

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, OCTOBER 18, 2004

The Lincoln County Board of County Commissioners met in regular session on October 18, 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
Carrol D. Mitchem

Commissioners Absent:

Commissioner Larry S. Craig
Commissioner James "Buddy" Funderburk

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 18, 2004 meeting of the Lincoln County Board of Commissioners to order and welcomed everyone present.

Barry McKinnon gave the Invocation and Chairman Cochrane led in the Pledge of Allegiance.

Adoption of Agenda: UPON MOTION by Commissioner Anderson, the Board voted unanimously to adopt the agenda.

AGENDA

LINCOLN COUNTY BOARD OF COMMISSIONERS

OCTOBER 18, 2004

- | | |
|------------|--|
| 6:30 PM | Call to Order |
| 6:31 PM | Invocation |
| 6:33 PM | Pledge of Allegiance |
| 1. 6:34 PM | Adoption of Agenda |
| 2. 6:35 PM | Approval of Minutes
- October 4, 2004 |

3. 6:40 PM Consent Agenda
- Tax Requests for Refunds
More than \$100 – September 19 – October 10, 2004
 - Tax Requests for Releases
More than \$100 – August 16 – September 15, 2004
 - Scattered Site Rehabilitation Bid Openings
 - Budget Adjustments 26 - 30
4. 6:45 PM Public Comments
5. 7:00 PM Planning Board Recommendations
- CUP #250 John Middleton, applicant
 - CUP #251 Cliffs of Denver LLC, applicant
 - CUP #252 Salem Baptist Church, applicant
6. 7:20 PM Resolution Adopting the Lincoln County Hazard Mitigation Plan
7. 7:30 PM Public Works Capital Project Reports – Steve Gilbert
8. 7:35 PM Finance Officer's Report
9. 7:45 PM Vacancies/Appointments
10. 7:50 PM Calendar
11. 7:55 PM County Commissioners' Report
12. 8:00 PM County Manager's Report
13. 8:05 PM County Attorney's Report
14. 8:10 PM Other Business
- Adjourn

Approval of Minutes: UPON MOTION by Commissioner Mitchem, the Board voted unanimously to approve the October 4, 2004 minutes as presented.

Consent Agenda: UPON MOTION by Commissioner Mitchem, the Board voted unanimously to approve the Consent Agenda as presented.

LINCOLN COUNTY TAX DEPARTMENT
REQUEST FOR REFUNDS
ANNUALS

PERIOD COVERED (September 19, 2004 – October 10, 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
Downs, Donald R.	2004	UFD	03440	176.37
Jonas, Celeste A.	2004	BCFD	0131426	107.04
Jones, N. W.	2004	ELFD	0162573	122.58
Mull, Martin N.	2004	DVFD/ELSD	0158617	171.23
			TOTAL	\$ 577.22

REQUESTS FOR RELEASES – AUGUST 16 – SEPTEMBER 15, 2004

NAME	YEAR	A/C NO	AMOUNT
Adkins, Sherman Hawk	2004	0176231	\$ 127.85
Allen, James Gwyn	2004	0175381	\$ 121.42
Beane, David Michael	2004	0176995	\$ 197.06
Bullard, Elbert Scott	2003	0164376	\$ 134.28
Conant, Dorothy Welch	2004	0170693	\$ 111.30
Emielita, Glenna Mae			
Lowery	2004	0146024	\$ 181.86
Fulbright, Charles Henry	2004	0076926	\$ 108.09
Guile, Judy Steele	2003	0171301	\$ 290.16
Hicks, Tamara Lynn	2004	0151977	\$ 115.62
Hinds, Curtis A	2004	0176578	\$ 113.75
Holmes Landscaping	2004	0148426	\$ 210.63
Jones, Ryan K.	2004	0177357	\$ 163.20
Moore, Jack Cathey II	2004	0125973	\$ 290.61
Oakes, Kevin Anthony	2004	0138447	\$ 124.65
Osborne, David Herschel	2004	0157465	\$ 156.53
RAM Corp.	2004	0170556	\$ 228.86
Revis, Michael Dwayne	2004	0175839	\$ 151.51
Seifert, Kristy Nicole	2003	0170263	\$ 194.03
Silver, Steven Lynn	2004	0177014	\$ 128.98
Smith, Stephen Lee	2004	0177034	\$ 159.09
Sparrow, Marion Cletus Jr.	2003/04	072632	\$ 279.66
Stackis, Dianne Jenell	2004	0173897	\$ 176.98
Stackis, Timothy Michael	2004	0174678	\$ 149.43
Stryker, Barbara Rossi	2004	0177110	\$ 238.95
Taylor, Stephen M.	2004	0155991	\$ 101.34
Volkomener, Lucas Edwin	2004	0177358	\$ 229.98
Womble, Jackie	2004	0177218	\$ 180.77
Zaldumbide, Ives M.	2004	0153941	\$ 207.99
		TOTAL	\$ 4,874.58

