

**LENOIR CITY COUNCIL
TUESDAY, MARCH 17, 2020
6:00 P.M.**

PRESENT: Mayor Gibbons presiding. Councilmembers present were Beal, Perdue, Thomas, Willis and Attorney David Lackey, filling in for City Attorney T.J. Rohr.

Councilmember David Stevens and City of Lenoir Department Directors participated in the meeting via a conference call.

ABSENT: Councilmembers Ralph Prestwood, Ike Perkins, City Attorney T.J. Rohr and City Clerk Shirley Cannon.

I. CALL TO ORDER

- A. The meeting was opened by a moment of silence followed by the Pledge of Allegiance as led by Mayor Gibbons.
- B. On behalf of City Council, Mayor Gibbons asked everyone to keep families in our local community and around the world in their thoughts and prayers as all communities are dealing with the impact of the coronavirus. Mayor Gibbons also shared City Council was observing the orders given by Governor Roy Cooper to limit no more than ten (10) people in attendance at events to try and prevent further spread of the virus. Governor Cooper also directed restaurants to close their dining rooms and limit food orders to take out, delivery service only, or pick up via a drive through if available.

In addition, Mayor Gibbons reported an Action Plan was being put into effect for the City of Lenoir and will be available on the City's website at www.cityoflenoir.com. Also, he announced all of the City's Parks and Recreation facilities are currently closed to the public plus the public school system has closed.

**UPDATE; CALDWELL COUNTY
HEALTH DEPARTMENT:**

- C. Anna Martin, Caldwell County Health Director, presented an update regarding steps Caldwell County has put in place to help prevent the spread of the coronavirus. Ms. Martin stated statistics are constantly changing, but reported there are 62 cases of the virus in North Carolina and none has been reported in Caldwell County at this time. The United States has 4,226 cases and 75 deaths have occurred. The virus is spread via inhaling droplets by an infected person who is coughing and it is being recommended for everyone to stay 6-feet apart and practice social distancing. It is also recommended everyone thoroughly wash their hands following touching surfaces plus refrain from touching their face.

Ms. Martin reported symptoms of the coronavirus include a fever, cough and

shortness of breath. She recommended that everyone contact their primary physician first if you suspect you have the virus before going into the office. She clarified that someone may accompany you to the doctor, but they will not be allowed to go back with you while you are being checked.

Ms. Martin also advised everyone to call the Health Department if they have been in contact with an infected person so Staff may perform a nasal swab test to determine if they are positive for the virus. Staff will be available in the parking lot to do the testing so individuals will not have to come inside the facility. Staff will also visit patients at their homes to perform the test. She reiterated public schools are closed for two weeks and restaurants are doing takeout orders only or some delivery service.

Councilmember Perdue inquired if the Health Department has an adequate number of test kits and how are Emergency Management Personnel being protected.

Ms. Martin reported they have adequate testing supplies, but they are limited as to what number they may receive from the state and LabCorp. She also stated they are using telemedicine but should someone need an appointment, they will open up a slot to see them.

City Manager Hildebran stated the City is following state and professional association's guidelines.

Ms. Jeanie Walker, Nurse, Caldwell County Health Department, reported that a face mask is like a surgical mask but offers more protection.

On behalf of City Council, Mayor Gibbons thanked Ms. Martin and Ms. Walker for coming and the good report. Ms. Martin also thanked City Council for their support and reiterated everyone should follow the guidelines that have been put in place.

II. MATTERS SCHEDULED FOR PUBLIC HEARINGS

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, March 3, 2020 as submitted.
2. Minutes: Approval of the closed session minutes of the City Council meeting of Tuesday, March 3, 2020.
3. Minutes: Approval of the minutes of the Committee of the Whole meeting of Tuesday, February 25, 2020 as submitted.
4. Minutes: Approval of the closed session minutes of the Committee of the Whole meeting of Tuesday, February 25, 2020.

5. Amendments; Baton Water Resale Purchase Agreement: Staff recommends City Council approval of the amendment to the Water Sales Agreement with Baton Water Corporation, Inc. to provide up to 600,000 gallons of drinking water per day maximum daily flow at the applicable wholesale water rate. A copy of the amendments are hereby incorporated into these minutes by reference. (Refer to pages 31-33).

