

**LENOIR CITY COUNCIL
TUESDAY, FEBRUARY 20, 2018
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 Attorney Blair and City Clerk Cannon.

I. CALL TO ORDER

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

**SPECIAL RECOGNITION; BOY
SCOUT TROOP #254:**

- A. Mayor Gibbons welcomed Ms. Amy Green, Assistant Scout Master, Charles Stevenson and members of Boy Scout Troop #254 who were in attendance at the meeting as part of their requirements to earn a merit badge.

Prior to the meeting, Councilmember Jonathan Beal along with Mayor Joe Gibbons explained the proceedings of the City Council and reviewed the function of each City Department.

Mr. Beal stated he appreciated their interest in local government and to keep up the good work.

On behalf of City Council, Mayor Gibbons stated the Boy Scouts was a great program and wished them the best. He further commented the City would make them aware of any service projects they could do in the community to assist with their earning a merit badge. He presented each member with a City lapel pin.

Ms. Green thanked City Council for their support and the opportunity for the Scouts to learn to be responsible citizens. Ms. Green stated all the troop members were active in the program and reported they are based out of First United Methodist Church. She shared the Troop recently attended the Merit Badge University.

**PRESENTATION; THE JARHEADS,
ENVIROTHON TEAM:**

- B. The Jarheads, Envirothon Team, comprised of Renae Austin, Griffin Dilsaver, Deanna Kilby, Bailey McLean, Zachary McLean and Sam Miller, students from Caldwell Early College, presented their Service Learning Project to City Council. The presentation is a part of tier requirements for competition and geared toward Tuttle Educational State Forest. Envirothon is an Environmental Knowledge Competition and the team competes under the 4-H umbrella since the Early College does not recognize this program. The team won the state

competition in 2017.

Griffin Dilsaver, along with Team members, stated the Team's focus is environmental stewardship and emphasized their goal is to give back to the next generation. They reported the team annually participates in a community service project and competes at the regional, state and national level depending upon their success.

Sam Miller shared their project last year was stream health and they worked with the City of Lenoir to remove blockage in Zacks Fork Creek. Pictures were taken using a drone at the completion of the project and the students were able to see the difference their project made. This year they focused on formation of streams and erosion. At Tuttle State Park, the team members explained how they placed humps in ditches to help divert the water flow to prevent erosion and also repaired benches, the wooden staircase along with the handrails. It was noted that Troop #254 also assisted with raising \$150.00 to purchase identifying tags to place at the different types of trees along the Greenway.

Each student shared what they learned during this process and also reiterated their goal is to give back to the community and to educate the next generation. The students further shared their choice of career and college.

City Council stated they were very impressed with the students and their interest in preserving the environment and educating the next generation. Mayor Gibbons presented each student with a City lapel pin.

II. MATTERS SCHEDULED FOR PUBLIC HEARINGS

AMENDMENT; NON-CONFORMING SINGLE FAMILY STRUCTURES:

- A. A public hearing was held to consider adoption of an ordinance amending the City's Code of Ordinances, Appendix A, Section 704.1, of the Lenoir Zoning Ordinance as related to Non-Conforming Single Family Structures.

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

A copy of the ordinance is hereby incorporated into these minutes by reference. (Refer to pages 57-59).

Planning Director Jenny Wheelock explained the current code does not allow for the "by right" reconstruction or repair of non-conforming structures and the proposed amendment addresses that issue in section 704.12.

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

Upon a motion by Councilmember Perdue, Council voted 7 to 0 to approve the

ordinance amending Section 704.1 of the Lenoir Zoning Ordinance, as related to Non-Conforming Single Family Structures as described above and as recommended by City Staff and the Lenoir Planning Board.

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 minutes of the City Council Meeting of Tuesday, February 6, 2018 as submitted.
2. Speed Limit Request; Fairlane Drive: City Staff recommends that Council call for a public hearing to be held on Tuesday, March 6, 2018 to consider adoption of a 20 mph speed limit for the entire length of Fairlane Drive, allowing for posting at the discretion of the Public Works Director. The City's Code of Ordinances, Appendix A, Traffic, Section 114, Twenty mile per hour speed limit on the following streets, will be amended to reflect this change.

Upon a motion by Councilmember Rohr, Council voted 7 to 0 to approve the above listed items on the Consent Agenda 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

PLANNING RETREAT:

1. The City Council Planning Retreat will be held on Friday, February 23 from 8:00 a.m. – 2:00 p.m. at the Blue Ridge Energy Membership Corporation (BREMCO) corporate office located at 1216 Blowing Rock Boulevard.

PLANNING BOARD:

2. The Planning Board will meet on Monday, February 26 at 5:30 p.m.

COMMITTEE OF THE WHOLE:

3. The Committee of the Whole will meet on Tuesday, February 27 at 8:30 a.m. at City Hall, Third Floor, former Council Chambers.

FOOTHILLS REGIONAL AIRPORT

AUTHORITY: 4. The Foothills Regional Airport Authority will meet on Wednesday, February 28 at noon.

**RETIREMENT RECEPTION;
BECK & BRISCOE:**

5. A joint reception honoring Charles Beck, Director of Public Works, and Ken Briscoe, Fire Chief, will be held on Tuesday, March 6 from 3:30 p.m. – 5:30 p.m. at the City/County Chambers located at 905 West Avenue, Lower Level.

B. ITEMS FOR COUNCIL ACTION

SKATE PARK ORDINANCE

AMENDMENT: 1. City Staff recommends Council approve amending the City's Code of Ordinances, Chapter 13, Section 13-18, Skate Park, to read as follows: It shall be unlawful within the corporate limits of the City of Lenoir for any person riding a skateboard or similar device at or within any municipal skate park or facility unless such person is wearing appropriate protective gear including a helmet, elbow pads, and kneepads. **Appropriate signs notifying the public of this section and requirement shall be posted appropriately at the entrance(s) to such skateboard park.** The proposed amendment is in bold. The purpose of the proposed amendment is to allow citizens to use the City's Skate Park at their own risk and without supervision by City Staff.

As background information, City Manager Hildebran stated the City talked to skate park "experts" at the National League of Cities Conference last fall regarding how to increase usage at the City's park. These representatives suggested posting appropriate signage that no supervision will be provided and skaters will be required to wear appropriate gear as allowed per N.C.G. S. Article 3, Chapter 99E, which states that, "governmental entities which own or operate skate parks are relieved of liability for personal injury or property damage to those who ride skateboards in such parks, if the government has adopted an ordinance requiring such riders to wear helmets, elbow pads and knee pads, and has properly posted notice of such requirements at the facility". This step creates immunity for the City from any liability issues that may occur. It was also noted that other area municipalities including Boone, Morganton, Marion, and Newton have already made these changes. Currently, the City's park opens at noon and has to be staffed if there are any users of the park.

City Manager Hildebran further stated that City Staff has spoken with our insurance carrier and City Attorney and both believe this minimizes liability for the City. He stated this is the appropriate way for the City to move forward regarding the skate park.

Councilmember Perdue asked if there would be any change to park hours if the ordinance is approved. Recreation Director Kenny Story reiterated the park currently opens at noon and Staff has to be onsite in order for skaters to use the park which creates some issues for the Department. He stated Staff will establish park hours and will bring the schedule to Council for their approval. He also clarified there was currently not any lighting at the park, but stated the lights from the tennis courts provided some light for the area.

Councilmember Perdue also inquired about the cost to provide lighting at the park with Mayor Pro-Tem Willis stating he would like to see a report on the usage of the park first. Director Story explained the lighting could be a spotlight and doesn't have to be the type of lighting a ball field has. It was noted several other area municipalities do not provide lighting at their parks.

Councilmember Beal suggested setting park hours from dawn to dusk due to the area becoming darker later on in the evening hours.

Following a brief discussion, City Council directed Recreation Director Story to report back to Council on the usage of the skate park prior to Council considering the option of installing lighting at the park. Appropriate signage will be installed at the park upon finalization of the park's hours of operation.

Upon a motion by Councilmember Rohr, Council voted 7 to 0 to approve the above described amendment to the Skate Park Ordinance as recommended by City Staff.

VII. REPORT AND RECOMMENDATIONS OF THE CITY ATTORNEY

VIII. REPORT AND RECOMMENDATIONS OF THE MAYOR

NOTIFICATION OF BOARD

APPOINTMENTS/RE-APPOINTMENTS:

- A. Mayor Gibbons announced the following upcoming Board re-appointments will be presented to Council for their consideration of approval at the March 20 meeting. Mayor Gibbons stated that each of these individuals have requested to serve another term.

Tim Scobie	Planning Board
Dana Clark and Glenda Wilson	Lenoir Tourism Development Authority
Terese Almquist	Lenoir Business Advisory Board
Scott Barnett and Erik Rabinwitz	Recreation Advisory Board

IX. REPORT AND RECOMMENDATIONS OF COUNCILMEMBERS

COMMENDED; JOSHUA HARRIS & CITY CLERK CANNON:

- A. Councilmember Perkins thanked Joshua Harris, Public Information Officer, for the great job he is doing in keeping the Council and community informed of events happening in the City of Lenoir. Mr. Perkins also thanked City Clerk Shirley Cannon for keeping City Council informed of events as related to Council.

