		\$ (5,911.17)	\$ (81,103.17)

Water/Sewer Fund					
	2018-2019 Budget	12/31/2018	% of Budget	Change from Previous Year	12/31/2017
Revenues	\$ 8,890,000.00	\$ 4,633,714.85	52%	\$ 103,302.16	\$ 4,530,412.69
Expenditures	\$ 8,890,000.00	\$ 3,230,114.42	36%	\$ 143,371.30	\$ 3,086,743.12
Over/Under	\$ -	\$ 1,403,600.43		\$ (40,069.14)	\$ 1,443,669.57

Tax Collections					
		Collections As Of 12/31/18	Percentage of Change	Change from Previous Year	Collections As Of 12/31/17
Sales Tax (with adjustment for HB97)		\$ 1,657,739.58	7.61%	\$ 117,278.35	\$ 1,540,461.23
Sales Tax (without adjustment for HB97)		\$ 1,558,073.73	6.41%	\$ 93,844.18	\$ 1,464,229.55
Sales Tax - for the month of November (with adjustment for HB97)		\$ 325,831.92	13.27%	\$ 38,171.55	\$ 287,660.37
Sales Tax - for the month of November (without adjustment for HB97)		\$ 305,946.19	13.20%	\$ 35,686.72	\$ 270,259.47