Upon a motion by Councilmember Perdue, Council voted 4 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 BOARD:

1. The Planning Board, in their capacity as the Historic Preservation Commission, will meet on Monday, March 23 at 5:30 p.m. at City Hall, Third Floor, former Council Chambers. *Mr. Hildebran stated the meeting is subject to change.

COMMITTEE OF THE

WHOLE: 2. The Committee of the Whole will meet on Tuesday, March 24 at 8:30 a.m. at City Hall, Third Floor, former Council Chambers. This meeting will be a budget work session for City Council. *Mr. Hildebran stated the meeting is subject to change.

CANCELLED; FOOTHILLS REGIONAL AIRPORT AUTHORITY:

3. The Foothills Regional Airport Authority has cancelled their meeting of Wednesday, March 25.

B. ITEMS FOR COUNCIL ACTION

ENGINEERING SERVICES AGREEMENT AND TASK ORDER

NO. 1; MATTERN AND CRAIG ENGINEERS:

1. City Staff recommends approval of the Engineering Services Agreement, Task Order Edition, with Mattern and Craig, Inc. and execution of Task Order No. 1 for Mattern and Craig, Inc. to provide on-call traffic and traffic and transportation engineering services in accordance with terms contained in the Master Agreement.

A copy of Task Order No. 1 is hereby incorporated into these minutes by reference. (Refer to pages 34-35).

City Manager Hildebran explained that Mattern and Craig, Inc. will be on a call basis with the City and clarified the City does not have to pay a retainer upfront. Public

Works Director Jared Wright further reported the City would receive quotes on a project by project basis or hourly rates.

Upon a motion by Councilmember Willis, Council voted 4 to 0 to approve the Engineering Services Agreement, Task Order Edition and execution of Task Order No. 1 with Mattern and Craig, Inc. as described above and as recommended by City Staff.

SIDEWALK CAFÉ LEASE; SIDE STREET POUR HOUSE AND GRILL:

2. City Staff recommended renewal of the Side Street Pour House and Grill's annual Sidewalk Café Permit with the following conditions:
 - A. The applicant must coordinate with the City's Public Works Director prior to modifying or installing any support structures for lights or awnings or modifying any enclosure fencing.
 - B. String lights installed over the sidewalk café are limited to white, non-blinking lights.
 - C. All provisions of Sec. 13-3(C) shall continue to apply to the use and operation of the sidewalk café area.

A copy of the permit, map, and certificate of insurance is hereby incorporated into these minutes by reference. (Refer to page 36-38).

Upon a motion by Mayor Pro-Tem Thomas, Council voted 4 to 0 to renew the Side Street Pour House and Grill's annual Sidewalk Café Permit and the three conditions as described above and as recommended by City Staff.

VII. REPORT AND RECOMMENDATIONS OF THE CITY ATTORNEY

VIII. REPORT AND RECOMMENDATIONS OF THE MAYOR

UPCOMING BOARD ANNOUNCEMENTS:

- A. Mayor Gibbons announced he is currently working on filling several vacancies on the City's Authorities/Boards/Commissions as well as several board re-appointments and will be submitting recommendations to City Council in the near future.

MAIN STREET AWARDS:

- B. Mayor Gibbons announced the City of Lenoir's Main Street won three awards at the Main Street Conference held recently in New Bern. The Public Works Sanitation Division won the North Carolina 2020 Main Street Champion Award for the City. Other awards included the Best Endangered Properties Rescue Effort: The Little Building with the Big Impact-Dayvault's Drug Store and the North Carolina Gravity Games won the Best Downtown Special Event Series.

Mayor Gibbons stated the City is proud of these awards and would honor everyone involved at a later date. On behalf of City Council, he thanked Kaylynn Horn, Main

Street Director, Kyle Case, Main Street Coordinator, and all City Departments for all of their hard work in achieving this recognition.

PROCLAMATION; STATE OF EMERGENCY:

- C. Mayor Gibbons presented a proclamation to Council to declare a state of emergency for the coronavirus disease 2019 (COVID-19) effective 8:00 a.m. on Wednesday March 18 and to remain in effect until modified or rescinded.