CLOSED

SESSION: B. Pursuant to N.C.G.S. §143-318.11(a) (4), (5), and upon a motion by Mayor Pro-Tem Willis, City Council entered into closed session to discuss economic development and a property acquisition.

OPEN

SESSION: C. Upon a motion by Councilmember Perdue, Council voted unanimously to re-enter into open session.

X. ADJOURNMENT

A. There being no further business, the meeting was adjourned at 7:12 p.m.

Shirley M. Cannon, City Clerk

Joseph L. Gibbons, Mayor

**AN ORDINANCE OF THE CITY COUNCIL OF LENOIR,
NORTH CAROLINA, AMENDING APPENDIX A SECTION 704.1
OF THE LENOIR CITY CODE RELATED TO NON-
CONFORMING STRUCTURES, PROVIDING FOR
SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

Whereas, the Lenoir Zoning Ordinance was adopted in 1978, and has been amended from time-to-time to reflect the changing needs of the community, and the adoption of these ordinances can create non-conforming structures; and

Whereas, Section 704 of the Lenoir Zoning Ordinance contains provisions to allow for the continued use of non-conforming structures, in order the limit any hardship created through the application of the zoning ordinance; and

Whereas, Section 704 establishes a threshold whereby if a non-conforming structure is damaged beyond 50% of its tax value, the non-conforming aspects of the structure are no longer “grandfathered” and any repair or reconstruction must conform to the currently adopted code of ordinances, but specifically exempts single family dwellings from this threshold; and

Whereas, the exemption for single family dwellings contains the condition that such non-conforming dwellings can only be repaired or rebuilt if their setbacks conform to the zoning district standards; and

Whereas, the vast majority of non-conforming single family dwellings are non-conforming for building setbacks, but the general development pattern of single family neighborhoods in Lenoir does not seem to be negatively impacted by the continued existence of setback encroachments; and

Whereas, a prohibition on re-building within existing building footprints when non-conforming single family homes are damaged negatively impacts neighborhoods by creating barriers to repair and renovation, potentially increasing the number of vacant and/or substandard houses and adding to the burden of minimum housing code enforcement; 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 sensible and straightforward zoning practices and the protection of the existing character of established residential areas; 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 A, Article VII, Section 704.1 of the Code of Ordinances, City of Lenoir, North Carolina, "Nonconforming Structures" is hereby amended to read as follows:

704.1 Nonconforming Structures - Nonconforming buildings or structures are declared by this ordinance to be incompatible with permitted uses in the districts involved. However, to avoid undue hardship, the lawful use of any building or structures at the time of the enactment of this ordinance or any applicable amendment thereof may be continued even though such structures does not conform with the provisions of this ordinance except that the nonconforming building or structure shall not be:

704.11 Replaced with the same or a similar building, after physical removal or relocation from the site upon which it was located when it became nonconforming;

704.12 Repaired, rebuilt, or altered after damage exceeding fifty (50%) percent of its tax value at the time of such damage. A permit for construction or repair, when legal, shall be issued no later than four (4) months after such damage occurred. However, existing single-family dwellings (excluding manufactured homes) may be repaired or rebuilt regardless of the extent of damage provided that the square-footage of the structure is not increased and the repaired/rebuilt structure maintains or reduces any encroachments into required building setbacks of the zoning district in which it is located. ~~that the dwelling complies with the setback distances of the zoning district in which it is located.~~ Permits for repair or reconstruction of a non-conforming single-family dwelling shall be issued no later than one year after damage occurred.

704.13 Enlarge or altered in a way which increases nonconformity.

Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official. In addition, nothing in this ordinance shall prevent the owner from lawful occupancy or use of a nonconforming building which existed at the time of the adoption of this ordinance, or any applicable amendment thereof.

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.

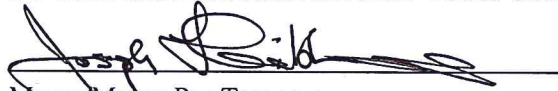
SECTION 3. CODIFICATION. The City Clerk shall cause the Code of Ordinances of Lenoir, North Carolina to be amended as provided by this ordinance and may renumber, re-letter, and rearrange the codified parts of this ordinance if necessary to facilitate the finding of the law.

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 9th day of February and this 16th day of February, 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 20th day of February, 2018.

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

CITY OF LENOIR, NC
CHARTERED
JANUARY 28, 1851

SEAL

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