

**MINUTES**  
**LINCOLN COUNTY BOARD OF COMMISSIONERS**  
**MONDAY, JANUARY 9, 2006**

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session on January 9, 2006, at the Citizens Center, Commissioners Room, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 6:30 PM.

Commissioners Present:

Thomas R. Anderson, PE, Chairman  
James Buddy Funderburk, Vice Chairman  
Carrol Mitchem  
Marie Moore  
Alex E. Patton

Planning Board Members Present:

John Pagel  
George Arena  
Clyde Brown  
Larry Craig  
Jerry Geymont  
Darrell Harkey  
Harold Howard Jr.  
Louis McConnell

Others Present:

Stan B. Kiser, County Manager  
Jeffrey A. Taylor, County Attorney  
Amy S. Atkins, Clerk to the Board  
Delores Alfaro, Assistant Clerk to the Board  
Kelly Atkins, Director of Building and Land Development  
Randy Hawkins, Zoning Administrator  
Brad Dyer, Associate Planner  
Candi Cornwell, Review Officer  
Judy Caudill, Director of Elections  
Steve Gilbert, Director of Public Works  
Leon Harmon, Director of Finance

**Call to Order:** Chairman Anderson called the January 9, 2006, meeting of the Lincoln County Board of Commissioners to order.

**Invocation:** Commissioner Funderburk gave the Invocation and led in the Pledge of Allegiance.

**Adoption of Agenda:** Chairman Anderson presented the agenda for the Board's approval.

**UPON MOTION** by *Commissioner Patton*, the Board voted unanimously to adopt the agenda.

## **AGENDA**

### **LINCOLN COUNTY BOARD OF COMMISSIONERS**

**JANUARY 9, 2006**

- |    |         |  |
|----|---------|--|
|    | 6:30 PM | Call to Order  |
|    | 6:31 PM | Invocation – Commissioner Funderburk   |
|    | 6:32 PM | Pledge of Allegiance   |
| 1. | 6:33 PM | Adoption of Agenda   |
| 2. | 6:34 PM | Consent Agenda <ul style="list-style-type: none"><li>- Approval of Minutes<ul style="list-style-type: none"><li>- December 5, 2005</li><li>- December 19, 2005</li></ul></li><li>- Tax Requests for Releases – More than \$100<ul style="list-style-type: none"><li>- November 16 – December 15, 2005</li></ul></li><li>- Budget Adjustment No. 50 - 52</li><li>- Waived Fees<ul style="list-style-type: none"><li>- The General Robert E. Lee Historical Association</li></ul></li><li>- Sponsored Group Fees<ul style="list-style-type: none"><li>- Chamber of Commerce</li><li>- Greene's Concerts</li></ul></li><li>- North Carolina Governor's Highway Safety Program Local Government Resolution</li></ul> |
| 3. | 6:35 PM | Zoning Public Hearings – Randy Hawkins   |
- ZTA #516 Larry Griffin Jr., applicant. A proposal to amend Section 11.10 of the Lincoln County Zoning Ordinance to include “mini-warehouses” as a permitted use in the P-MU (Planned Mixed Use) district.
- ZMA #517 Frank and Denise Stephens, applicants (Parcel ID# 30538) A request to rezone a 0.66-acre lot from R-T (Transitional Residential) to B-N (Neighborhood Business). The property is located on the west side of Hwy. 16 about 250 feet south of Sifford Road in Catawba Springs Township.

CUP #269 Patricia Fea, applicant (Parcel ID#24092, 24094, 24095 and 24096) A request for a conditional use permit to operate a bed and breakfast establishment in the R-S (Residential Suburban) district. The 8.2-acre tract is located on Hwy. 150 about 700 feet north of Ivey Church Road in Ironton Township.