(A copy of the proclamation is hereby incorporated into these minutes by reference. Refer to pages 39-40).

Mayor Gibbons emphasized the City is putting procedures in place and announced that City Hall will also be closed to the general public beginning Wednesday, March 18. He stated citizens will have the option to pay online or leave payments in the available drop box. Also, a number of City services are available online or citizens may contact any City department directly for any questions they may have. Contact information for Staff is also available on the website.

City Manager Hildebran also reported the surrounding counties of Watauga Wilkes, and Catawba along with the City of Hickory, Granite Falls, and Hudson, have declared a state of emergency. Caldwell County will implement a state of emergency on Wednesday, March 18 at effective at 8:00 a.m.

Mayor Gibbons stated the City will keep the general public aware of any plans the City anticipates putting in place pertaining to the coronavirus.

UPDATE; KEN HAIR, FIRE CHIEF:

- D. Ken Hair, Fire Chief, informed Council the Fire Department is following the North Carolina Emergency Management Services protocol and they have masks on order for personnel. The Department will be also limit access to the general public.

UPDATE; BRENT PHELPS, CHIEF OF POLICE:

- E. Brent Phelps, Chief of Police, shared the Police Department is looking at ways to take care of Staff and reported they have set up hand washing stations in the building. He further shared the front doors of the facility may be locked. In addition, officers are sanitizing patrol cars after any contact with citizens and he clarified officers would still be responding to emergency calls. He explained Staff is currently discussing ways to limit their actions with the public while still providing services.

In addition, Chief Phelps stated the Department has not seen an increase in calls for service. He stated Staff is evaluating the situation daily and commended City Council and Staff for all they are doing to protect the citizens and Staff of the City of Lenoir.

**UPDATE; JARED WRIGHT,
PUBLIC WORKS DIRECTOR:**

F. Jared Wright, Public Works Director, stated the Department is committed to following the necessary guidelines, but pointed out that Sanitation personnel will still provide services to the citizens of Lenoir during this time.

**UPDATE; RADFORD THOMAS,
PUBLIC UTILITIES DIRECTOR:**

G. Radford Thomas, Public Utilities Director, stated Public Works and Public Utilities were working together and stressing to Staff to follow the current guidelines. He also mentioned they would be discussing Staffing levels since the water treatment plant operates on a 24 hour schedule.

**UPDATE; KENNY STORY,
RECREATION DIRECTOR:**

H. Kenny Story, Recreation Director, reported the public is cooperating while all the parks and recreation facilities are currently closed and also shared Staff is following protocol.

Mayor Gibbons advised everyone to err on the side of caution during these uncertain times.

IX. REPORT AND RECOMMENDATIONS OF COUNCIL MEMBERS

X. ADJOURNMENT

A. There being no further business, the meeting was adjourned at 6:46 p.m.

Shirley M. Cannon, City Clerk

Joseph L. Gibbons, Mayor

AMENDMENT TO AGREEMENT

City of Lenoir – Baton Water Corporation Water Sales Agreement

THIS AMENDMENT TO AGREEMENT made this ____ day of March 2020, by and between Baton Water Corporation (herein after referred to as “Baton”) and the City of Lenoir (herein after referred to as “Lenoir”)

(Original Agreement Approved by Lenoir City Council on January 16, 2018)

This agreement shall be amended as specified below:

Current Item 2, Page 2 -

Lenoir agrees to provide and sell to Baton up to 500,000 GALLONS (FIVE HUNDRED THOUSAND GALLONS) of potable water maximum daily flow, measured through metered connections which are located, prescribed and maintained by Lenoir, at or above minimum State of North Carolina and Federal Standards for Public Water. Such maximum daily flow shall be based on a thirty (30) day average daily flow. Such maximum daily flow to be reviewed every five (5) years.

Amended Item 2, Page 2 -

Lenoir agrees to provide and sell to Baton up to 600,000 GALLONS (SIX HUNDRED THOUSAND GALLONS) of potable water maximum daily flow, measured through metered connections which are located, prescribed and maintained by Lenoir, at or above minimum State of North Carolina and Federal Standards for Public Water. Such maximum daily flow shall be based on a thirty (30) day average daily flow. Such maximum daily flow to be reviewed every five (5) years.

