

**MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, OCTOBER 4, 2004**

The Lincoln County Board of County Commissioners met in regular session on October 4, 2004 at the Citizens Center, Commissioners Room, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 6:30 PM.

Commissioners Present:

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

Planning Board Members Present:

Dean Lutz
Louis McConnell
Darrell Harkey
Harold Howard, Jr.
Ken Hovis
Jerry Geymont
Clyde Brown
Terry Whitener

Others Present:

Stan B. Kiser, County Manager
Jeffrey A. Taylor, County Attorney
Amy S. Long, Clerk to the Board

Call to Order: Chairman Cochrane called the October 4, 2004 meeting of the Lincoln County Board of Commissioners to order and welcomed everyone present. Commissioner Funderburk gave the Invocation and led in the Pledge of Allegiance.

Adoption of Agenda: UPON MOTION by Commissioner Mitchem, the Board voted unanimously to adopt the agenda with the addition of a Closed Session.

AGENDA

LINCOLN COUNTY BOARD OF COMMISSIONERS

OCTOBER 4, 2004

6:30 PM	Call to Order
6:31 PM	Invocation – Commissioner Buddy Funderburk

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| | 6:32 PM | Pledge of Allegiance |
| 1. | 6:34 PM | Adoption of Agenda |
| 2. | 6:35 PM | Approval of Minutes
- September 20, 2004 |
| 3. | 6:40 PM | Consent Agenda
- Budget Adjustments 22 - 25
- 2003 International Business Appreciation Week Proclamation
- DSS Attorney Position |
| 4. | 6:45 PM | Work First Plan Approval – Susan McCracken |
| 5. | 6:55 PM | 4H Week Proclamation |
| 6. | 7:00 PM | New Business/Advertised Public Hearings – Randy Hawkins |

CUP #250 John Middleton, applicant (Parcel ID# 30652) A request for a conditional use permit to operate a bed and breakfast establishment in the Residential Single-Family (R-SF) district. The 0.78-acre parcel is located at 4339 Little Fork Cove Road in Catawba Springs Township.

CUP #251 Cliffs of Denver LLC, applicant (Parcel ID# 81990) A request for a conditional use permit to allow multiple boat slips designed to serve more than one household to be located on a lot without a principal use. The proposed 10-slip dock would be located on a 1.35-acre parcel at the end of Tallwood Drive in the Webbs Chapel Cove subdivision off Cindy Lane in Catawba Springs Township.

CUP #252 Salem Baptist Church, applicant (Parcel ID# 02010) A request for a conditional use permit to allow a church with a sanctuary capacity of 500 or more seats to be located in the Residential Suburban (R-S) district. The church, which is located on a 29.8-acre parcel at 1982 Salem Church Road in Ironton Township, is proposing to build a new sanctuary with a seating capacity of 702.

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| 7. | 7:30 PM | Door to Sales Ordinance |
| 8. | 7:40 PM | Capital Project Ordinance – Water Plant Expansion – Phase I |
| 9. | 7:45 PM | Other Business |
| | | Adjourn |

Approval of Minutes – September 20, 2004: Chairman Cochrane presented the minutes of the September 20, 2004 meeting for the Board's approval.

UPON MOTION by Commissioner Anderson, the Board voted unanimously to approve the minutes as modified.

Consent Agenda: **UPON MOTION** by Commissioner Funderburk, the Board voted 4 – 1 (Craig against) to approve the Consent Agenda.

Budget Adjustment No. 22 for the Sheriff's Department to carry forward unspent amount of 2002 LLEBG Funds to be used to buy security equipment at Lincoln County Courthouse.

Budget Adjustment No. 23 for the Sheriff's Department to carry forward unspent amount of 2003 LLEBG Funds to be used to buy security equipment at Lincoln County Courthouse.

Budget Adjustment No. 24 to allocate funds from sale of land in industrial park to EDA CIP account for future EDA projects.

Budget Adjustment No. 25 to carry over balances in CIP from previous year and set up additional gift accounts for Library in general fund.

Proclamation
2003 International Business Appreciation Week
October 25 – 29, 2004

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

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

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

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

WHEREAS, we recognize and appreciate these international businesses;

NOW, THEREFORE, we the Board of Commissioners of Lincoln County, do hereby recognize our existing international businesses and by virtue of this proclamation give notice to our citizens that the week of October 25 - 29, 2004 is International Business Appreciation Week in the County of Lincoln.

ADOPTED this the day of 2004.

Jerry W. Cochrane, Chairman
Board of Commissioners

ATTEST:

Amy S. Long, Clerk

Board of Commissioners

- Approval of DSS Attorney Position

Work First Plan Approval: Susan McCracken, Director of Social Services, stated that being an electing county in the Work First Plan has been very profitable for the families in Lincoln County. It has proven to be a benefit and she recommended remaining an electing county for the next 2 years.

UPON MOTION by Commissioner Craig, the Board voted unanimously that the County remain an Electing County in the Workfirst Program.

4H Week Proclamation: Casey Snyder, of 4H, read the following Proclamation.

4H Week Proclamation

WHEREAS, 4-H has been serving the young people of North Carolina with educational and leadership opportunities since 1914; and

WHEREAS, 4-H work is an educational youth development program of the North Carolina Cooperative Extension Service, and North Carolina State University, and is supervised on the county level by the 4-H Staff along with the help of local 4-H volunteers who are outstanding men and women in their communities, countries, and world; and

WHEREAS; North Carolina 4-H reaches 250,000 youth and 25,000 volunteers annually; and

WHEREAS, 4-H'ers pledge their Heads, Hearts, Hands, and Health to the improvement of their clubs, communities, countries, and world; and

WHEREAS, 4-H members working with educational learn-by-doing projects put into practice new skills and science as they strive "To Make The Best Better," the motto of 4-H; and

WHEREAS, 4-H provides a unique opportunity for young people to develop life skills through hands on learning experiences, including educational workshops, project work, presentation experiences, camps, conferences, before- and after-school programs, and other events at local, county, district, state, national and international levels; and

WHEREAS, the citizenship and leadership training which 4-H members receive in this program is a valuable asset to our democratic way of life; and

NOW, THEREFORE, We, Lincoln County Board of Commissioners, do hereby proclaim October 3 - 9, 2004 as National 4-H Week in Lincoln County and urge the people of this community to take advantage of the opportunity to become more aware of this special program which gives youth the chance to learn together and on their own as part of Lincoln County 4-H, and to join us in recognizing the unique partnership between our county and our University System.

Jerry W. Cochrane, Chairman
Lincoln County Board of Commissioners

October 4, 2004

Date

UPON MOTION by Commissioner Craig, the Board voted unanimously to approve the 4H Proclamation.

New Business: Advertised Public Hearings: Chairman Cochrane announced that this was the date, Monday, October 4, 2004 and the time, which was advertised in the *Lincoln Times-News* on Friday, September 24 and October 1, 2004.

NOTICE OF PUBLIC HEARINGS

The Lincoln County Board of Commissioners and Planning Board will hold a joint meeting and public hearings on Monday, October 4, 2004, at 6:30 p.m. to consider the following matters:

CUP #250 John Middleton, applicant (Parcel ID# 30652) A request for a conditional use permit to operate a bed and breakfast establishment in the Residential Single-Family (R-SF) district. The 0.78-acre parcel is located at 4339 Little Fork Cove Road in Catawba Springs Township.

CUP #251 Cliffs of Denver LLC, applicant (Parcel ID# 81990) A request for a conditional use permit to allow multiple boat slips designed to serve more than one household to be located on a lot without a principal use. The proposed 10-slip dock would be located on a 1.35-acre parcel at the end of Tallwood Drive in the Webbs Chapel Cove subdivision off Cindy Lane in Catawba Springs Township.

CUP #252 Salem Baptist Church, applicant (Parcel ID# 02010) A request for a conditional use permit to allow a church with a sanctuary capacity of 500 or more seats to be located in the Residential Suburban (R-S) district. The church, which is located on a 29.8-acre parcel at 1982 Salem Church Road in Ironton Township, is proposing to build a new sanctuary with a seating capacity of 702.

The public is invited to attend this meeting, which will be held in the Commissioners Room on the third floor of the James W. 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.

Conditional Use Permit No. 250 – John Middleton, applicant: Having been sworn by the Clerk, the following individuals presented information.

Randy Hawkins presented the following information concerning Conditional Use Permit No. 250 – John Middleton, applicant.

The applicant is requesting a Conditional Use Permit to operate a bed and breakfast establishment in the Residential Single-Family (R-SF) district.

The 0.7-acre parcel is located at 4339 Little Fork Cove Road in Catawba Springs Township. It is bordered by property zoned Residential Single-Family and by Lake Norman.

Chairman Cochrane opened the public hearing concerning Conditional Use Permit No. 250 – John Middleton, applicant.

John Middleton stated that he and his wife have traveled and would like to have a Bread and Breakfast in their home as a retirement home.

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

Conditional Use Permit No. 251 – Cliffs of Denver, LLC, applicant: Having been sworn by the Clerk, the following individuals presented information.

Randy Hawkins, Zoning Administrator, presented the following information concerning Conditional Use Permit No. 251 – Cliffs of Denver, LLC, applicant.

The applicant is requesting a Conditional Use Permit to allow multiple boat slips designed to serve more than one household to be located on a lot without a principal use. The proposed 10-slip dock would be used by the owners of 10 interior lots in the Webbs Chapel Cove subdivision, which is under development off Webbs Road and Cindy Lane.

The 1.35-acre parcel is located at the end of Tallwood Drive off Webbs Chapel Cove Court. This area is zoned Residential Single-Family (R-SF). The Webbs Chapel Cove subdivision has a total of 50 lots. The dock would be located near the mouth of a cove. A walkway would lead from a parking area to the boat slips.

Chairman Cochrane opened the public hearing concerning Conditional Use Permit No. 251 – Cliffs of Denver LLC, applicant.

Jeff Bumgarner stated that he owns property at 3997 Cindy Lane, next to the proposed development. He stated that this is a very small cove. He asked that the dock be moved to the other side of the cove, due to the fact that there is more room on the other side. He stated that he would not have purchased this property had he known a community pier would be placed there. Mr. Bumgarner asked the Board to consider the Cindy Lane residents and not developers trying to make a profit.

Kate Demato stated that she moved to the neighborhood with her three kids because it was a safe community. She stated that she is worried how the community will be affected. She expressed concerns about the blue heron that are in the cove. Ms. Demato asked the Board to look beyond the numbers and give this a second look.

Cindy Abell stated that she lives directly across from the property. She presented a 17 signature petition opposing the community boat dock. She stated that the cove is 275'

wide where they are planning to put this dock. She stated that there are no other community boat slips in the area.

Daniel Fisher stated that he is member/manager of the development. He stated that he is proposing 50 lots, with an average of 3 acres per lot. There will be a minimum square footage of 3,000 square feet for the homes. The homes will be between \$400,000 and \$1,000,000. He stated that according to a shoreline management survey, he could have a maximum of 34 piers. Currently he only has 20 individual piers and is asking for the Conditional Use Permit for a 10-slip dock for 10 interior lots. Each slip would be assigned to a lot and only one family would be using the dock. Mr. Fisher stated that he could put 170 lots and have 34 lakefront lots with docks, but likes the low density development.

Tim Sellers stated that he is legal counsel for the Cliffs of Denver. He stated that he can appreciate the concerns from the neighbors. He stated that he is the architect and drafter of 60 pages of deed restrictions. The 10 slip pier is not for community use, but is licensed to 10 interior lots. The pier will be maintained by the Homeowner's Association.

Eddie Weatherman stated that he lives across the cove on Windy Pine. He stated that he is concerned with the environmental impact on this small cove. He stated that he wants the Board to take a good hard look at what is happening here.

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

Conditional Use Permit No. 252 – Salem Baptist Church, applicant: Having been sworn by the Clerk, the following individuals presented information concerning Conditional Use Permit No. 252 – Salem Baptist Church, applicant.

Randy Hawkins, Zoning Administrator, presented the following information.

The applicant is requesting a Conditional Use Permit to allow a church with a sanctuary capacity of 500 or more seats to be located in the Residential Suburban (R-S) district. The church is proposing to build a new sanctuary with a seating capacity of 702 to replace a sanctuary that was heavily damaged by fire. Under the Zoning Ordinance, each 20 inches of a pew is considered one seat.

The 29.8-acre parcel is located at 1982 Salem Church Road in Ironton Township. It is bordered by property zoned Residential Suburban.

Chairman Cochrane opened the public hearing concerning Conditional Use Permit No. 252 – Salem Baptist Church, applicant.

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

The Planning Board reconvened to the second floor balcony.

Chairman Cochrane called for a brief recess.
Chairman Cochrane called the meeting back to order.

Door to Door Sales Ordinance: UPON MOTION by Commissioner Anderson, the Board voted unanimously to remove the Door to Door Sales Ordinance from the table.

Shasta Story-Martin asked the Board for an opportunity to speak. She stated that the public should have input on this ordinance and the Board should leave it up to the public to decide whether or not to open their doors. She stated that approving this ordinance will negatively impact economic growth in the county.

LINCOLN COUNTY PEDDLING AND SOLICITATION ORDINANCE

WHEREAS, the Lincoln County Board of Commissioners has received numerous complaints about unwanted door-to-door sales calls being made on citizens throughout the County; and

WHEREAS, the Board verily believes that it would be in the public interest to prohibit door-to-door sales for commercial purposes; and

WHEREAS, North Carolina General Statutes Section 153A-125 gives counties the authority to regulate such activities; and

WHEREAS, the Board believes that it should not prohibit door-to-door sales by nonprofit organizations (or subgroups thereof) such as schools, churches, volunteer fire departments, rescue squads, historic preservation groups, garden clubs, and/or other charitable organizations.

NOW, THEREFORE, PURSUANT TO SECTIONS 153A-125, 153A-121, AND 153A-123 OF THE NORTH CAROLINA GENERAL STATUTES, BE IT AND IT IS HEREBY ORDAINED AS FOLLOWS:

Section 1. Prohibited Acts. Except as otherwise provided herein, the practice of going in and upon private residences within Lincoln County by solicitors, peddlers, hawkers, itinerant merchants, or transient vendors of merchandise not having been requested or invited to do so by the owner or occupant of such private residence for the purpose of soliciting orders for the sale of goods, wares, services, or merchandise or disposing of or peddling or hawking the same is hereby declared to be a nuisance and is punishable as a misdemeanor.

Section 2. Exceptions. This Ordinance shall not apply to sales of any kind or nature by nonprofit organizations (or subgroups thereof) such as schools, churches, volunteer fire departments, rescue squads, historic preservation groups, garden clubs, and/or other charitable organizations.

Section 3. Violations. This Ordinance shall be enforced by the Lincoln County Sheriff. Any violation of a provision of this Ordinance shall constitute a Class 3 misdemeanor, punishable upon conviction as provided in North Carolina General Statutes Section 14-4 or successor statute by a maximum fine of \$500.00.

Section 4. Cooperation of Complainants. Before initiating a criminal proceeding pursuant to this Ordinance, the Lincoln County Sheriff shall have the option of requesting the complaining party to sign a sworn statement of the alleged offense and to require the cooperation of the complaining party in court appearances arising from said complaint. Nothing contained in this Ordinance shall obligate Lincoln County, its officers and staff members, and/or the Lincoln County Sheriff to pursue any proceedings hereunder where the complaining party is unwilling to sign such sworn statement and cooperate in court appearances arising therefrom.

Section 5. Effective date. This Ordinance shall become effective on October 5, 2004.

Adopted this 4th day of October, 2004.

Jerry W. Cochrane
Chairman
Lincoln County Board of Commissioners

ATTEST:

Amy S. Long
Clerk to the Board

A MOTION by Commissioner Craig to approve the Lincoln County Peddling and Solicitation Ordinance.

VOTE: 3 – 2 AYES: Craig, Anderson, Cochrane
 NOES: Mitchem, Funderburk

A MOTION by Commissioner Craig to make the Lincoln County Peddling and Solicitation Ordinance effective October 5, 2004 at 12:00 a.m.

VOTE: 3 – 2 AYES: Craig, Anderson, Cochrane
 NOES: Mitchem, Funderburk

Capital Project Ordinance: Leon Harmon presented the following Capital Project Ordinance for the Board's approval.

**Capital Project Ordinance
Water Plant Expansion Phase I**

BE IT ORDAINED by the Lincoln County Commissioners, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance is hereby adopted:

Section 1. The project authorized is the expansion of the Lincoln County Water Treatment Facility to serve the citizens of Lincoln County.

Section 2. The officers of this unit are hereby directed to proceed with the capital project within the terms of the contracts and budget contained herein.

Section 3. The following amounts are appropriated for the project:

Engineering	\$227,576
Design	124,200
Contract Admin	15,000
Env. Assessment	33,376
Const. Observation	55,000
Construction	1,131,530
 Total	 \$1,359,106

Section 4. The following revenues are anticipated to be available to complete this project:

Water CIP Fund Balance	\$1,359,106
 Total	 \$1,359,106

Section 5. The Finance Director is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to satisfy the requirements of the Local Government Commission and the lending institution.

Section 6. The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element in Section 3 and on the total funds expended.

Section 7. The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this capital project in every budget submission made to this Board.

Section 8. Copies of this capital project ordinance shall be furnished to the Clerk to the Board, and to the Budget Officer and Finance Director for direction in carrying out this project.

Adopted this 4th day of October, 2004

UPON MOTION by Commissioner Anderson, the Board voted unanimously to approve the Capital Project Ordinance for the Water Plant Expansion Phase I.

Other Business: Jeff Taylor presented the following Resolution for the Board's approval.

**RESOLUTION TO REQUEST THE
NORTH CAROLINA ASSOCIATION OF COUNTY COMMISSIONERS
TO ADOPT AS A LEGISLATIVE GOAL A CHANGE IN THE
DISTRIBUTION OF COST FOR SPECIAL ASSISTANCE TO ADULTS**

WHEREAS, on September 7, 2004, the Rutherford County Board of Commissioners adopted a motion to request that the North Carolina Association of County Commissioners adopt as a legislative goal a change in the distribution of costs for special assistance to adults from the current method of 50 percent State/50 percent County; and

WHEREAS, Rutherford County's proposal suggests a five-year phase-in with an ultimate result of a 90 percent State/10 percent County distribution; and

WHEREAS, Lincoln County spent \$508,322.30 last fiscal year for 181 recipients and expects costs to continue to rise due to the rate increase passed in the last legislative session; and

WHEREAS, the Lincoln County Board of Commissioners agrees that the goal of 90 percent State and 10 percent local allocation is a worthy one which would help with the burden imposed on County taxpayers;

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

1. That the Lincoln County Board of Commissioners requests the North Carolina Association of County Commissioners to adopt as a legislative goal the proposal made by Rutherford County as aforesaid.

2. That the Lincoln County Board of Commissioners further the North Carolina General Assembly to adopt appropriate legislation to effectuate this goal.

3. 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.

4. That the County Manager shall send a copy of this resolution to the North Carolina Association of County Commissioners and to each legislator who represents all or any part of Lincoln County.

This 4th day of October, 2004.

LINCOLN COUNTY

By: _____
Jerry W. Cochrane, Chairman
Board of Commissioners

ATTEST:

Amy S. Long, Clerk to the
Board of Commissioners

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

Chairman Cochrane stated that the Planning Board has requested a joint meeting. The Board agreed on October 28 at 4:00 p.m. as a meeting date.

Closed Session: UPON MOTION by Commissioner Craig, the Board voted unanimously to enter into Closed Session to discuss a real estate matters that are confidential pursuant to N.C.G.S. 143-318.11.

Adjourn: UPON MOTION by Commissioner Anderson, the Board voted unanimously to adjourn the meeting.

Amy S. Long, Clerk to the Board

Jerry W. Cochrane, Chairman