4. 7:05 PM Recommendation from Planning Board  
- Parallel Conditional Use Permit No. 125 – Ronnie Caldwell, applicant
5. 7:15 PM Elections Equipment Update – Judy Caudill
6. 7:25 PM Request to Purchase a Knuckleboom Truck – Steve Gilbert
7. 7:35 PM Bids for West Lincoln Booster Pump Relocation – Steve Gilbert
8. 7:45 PM Bids for Rock Dam and NC 27 Sewer Facilities – Steve Gilbert
9. 7:55 PM Vacancies/Appointments
10. 8:00 PM Other Business
11. 8:05 PM Closed Session

Recess

Consent Agenda: UPON MOTION by *Commissioner Funderburk*, the Board voted unanimously to approve the Consent Agenda, with the following modifications to the minutes:

Dec 5 2005 Minutes:

Pg. 05 – Commissioner ***Funderburk*** made the motion to approve the Consent Agenda.  
Pg. 22 – After the sentence “The Board returned to open session,” insert: ***Chairman Anderson stated that no action was taken in Closed Session.***

Dec 19 2005 Minutes:

Pg. 17 – After the sentence “The Board returned to open session,” insert: ***Chairman Anderson stated that no action was taken in Closed Session.***

- Approval of Minutes
  - December 5, 2005
  - December 19, 2005
- Tax Requests for Releases – More than \$100
- November 16 – December 15, 2005

NAME	YEAR	A/C NO	AMOUNT
Ballard, Cynthia Honneyman	2005	0188521	\$ 249.21

Benner, Dianne E.	2005	0188459	\$ 150.11
Blood, Richard Henry Jr.	2005	0188711	\$ 282.56
Calhoun, Tammy Glaze	2005	0170311	\$ 111.65
Carpenter, Jonathan Edward	2005	0187522	\$ 107.29
Cartrett, Johnny Durant	2005	0077818	\$ 225.61
Childers, Beverly Caldwell	2005	0187873	\$ 228.03
Coleman, Juanita Lynn H.	2005	0154923	\$ 122.76
Eurey, Tommy Eugene	2005	0066740	\$ 162.84
Exline, George Dwain	2005	0109642	\$ 176.43
Frye, Leslie Keever	2005	0188727	\$ 122.27
Hall, Elliott E. Jr.	2005	43765	\$ 114.37
Jim Lawing Construction	2005	0188877	\$ 439.80
Johns, Linda Cherry	2005	0161494	\$ 111.63
Killian, James	2005	0188515	\$ 179.36
Lawing, Gary Lester	2002/05	15272	\$ 465.07
Murray, William R. Jr.	2005	0176004	\$ 120.85
Nagim Corp.	2005	0096397	\$ 128.66
Novak, Taisa Essary	2005	0188875	\$ 175.47
Overmyer, Lesley Wade	2004	0149433	\$ 102.67
Pyatt, Kelly Lee	2004	0177286	\$ 180.54
Smith, Michael George	2004	0125014	\$ 142.61
Willoughby, Robert Earl	2005	0081533	\$ 105.68
Wilson, Mona Lutz	2005	0170544	\$ 209.55
<b>TOTAL</b>			<b>\$ 4,415.02</b>

- Budget Adjustment Nos. 50 – 52
- Budget Adjustment No. 50 –
  - Reallocate JCPC Funds and account for State reduction in funding
- Budget Adjustment No. 51 –
  - Increase District Court budget to account for security upgrades, Wackenhut Contract and contract to house juveniles
- Budget Adjustment No. 52 –
  - Budget Funds for Centralina COG comprehensive economic development strategy
- Waived Fees
  - The General Robert E. Lee Historical Association
- Sponsored Group Fees
  - Chamber of Commerce
  - Greene's Concerts
- North Carolina Governor's Highway Safety Program Local Government Resolution

**Zoning Map Amendment No. 516 – Larry Griffin Jr., applicant:** A proposal to amend Section 11.10 of the Lincoln County Zoning Ordinance to include “mini-warehouses” as a permitted use in the P-MU (Planned Mixed Use) district.

*John Pagel, Planning Board*, asked if mini-warehouses are allowed in B-G (General Business) and I-G (General Industrial). Mr. Hawkins stated that they are. Mr. Pagel asked if the permitted uses had been changed after the fact. Mr. Hawkins stated that they have not been changed since the original Zoning Ordinance. Mr. Hawkins explained that this would be a two-step process for anyone who has already had a Planned Mixed Use district approved, and that they would be required to have a public hearing.