NAME	YEAR	A/C NO	AMOUNT
Addington, Bobby Blair	2004	17313	\$ 133.08
American Tower Management	2004	0158602	\$ 1,298.00
B & B Enterprises	2003/04	0163348	\$ 157.40
Beal, Loreta Bethine	2003/04	0144585	\$ 206.12
Behner, Richard T.	2004	0136406	\$ 114.57
Bess Auto Sales	2004	0098519	\$ 112.28
Cesmat, Matthew J.	2004	0161253	\$ 208.80
Childress, Douglas	2004	21244	\$ 126.02
Coughlin, John L.	2004	0169466	\$ 738.04
Court Stree Grille	2004	0170694	\$ 519.03
Dellinger, Loy J.	2004	0119190	\$ 583.18
Emery, Robert D.	2004	0134352	\$ 191.22
Exterior Works by Pete	2004	0163066	\$ 391.49
Harbor Watch of Denver			
LLC	2004	0140703	\$ 128.36
	1999-		
Harley, Robert E. Jr.	01	0133104	\$ 1,905.75
McEntire, Lee	2004	0170906	\$ 122.44
McKay, Ralph	2004	0177585	\$ 229.12
Moeller, Jeffrey P.	2004	0143889	\$ 186.69
Parker, Angela M.	2004	0142651	\$ 696.22
Powell, Todd M.	2002/03	0163163	\$ 395.34
Reel, Steven Horace	2004	37146	\$ 430.88
Rhodes, Harry R.	1999	0107176	\$ 277.46
Roberts, Billy Ray	2001/02	02740	\$ 239.06
Sain, Paul E.	2003	02917	\$ 2,321.82
Schrank, Paul	2004	0130751	\$ 104.94
Shrewsbury, Buford J. Jr.	2004	0147445	\$ 179.42
Sipe, Berman Keith	2004	0111278	\$ 154.74
Smith, Robert	2004	0177709	\$ 174.90
	2001-		
Stilp, Bob H.	03	0137648	\$ 828.00
United Stencil	2004	0126092	\$ 300.61
	1999-		
Warlick, Milton Glenn	02	09205	\$ 291.56
Washam, Sharon	2004	0177716	\$ 426.06
Weidman, James	2004	0163181	\$ 204.63
Williams, Martin	2004	0177472	\$ 147.44
		TOTAL	\$14,524.67

- Budget Adjustment No. 26 to allocate E911 funds to cover equipment purchased.
- Budget Adjustment No. 27 to refund unspent Juvenile Justice funds from FY 04.
- Budget Adjustment No. 28 to budget for State Grant to renovate former jail for museum.
- Budget Adjustment No. 29 to budget funds for Water Plant Expansion Phase I.
- Budget Adjustment No. 30 for Homeland Security (Part II) Grant.

Scattered Site Rehabilitation Bids

PUBLIC COMMENTS: Chairman Cochrane advised that this was the time the Board of Commissioners would receive comments from the citizens regarding any matter they desired to address.

Cynthia Jones spoke against the multiple boat slips in Conditional Use Permit No. 251. She spoke on the health of the lake and protecting the water. She stated that she is against the multiple boat slips in this area, which is very close to the water intake.

Kate Demato asked the Board to take their time and really think about Conditional Use Permit No. 251. She stated that the neighborhood and boat slips are two different issues, but she feels the Planning Board considered them as one.

Cindy Abell stated that she lives on Cindy Lane. At the last meeting she presented a petition with 17 signatures against Conditional Use Permit No. 251. She stated that the Board will set a precedence by approving this. She presented pictures and said that the applicant is already violating the buffer laws.

Jeff Bumgarner stated that he lives on Cindy Lane beside the start of the proposed development. He spoke on the proximity of the boat slip to the water intake. Mr. Bumgarner stated that Bordeaux will have 12 piers and will make a request for a community boat slip. He asked the Board to deny or postpone the request.

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

Planning Board Recommendations: Randy Hawkins presented the following recommendations of the Planning Board.

Conditional Use Permit No. 250 – John Middleton, applicant: The Planning Board voted 7 – 0 to recommend approval.

Application # CUP #250 Date 10/18/04

Applicant's Name John Middleton
 4339 Little Fork Cove Road
 Denver, NC 28037

Property location: 4339 Little Fork Cove Road
Existing Zoning: R-SF

Proposed Conditional Use Bed and breakfast establishment

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan. YES X NO
Factual Reasons Cited: No opposition to proposal; well-kept residence
2. The use meets all required conditions and specifications. YES X NO
Factual Reasons Cited: Meets required conditions
3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity. YES X NO
Factual Reasons Cited: Only thing neighbors will notice is that there are overnight guests.
4. The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Land Use Plan for the area in question.
YES X NO
Factual Reasons Cited: Testimony at hearing, location of residence.