Current Item 3, Page 2 –

Baton agrees to use best efforts not to exceed the above maximum daily flow provided for in Section 2 of this agreement, unless Lenoir expressly agrees that said maximum daily purchase(s) may exceed 500,000 gallons for a specified period of time.

Amended Item 3, Page 2 -

Baton agrees to use best efforts not to exceed the above maximum daily flow provided for in Section 2 of this agreement, unless Lenoir expressly agrees that said maximum daily purchase(s) may exceed 600,000 gallons for a specified period of time.

Current Item 6, Page 2 -

The initial Base Water Rate charged to Baton for water purchases shall be \$2.17 per one thousand gallons of water provided by Lenoir to Baton. In the event the average daily flow during any monthly billing period exceeds the maximum daily flow of 500,000 gallons, the following surcharges (The "Surcharge Rate") will apply to the overage:

- (500,001) to (550,000) gallons – \$2.39/1000 gallons
- (550,001) to (600,000) gallons – \$2.63/1000 gallons
- (600,001) gallons or more – \$2.89/1000 gallons

Over the term of this agreement or any extension thereof, Lenoir may, at its sole discretion, increase the Base Water Rate and /or the Surcharge Rate as it deems necessary. Lenoir shall not increase said rates to Baton more than one time during any fiscal year of twelve (12) months ending on June 30 of each year. Lenoir agrees to notify Baton in writing of planned increases with an explanation of the factors used to determine set increase in rates at least ninety (90) days prior to June 30 of any fiscal year, with rate increases that are to become effective on July 1 of that same year.

Amended Item 6, Page 2 –

The initial Base Water Rate charged to Baton for water purchases shall be \$2.22 per one thousand gallons of water provided by Lenoir to Baton. In the event the average daily flow during any monthly billing period exceeds the maximum daily flow of 600,000 gallons, the following surcharges (The "Surcharge Rate") will apply to the overage:

- (600,001) to (650,000) gallons – \$2.45/1000 gallons
- (650,001) to (700,000) gallons – \$2.70/1000 gallons
- (700,001) gallons or more – \$2.97/1000 gallon

Over the term of this agreement or any extension thereof, Lenoir may, at its sole discretion, increase the Base Water Rate and /or the Surcharge Rate as it deems necessary. Lenoir shall not increase said rates to Baton more than one time during any fiscal year of twelve (12) months ending on June 30 of each year. Lenoir agrees to notify Baton in writing of planned increases with an explanation of the factors used to determine set increase in rates at least ninety (90) days prior to June 30 of any fiscal year, with rate increases that are to become effective on July 1 of that same year.

IN WITNESS WHEREOF, the parties have executed this Amendment on the day and year first above written.

CITY OF LENOIR, NORTH CAROLINA

By: _____
Joseph L. Gibbons, Mayor

(SEAL)

Attest:
By: _____

Shirley M. Cannon, City Clerk

BATON WATER CORPORATION

By: _____
_____, Board Chair

(SEAL)
Attest:

By: _____
_____, Secretary

This agreement has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

By: _____
_____, Finance Officer

By: _____
_____, Finance Director

TASK ORDER No. 001

20 Minutes-City of Lenoir Council Meeting
Tuesday, March 17, 2020

34
This is Task Order No. 001
consisting of 2 pages.

Task Order

In accordance with Paragraph 1.01 of the Agreement Between Owner and Engineer for Professional Services – Task Order Edition, dated **March 17, 2020** ("Agreement"), Owner and Engineer agree as follows:

1. Background Data

- a. Effective Date of Task Order: **March 17, 2020**
- b. Owner: **City of Lenoir**
- c. Engineer: **Mattern & Craig, Inc.**
- d. Specific Project (title): **General Engineering Services (GES)**
- e. Specific Project (description): **Transportation & Traffic Engineering Services On-Call**

2. Services of Engineer

- A. The specific services to be provided or furnished by Engineer under this Task Order are:

Provide engineering assistance to the Planning & Public Works Departments for Transportation & Traffic Engineering related services as requested. These services shall be defined by City staff on an hourly basis to be reported and invoiced monthly in accordance with the Fee Schedule attached as Exhibit C. Or, by lump sum as defined by subsequent Task Order defining a specific project scope of service and contract fee amount.