Current Staffing - Lenoir Fire Department

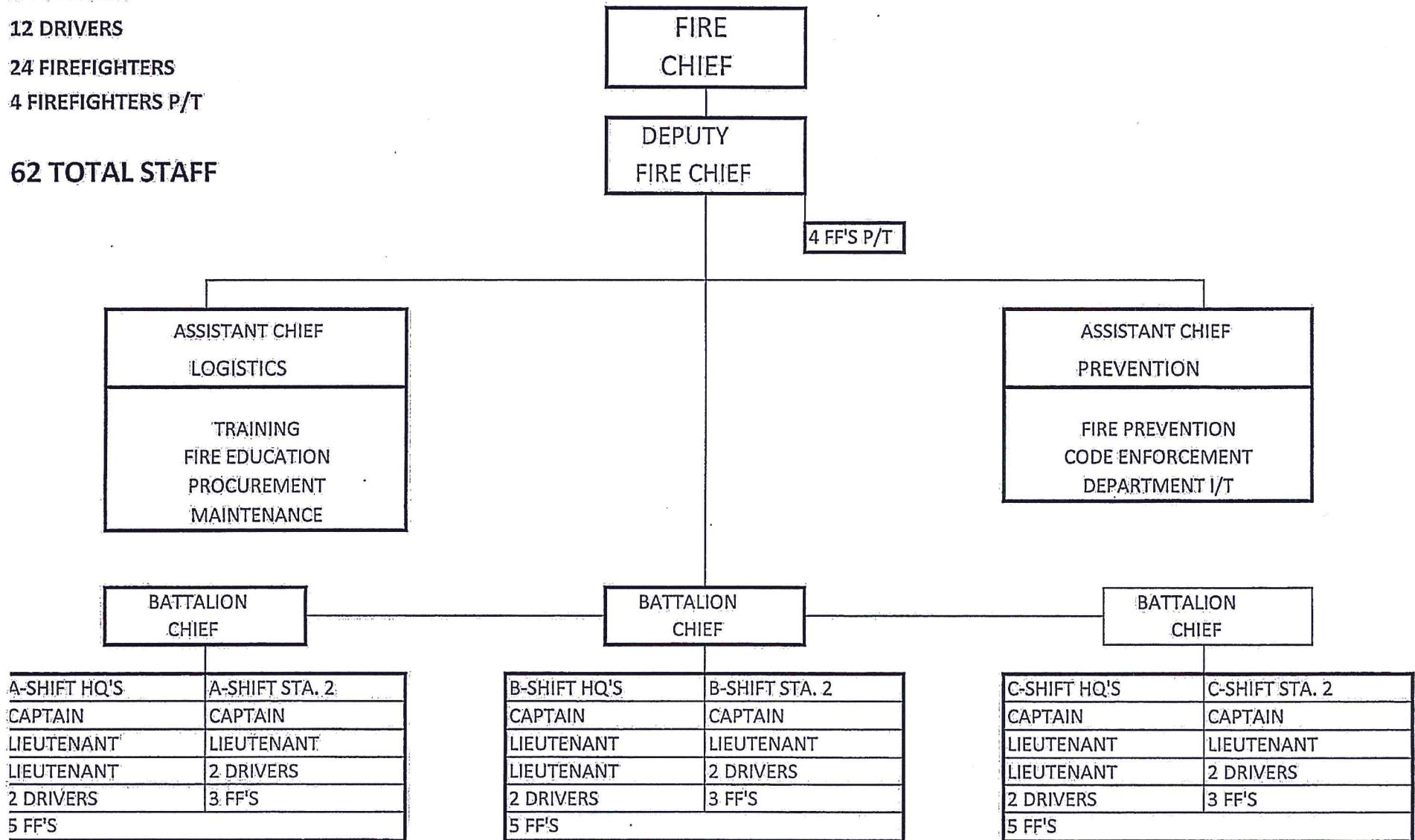
22 OFFICERS

12 DRIVERS

24 FIREFIGHTERS

4 FIREFIGHTERS P/T

62 TOTAL STAFF



Proposed Staffing - Lenoir Fire Department

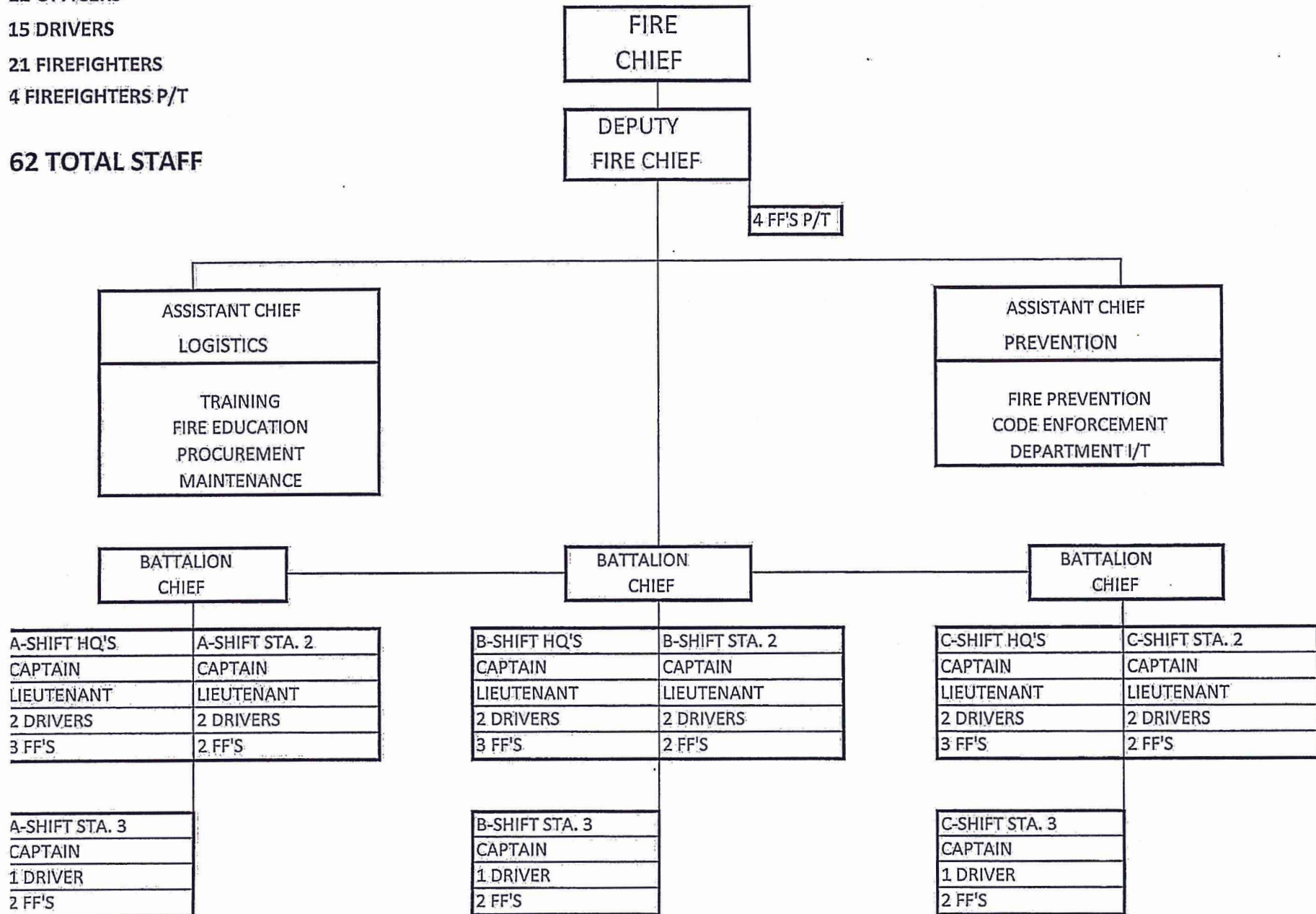
22 OFFICERS

15 DRIVERS

21 FIREFIGHTERS

4 FIREFIGHTERS P/T

62 TOTAL STAFF



Recommendations						
Department	Current Title	Proposed Title	Current Years Budget Impact	Recommendation	Current Grade	Proposed Grade
Job Responsibilities Changed						
FIRE DEPARTMENT - Opening of Station III						
Fire	Lieutenant - (3 positions)	Captain	3,106.14	With the opening of Fire Station III, the fire department will promote three Lieutenants to Captains and promote three Firefighter IIs to Driver/Operator to maintain the current chain of command. These changes will be effective when Station III is operational. Currently, station Commanders at each station are at the level of Captain. With the opening of Station III, it will be necessary for three (3) Lieutenants to be promoted to the ranks of Captain to serve at Station III as Commanders and allow for the current chain of command to be maintained. There will be no Lieutenants promoted and no personnel will be added. This re-organization will allow a staffing level of nine (9) Captains and six (6) Lieutenants. The Engine at Station II and the Rescue Truck at Headquarters will continue to have Lieutenants.	23	25
Fire	Firefighter II (3 positions)	Driver/Operator	2,335.43	Currently, only one (1) person is assigned to the Rescue Truck at all times. When Station III is operation, it is recommended to re-organize and maintain a minimum of two (2) personnel on the Rescue Truck at Headquarters to ensure the safety of personnel during responses (see staffing plan attached, current vs. new station). This will allow for the Rescue Truck to function like the rest of the apparatus where there is an assigned Officer and an assigned Driver/Operator for each apparatus. This re-organization will require promoting (3) Firefighter IIs to the ranks of Driver/Operator for the Rescue Truck at Headquarters.	18	20
			5,441.58			
STREET DEPARTMENT -Effective 1/27/19						