After having held a public hearing on October 4, 2004 and in light of the Findings of Fact listed herein, the following action was taken by the Lincoln County Board of Commissioners:

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to approve Conditional Use Permit No. 250 based on the recommendations and findings of fact as presented by the Planning Board.

Conditional Use Permit No. 251 – Cliffs of Denver, LLC, applicant: The Planning Board voted 7 – 0 to recommend approval.

Chairman Cochrane advised that the Board should not consider the comments made in public comments tonight, due to the fact that this was not sworn testimony and the applicant is not here to respond.

Commissioner Anderson suggested that the Board review the comments in the minutes from the last meeting from the same individuals who spoke at that meeting.

Randy Hawkins stated that he contacted the developer about the drain pipe being put into the buffer zone. The developer acknowledged that a mistake was made and the drainpipe was put into the buffer. The developer contacted NCDEHNR, who will come up with a plan to correct this mistake.

Commissioner Anderson stated that he has had very lengthy conversations with Rob Digh of the Lake Norman Marine Commission about this request. The Lake Norman Marine Commission is very concerned with this pier and is concerned with Duke Power's recommendation for the pier.

Application # CUP #251

Date 10/18/04

Applicant's Name Cliffs of Denver, LLC
614 N. Main Street
Salisbury, NC 28144

Property location: Tallwood Drive
Existing Zoning: R-SF

Proposed Conditional Use Multiple boat slips serving more than one household

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan. YES NO
Factual Reasons Cited: Pier would endanger public health and safety due to the proximity to the water intake.
UPON MOTION by Commissioner Anderson, the Board voted unanimously to find fact 1 in the negative due to the factual reasons cited.

2. The use meets all required conditions and specifications. YES NO
Factual Reasons Cited: Dock does meet conditions and specifications.
UPON MOTION by Commissioner Anderson, the Board voted unanimously to find fact 2 in the affirmative.

3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity. YES NO
Factual Reasons Cited: The Development will probably increase the value, but the pier would not.
UPON MOTION by Commissioner Anderson, the Board voted unanimously to find fact 3 in the negative due to the factual reason cited.

4. The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Land Use Plan for the area in question.
YES NO
Factual Reasons Cited: Given comments made at public hearing, it is reasonable to conclude that the size of the lots are in harmony, this is not the issue before the Board. The issue is the community dock, which is not in harmony with the area.
UPON MOTION by Commissioner Anderson, the Board voted unanimously to find fact 4 in the negative due to the factual reason cited.

5. The proposed use is so situated and developed in manner which is well integrated with and minimizes any negative effects upon adjoining and nearby properties.
YES NO
Factual Reasons Cited: The community dock does not minimize negative effects.
UPON MOTION by Commissioner Anderson, the Board voted unanimously to find fact 5 in the negative due to the factual reason cited.

After having held a public hearing on October 4, 2004 and in light of the Findings of Facts listed herein, the following action was taken:

UPON MOTION by Commissioner Mitchem, the Board voted unanimously to deny Conditional Use Permit No. 251 – Cliffs of Denver, LLC, applicant based on the findings of fact being in the negative.

Conditional Use Permit No. 252 – Salem Baptist Church, applicant: The Planning Board voted 7 – 0 to recommend approval.

Application # CUP #252 Date 10/18/04

Applicant's Name Salem Baptist Church
P.O. Box 676
Lincolnton, NC 28092

Property location: 1982 Salem Church Road
Existing Zoning: R-S

Proposed Conditional Use Church with a sanctuary capacity of 500 or more seats

1. The use will not materially endanger the public health or safety if located where proposed and developed according to plan. YES NO
Factual Reasons Cited: Highway on which it's located, existing church, large lots in area.
 2. The use meets all required conditions and specifications. YES NO
Factual Reasons Cited: Meets required conditions and specifications.
 3. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity. YES NO
Factual Reasons Cited: Will not injure the value.
 4. The location and character of use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Land Use Plan for the area in question. YES NO
Factual Reasons Cited: Existing church, larger facility being built.

After having held a public hearing on October 4, 2004 and in light of the Findings of Facts listed herein, the following action was taken by the Lincoln County Planning Board: voted 7 – 0 to recommend approval.

UPON MOTION by Commissioner Anderson, the Board voted unanimously to accept the Planning Board's recommendation and findings of fact for Conditional Use Permit No. 252, Salem Baptist Church, applicant.

