

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, JANUARY 5, 2004

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session on January 5, 2004 at the Citizens Center, Commissioners Room, 115 West Main Street, Lincolnton, North Carolina at 6:30 PM.

Commissioners Present:

Jerry W. Cochrane, Chairman
Thomas R. Anderson, PE, Chairman
Larry S. Craig
Carrol Mitchem
Buddy Funderburk

Planning Board Members Present:

Dean Lutz
John Pagel
Terry Whitener
Harold Howard Jr.
Ken Hovis
Clyde Brown
Darrell Harkey
Jerry Geymont

Others Present:

Stan B. Kiser, County Manager
Jeffrey A. Taylor, County Attorney
Amy S. Long, Clerk to the Board
Kelly Atkins, Director of BALD
Randy Hawkins, Zoning Administrator
Leon Harmon, Finance Director

Call to Order: Chairman Cochrane called the January 5, 2004 meeting of the Lincoln County Board of Commissioners to order. Commissioner Funderburk gave the Invocation and led in the Pledge of Allegiance.

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

UPON MOTION by Commissioner Craig, the Board voted unanimously to approve the agenda adding Appointments under Item 9 and Miss Gastonia Scholarship Waived Fees under Consent Agenda.

AGENDA

LINCOLN COUNTY BOARD OF COMMISSIONERS

PUBLIC HEARINGS

JANUARY 5, 2004

- 6:30 PM Call to Order
- 6:31 PM Invocation – Commissioner Buddy Funderburk
- 6:34 PM Pledge of Allegiance
- 1. 6:35 PM Adoption of Agenda
- 2. 6:40 PM Approval of Minutes
- December 15, 2003
- 3. 6:45 PM New Business/Advertised Public Hearings

ZTA #467 Lincoln County, applicant. A proposal to amend Sections 10.3.3 and 10.4.3 of the Lincoln County Zoning Ordinance to increase the minimum lot size in the Residential Suburban (R-S) and Residential Single-Family (R-SF) districts to 22,500 square feet (0.5165 acres) if public water and sewer are available and to 32,500 square feet (0.746 acres) otherwise. Currently, the minimum lot size in the two districts is 14,000 square feet (0.321 acres) if public water and sewer are available, 20,000 square feet (0.459 acres) if either public water or sewer is available, and 22,500 square feet if neither public water or sewer is available.

ZMA #468 Aspen Properties, LLC, applicant (Parcel ID# 55687) A request to rezone 4.9 acres from Neighborhood Business (B-N) to General Business (B-G). The property is part of a 6.2-acre parcel located on Hwy. 150 between Loop Road and Ivy Church Road in Ironton Township.

PCUR #100 Gemini Homes Inc., applicant (Parcel ID# 34638, 81722 and 81720) A request for a parallel conditional use rezoning to rezone 1.3 acres from Residential Single-Family (R-SF) to Conditional Use Residential Suburban (CU R-S) to permit a multi-family development consisting of 12 town homes. The property is located on the east side of Campground Road about 1,200 feet north of Hwy. 16 in Catawba Springs Township.

CUP #229 Shandon Roberson, applicant (Parcel ID# 82212) A request for a conditional use permit to allow a Class B (doublewide) mobile home to be located in the Residential Suburban (R-S) district. The 0.67-acre lot is located on the south side of Shuford Road about 300 feet east of Buffalo Shoals Road in Catawba Springs Township.

4. 7:45 PM Consent Agenda
 - Tax Requests for Refunds for 12/8 – 12/21/03
 - Waived fees for Citizens Center
 - Celebration of Martin Luther King, Jr. Day
5. 7:55 PM Proposal for Old Lincoln County Jail
6. 8:10 PM BFI Franchise Ordinance and Agreement
7. 8:20 PM Future Forward Economic Alliance Requests
8. 8:30 PM Lease Renewal for Home Health
9. 8:40 PM Appointment of Louis McConnell to Board of Adjustment
10. 8:50 PM Other Business

Recess to January 15, 2004 at 3:30 p.m.

Approval of Minutes – December 15, 2003: UPON MOTION by Commissioner Craig, the Board voted unanimously to approve the minutes of the December 15, 2003 meeting as amended.