*Jerry Geymont, Planning Board*, asked if it would be by conditional use, rather than by right. Mr. Hawkins confirmed that was correct.

*John Pagel, Planning Board*, suggested that this might lead to requests for other uses not permitted by right, and if so, where you stop it. Mr. Hawkins stated that is for the two boards to decide, as to whether or not to expand it to include this use. Mr. Pagel stated his concern about legal issues in changing the ground rules after the district has already been approved and proceeded for a number of years. Mr. Hawkins stated that he didn’t think so, since regulations are changed from time to time, and allow new uses. *Jeff Taylor, County Attorney*, stated no, particularly when the regulation is allowing more uses than previously allowed.

*Chairman Anderson* asked if this request is a recommendation from staff. Randy Hawkins stated that the applicant is proposing the amendment. Mr. Hawkins stated that the Zoning Ordinance allows anyone to apply to amend the ordinance. Chairman Anderson asked if staff had researched the liability of this change, as they normally would if they were bringing this before the Board. Mr. Hawkins stated that they did not in this instance. He stated that, although staff reviewed the Land Use Plan, nothing specific applied to this proposal. Mr. Hawkins stated that Goal IV of the Land Use Plan is “maintaining the integrity of existing residential development by discouraging the encroachment of incompatible non-residential land uses in such areas.” He stated that, in this instance, mini-warehouses would only be allowed in designated commercial areas of Planning Mixed Use districts, and because the plans would be subject to review by the Planning Board and the Board of Commissioners, and possibly subject to conditions, that would serve to protect neighborhoods from incompatible non-residential land uses. Chairman Anderson stated that it would not be to the extent that they are currently protected. Mr. Hawkins confirmed that was correct.

*Larry Craig, Planning Board*, asked if the concept of a P-MU district is to have an area that provides all the necessities a community would need within itself. Randy Hawkins stated that was correct. Mr. Craig asked if this was not a necessity. Mr. Hawkins stated that a previous applicant, who had already purchased a lot in Waterside Crossing, proposed an auto repair shop (which is not a permitted use), but Mr. Hawkins told him he

could not locate there. He stated that property owners and tenants were concerned about it.

*George Arena, Planning Board*, asked if staff had researched other counties and their Zoning Ordinances to determine if they allow mini-warehouses in Planned Mixed Use districts. Randy Hawkins stated that some do, although they're set up a little differently, but they allow a broader range of uses.

Chairman Anderson opened the public hearing concerning Zoning Map Amendment No. 516 – Larry Griffin Jr., applicant.

*Larry Griffin Jr., applicant*, stated that he was aware that tonight's meeting was specifically for the text change, and that, if approved, he would still have to appear before the Board of Commissioners and Planning Board to present site specific plans. Mr. Griffin stated that the concept of a Planned Mixed Use district was to serve all the needs of a community, without their having to leave the area. He stated that, based on research, he felt there was a need for a high quality storage and office/workspace component in Waterside Crossing. Mr. Griffin stated that a portion of this is allowed, but not all of it. He stated that, architecturally, it would have the same look as the shopping center, and would not have the appearance of traditional mini-storage.

Being no additional speakers, Chairman Anderson declared the public hearing closed.

**Zoning Map Amendment No. 517 – Frank and Denise Stephens, applicants: (Parcel ID 30538)** A request to rezone a 0.66-acre lot from R-T (Transitional Residential) to B-N (Neighborhood Business). The property is located on the west side of Hwy. 16, about 250 feet south of Sifford Road in Catawba Springs Township.

Randy Hawkins distributed several photos showing the house on the property that is being considered for rezoning, the house next door that has been converted to a business property that was the location of the two sisters' store, and the property located directly across the highway. Mr. Hawkins stated that the property that is zoned B-G (General Business) was rezoned in 2001.

Chairman Anderson opened the public hearing concerning Zoning Map Amendment No. 517 – Frank and Denise Stephens, applicants.

Being no speakers, Chairman Anderson declared the public hearing closed.