Resolution Adopting the Lincoln County Hazard Mitigation Plan: UPON MOTION
by Commissioner Anderson, the Board voted unanimously to approve the Resolution
Adopting the Lincoln County Hazard Mitigation Plan.

RESOLUTION
County of Lincoln
A Resolution Adopting the Lincoln County Hazard Mitigation Plan

WHEREAS, the citizens and property within Lincoln County, North Carolina are subject to the effects of natural hazards and man-made hazard events that pose threats to lives and cause damages to property, and with the knowledge and experience that certain areas, i.e., flood hazard areas, are particularly susceptible to flood hazard events; and

WHEREAS, the County of Lincoln desires to seek ways to mitigate situations that may aggravate such circumstances; and

WHEREAS, the Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3,5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes (NCGS), delegated to local government units the responsibility to adopt regulations designed to promote the public health, safety and general welfare of its citizenry; and

WHEREAS, the Legislature of the State of North Carolina has in Section I, Part 166A of the North Carolina General Statutes (adopted in Session Law 2001-214-Senate Bill 300 effective July 1, 2001), states in Item (a)(2): “For a state of disaster proclaimed pursuant to G.S. 166A-6(a) after November 1, 2004, the eligible entity shall have a hazard mitigation plan approved pursuant to the Stafford Act”; and

WHEREAS, Section 322 of the Federal Disaster Mitigation Act of 2000 states that local governments must develop and adopt an All-Hazards Mitigation Plan in order to receive future Hazard Mitigation Grant Program Funds; and

WHEREAS, it is the intent of the County Commissioners of Lincoln County, North Carolina to fulfill this obligation in order that the County of Lincoln will be eligible for Federal and State disaster recovery and mitigation assistance in the event of a disaster declaration for a hazard event affecting the County. There are many sources of Federal and State funding available to local governments for the purpose of implementing hazard mitigation plans. These programs include Hazard Mitigation Grants, Flood Mitigation Assistance Programs, and the Community Development Block Grants.

NOW, THEREFORE, be it resolved by the Lincoln County Board of Commissioners of Lincoln County, North Carolina hereby,

1. Adopts the Lincoln County hazard Mitigation Plan (HMP); and
2. Vests the County Building and Land Development Department with the responsibility, authority, and means to:
 - a. Inform all interested and concerned parties of this action; and

- b. Implement the goals, objectives and tasks of the HMP; and
- c. Ensure that the HMP is reviewed annually and in greater detail at least once every five years to ensure that the HMP is in compliance with all State and Federal regulations and that any needed revisions or amendments to the Plan are developed and presented to the Lincoln County Hazard Mitigation Committee for consideration and approval; and
- d. To take the recommendations to the Planning Board and Board of Commissioners for a public hearing.

This resolution is hereby adopted this 18th day of October 2004.

Jerry Cochrane, Chairman of the Board of Commission

Date

Amy Long, Clerk to the Board of Commission

Date

Public Works Capital Project Reports: Steve Gilbert presented the capital project reports for the Public Works Department.

Finance Officer's Report: Leon Harmon, Finance Officer, presented the budget performance report for September, 2004.

Vacancies: Chairman Cochrane presented the following vacancies and appointments.

VACANCIES

Nursing and Adult Care Home Community Advisory Committee 4

Recreation Commission – Union 1

 Howards Creek 1

 Lincolnton 1

 Ironton 2

Library Board

 Lincolnton 1

Mountain Island Marine Commission 1

APPOINTMENTS

LNRC – Allison Cline

UPON MOTION by Commissioner Anderson, the Board voted unanimously to approve the appointment.

Calendar: Chairman Cochrane announced the joint meeting with the Planning Board on October 28 at 4:00 p.m. in the Commissioners Room.

County Commissioners' Report: Carroll Mitchem reported on the communication situation with the firefighters. He stated that the towers and antennae problem will be corrected by January 1.

Commissioner Anderson announced that Crate and Barrell will be locating in the Lincoln County Industrial Park. The building will be 210,000 square feet and they hope to expand to 400,000 square feet with a retail outlet in the future.

County Manager's Report: Stan Kiser presented the County Manager's Report.

County Attorney's Report: Jeff Taylor, County Attorney, stated that he has received a document from Kindred Healthcare, successor to the leaseholder of the Lincoln Nursing Center. They are refinancing some debt with J.P. Morgan Chase Bank and are using their leases as part of collateral. They need the Board's consent to do this.

UPON MOTION by Commissioner Anderson, the Board voted unanimously to allow to Kindred Healthcare enter into a deal with J.P. Morgan Chase.

Recess: Chairman Cochrane recessed the meeting to October 28.

Amy S. Long, Clerk to the Board

Jerry W. Cochrane, Chairman