Streets	Master Equipment Operator	Labor Supervisor	678.60	Request a position be reclassified from a Master Equipment Operator to a Labor Supervisor due to the individual performing Labor Supervisor task due to work load shift when Streets acquired the Brush Truck responsibility. The individual has taken the responsibility of supervising the Street Crew and has experienced an increase in after hour call backs.	17	18
Total Change			6,120.17			

Minutes Committee of the Whole Meeting
Tuesday, January 22, 2019

CITY OF LENOIR

COUNCIL ACTION FORM

I. Agenda Item: Resolution to Pre-Procure Dryer Equipment.

II. Background Information: The City of Lenoir has received a low-interest State Reserve loan in the amount of \$6,600,000 for the Biosolids Facility project at the Lower Creek Wastewater Treatment Plant. The project generally consists of the construction a new biosolids system with sludge drying equipment. Other improvements include a belt filter press, pumps, conveyors, storage bins, piping, valves, building improvements, storage improvements, electrical, controls, and all related appurtenances.

The purpose of the Resolution to Pre-Procure Dryer Equipment is to provide the City the opportunity to purchase a dryer from Gryphon Environmental, LLC. After equipment comparisons and site visits, this dryer best meets the City's biosolids processing needs for the following reasons: (1) short start-up and shut-down times, (2) unique evaporative and pressure differential process, (3) inherent safety and maintenance features, and (4) equipment cost and scale.

The Gryphon Dryer has five (5) patents involving thermodynamic and mechanical advancements. Gryphon's technology is unique in the industry and there does not appear to be another dryer similar to the Gryphon Dryer. Creating a specification requiring this technology would not be feasible since no other manufacturer could meet these requirements. N.C. General Statute 143-129(e)(6) allows for procurement of equipment that is "available from only one source of supply".

This information was presented to the City Council at the January 22, 2019 Committee of The Whole meeting. The consensus of the Council was to place the item on the February 5, 2019 meeting agenda for approval to pre-procure the dryer equipment according the statutes.

III. Staff Recommendation: Staff recommends City Council approval of the Resolution to Pre-Procure Dryer Equipment from Gryphon Environmental LLC.