- B. Other Services

Engineer shall also provide the following services, if required in conjunction with project identified under this GES contract: General Civil Engineering, Stormwater & Drainage, Field Survey, and Structural Engineering.

- C. All of the services included above comprise Basic Services for purposes of Engineer’s compensation under this Task Order.

3. Additional Services – *Not Used*

4. Owner's Responsibilities

Owner shall have those responsibilities set forth in Article 2 of the Agreement.

5. Task Order Schedule – *Not Used*

6. Payments to Engineer

- A. Owner shall pay Engineer for hourly services rendered under this Task Order per Fee Schedule attached as Exhibit A.

7. Consultants retained as of the Effective Date of the Task Order: Mattern & Craig, Inc. 35

8. Other Modifications to Agreement and Exhibits: *None*

9. Attachments: *None*

10. Other Documents Incorporated by Reference: *None*

11. Terms and Conditions

Execution of this Task Order by Owner and Engineer shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated by this reference. Engineer is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner.

The Effective Date of this Task Order is March 17, 2020.

OWNER: City of Lenoir

ENGINEER: Mattern & Craig, Inc.

By: _____
Print Name: Scott Hildebran
Title: City Manager
Date Signed: March 17, 2020

By: _____
Print Name: Randy W. Beckner, PE
Title: Principal
Date Signed: March 17, 2020

Firm's Certificate No. : C-1154

State of : North Carolina

Address for Owner's receipt of notices:

Address for Engineer's receipt of notices:

City of Lenoir
PO Box 958
Lenoir, NC 28645

Mattern & Craig
231 16th Avenue NE
Hickory, North Carolina 28601

DESIGNATED REPRESENTATIVE
(Paragraph 8.04):

DESIGNATED REPRESENTATIVE
(Paragraph 8.04):

Jared Wright

Brian Newman, PE

Title: Director of Public Works

Title: Office Manager

Phone Number: (828) 757-2183

Phone Number: (828) 838-4139

E-Mail Address: jwright@ci.lenoir.nc.us

E-Mail Address: brnewman@matternandcraig.com



SIDEWALK CAFE PERMIT APPLICATION

CITY OF LENOIR PLANNING DEPARTMENT

CITY HALL • 801 WEST AVENUE NW • PO BOX 958 • LENOIR, NC 28645

The City of Lenoir allows sidewalk cafes within the downtown Municipal Service District when a permit is approved by City Council, in accordance with Sec. 13-3 of the Lenoir City Code. For questions about this application form or the rules pertaining to sidewalk cafes in the City of Lenoir, please contact the Planning Department at 828.757.2200. PERMITS ARE GOOD FOR A PERIOD OF 1 YEAR AND MUST BE RENEWED ANNUALLY.

Submittal Checklist:

- Application Form
- Application Fee
- Site Plan (including dimensions):
 - Must show all tables, chairs, walkway areas, and entrances/exits to the restaurant.
 - Must show location and materials of temporary barrier to be erected around the café.
 - Must show 5 ft. clear pedestrian path on sidewalk adjacent to café area.
- Documentation of Public Liability Insurance
 - Must carry \$1,000,000.00 insuring against personal injury, wrongful death and property damage, including the City as a party insured and insuring the City against any liability resulting from the uses permitted pursuant to Section 13-3 of the Lenoir City Code.
- Copies of All Permits and Licenses
 - County Health Department and any other applicable regulatory agencies
 - Current ABC/ALE permits if the sidewalk café intends to serve alcoholic beverages on the public sidewalk. NOTE: revised permits may be required to include the expanded areas.

Permit Information:

Property Address: 128 Main St. NC PIN: _____

Zoning District: B-3 Located within Municipal Service District? Yes No

Business Name: Side Street Pour House & Grill

Will ABC permit include sidewalk café area? Yes No

Number of seats in Restaurant: 100 Number of seats* proposed for sidewalk café: 24

*Note: seating in sidewalk café can not exceed 50% of the seating within the restaurant.)