New Business: Advertised Public Hearings: Chairman Cochrane announced that this was the date, Monday, January 5, 2004 and the time, which was advertised in the *Lincoln Times-News* on Friday, December 26, 2003 and January 2, 2004.

NOTICE OF PUBLIC HEARINGS

The Lincoln County Board of Commissioners and Planning Board will hold a joint meeting and public hearings on Monday, January 5, 2004, at 6:30 p.m. to consider the following zoning matters:

ZTA #467 Lincoln County, applicant. A proposal to amend Sections 10.3.3 and 10.4.3 of the Lincoln County Zoning Ordinance to increase the minimum lot size in the Residential Suburban (R-S) and Residential Single-Family (R-SF) districts to 22,500 square feet (0.5165 acres) if public water and sewer are available and to 32,500 square feet (0.746 acres) otherwise. Currently, the minimum lot size in the two districts is 14,000 square feet (0.321 acres) if public water and sewer

are available, 20,000 square feet (0.459 acres) if either public water or sewer is available, and 22,500 square feet if neither public water or sewer is available.

ZMA #468 Aspen Properties, LLC, applicant (Parcel ID# 55687) A request to rezone 4.9 acres from Neighborhood Business (B-N) to General Business (B-G). The property is part of a 6.2-acre parcel located on Hwy. 150 between Loop Road and Ivy Church Road in Ironton Township.

PCUR #100 Gemini Homes Inc., applicant (Parcel ID# 34638, 81722 and 81720) A request for a parallel conditional use rezoning to rezone 1.3 acres from Residential Single-Family (R-SF) to Conditional Use Residential Suburban (CU R-S) to permit a multi-family development consisting of 12 town homes. The property is located on the east side of Campground Road about 1,200 feet north of Hwy. 16 in Catawba Springs Township.

CUP #229 Shandon Roberson, applicant (Parcel ID# 82212) A request for a conditional use permit to allow a Class B (doublewide) mobile home to be located in the Residential Suburban (R-S) district. The 0.67-acre lot is located on the south side of Shuford Road about 300 feet east of Buffalo Shoals Road in Catawba Springs Township.

The public is invited to attend this meeting, which will be held in the Commissioners Room on the third floor of the Citizens Center, 115 W. Main Street, Lincolnton, N.C. For more information, contact the Department of Building and Land Development at (704) 736-8440.

Zoning Text Amendment No. 467 – Lincoln County, applicant: Randy Hawkins presented the following information concerning Zoning Text Amendment No. 467 – Lincoln County, applicant.

This is a proposal to amend Sections 10.3.3 and 10.4.3 of the Lincoln County Zoning Ordinance to increase the minimum lot size in the Residential Suburban (R-S) and Residential Single-Family (R-SF) districts to 22,500 square feet (0.5165 acres) if public water and sewer are available, and to 32,500 square feet (0.746 acres) otherwise.

Currently, the minimum lot size in the two districts is 14,000 square feet (0.321 acres) if public water and sewer are available, 20,000 square feet (0.459 acres) if either public water or sewer is available, and 22,500 square feet if neither public water or sewer is available.

This proposal is being made after months of study by the Planning Board, with input from the Board of Commissioners. It is aimed at protecting the environment and public health by requiring that lots contain additional land so they can better accommodate a septic system, future repair area and, in many cases, a well. The proposal would also reduce the housing density that's currently permitted by right in the R-S and R-SF districts. This change would increase the incentive for developers to request rezoning to a planned district and submit projects to the review process that goes along with that.

Chairman Cochrane opened the public hearing concerning Zoning Text Amendment No. 467 – Lincoln County, applicant.

Being no one wishing to speak, Chairman Cochrane declared the public hearing closed.

Zoning Map Amendment No. 468 – Aspen Properties, LLC, applicant: Randy Hawkins, Zoning Administrator, presented the following information concerning Zoning Map Amendment No. 468 – Aspen Properties, LLC, applicant.

The applicant is requesting to rezone 4.9 acres from Neighborhood Business (B-N) to General Business (B-G). The property is part of a 6.2-acre parcel, the remainder of which is already zoned General Business.