IV. Reviewed by:

City Attorney: _____

Finance Director: _____

Public Utilities Director: _____



CITY MANAGER
SCOTT E. HILDEBRAN

CITY OF LENOIR
NORTH CAROLINA

MAYOR
JOSEPH L. GIBBONS

CITY COUNCIL
J. T. BEAL
T. H. PERDUE
J. I. PERKINS
T. J. ROHR
D. F. STEVENS
C. D. THOMAS
B. K. WILLIS

**RESOLUTION TO PRE-PROCURE DRYER EQUIPMENT FOR THE
BIOSOLIDS FACILITY IMPROVEMENTS PROJECT**

WHEREAS, the City of Lenoir owns, operates, and maintains the Lower Creek Wastewater Treatment Plant to serve the citizens of Lenoir and surrounding communities; and

WHEREAS, Lower Creek Wastewater Treatment Plant includes biosolids treatment equipment; and

WHEREAS, the City of Lenoir has received a low-interest State Reserve loan to construct an upgrade to the Biosolids Facility; and

WHEREAS, the Biosolids Facility project involves the addition of a biosolids dryer system, and that after equipment comparisons and site visits, City staff has determined that Gryphon Environmental LLC's dryer system best meets the City's needs for biosolids processing. The Gryphon Dryer has five (5) patents involving thermodynamic and mechanical advancements. Those patents provide unique benefits for the City of Lenoir in the following areas: (1) short start-up and shut-down times, (2) unique evaporative and pressure differential process, (3) inherent safety and maintenance features, and (4) equipment cost and scale. N.C. General Statute 143-129(e)(6) allows for procurement of equipment that is "available from only one source of supply".

NOW, THEREFORE, BE IT RESOLVED THAT THE LENOIR CITY COUNCIL does hereby decide to pre-procure drying equipment from Gryphon Environmental, LLC for the Biosolids Facility project, all as deemed in the best interest of the City of Lenoir.

Adopted this the 5th day of February, 2019 at Lenoir, North Carolina.

(SEAL)

Joseph L. Gibbons, Mayor

ATTEST:

Shirley M. Cannon, City Clerk



PLANNING BOARD RECOMMENDATION

Kaye Reynolds

4-year term

CITY OF LENOIR

AFTER ACTION MEMO

To: Department Heads/Division Superintendents

From: Scott Hildebran, City Manager

Date: Wednesday, February 6, 2019

Subject: Action taken by City Council on Tuesday, February 5, 2019.
Review all information to ensure that your department maintains
action taken by City Council.

- ✓ City Council approved the minutes of the City Council Meeting of Tuesday, January 15, 2019, as submitted.
- ✓ City Council approved the closed session minutes of the City Council Meeting of Tuesday, January 15, 2019 as reviewed by the City Attorney, City Manager, and City Council.
- ✓ City Council approved the minutes of the Committee of the Whole Meeting of Tuesday, January 22, 2019, as submitted.
- ✓ City Council adopted a Resolution to Pre-Procure Dryer Equipment from Gryphon Environmental, LLC, for the City's Biosolids Facility at the Lower Creek Wastewater Treatment Plant.
- ✓ City Council announced the appointment of Councilmember T. J. Rohr to serve as the new City Attorney effective March 1, 2019. Councilmember Rohr also officially resigned from City Council effective immediately in order to fill this new role.
- ✓ On behalf of City Council, Mayor Gibbons commended City Attorney Ed Blair for his 26+ years of service to the City of Lenoir and its citizens. Mayor Gibbons thanked Mr. Blair for his service and dedication along with how he has worked for the City in so many different capacities over the years.
- ✓ On behalf of City Council, Mayor Gibbons also commended Councilmember T. J. Rohr for his years of service to the community and stated that Council looks forward to working with him. Councilmember David Stevens further stated that Mr. Rohr has made us a better Council.
- ✓ City Council adopted an Ordinance designating 211 Arrowood Street comprised of 48.5 acres, more or less, as Conditional Zoning District #5 (CZ-5) on the City's Official Zoning Map; directing amendment of the Official Zoning Map providing for severability, and an effective date.
- ✓ City Council awarded the low bid of \$342,400 to Brushy Mountain Builders, Inc. for the upfit of the proposed Fire Station III facility.
- ✓ Mayor Gibbons announced for the general public that Patricia Kaye Reynolds will be considered for appointment to serve a four-year term on the Lenoir Planning Board at the February 19 meeting. Ms. Reynolds will be replacing Merlin Perry who recently

retired off of the Board. Mayor Gibbons further announced that vacancies exist on the Lenoir Housing Authority and the Lenoir Tourism Development Authority.