Contact Information:

Name of Restaurant Operator: Kevin Eller

Street Address: 2606 Keys Pl

City: Lenoir State: NC Zip: 28645

Phone Number: 828-234-4535

Fax Number: _____

Email: kevin.eller@yahoo.com

Owner's Signature: _____

By signing, I certify that the information presented in this application is true to the best of my knowledge and I consent to enter into a hold-harmless agreement with the City and comply with all provisions of the City ordinances in the establishment and operation of the sidewalk café described in this application.

OFFICIAL USE ONLY: City Council approved on _____ Permit No. _____



*Signed
on: 3/17/20*

CITY MANAGER
SCOTT E. HILDEBRAN

CITY OF LENOIR
NORTH CAROLINA

VS

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

**A PROCLAMATION FOR THE DECLARATION OF A STATE OF EMERGENCY
CORONA VIRUS DISEASE 2019 (COVID-19)**

WHEREAS, the World Health Organization declared the Coronavirus Disease 2019 ("COVID-19") a global pandemic on March 11, 2020; and

WHEREAS, the Governor of the State of North Carolina declared a State of Emergency on March 10, 2020 to coordinate the State's response and protective actions to address the COVID-19 public health emergency and to provide for the health, safety, and welfare of residents and visitors; and

WHEREAS, the North Carolina Department of Health and Human Services confirmed the number of cases of COVID-19 in North Carolina continues to rise; and

WHEREAS, the North Carolina Department of Health and Human Services confirmed cases of COVID-19 in western North Carolina; and

WHEREAS, City of Lenoir citizens travel to and from those counties and the residents of those counties travel to and from Lenoir regularly, increasing the risks for exposure of COVID-19; and

WHEREAS, as a result of the above-described emergency, I have determined that there is an imminent threat of, or existing conditions have caused or will cause, widespread or severe damage, injury, or loss of life or property, and public safety authorities will be unable to maintain public order or afford adequate protection for lives or property; and

WHEREAS, declaring a State of Emergency and imposing the restrictions and prohibitions ordered herein is necessary to maintain order and protect public health, safety, and welfare, and to secure property.

NOW, THEREFORE, pursuant to the authority vested in me as the Mayor of the City of Lenoir under Article IA of Chapter 166A of the North Carolina General Statutes and Chapter 7, Civil Emergencies of the City of Lenoir Code of Ordinances:

Section 1. A State of Emergency is hereby declared within the jurisdiction of the City of Lenoir.

Section 2. I hereby authorize the City Manager and/or his designee(s) to take appropriate protective action to prevent the spread of COVID-19, including implementing restrictions, modifications, or alterations to any City operations, services, or facilities, and to take other



protective measures as he deems appropriate, and consistent with guidance from the Center for Disease Control and Prevention and in accordance with executive orders issued by the President of the United States and the Governor of North Carolina.

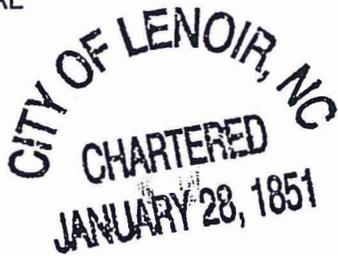
Section 3. I hereby order all City law enforcement officers and employees and all other emergency services personnel subject to our control to cooperate in the enforcement and implementation of the provisions of this Declaration, all applicable local ordinances, state and federal laws, and the Caldwell County Emergency Operations Plan.

Section 4. I hereby order this declaration: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) to be filed with Clerk to the City Council of the City of Lenoir and (c) to be distributed to others as necessary to ensure proper implementation of this declaration.

Section 5. This declaration shall take effect on March 18th, 2020 at 8:00 AM/PM and shall remain in effect.

DECLARED this the March 17th, 2020 at 6:00 AM/PM until modified or rescinded.

SEAL



SEAL

A handwritten signature in black ink, appearing to read "Joseph L. Gibbons".

Joseph L. Gibbons, Mayor