The property is located just off Hwy. 150 between Loop Road and Ivey Church Road in Ironton Township. It is adjoined by property zoned Residential Suburban (R-S) and Neighborhood Business. County water is available in this area.

Chairman Cochrane opened the public hearing concerning Zoning Map Amendment No. 468 – Aspen Properties, LLC, applicant.

Tom Graves stated that he bought this property and is looking to make this a model and build mini-warehouses on it.

Rick Antione, Loop Road, asked if B-N and B-G allow for retail sales as well as a doctor's office.

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

Parallel Conditional Use No. 100 – Gemini Homes, Inc., applicant: Having been sworn by the Clerk, the following individuals presented information concerning Parallel Conditional Use Permit No. 100 – Gemini Homes, Inc., applicant.

Randy Hawkins, Zoning Administrator, presented the following information concerning Parallel Conditional Use Permit No. 100 – Gemini Homes, Inc., applicant.

The applicant is requesting a parallel conditional use rezoning to rezone 1.3 acres from Residential Single-Family to Conditional Use Residential Suburban (CU R-S) to permit a multi-family development consisting of 12 town homes. Under the Zoning Ordinance, a multi-family development is allowed in the R-S district subject to the issuance of a conditional use permit. If a development is connected to both water and sewer, as this would be, a maximum density of 10 units per acre is permitted.

The property is located on the east side of Campground Road about 1,200 feet north of Hwy. 16 in the Catawba Springs Township. It is surrounded by property zoned Residential Single-Family but lies about 200 feet from property zoned Residential Suburban. An apartment complex and a mobile home park are located in the vicinity. The Lincoln County Land Use Plan shows this site as lying on the outer edge of a neighborhood center, which is defined as an area suitable for concentrating development, primarily non-residential.

Goal 4 of the Land Use Plan states that the county should encourage multi-family and higher density residential development at a density range of three to seven units per acre in locations with adequate water and sewer service and a sufficient road system.

Chairman Cochrane opened the public hearing concerning Parallel Conditional Use Permit No. 100

Steve Bailey, with Chas H. Sells, Inc. stated that the units will be for sale.

Rob Reddus, 3952 Will Proctor Street, stated that he is opposed to the rezoning and believes the original zoning should stay. He stated that this project will have a negative impact, adding to the overcrowding in schools and is spot zoning.

Gary Cornelius stated that he is the landowner directly across from the property and sees no reason this would be beneficial.

Vicky Bowers stated that she is adjacent to the property in question. She stated that she liked the idea of Rolling Meadows Subdivision and wishes the developer would reconsider the plan.

Beth Edwards, 3973 Will Proctor Street, stated that she and her husband bought the first house in Rolling Meadows Subdivision and have been there 2 months. She stated that they probably would not have bought their home had they known that a multi-family development would be here.

Robert Powell, stated that older homes in Lincoln County need to be protected. He stated that this could be considered spot zoning. He urged the Board to deny the request, saying there was a lot of detriment to the neighborhood.

Keith Neilson stated that the proposal does not fit the atmosphere in their neighborhood.

Steve Bailey stated that these will be nice, 3 bedroom units with garages and will be in line with the Land Use Plan.

Rob Reddus stated that there are historical aspects with the home on the property. He stated that he renovated his home instead of tearing it down and building a new home. He encouraged the builder to put up more single-family homes in the same architectural style.

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

Conditional Use Permit No. 229 – Shandon Roberson, applicant: Having been sworn by the Clerk, the following individuals presented information concerning Conditional Use Permit No. 229 – Shandon Roberson, applicant.

Randy Hawkins, Zoning Administrator, presented the following information.

The applicant is requesting a Conditional Use Permit to place a Class B (doublewide) mobile home in the Residential Suburban (R-S) zoning district.

The 0.67-acre lot is located on the south side of Shuford Road about 300 feet east of Buffalo Shoals Road in Ironton Township. It is surrounded by property zoned Residential Suburban. Two singlewide mobile homes are located on a parcel next to this one. Some doublewides are located in the surrounding area. County water is available at this site.

Chairman Cochrane opened the public hearing concerning Conditional Use Permit No. 229 – Shandon Roberson, applicant.

Erica Lynch stated that she is the fiancé of Shandon Roberson. She stated that her grandmother subdivided this land to give each of his grandchildren a place to put a home.

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

The Planning Board reconvened their meeting on the 2nd floor balcony.

Consent Agenda: **UPON MOTION** by Commissioner Anderson, the Board voted unanimously to approve the Consent Agenda.

LINCOLN COUNTY TAX DEPARTMENT
ANNUALS

REQUEST FOR REFUNDS

PERIOD COVERED (December 8, 2003 - December 21, 2003)

G.S.#105-381(B) ALL REFUNDS ANNUAL MORE THAN \$100.00
(and) #105-325 including (A) (6)

NAME	YEAR	DIST	A/C#	AMOUNT
Brackett, James E.	2003	SFFD	0150078	267.16
Gamble, John R. (Dr.)	2003	City	06812	175.80
TOTAL				\$ 442.96

LINCOLN COUNTY TAX DEPARTMENT
MOTOR VEHICLES

REQUEST FOR REFUNDS

PERIOD COVER (December 8, 2003-December 23, 2003)

G.S.#105-381(B) ALL REFUNDS LESS THAN \$100.00
(and) #105-325 including (A) (6)

NAME	YEAR	DIST	A/C#	AMOUNT
Chavis, Timothy Richard	2003	ELVFD/ELSD	0152581	47.47
Dellinger, Ted M.	2003	CFD	41834	14.79
Hall, Wilma Renee	2002	NBFD	0166698	13.03
Hovis, Jonathan C.	2003	HCFD	0077956	38.30

Lane, Eugene	2003	BCFD	15074	10.11
MMCA	2002	City	0106326	13.35
Monge, Vanessa Elizabeth	2003	City	0152116	9.63
Towery, Walter E.	2003	UFD	38600	11.89
Viera, Angel G. Rodriguez	2003	BCFD	0140200	3.16
TOTAL				\$161.73

Waived fees

- Celebration for Martin Luther King, Jr. Day
- Miss North Carolina Fundraiser

Ordinance Granting a Nonexclusive Construction and Demolition Debris Landfill Franchise to Lake Norman Landfill, Inc. and Franchise Agreement Between Lincoln County and Lake Norman Landfill, Inc. Related to Franchise: Jeff Taylor, County Attorney, presented the following Ordinance for the Board's approval. At the last meeting, the Board approved the Ordinance with some changes.

Commissioner Craig stated that he would like Section 8 changed so that the entire \$50,000 be appropriated for disbursement by June. The application process will begin in January.

UPON MOTION by Commissioner Craig, the Board voted unanimously to approve the agreement with the changes suggested for Section 8 that the entire \$50,000 be appropriated for disbursement by June and the application process will begin in January.

**ORDINANCE GRANTING A NONEXCLUSIVE
CONSTRUCTION AND DEMOLITION DEBRIS LANDFILL
FRANCHISE TO LAKE NORMAN LANDFILL, INC.
AND FRANCHISE AGREEMENT BETWEEN LINCOLN COUNTY
AND LAKE NORMAN LANDFILL, INC. RELATED TO FRANCHISE**

WHEREAS, the Board of Commissioners enacted the Lincoln County Landfill Franchise Ordinance on November 7, 2003; and

WHEREAS, North Carolina General Statutes § 153A-136(a)(3) authorizes counties to regulate the disposal and other disposition of solid wastes by granting franchises to one or more persons for the exclusive right to commercially dispose of solid wastes within the county; and

WHEREAS, Lake Norman Landfill, Inc. ("Lake Norman") is currently operating an approximately 115 acre construction and demolition debris landfill (the "Landfill") within the jurisdiction of Lincoln County; and

WHEREAS, at the time that Lake Norman began operations at the Landfill, the County by affidavit affirmed to the North Carolina Department of Environment and

Natural Resources (“DENR”) that Lake Norman had all required approvals for operation of the Landfill; and

WHEREAS, Lake Norman wishes to move forward with the next phase of the Landfill pursuant to a new Ordinance Granting a Nonexclusive Construction and Demolition Debris Landfill Franchise to Lake Norman Landfill, Inc.; and

WHEREAS, the Board of Commissioners desires to grant to Lake Norman a nonexclusive franchise for the disposal of construction and demolition debris in Lincoln County; and

WHEREAS, in lieu of host fees, the Board of Commissioners and Lake Norman have agreed to establish a grant program, which will be funded by Lake Norman in accordance with this Franchise and Agreement to be used for grants to non-profit organizations operating in and for the benefit of Lincoln County.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS FOR THE COUNTY OF LINCOLN DOETH ORDAIN:

Section 1. Pursuant to the Lincoln County Landfill Franchise Ordinance and North Carolina General Statutes §§ 130A-294, 153A-121 and 153A-136, Lake Norman is hereby granted a nonexclusive franchise to proceed with an extension of its current permit and/or permitting of the next phase of the Landfill on Quarry Lane in Lincoln County and to operate said Landfill in Lincoln County.

Section 2. Nothing contained in this Agreement shall prohibit Lincoln County from operating a landfill for construction and demolition waste or from granting franchises to other entities to operate such landfills.

Section 3. The term of the Franchise and Agreement will be five years from the date on which Lake Norman’s permit renewal is issued.

Section 4. Lake Norman agrees to operate the Landfill in accordance with Conditional Use Permit No. 107 issued by the County to Lake Norman and in compliance with all applicable laws, regulations, rules and governmental orders.

Section 5. The population to be served by the Landfill will consist primarily of commercial contractors who specialize in construction, demolition, and land-clearing activities and haulers who haul materials generated from such activities. The area to be served by the landfill will be the area of approximately 100 miles around the Landfill.

Section 6. It is anticipated that Lake Norman will accept up to approximately 200,000 tons of waste annually. The waste stream that may be accepted by the Landfill will be composed of all waste that may be accepted at permitted construction and demolition debris landfills by applicable North Carolina laws and regulations.

Section 7. The anticipated useful life of the Landfill is approximately 15 years.

Section 8. Beginning on the earlier of a) the date that DENR approves Lake Norman's request for an extension of its existing permit or b) the date that DENR issues a permit renewal to Lake Norman, Lake Norman will pay an annual amount of \$50,000.00 for grant funding, to be paid in equal quarterly payments. Lake Norman will make the first quarterly payment of \$12,500.00 on the last day of the quarter in which the extension is granted or the permit is issued, with subsequent payments of \$12,500.00 to be made on the last day of each subsequent quarter during the term of this Agreement. Lake Norman's obligation to fund the grant program will terminate prior to the termination of this Agreement if the Landfill closes or ceases doing business. Lake Norman will not have an obligation to pay the quarterly payment for any quarter during which no waste is accepted at the Landfill. In the event that the Landfill should close or cease doing business during a quarter, a pro rata share of the quarterly payment will be made no later than the last day of the quarter.

The quarterly grant payments will be made to the Lake Norman Landfill, Inc. Lincoln County Non-Profit Grant Program. This program will be administered by a committee of ~~three~~ seven (7) members, with one member from each of the County's five townships, one member selected by the Board of County Commissioners, ~~one member selected by the County Planning Staff~~ and one member selected by Lake Norman. The committee will establish guidelines for eligibility and application for the grants and administer the program in accordance with those guidelines. The committee will provide the Board of County Commissioners and Lake Norman with a report of all funds received, grants given and expenses incurred at least annually.

Section 9. The application and fee of \$1000.00 have been received.

Section 10. The ~~current~~ stated gate rate for the Landfill, which will be effective upon approval of the franchise and has been approved by the County, is \$235.00 per ton with applicable volume discounts. Lake Norman shall give notice of any proposed stated gate rate changes to the County at least sixty (60) days prior to the proposed effective date of the rate changes.

Section 11. Lake Norman may assign this Franchise and Agreement or any right accruing under this Franchise and Agreement by giving written notice to the County. In the event of any assignment, the assignee shall receive the rights and assume the liabilities of Lake Norman.

Section 12. This ordinance requires readings and approval at two regular meetings of the Board of Commissioners of Lincoln County, pursuant to and as required by N.C.G.S. § 153A-46, and will become effective following the second reading and approval.

This ____ day of _____, 2003.

LINCOLN COUNTY

ATTEST:

By: _____

Jerry W. Cochrane
Chairman, Board of Commissioners

Amy S. Long
Clerk to the Board

LAKE NORMAN LANDFILL, INC.

ATTEST:

By: _____
President

Secretary

Future Forward Economic Alliance Requests: Stan Kiser, County Manager, presented a request from Future Forward Economic Alliance for a \$3300 investment and nomination of a member of the County Commission to serve as a member of the Future Forward Economic Alliance Board by January 31, 2004.

UPON MOTION by Commissioner Anderson, the Board voted unanimously to approve the investment of \$3300 for the Future Forward Alliance.

Home Health Lease: Stan Kiser stated that Willie Heafner is willing to let the Board have the same rental rate for January. In February and March, the lease rate will be increased to \$2,250.00 per month. They are asking for a one-year lease agreement based on a rental rate of \$5.40 per square foot per year.

UPON MOTION by Commissioner Anderson, the Board voted unanimously to approve the lease renewal for Home Health.

Appointments: Commissioner Craig presented the following recommendations:

- Move Louis McConnell from Alternate to Regular *Board of Adjustment Member*
- Appoint Herbert Daniel Tritt to fill the Alternate spot on the *Board of Adjustment*
- Appoint Herbert Daniel Tritt to fill the *At-large vacancy on the Planning Board*

UPON MOTION by Commissioner Craig, the Board voted unanimously to appoint Louis McConnell to a regular Board of Adjustment term and appoint Herbert Daniel Tritt to fill the Alternate position on the Board of Adjustment.

UPON MOTION by Commissioner Craig, the Board voted unanimously to appoint Herbert Daniel Tritt to fill the At-large vacancy on the Planning Board.

Proposal for Old Lincoln County Jail: Harry Huss and Jason Harpe presented a proposal from the from the Lincoln County Historical Association Board of Directors concerning leasing the old Lincoln County Jail for the purpose of converting it into a new Lincoln County Museum of History. They are requesting the longest possible lease. There would be a major fundraising effort to adapt the space for the Museum, no county funds will be involved.

By consensus, the Board authorized the County Attorney to work on a lease for the Historical Association for use of the old Jail as a Historical Museum. They also asked Mr. Taylor to work on a Local Bill to General Assembly to get a longer lease.

Other Business: Commissioner Funderburk presented the following Resolution for the Board's approval. This Resolution is necessary in order to apply for possible grant funds.

RESOLUTION SUPPORTING A COMMITMENT TO THE PRESERVATION OF
LINCOLN COUNTY'S HERITAGE ASSETS

WHEREAS, Lincoln County has a proud and lengthy heritage of influence and impact on our region, state and nation, and

WHEREAS, we have many significant historical properties and resources that remind us of that influence and are a source of inspiration to our citizens, and

WHEREAS, we have an active Historical Properties Commission that seeks to preserve, enhance and publicize these properties and resources, and

WHEREAS, the county, through the Historical Properties Commission, continually seeks to find, enhance and preserve more of these resources,

NOW THEREFORE BE IT RESOLVED that the Lincoln County Board of Commissioners is committed to the preservation of the heritage assets in our community.

This 5th day of January, 2004

Jerry W. Cochrane, Chairman
Lincoln County Commissioners

ATTEST:

Amy S. Long, Clerk
Lincoln County Commissioners

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

Commissioner Funderburk stated that he has a lot of citizens asking him about out-of-county residents dumping at our convenience sites. He asked the County Manager to look into different alternatives to prevent this.

Closed Session: **UPON MOTION** by Commissioner Craig, the Board voted unanimously to go into closed session to discuss a legal and contractual matter that is confidential pursuant to N.C.G.S. 143-318.11.

UPON MOTION by Commissioner Anderson, the Board voted unanimously to return to open session.

UPON MOTION by Commissioner Craig, the Board voted unanimously to reappoint Neil Ferguson to the Board of Equalization and Review and move Mark Beam down to an Alternate position.

Recess: **UPON MOTION** by Commissioner Anderson, the Board voted unanimously to recess the meeting until January 15, 2004 at 3:30 p.m.

Amy S. Long, Clerk
Board of Commissioners

Jerry W. Cochrane, Chairman
Board of Commissioners