**Conditional Use Permit #269 – Patricia Fea, applicant:** (Parcel IDs 24092, 24094, 24095 and 24096) A request for a conditional use permit to operate a bed and breakfast establishment in the R-S (Residential Suburban) district. The 8.2-acre tract is located on Hwy. 150, about 700 feet north of Ivey Church Road in Ironton Township.

Randy Hawkins distributed a photo showing the house on the property. Mr. Hawkins stated that a bed and breakfast is subject to environmental health regulations, which

would require the applicant to obtain a permit, pass inspections, and display the health grade.

*John Pagel, Planning Board*, asked if this took on a business designation from a zoning or tax standpoint. Randy Hawkins stated that it did from the tax standpoint.

*Jerry Geymont, Planning Board*, asked how many bed and breakfast establishments are in the county. Randy Hawkins stated that there was only one in their jurisdiction that he was aware of.

*Chairman Anderson* asked if any of the commissioners had any ex parte discussions in connection with this matter. Hearing no response, Chairman Anderson opened the public hearing concerning Conditional Use Permit #269 – Patricia Fea, applicant.

*Patricia Fea, applicant*, stated that the house was built to accommodate guests, and is easily accessible from Hwy. 150. Ms. Fea stated that she is a professional chef, and has taken sanitation classes. Ms. Fea stated that she has had a positive response to the concept.

Being no additional speakers, Chairman Anderson declared the public hearing closed.

**Recommendation from Planning Board – Parallel Conditional Use Permit No. 125 – Ronnie Caldwell, applicant:**

Randy Hawkins stated that the Planning Board voted 5-2 to recommend approval, with the condition that the exterior appearance of the house be approved. The Board of Commissioners voted to table the request at their last meeting. Mr. Hawkins referred to the Assessment and Report submitted by Bill Beam, Chairman of the Lincoln County Historic Properties Commission, which states that granting a conditional use permit “would not prohibit its inclusion as a contributing structure in the Denver historic district.”

*Commissioner Funderburk* stated that Finding of Fact #4 did not show a vote. Randy Hawkins stated that it was in the affirmative.

**UPON MOTION** by *Commissioner Patton*, the Board voted unanimously to approve the rezoning and the Planning Board’s Findings of Facts along with the condition that the exterior appearance of the house be preserved.

**Findings of Fact:**

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan. YES ☒X\_\_\_ NO \_\_\_\_\_

Factual reason cited: Will enhance the public health and safety.

2. The use meets all required conditions and specifications. YES ☒ NO ☐  
\_\_\_\_\_

Factual reason cited: Must meet state specifications for exterminators.

3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity. YES ☒ NO ☐
4. The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Land Use Plan for the area in question. YES ☒ NO ☐

Factual reason cited: Based on what's located down the road; does adhere to Land Use Plan.

In recommending such Conditional Use Permit, the following condition was recommended by the Lincoln County Planning Board: That the exterior appearance of the house be preserved.

**Elections Equipment Update – Judy Caudill:** Judy Caudill distributed information regarding the elections equipment update. Ms. Caudill stated that the public forum was conducted December 20<sup>th</sup>, and that the Board of Elections met afterwards, and voted unanimously to pass the Resolution to purchase the voting equipment provided by Election Systems and Software. She stated that the amount of the equipment will cost \$605,699.18, including sales tax. Ms. Caudill stated that they managed to place \$136,370.00 in a CIP fund, but \$69,178.18 is still needed. She expressed her hope that the Board would adopt the resolution her board adopted, so they could meet the January 20<sup>th</sup> deadline imposed by the State Board of Elections, and to apply for the grant money. Ms. Caudill deferred to Representative Kiser. *Representative Kiser* stated that, when the amendment was drafted, the intent was that there would be two backup machines, and they are now trying to reduce that to one. Mr. Kiser stated he spoke to Gary Bartlett, Executive Director of the State Board, this afternoon and that Mr. Bartlett asked him to write a letter stating that intent, and that he would allow two machines.

*Chairman Anderson* asked Ms. Caudill if the equipment being purchased was similar in nature to the machines that we had been using. Ms. Caudill stated that it was, adding that it is optical scan, with the only obvious difference being filling in an oval as opposed to an arrow. She stated that the other choice of equipment would cost \$1,362,098.23.

*Commissioner Mitchem* stated that he and Commissioner Funderburk attended the public forum, and that he concurred with her comment on the equipment being compatible.

Judy Caudill stated that the Auto Mark, which is a scanner for the disabled, is to comply with the Help America Vote Act ADA requirements.



**UPON MOTION** by *Commissioner Mitchem*, the Board voted unanimously to accept the Resolution adopted by the Lincoln County Board of Elections.

**Request to Purchase a Knuckleboom Truck – Steve Gilbert:**

This item is to request authorization to purchase a used Knuckleboom Truck with a 26 yard box from Rowan County. This truck would be used to pick up and haul “white goods” from the convenience sites to the landfill where they are picked up for recycling. It would also be used to haul brush and limbs from the Webb’s Road site to the landfill to be made into mulch. The truck would be used on a daily basis

Through December 2005, the landfill has received approximately \$70,500 in revenue from sale of recyclables, and the North Carolina State White Goods Program accepts grant applications for capital expenditures involving white goods. Our discussions with them look very favorable for obtaining reimbursement for the purchase of this truck through their program. The truck Rowan County has offered us is a 2002 model truck with only 5,200 miles. It is in like-new condition, and they have offered it to us for \$56,686, which compares to approximately \$92,000 for a new one. This price matches a bid submitted to them by a dealer, but they have told us they would prefer to sell it to us, as noted in a resolution passed by their Board of Commissioners on January 3, 2006. The request is for authorization to purchase the truck from Rowan County for \$56,686. If this is approved, the truck could be picked up and placed into service immediately.

**Recommendation:**

Steve Gilbert is requesting authorization to spend \$56,686 for the purchase of a 2002 Knuckleboom Truck from Rowan County.

*Commissioner Patton* asked why Rowan County wanted to sell the truck. Mr. Gilbert stated that they bought it, thinking they would have a use for it, but did not, whereas Lincoln County has a pressing need for it. Mr. Gilbert stated that it saves time and requires fewer personnel.

*Commissioner Mitchem* asked about the white goods process, and where the truck would be used. Mr. Gilbert stated that there is a location at the landfill sites where white goods can be unloaded into a container, and that this prevents having to haul the containers back and forth. He then deferred to *Nancy Rickard*. Ms. Rickard explained that this eliminates one box per site having to be picked up, in addition to allowing the drivers to rearrange the appliances. She stated that it could also be used for Christmas trees and brush.

*Chairman Anderson* stated that it was his understanding that there is a possibility that we could apply for a grant for reimbursement of the money spent for the truck. Steve Gilbert stated that was correct.

*Commissioner Mitchem* inquired about a warranty on the truck. Steve Gilbert stated that it had already expired, but that it is in “like new” condition and fully operational.

**UPON MOTION** by *Commissioner Moore*, the Board voted unanimously to approve the request to extend \$56,686 for the purchase, and to apply for the grant for reimbursement of those funds.

**Bids for West Lincoln Booster Pump Relocation – Steve Gilbert:**

On December 29, 2005, sealed bids were opened for the relocation of the West Lincoln Booster Pump Station. This project will move the station to a better location and will alleviate low pressures that occur in the area when the pumps are running. Five bids were received as listed below:

Kennedy Concrete & Utilities	\$148,150.00
J.L. Construction	\$179,000.00
Gilbert Engineering Co.	\$198,891.00
Building Crafts, Inc	\$203,107.00
Laughlin-Sutton Construction	\$269,800.00

The Project's engineers have reviewed the bids, and they are recommending the bids be approved as submitted. A summary of the bids and a copy of their recommendation are attached for your review. Since State funds are involved with this project, the bids must also be approved by State staff in Raleigh, which is expected very soon.

**Recommendation:**

Based on the bids received on December 29, 2005, for the West Lincoln Booster Pump Station Relocation, Mr. Gilbert recommended the low bid of \$148,500.00, submitted by Kennedy Concrete & Utilities be accepted and approved, contingent upon State approval.

*Commissioner Mitchem* asked about the expected completion date. Steve Gilbert stated that it was approximately 150 days, after notice to proceed, which follows State approval.

**UPON MOTION** by *Commissioner Mitchem*, the Board voted unanimously to approve the bid from Kennedy & Concrete Utilities in the amount of \$148,150.00.

**Bids for Rock Dam and NC 27 Sewer Facilities – Steve Gilbert:**

On December 29, 2005, sealed bids were opened for the construction of the Rock Dam Road and NC 27 West Sewer Facilities. This project will provide sewer service to the new elementary school being constructed on Rock Dam Road as well as along NC 27 West. Four bids were received as listed below:

Neill Grading	\$ 766,777.75
Ronny Turner Construction	\$ 785,033.60
Trans-State Construction	\$ 998,314.00
R.F. Shinn Contracting	\$1,121,893.00

The Project's engineers have reviewed the bids, and they are recommending the bids be approved as submitted. A summary of the bids and a copy of their recommendation are attached for your review.

**Recommendation:**

Based on the bids received on December 29, 2005, for the construction of sewer facilities on Rock Dam Road and NC 27 West, Mr. Gilbert recommended the low bid of \$766,777.75, submitted by Neill Grading be accepted and approved.

Chairman Anderson asked if the contract documents provided for completion of this in adequate time to open the schools. Steve Gilbert stated that it did.

**UPON MOTION** by *Commissioner Patton*, the Board voted unanimously to approve the bid from Neil Grading in the amount of \$766,775.75.

**Vacancies/Appointments:**

Vacancies:

Nursing and Adult Care Home Community Advisory Committee \*3  
Historic Properties Commission \*1

Appointments:

Centralina Economic Development Commission (CEDC)

- Pete Acker

IRB Board/Economic Development

- Appoint:
- Mike Cline
  - Neil Ferguson
  - John Lineberger
  - Archie Mathis
  - Kathy Valentine
  - Mort Wadsworth

- Reappoint:
- John Lockman

Scattered Site Housing Grant Selection Committee:

- Appoint:
- Kelly Atkins, B&LD
  - Candi Cornwell, B&LD
  - Candace Weaver, B&LD

- Steve Gurley, City Planning Director
- Kenneth Tucker, Denver Construction
- Susan McCracken, DSS
- John Pagel, Lincoln County Planning Board
- Mike Owen, Lincoln Housing Development

**UPON MOTION** by *Commissioner Funderburk*, the Board voted unanimously to approve the appointments.

**Other Business:** *Stan Kiser*, County Manager, updated the Board regarding the library board's by-laws on the make-up of the library board of trustees.

**UPON MOTION** by *Commissioner Mitchem*, the Board voted 4-1 to formally ask the Lincoln County Board of Trustees to consider changing their by-laws to remove the requirement that one member of that board be a member of the Lincolnton City Council.

AYES: Anderson-Funderburk-Mitchem-Moore

NOES: Patton

Mr. Kiser distributed information to the Board regarding developer infrastructure agreements.

*Chairman Anderson* reminded the Board of the seminar being presented by the Institute of Government in Hickory on February 23.

**Closed Session:** **UPON MOTION** by *Commissioner Funderburk*, the Board voted unanimously to go into closed session pursuant to Rule No. 3, Sub Paragraph 5I, to consider the price and other proposed terms of a proposed contract for the acquisition of real property by purchase, option, exchange or lease.

**UPON MOTION** by *Commissioner Funderburk*, the Board voted unanimously to end the closed session.

The Board returned to open session.

Chairman Anderson stated that no action was taken by the Board that requires action by the Board in open session.

**Recess:** **UPON MOTION** by *Commissioner Mitchem*, the Board voted unanimously to recess until January 19, 2006, at 6:30 p.m., at which time the meeting will resume at the James W. Warren Citizens Center on the second floor balcony.

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Delores Alfaro, Assistant Clerk  
Board of Commissioners

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Thomas R. Anderson, PE, Chairman  
Board of Commissioners