- ✓ The following events for the month of February were highlighted:
 - February is 2019 Black History Month. The following events are scheduled to be held at the Martin Luther King, Jr. Center located at 313 Greenhaven Drive:
 - Jazz Show (The Groove Masters Band) – Saturday, February at 7:00 p.m.
 - Movie Night (“Green Book”) – Saturday, February 9 at 5:00 p.m.
 - MLK Blood Drive – Saturday, February 12 from 2:00-6:30 p.m.
 - Quiz Bowl/Essay Contest – Thursday, February 21 at 6:00 p.m.
 - The City/County Services Committee will meet on Monday, February 11 at 11:45 a.m.
 - The Caldwell County Economic Development Commission will meet on Tuesday, February 12 at 8:00 a.m.
 - City Council and the Lenoir ABC Board will conduct a joint meeting on Tuesday, February 12 at 5:30 p.m. at City Hall, Third Floor, former Council Chambers.
 - The Lenoir ABC Board will meet on Thursday, February 14 at 2:00 p.m. at Lenoir Store #1 located at 115 ABC Court.
 - The Lenoir Tourism Development Authority will meet on Thursday, February 14 at 4:00 p.m. at City Hall, Third Floor, former Council Chambers.
 - The Lenoir Business Advisory Board will meet on Thursday, February 14 at 6:00 p.m. at City Hall, Third Floor, former Council Chambers.
 - The City Council will hold its annual Planning Retreat on Friday, February 15 beginning at 8:30 a.m. at Blue Ridge Energy’s Corporate Office.
 - The Recreation Advisory Board will meet on Monday, February 18 at 6:00 p.m. at the Optimist Park Club House.



J B PLASTER ARCHITECT

626 HARPER AVENUE LENOIR, NC 28645 828.230.1726

BID ACKNOWLEDGEMENT

DATE: February 4, 2019

PREPARED FOR:

Scott Hildebran
City Manager
City of Lenoir

PROJECT:

Lenoir Fire Department
Station 3
1015 Wilkesboro Boulevard
Lenoir, NC 28645

Mr. Hildebran,

This afternoon, February 4, 2019, at 2 pm, we received bids for the renovation of the property at 1015 Wilkesboro Boulevard, Lenoir, NC for the purposes of a new satellite fire station. The bids were received as follows:

Brushy Mountain Builders	\$342,400
Precision Contracting Company	\$351,288
Wilkie Construction Company	\$357,000

Precision Contracting Company did not include proof of a bid bond, and is considered incomplete. The other two bids were complete. All three bids are attached for your review.

Respectfully,

Jesse Plaster, RA

CITY OF LENOIR

COUNCIL ACTION FORM

- I. Agenda Item:** Consideration of Bids for Lenoir Fire Station #3 Upfit
- II. Background Information:** On Monday, February 4, 2019, the City received bids for the upfit of the residential building for Lenoir Fire Station #3. The City received three bids; and the bid tabulation for the project is enclosed. The total bids are as follows:

Precision Contracting Co. (Granite Falls)	\$351,288*
Wilkie Construction (Lenoir)	\$357,000
Brushy Mountain Builders, Inc. (Lenoir)	\$342,400

* No Bid Bond included

The architect's opinion of the total construction project cost was estimated to be approximately \$375,000. It is anticipated that once a contract is executed, work will take approximately 120 days to complete. The City has budgeted \$400,000 for this phase of the renovation project.

Additional furniture, fixtures, equipment, and miscellaneous items are estimated at \$176,215, of which the City has budgeted \$207,000.

As you are aware in late 2018, the City acquired a 0.910 acre lot located at 1015 Wilkesboro Boulevard that included two (2) recently constructed buildings. The purchase contract required an access road to Taylorsville Road be platted and constructed, including any necessary associated water and storm water appurtenances, and the two (2) buildings be modified, if necessary, to meet or exceed a Risk Category IV building code standard. The purchase price was \$1,028,612.

- III. Staff Recommendation:** Staff recommends that the City Council award the LFD#3 upfit bid to the lowest responsive and responsible bidder, Brushy Mountain Builders, Inc. for \$342,400.

- IV. Reviewed By:**

City Attorney:
City Manager: