

**MINUTES**  
**LINCOLN COUNTY BOARD OF COMMISSIONERS**  
**MONDAY, APRIL 5, 2004**

The Lincoln County Board of County Commissioners and the Planning Board met in a joint session on April 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, Vice-Chairman  
Larry S. Craig  
Carrol Mitchem  
Buddy Funderburk

**Planning Board Members Present:**

Dean Lutz  
Terry Whitener  
Jerry Geymont  
Darrell Harkey  
Ken Hovis  
Harold Howard Jr  
Dan Tritt

**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 April 5, 2004 meeting of the Lincoln County Board of Commissioners to order.

**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 Item 3a – Letter of Credit and Contract #34 and 8a – Board of Health Facility Recommendation.

**Approval of Minutes –March 15, 2004: UPON MOTION** by Commissioner Anderson, the Board voted unanimously to approve the minutes of the March 15, 2004 meeting as presented.

**Tax Requests for Refunds: UPON MOTION** by Commissioner Anderson, the Board voted unanimously to approve the Tax Requests for Refunds.

LINCOLN COUNTY TAX DEPARTMENT  
ANNUALS

**REQUEST FOR REFUNDS**

PERIOD COVERED (March 8, 2004 - March 21, 2004)

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

NAME	YEAR	DIST	A/C#	AMOUNT
Governors Island Homeowner Assoc. Holbrook, Gary G.	1999-2003 2002	DVFD/ELSD N321	39467 0104307	2,738.73 331.80
			<b>TOTAL</b>	<b>\$ 3,070.53</b>

LINCOLN COUNTY TAX DEPARTMENT  
MOTOR VEHICLES

**REQUEST FOR REFUNDS**

PERIOD COVERED (March 8, 2004-March 21, 2004)

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

NAME	YEAR	DIST	A/C#	AMOUNT
GMAC Hanks Dennis	2003 2003	City DFD	0129098 0137346	258.02 149.68
			<b>TOTAL</b>	<b>\$407.70</b>

**Letter of Credit and Contract No. 34: UPON MOTION** by Commissioner Anderson, the Board voted unanimously to approve Letter of Credit and Contract No. 34.

**New Business: Advertised Public Hearings:** Chairman Cochrane announced that this was the date, Monday, April 5, 2004 and the time, which was advertised in the *Lincoln Times-News* on Friday March 26 and April 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, April 5, 2004, at 6:30 p.m. to consider the following zoning matters:

ZMA #472 David Dupree and David Wilson, applicants (Parcel ID# 31923) A request to rezone a 2.1-acre parcel from Transitional Residential (R-T) to General Business (B-G). The property is located on the northwest corner of Hwy. 73 and Pilot Knob Road in Catawba Springs Township.

ZMA #473 Enrico Piraino and Giusto Piraino, applicants (Parcel ID# 30759) A request to rezone a 0.89-acre parcel from Transitional Residential (R-T) to General Business (B-G). The property is located on the west side of Hwy. 16, about 300 feet south of Little Egypt Road in Catawba Springs Township.

ZMA #474 Charles Ballard, applicant (Parcel ID# 23086 and 28787) A request to rezone 1.98 acres from Residential Suburban (R-S) to General Business (B-G). The property is located on Hwy. 150 at Ivey Church Road in Ironton Township.

PCUR #102 Robert Hecht, applicant (Parcel ID# 56255 and 34272) A request for a parallel conditional use rezoning to rezone 73 acres from Residential Single-Family (R-SF) to Conditional Use Planned Residential (CU P-R) to permit the development of a major subdivision with 88 lots for single-family homes. The property is located on Burton Lane and Dellinger 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 James Warren 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 Map Amendment No. 472 – David Dupree and David Wilson, applicants:**  
Brad Dyer, Code Enforcement Officer, presented the following information concerning Zoning Map Amendment No. 472 – David Dupree and David Wilson, applicant.

The applicant is requesting to rezone a 2.1-acre parcel from Transitional Residential (R-T) to General Business (B-G). Stores, restaurants, offices and other commercial uses are permitted in the B-G district.

The property is located at the corner of Hwy. 73 and North Pilot Knob Road in the Catawba Springs Township. It is adjoined on the west by property zoned General Business and on the other sides by property zoned Transitional Residential. County water and sewer is available at this location. The Lincoln County Land Use Plan designates this area as a neighborhood center, an area suitable for concentrating commercial development.

Chairman Cochrane opened the public hearing concerning Zoning Map Amendment No. 472 – David Dupree and David Wilson, applicants.

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

**Zoning Map Amendment No. 473 – Enrico Piraino and Giusto Piraino, applicants:** Randy Hawkins, Zoning Administrator, presented the following information concerning Zoning Map Amendment No. 473 – Enrico Piraino and Giusto Piraino, applicants.

The applicants are requesting to rezone a 0.89-acre parcel from Transitional Residential (R-T) to General Business (B-G). The owners of the property have authorized the rezoning request.

The property is located on Hwy. 16 about 300 feet south of Little Egypt Road in Catawba Springs Township. It is adjoined by property zoned R-T. The adjoining lot to the north is the site of a day care center. A business district lies north of that. County water and sewer is available at this location. The Lincoln County Land Use Plan designates this area as a commercial and employment center.

Dan Tritt, Planning Board member, asked why the property was not being rezoned to B-G, instead of B-N.

Chairman Cochrane opened the public hearing concerning Zoning Map Amendment No. 473 – Enrico Piraino and Giusto Piraino, applicants.

Charles Rader, with Lake Norman Realty, spoke representing the buyers of the property. He stated that they would answer any questions.

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

**Zoning Map Amendment No. 474 – Charles Ballard, applicant:** Brad Dyer, Code Enforcement Officer, presented the following information concerning Zoning Map Amendment No. 474 – Charles Ballard, applicant.

The applicant is requesting to rezone two lots, a total of 1.98 acres, from Residential Suburban (R-S) to General Business (B-G).

The property is located on Hwy. 150 and Ivey Church Road in Ironton Township. It is adjoined on the south by property zoned General Business, on the east by property zoned Neighborhood Business (B-N) and on the west and north by property zoned Residential Suburban. County water is available at this location.

Chairman Cochrane opened the public hearing concerning Zoning Map Amendment No. 474- Charles Ballard, applicant.

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

**Parallel Conditional Use Rezoning No. 102 – Robert Hecht, applicant:** Having been sworn by the Clerk, the following individuals presented information concerning Parallel Conditional Use Rezoning No. 102– Robert Hecht, applicant.

Randy Hawkins, Zoning Administrator, presented the following information concerning Parallel Conditional Use Rezoning No. 102 – Robert Hecht, applicant.

The applicant is requesting a parallel conditional use rezoning to rezone 73 acres from Residential Single Family (R-SF) to Conditional Use Planned Residential (CU P-R) to permit the development of a major subdivision with 88 lots for single-family homes. The subdivision would be served by public water and sewer. A report on the proposed planned district and a traffic impact analysis are included with this report.

The property is located on Burton Lane and Dellinger Road and abuts Lake Norman. It is adjoined by property zoned R-SF. The SailView development is located on the opposite side of Burton Lane. This property lies in the WS-IV Critical Area of the Lake Norman watershed. The watershed regulations allow a density of up to two homes per acre. Residential development of this property would be in conformity with the Lincoln County Land Use Plan.

The developer will pay for all necessary infrastructure improvements, water and sewer extension. The developer will donate \$16,139 to Lincoln County to help mitigate the subdivision's impact on the school system. A traffic analysis was performed to look at the subdivision's impact on the Webbs Road/Burton Lane intersection. The study found that the intersection will not be significantly impacted by the development.

Commissioner Anderson stated that based on the contributions to the schools, the number from the latest study done by the schools is .42 children per single family home, instead of .35. He also asked why the intersection of Hwy. 16 and Webbs Road was not included in the area of influence for the traffic study.

Randy Hawkins stated that it was a staff decision to only look at the subdivision's impact on the Webbs Road/Burton Lane intersection.

Chairman Cochrane opened the public hearing concerning Parallel Conditional Use Rezoning No. 102 – Robert Hecht, applicant.

*Michael Good*, 7756 Dellinger Road, stated that he is already having to wait at the stoplight at 16 and Webbs Road two times. He stated that Sailview has sewer problems already and this will only add more problems. He asked if environmental studies have been done on the impact of this development and the water intake. Mr. Good stated that although Mr. Hecht is donating \$16,000 for the schools, this development will add much more children than this will pay for.

*Adrian Prio*, 4877 Burton Lane, stated that he has concerns with the traffic study done. He stated that he has problems getting out of his road. He stated that it is a 55 mph speed zone from Webbs Road to Burton Lane and this would need to be changed. Mr. Prio stated that there is wildlife there and this is why they moved to the area. He voiced concerns with rainwater run-off. He commented on the fact that their property taxes will increase due to this development.

*Jack Cloninger* stated that he lives on Dellinger Road, which is waterfront. This development does not have water access. He asked about liability with people from the subdivision using their docks. He stated that the water intake concerns him. Mr. Cloninger voiced concerns about traffic and the convenience site backups.

*Cynthia Jones*, member of LNRC and volunteer Lakekeeper, stated that because this development is in the watershed and since it is close to the water intake, she is very concerned with the development. She voiced concerns about the shoreline properties following current state shoreline laws, buffer laws, and curb on streets.

*Gary Norwood* stated that the development would blend with the neighborhood. He asked the Board to look at the development on Dellinger Road, which has problems with gulleys, etc. He stated that he does not like the common area on Dellinger Road. Mr. Norwood asked the Board to run sewer down Dellinger Road. Mr. Norwood voiced concerns with the houses back yards being in his front yard. He asked if they could put up berms like the ones SailView has.

*Walt Hennen* stated he is not against the development, because he is a developer. He presented pictures of a blind curve at the road on which the boat storage will be. Mr. Hennen stated that it's time we stopped treating this area like a rural community and started treating it as residential development.

*Loy Dellinger* stated that he has lived on Dellinger Road all his life. He spoke concerning the environmental impacts from the development. He asked if Duke Power has donated land for a park.

*Gilbert List* spoke concerning water quality and sedimentation in Lake Norman. He stated that wastewater system is being taxed, and this should be taken into consideration.

*Jennie List* spoke concerning the importance of clean water.

*Naomi Dann* stated that she is concerned about the schools and the impact this development will have on them. She stated that a bus driver flies up and down the road. She spoke concerning the blind curve and accidents that have occurred there.

*Bob Hecht* stated that he has lived in Lincoln County for 32 years. He spoke about Stillwater, a 50-lot community that he developed. He stated that the speed limit can be changed if DOT approves it. He stated that he believes in Lincoln County schools and contributes to them. Since 1998, he has donated \$29,200 to east Lincoln schools for the libraries.

*Steve Shriner* stated that with the traffic impact study, they studied the area that staff asked them to. He stated that there were problems with SailView's sewer and remedies were implemented to make sure this does not happen again.

Commissioner Craig asked if there could be a ten-year build-out, instead of five-years.

Steve Shriner stated that the market will delegate build-out.

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

The Planning Board reconvened to the 2<sup>nd</sup> floor balcony.

**Public Hearing – Rural Operating Assistance Program:** Erma Deen Hoyle stated that Lincoln County is eligible to receive \$59,264 in ROAP funds from the North Carolina Department of Transportation. This money is to be used for transportation needs, and funds several programs. These programs, the responsible agency, and the allocations for each as follows:

FY 2004-2005 ROAP FUNDS

ELDERLY AND DISABLED TRANSPORTATION ASSISTANCE PROGRAM  
(EDTAP)  
ALLOCATIONS

SALEM INDUSTRIES	\$10,000
A PLACE TO GROW	2,000
SERVICES FOR THE BLIND	2,000
LINCOLN COUNTY GROUP HOME	1,000
SENIOR SERVICES & CONTRACT SERVICES	36,175

A public hearing notice was published in the local newspaper. This notice is required as a condition of the grant process.

Chairman Cochrane opened the public hearing for the Rural Operating Assistance Program.

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

**UPON MOTION** by Commissioner Craig, the Board voted unanimously to approve the application and authorize the Chairman and County Manager to sign it.

**Spring Litter Sweep 2004:** Nathan Eurey, Program Coordinator, stated that Lincolnton/Lincoln County Parks and Recreation is coordinating local efforts for the Spring Litter Sweep 2004. To encourage the participation of area individuals, civic groups, and businesses he asked the Board to proclaim April 17 – 30, 2004 as SPRING LITTER SWEEP 2004 for Lincoln County.

Cleaning up our county and state will take the cooperation of many people. We are urging each individual and group to take responsibility for the roadsides near their homes or workplace.

**UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to approve the Litter Sweep Proclamation.

**LITTER SWEEP  
2004  
PROCLAMATION**

WHEREAS, the North Carolina Department of Transportation's Office of Beautification annually organizes a Sprig roadside cleanup campaign to ensure clean roadsides throughout our State; and

WHEREAS, a Spring LITTER SWEEP campaign has been planned for April 17 – 30, 2004, to clean our roadsides, help educate the public about the harmful effects of litter on the environment, and give every organization, business, government agency and individual the opportunity to take responsibility for cleaner roads in Lincoln County and North Carolina, and

WHEREAS, Adopt-A-Highway volunteers, community and civic organizations, inmates, community service workers, local governments, and many concerned citizens participate in these cleanups and may receive a Certificate of Appreciation for their hard work; and

WHEREAS, the natural beauty and a clean environment are a source of great pride for Lincoln County and North Carolina, attracting tourists and aiding in recruiting new industries; and

WHEREAS, the 2004 Spring cleanup will improve the quality of life for all of Lincoln County and North Carolina and will help promote the North Carolina Adopt-A-Highway program;

Now, THEREFORE, the LINCOLN COUNTY BOARD OF COMMISSIONERS, do hereby proclaim April 17-30, 2004, as "**SPRING LITTER SWEEP**" in Lincoln County, and urge all citizens to participate in keeping our roadsides clean and to reduce solid wastes.

**Public Hearing – CATS Proposal:** Chairman Cochrane opened the public hearing concerning the Proposal from CATS.

Christine McFadden stated that with all the development in the county, CATS service is something that would benefit the whole county.

Debbie Steffie stated that she drives to work in Charlotte and would definitely use this service. She stated that Lincoln County should partner with CATS for this service.

Bill Skinner stated that he lives in the Denver area and it would be desirable if the Board of Commissioners looked favorably on the CATS proposal.

Chairman Cochrane continued the public hearing until April 19, 2004.

**Proclamation for 2004 Business Appreciation Week: UPON MOTION** by  
Commissioner Anderson, the Board voted unanimously to approve the Proclamation for  
the 2004 Business Appreciation Week.

**Proclamation  
2004 Business Appreciation Week  
April 11 – 17, 2004**

WHEREAS, the County of Lincoln is pleased to have a thriving base of business and industry to support the local economy; and

WHEREAS, these companies provide essential employment opportunities for the citizens of the County of Lincoln; and

WHEREAS, these companies provide local revenues from which the entire citizenry benefit; and

WHEREAS, businesses make considerable contributions to our families and communities, often improving the overall quality of life; and

WHEREAS, we recognize and appreciate these businesses;

NOW, THEREFORE, we the Board of Commissioners of Lincoln County, do hereby recognize our existing businesses and by virtue of this proclamation give notice to our citizens that the week of April 11 – 17, 2003 is Business Appreciation Week in the County of Lincoln.

ADOPTED this the 5<sup>th</sup> day of April 2004.

---

Jerry W. Cochrane, Chairman  
Board of Commissioners

ATTEST:

---

Amy S. Long, Clerk  
Board of Commissioners

**Health Department Recommendations:** Dennis Williams presented the findings from his study of the Health Department space needs.

The total square footage needed in a new building is 48,845. The parking lot would need to be big enough for 245 spaces, which would be 100,000 square foot of paving and concrete. At least 4.89 acres will be needed for this project as a one story building. The total projected construction budget for the new Health Department facility is \$6,473,125.00 The budget numbers reflect best estimates of the cost of build the facility on available land in the year 2008. The costs do not include Architectural or Engineering fees, land acquisition, demolition, or other related costs to the project. These are hard construction cost numbers and are believed to be extremely accurate.

The value of the current Health Department site is estimated at between \$750,000 and \$900,000.00, less the cost of demolition of all structures on the site.

Mr. Williams presented the following information concerning renovations for the current Health Department facility.

Area one represents work to be done in the center core of the building in order to relocate medical records and the business office to the center of the building. It also reflects the minor work at the play area and entry to the new WIC area.

The work in area one includes the movement of corridor doors, the construction of some walls, the movement and construction of some counters, minor air conditioning changes, a fair amount of ceiling patchwork where the walls are to be relocated, the construction of approximately 34 linear feet of interior wall, the painting of most of this area, which will have major faults once they are removed, the installation and relocation of a number of doors, the modifications of some hardware for hose doors and others, the patching of some of the areas of the vinyl composition tile, the installation of new carpet in a number of locations where the walls will be moved and where the carpet is torn up at this time, and a considerable amount of demolition and relocation. The work as indicated can be expected to cost approximately \$33,257.

Area two represents the development of the clinic area and handicapped toilets. The clinics can only be constructed in most of this area if the business office does actually relocate, since the exam rooms which would be used by Dr. Smith's clinic are located where the business office is at this time. The work involved in this section includes a substantial amount of plumbing, floor cutting and demolition, construction of some

cabinetry in the area, installation of at least 12-15 new lights in various spaces, construction of approximately 140 linear feet of new walls, installation of a couple of new interior windows, the painting of the entire section since the paint will be in very bad condition after the other renovation work, the installation of approximately 10 doors, the placement of about 1132 square feet of new vinyl composition tile in the clinic areas, the installation of a substantial amount of hardware to accompany the new doors, and the demolition of a number of wall sections, and other miscellaneous work of this type. The anticipated cost of the work for area two is \$47,480.

Area three involved the cost of painting and floor covering for the old DSS center section of the building. There is also some very minor wall and door work in this area. The anticipated cost for the work in area three is \$20,069. Approximately \$9,080 is allocated toward painting, and approximately \$9,840 allocated toward new floor covering.

The following summarizes the potential work in the masonry portion of the building. These costs reflect the work that was requested without the movement of Home Health back into the building.

Area 1 Costs	\$29,257
Area 2 Costs	<u>\$47,480</u>
<b>SUBTOTAL</b>	\$76,737
Area 3 Costs	<u>\$20,069</u>
	\$96,806

Mr. Williams also presented quotes for areas four and five of the building, which are the metal portion of the building. The cost of doing renovations of these sections was \$138,708. Mr. Williams did not recommend spending any money in the metal building portion of the project, in anticipation of a new health department building being constructed.

Mr. Williams cautioned the Board that if the planning process for a new center is delayed or other problems arise in the development of a new Health Department, then obviously much more substantial renovations will be necessary, including looking at the roof, the ceilings throughout, lighting, and poor indoor air quality. The totals for renovations do not include these issues.

**UPON MOTION** by Commissioner Craig, the Board voted unanimously to approve the renovation project, for a total of \$96,806.

**BellSouth Contract Amendment:** Dante' Patterson presented the Board with a BellSouth Business Winning Rewards Promotion Agreement, in which the county can save \$3,000 per month or \$36,000 per year. This is savings, with no additional investment.

**UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to approve a 36 month term with the BellSouth Business Winning Rewards Promotion Agreement.

**Resolution for \$10,755,000 County Refunding Bonds:** Chairman Cochrane introduced the following resolution, which was read by title and summarized by the Finance Director:

**RESOLUTION PROVIDING FOR THE ISSUANCE OF  
\$10,755,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2004**

BE IT RESOLVED by the Board of Commissioners for the County of Lincoln:

Section 1. The Board of Commissioners has determined and does hereby find, declare and represent:

- (a) That an order authorizing \$13,000,000 Refunding Bonds was adopted by the Board of Commissioners for the County of Lincoln on March 1, 2004, which order has taken effect.
- (b) That none of the bonds mentioned in paragraph (a) of this Section 1 has been issued, that no notes have been issued in anticipation of the receipt of the proceeds of the sale of said bonds, and that it is necessary to issue at this time \$10,755,000 principal amount of said bonds in accordance with the provisions of Section 2 of this resolution and subject to adjustment as set forth therein.
- (c) That the shortest period of time in which the debt of said County to be refunded by the issuance of said bonds can be finally paid without making it unduly burdensome on the taxpayers of said County, as determined by the Local Government Commission of North Carolina (the "LGC"), is a period which expires on June 1, 2011.

Section 2. Pursuant to said order, there shall be issued bonds of the County of Lincoln, North Carolina (the "Issuer") in the aggregate principal amount of \$10,755,000, designated "General Obligation Refunding Bonds, Series 2004" and dated May 1, 2004 (the "Bonds"). The Bonds shall be stated to mature (subject to the right of adjustment as hereinafter set forth) annually, June 1, \$2,125,000 2005, \$2,050,000 2006, \$1,995,000 2007, \$1,920,000 2008, \$1,135,000 2009, \$785,000 2010 and \$745,000 2011, and shall bear interest at a rate or rates to be determined by the LGC at the time the Bonds are sold, which interest to the respective maturities thereof shall be payable on December 1, 2004 and semiannually thereafter on June 1 and December 1 of each year until payment of such principal sum. Notwithstanding the foregoing, the Issuer reserves the right to increase or decrease the aggregate principal amount of the Bonds following the opening of bids by an amount not exceeding 10% of the aggregate principal amount of the Bonds and the principal amount of each maturity of the Bonds by an amount not exceeding the greater of 10% of the principal amount of such maturity and \$200,000. The Finance Director of the Issuer is

hereby authorized and directed to make any such increase or decrease, if appropriate, on behalf of the Issuer.

Each Bond shall bear interest from the interest payment date next preceding the date on which it is authenticated unless it is (a) authenticated upon an interest payment date in which event it shall bear interest from such interest payment date or (b) authenticated prior to the first interest payment date in which event it shall bear interest from its date; provided, however, that if at the time of authentication interest is in default, such Bond shall bear interest from the date to which interest has been paid.

The principal of and the interest on the Bonds shall be payable in any coin or currency of the United States of America which is legal tender for the payment of public and private debts on the respective dates of payment thereof.

The Bonds will be issued by means of a book-entry system with no physical distribution of Bond certificates to be made except as hereinafter provided. One fully-registered Bond certificate for each stated maturity of the Bonds, registered in the name of Cede & Co., the nominee of The Depository Trust Company, New York, New York ("DTC"), or such other name as may be requested by an authorized representative of DTC, will be issued and required to be deposited with DTC and immobilized in its custody. The book-entry system will evidence beneficial ownership of the Bonds in the principal amount of \$5,000 or any multiple thereof, with transfers of ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC and its participants. The principal of each Bond shall be payable to Cede & Co. or any other person appearing on the registration books of the Issuer hereinafter provided for as the registered owner of such Bond or his registered assigns or legal representative at the office of the Bond Registrar mentioned hereinafter or such other place as the Issuer may determine upon the presentation and surrender thereof as the same shall become due and payable. Payment of the interest on each Bond shall be made by the Bond Registrar on each interest payment date to the registered owner of such Bond (or the previous Bond or Bonds evidencing the same debt as that evidenced by such Bond) at the close of business on the record date for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date, by check mailed to such person at his address as it appears on such registration books. Transfer of principal and interest payments to participants of DTC will be the responsibility of DTC, and transfer of

principal and interest payments to beneficial owners of the Bonds by participants of DTC will be the responsibility of such participants and other nominees of such beneficial owners. The Issuer will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing records maintained by DTC, its participants or persons acting through such participants.

In the event that (a) DTC determines not to continue to act as securities depository for the Bonds or (b) the Finance Director of the Issuer determines that continuation of the book-entry system of evidence and transfer of ownership of the Bonds would adversely affect the interests of the beneficial owners of the Bonds, the Issuer will discontinue the book-entry system with DTC. If the Issuer identifies another qualified securities depository to replace DTC, the Issuer will make arrangements with DTC and such other depository to effect such replacement and deliver replacement Bonds registered in the name of such other depository or its nominee in exchange for the outstanding Bonds, and the references to DTC or Cede & Co. in this resolution shall thereupon be deemed to mean such other depository or its nominee. If the Issuer fails to identify another qualified securities depository to replace DTC, the Issuer will deliver replacement Bonds in the form of fully-registered certificates in the denomination of \$5,000 or any multiple thereof ("Certificated Bonds") in exchange for the outstanding Bonds as required by DTC and others. Upon the request of DTC, the Issuer may also deliver one or more Certificated Bonds to any participant of DTC in exchange for Bonds credited to its account with DTC.

Unless indicated otherwise, the provisions of this resolution that follow shall apply to all Bonds issued or issuable hereunder, whether initially or in replacement thereof.

Section 3. The Bonds shall bear the manual or facsimile signatures of the Chairman of the Board of Commissioners or County Manager and the Clerk or any Deputy Clerk to the Board of Commissioners of the Issuer, and the official seal or a facsimile of the official seal of the Issuer shall be impressed or printed, as the case may be, on the Bonds.

The certificate of the LGC to be endorsed on all Bonds shall bear the manual or facsimile signature of the Secretary of the LGC or any assistant designated by her, and the certificate of authentication of the Bond Registrar to be endorsed on all Bonds shall be executed as provided hereinafter.

In case any officer of the Issuer or the LGC whose manual or facsimile signature shall appear on any Bonds shall cease to be such officer before the delivery of such Bonds, such manual or facsimile

signature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery, and any Bond may bear the manual or facsimile signatures of such persons as at the actual time of the execution of such Bond shall be the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

No Bond shall be valid or become obligatory for any purpose or be entitled to any benefit or security under this resolution until it shall have been authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed thereon.

The Bonds to be registered in the name of Cede & Co. or any other nominee designated by an authorized representative of DTC and the endorsements thereon shall be in substantially the following forms:

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), TO ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUIRED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

No. R- ..... \$.....

United States of America  
State of North Carolina

COUNTY OF LINCOLN  
GENERAL OBLIGATION REFUNDING BOND, SERIES 2004

<u>Maturity Date</u>	<u>Interest Rate</u>	
<u>CUSIP</u>		
June 1, 20..	.....%	533339

The County of Lincoln, a political subdivision of the State of North Carolina (the "Issuer"), is justly indebted and, for value received, hereby promises to pay to

CEDE & CO.

or registered assigns or legal representative on the date specified above, upon the presentation and surrender hereof, at the office of the Finance Director of the Issuer (the "Bond Registrar"), which, as of the date hereof, is located at the Lincoln County Citizens Center, 115 West Main Street, Lincolnton, North Carolina, the principal sum of

..... DOLLARS

and to pay interest on such principal sum from the date hereof or from the June 1 or December 1 next preceding the date of authentication to which interest shall have been paid, unless such date of authentication is a June 1 or December 1 to which interest shall have been paid, in which case from such date, such interest to the maturity hereof being payable on December 1, 2004 and semiannually thereafter on June 1 and December 1 in each year, at the rate per annum specified above, until payment of such principal sum. The interest so payable on any such interest payment date will be paid to the person in whose name this bond (or the previous bond or bonds evidencing the same debt as that evidenced by this

bond) is registered at the close of business on the record date for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date, by check mailed to such person at his address as it appears on the bond registration books of the Issuer. Both the principal of and the interest on this Bond shall be paid in any coin or currency of the United States of America that is legal tender for the payment of public and private debts on the respective dates of payment thereof. For the prompt payment hereof, both principal and interest as the same shall become due, the faith and credit of the Issuer are hereby irrevocably pledged.

This bond is one of an issue of bonds designated "General Obligation Refunding Bonds, Series 2004" (the "Bonds") and issued by the Issuer for the purpose of providing funds, together with any other available funds, for refunding all of the Issuer's outstanding General Obligation Refunding Bonds, Series 1994, dated February 15, 1994, that mature on or after June 1, 2005, and paying related costs, and this bond is issued under and pursuant to The Local Government Bond Act, as amended, Article 7, as amended, of Chapter 159 of the General Statutes of North Carolina, an order adopted by the Board of Commissioners for the Issuer, which order has taken effect, and a resolution duly passed by said Board (the "Resolution").

The Bonds are not subject to redemption prior to their respective maturities.

The Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Resolution. One Bond certificate with respect to each date on which the Bonds are stated to mature, in the aggregate principal amount of the Bonds stated to mature on such date and registered in the name of Cede & Co., a nominee of DTC, is being issued and required to be deposited with DTC and immobilized in its custody. The book-entry system will evidence ownership of the Bonds in the principal amount of \$5,000 or any multiple thereof, with transfers of ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC and its participants. Transfer of principal and interest payments to participants of DTC will be the responsibility of DTC, and transfer of principal and interest payments to beneficial owners of the Bonds by participants of DTC will be the responsibility of such participants and other nominees of such beneficial owners. The Issuer will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

In certain events, the Issuer will be authorized to deliver replacement Bonds in the form of fully-registered certificates in the denomination of \$5,000 or any multiple thereof in exchange for the outstanding Bonds as provided in the Resolution.

At the office of the Bond Registrar, in the manner and subject to the conditions provided in the Resolution, Bonds may be exchanged for an equal aggregate principal amount of Bonds of the same maturity, of authorized denominations and bearing interest at the same rate.

The Bond Registrar shall keep at his office the books of the Issuer for the registration of transfer of Bonds. The transfer of this Bond may be registered only upon such books and as otherwise provided in the Resolution upon the surrender hereof to the Bond Registrar together with an assignment duly executed by the registered owner hereof or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar. Upon any such registration of transfer, the Bond Registrar shall deliver in exchange for this Bond a new Bond or Bonds, registered in the name of the transferee, of authorized denominations, in an aggregate principal amount equal to the unredeemed principal amount of this Bond, of the same maturity and bearing interest at the same rate.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of North Carolina to happen, exist and be performed precedent to and in the issuance of this Bond have happened, exist and have been performed in regular and due form and time as so required; that provision has been made for the levy and collection of a direct annual tax upon all taxable property within the County of Lincoln sufficient to pay the principal of and the interest on this Bond as the same shall become due; and that the total indebtedness of the Issuer, including this Bond, does not exceed any constitutional or statutory limitation thereon.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Resolution until this Bond shall have been authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed hereon.

IN WITNESS WHEREOF, the Issuer, by resolution duly passed by its Board of Commissioners, has caused this bond [to be manually signed by] [to bear the facsimile signatures of] [the Chairman of said Board] [its County Manager] and the Clerk to said Board and [a facsimile of] its official seal to be [printed] [impressed] hereon, all as of the 1st day of May, 2004.

---

[Chairman of the Board of  
Commissioners]  
[County Manager]

---

Clerk to the Board of Commissioners

**CERTIFICATE OF LOCAL GOVERNMENT COMMISSION**

The issuance of the within bond has been approved under the provisions of The Local Government Bond Act of North Carolina.

---

Secretary, Local Government Commission

**CERTIFICATE OF AUTHENTICATION**

This bond is one of the Bonds of the series designated herein and issued under the provisions of the within-mentioned Resolution.

Finance Director of the County of  
Lincoln, North Carolina,  
as Bond Registrar

By \_\_\_\_\_  
Authorized Signatory

Date of authentication: \_\_\_\_\_

**ASSIGNMENT**

FOR VALUE RECEIVED the undersigned registered owner thereof hereby sells, assigns and transfers unto \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

the within bond and all rights thereunder and hereby irrevocably constitutes and appoints \_\_\_\_\_

---

attorney to register the transfer of said bond on the books kept for registration thereof, with full power of substitution in the premises.

Date: \_\_\_\_\_

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by an institution which is a participant in the Securities Transfer Agent Medallion Program (STAMP) or similar program

NOTICE: The assignor's signature to this assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

Certificated Bonds issuable hereunder shall be in substantially the form of the Bonds registered in the name of Cede & Co. with such changes as are necessary to reflect the provisions of this resolution that are applicable to Certificated Bonds.

Section 4. The Bonds will not be subject to redemption prior to their respective maturities.

Section 5. Bonds, upon surrender thereof at the office of the Bond Registrar together with an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar, may, at the option of the registered owner thereof, be exchanged for an equal aggregate principal amount of Bonds of the same maturity, of any denomination or denominations authorized by this resolution and bearing interest at the same rate.

The transfer of any Bond may be registered only upon the registration books of the Issuer upon the surrender thereof to the Bond Registrar together with an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar. Upon any such registration of transfer, the Bond Registrar shall authenticate and deliver in exchange for such Bond a new Bond or Bonds, registered in the name of the transferee, of any denomination or denominations authorized by this resolution, in an aggregate principal amount equal to the unredeemed principal amount of such Bond so surrendered, of the same maturity and bearing interest at the same rate.

In all cases in which Bonds shall be exchanged or the transfer of Bonds shall be registered hereunder, the Bond Registrar shall authenticate and deliver at the earliest practicable time Bonds in

accordance with the provisions of this resolution. All Bonds surrendered in any such exchange or registration of transfer shall forthwith be cancelled by the Bond Registrar. The Issuer or the Bond Registrar may make a charge for shipping and out-of-pocket costs for every such exchange or registration of transfer of Bonds sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or registration of transfer, but no other charge shall be made by the Issuer or the Bond Registrar for exchanging or registering the transfer of Bonds under this resolution.

As to any Bond, the person in whose name the same shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of any such Bond and the interest on any such Bond shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

The Issuer shall appoint such registrars, transfer agents, depositaries or other agents as may be necessary for the registration, registration of transfer and exchange of Bonds within a reasonable time according to then current commercial standards and for the timely payment of principal of and interest on the Bonds. The Finance Director of the Issuer is hereby appointed the registrar, transfer agent and paying agent for the Bonds (collectively the "Bond Registrar"), subject to the right of the governing body of the Issuer to appoint another Bond Registrar, and as such shall keep at his office the books of the Issuer for the registration, registration of transfer, exchange and payment of the Bonds as provided in this resolution.

Section 6. The Issuer covenants that, to the extent permitted by the Constitution and laws of the State of North Carolina, it will comply with the requirements of the Internal Revenue Code of 1986, as amended, except to the extent that the Issuer obtains an opinion of bond counsel to the effect that noncompliance would not result in interest on the Bonds being includable in the gross income of the owners of the Bonds for purposes of federal income taxation.

Section 7. The Issuer hereby undertakes, for the benefit of the beneficial owners of the Bonds, to provide:

- (a) by not later than seven months from the end of each fiscal year of the Issuer, to each nationally recognized municipal securities information repository ("NRMSIR") and to the

state information depository for the State of North Carolina (“SID”), if any, audited financial statements of the Issuer for such fiscal year, if available, prepared in accordance with Section 159-34 of the General Statutes of North Carolina, as it may be amended from time to time, or any successor statute, or, if such audited financial statements of the Issuer are not available by seven months from the end of such fiscal year, unaudited financial statements of the Issuer for such fiscal year to be replaced subsequently by audited financial statements of the Issuer to be delivered within 15 days after such audited financial statements become available for distribution;

(b) by not later than seven months from the end of each fiscal year of the Issuer, to each NRMSIR, and to the SID, if any, (i) the financial and statistical data as of a date not earlier than the end of the preceding fiscal year for the type of information included under the heading “The County-Debt Information and - Tax Information” in the Official Statement relating to the Bonds (excluding any information on underlying units) and (ii) the combined budget of the Issuer for the current fiscal year, to the extent such items are not included in the financial statements referred to in (a) above;

(c) in a timely manner, to each NRMSIR or to the Municipal Securities Rulemaking Board (“MSRB”), and to the SID, if any, notice of any of the following events with respect to the Bonds, if material:

- (1) principal and interest payment delinquencies;
- (2) non-payment related defaults;
- (3) unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) substitution of credit or liquidity providers, or their failure to perform;
- (6) adverse tax opinions or events affecting the tax-exempt status of the Bonds;
- (7) modification to the rights of the beneficial owners of the Bonds;
- (8) bond calls;
- (9) defeasances;

- (10) release, substitution or sale of any property securing repayment of the Bonds; and
- (11) rating changes; and

(d) in a timely manner, to each NRMSIR or to the MSRB, and to the SID, if any, notice of a failure of the Issuer to provide required annual financial information described in (a) or (b) above on or before the date specified.

If the Issuer fails to comply with the undertaking described above, any beneficial owner of the Bonds then outstanding may take action to protect and enforce the rights of all beneficial owners with respect to such undertaking, including an action for specific performance; provided, however, that failure to comply with such undertaking shall not be an event of default and shall not result in any acceleration of payment of the Bonds.

The Issuer reserves the right to modify from time to time the information to be provided to the extent necessary or appropriate in the judgment of the Issuer, provided that:

- (a) any such modification may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of the Issuer;
- (b) the information to be provided, as modified, would have complied with the requirements of Rule 15c2-12 issued under the Securities Exchange Act of 1934 (“Rule 15c2-12”) as of the date of the Official Statement, after taking into account any amendments or interpretations of Rule 15c2-12, as well as any changes in circumstances; and
- (c) any such modification does not materially impair the interests of the beneficial owners, as determined either by parties unaffiliated with the Issuer (such as bond counsel), or by approving vote of the registered owners of not less than a majority in principal amount of the Bonds then outstanding pursuant to the terms of this bond resolution, as it may be amended from time to time.

The Issuer agrees that the annual financial information containing the amended operating data or financial information will explain, in narrative form, the reasons for the amendments and the impact of the change in the type of operating data or financial information being provided.

The provisions of this Section 7 shall terminate upon payment, or provision having been made for payment, in a manner consistent with Rule 15c2-12, in full of the principal of and interest on all of the Bonds.

Section 8. The action of the Finance Director of the Issuer in applying to the LGC to sell the Bonds and the action of the LGC in asking for sealed bids for the Bonds by distributing a Notice of Sale and Bid Form and a Preliminary Official Statement relating to the sale of the Bonds are hereby ratified and approved. Such Preliminary Official Statement, to be dated April 9, 2004 and in substantially the form presented at this meeting, is hereby approved, and the Chairman of the Board of Commissioners, the County Manager and the Finance Director of the Issuer are each hereby authorized to approve the Official Statement, in substantially the form of the Preliminary Official Statement, including changes necessary to reflect the interest rates on the Bonds, the offering prices of the Bonds and any credit enhancement for the Bonds purchased by the successful bidder, and to execute such Official Statement for and on behalf of the Issuer.

Section 9. First-Citizens Bank & Trust Company is hereby appointed as escrow agent in connection with the refunding of the bonds to be refunded by the issuance of the Bonds (the "Escrow Agent"), subject to the right of the governing body of the Issuer to appoint another Escrow Agent as provided in the Escrow Deposit Agreement hereinafter mentioned, and as such shall perform its responsibilities as provided in such Escrow Deposit Agreement. Such Escrow Deposit Agreement, substantially in the form of the draft thereof presented at this meeting, and the creation of the Escrow Fund and the other arrangements described therein to accomplish such refunding are hereby approved, and the Finance Director is hereby authorized to approve such changes in such Escrow Deposit Agreement as are necessary or desirable and to execute such Escrow Deposit Agreement and any forward purchase agreement, forward float agreement or similar arrangement entered into in connection with the contemplated refunding for and on behalf of the Issuer.

Section 10. This resolution shall take effect upon its passage.

Upon motion of Commissioner Craig, seconded by Commissioner Anderson, the foregoing resolution entitled: "RESOLUTION PROVIDING FOR THE ISSUANCE OF \$10,755,000 GENERAL

OBLIGATION REFUNDING BONDS, SERIES 2004" was passed by the following vote: Unanimously approved.

Thereupon the Chairman announced that said resolution had passed .

**Abandonment Petition for Unpaved Section of South Little Egypt Road:** The Board received a petition from the Department of Transportation for the abandonment of the unpaved section of South Little Egypt Road, SR 1386, between NC 16 and South Pilot Knob Road. All property owners have signed the abandonment petition requested that the road be deleted from the State Highway Maintenance System and no longer be a public right of way.

The Lincoln County Maintenance Unit of the North Carolina Department of Transportation has investigated and will recommend the request be approved by the North Carolina Board of Transportation. A resolution from the Board of County Commissioners granting the request is also required.

Wayne Nixon asked for the Board's approval of the abandonment.

**UPON MOTION** by Commissioner Anderson, the Board voted unanimously to approve the abandonment petition for the unpaved section of South Little Egypt Road.

**Resolution to Request Legislation to Establish Real Estate Transfer Tax: UPON MOTION** by Commissioner Craig, the Board voted 4 – 1 (Mitchem against) to approve the Resolution.

**RESOLUTION TO REQUEST LEGISLATION TO ESTABLISH  
REAL ESTATE TRANSFER FEE IN LINCOLN COUNTY**

WHEREAS, as one of North Carolina's fastest-growing counties, Lincoln County faces dramatic needs for additional and improved facilities for schools and other infrastructure needed to serve its increasing population; and

WHEREAS, the Board of Commissioners has scheduled a referendum for May 4, 2004, at which the County's voters will consider a \$47 million bond issue requested by the Lincoln County Board of Education, which referendum illustrates the dire needs of the County; and

WHEREAS, assuming passage of the 2004 bond referendum, payments on the additional debt to cover the bond issue will require an additional \$3.4 million per year in County revenue by fiscal year 2006-07; and

WHEREAS, taking into account the 2004 property revaluation in Lincoln County, financing the entire \$47 million bond issue without additional revenue sources will

require an increase of 4.8 cents per \$100 valuation in the County's ad valorem property tax rate; and

WHEREAS, the Lincoln County Board of Commissioners believes that it would be inequitable to the County's taxpayers to pay for such facilities by further increasing the County's tax rate and that the Board has a responsibility to seek other and additional sources of revenue; and

WHEREAS, County staff have reviewed the valuations of properties transferred in Lincoln County from the years 1999 through 2003 and have determined that a one percent transfer tax imposed on such transfers would have generated an average of \$2.6 million per year in additional revenue for the County; and

WHEREAS, having such additional revenue available would drastically reduce the need for and the magnitude of increases in the property tax rate in order to cover such debt;

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED:

1. That the Lincoln County Board of Commissioners requests the North Carolina General Assembly to adopt appropriate legislation to allow Lincoln County to impose an additional one percent tax on the value of real estate transfers in Lincoln County with all revenue from such tax to remain in Lincoln County.

2. That the Lincoln County Board of Commissioners requests the members of the legislative delegation representing all or any part of Lincoln County to support such legislation in the General Assembly.

3. That the County Manager shall send a copy of this resolution to each legislator who represents all or any part of Lincoln County.

This \_\_\_\_ day of April, 2004.

LINCOLN COUNTY

By:

---

Jerry W. Cochrane, Chairman  
Board of Commissioners

ATTEST:

---

Amy S. Long, Clerk to the  
Board of Commissioners

**Adjourn:** UPON MOTION by Commissioner Craig, the Board voted unanimously to adjourn.

---

Amy S. Long, Clerk  
Board of Commissioners

---

Jerry W. Cochrane, Chairman  
Board of Commissioners