

**MINUTES**  
**LINCOLN COUNTY BOARD OF COMMISSIONERS**  
**MONDAY, DECEMBER 6, 2004**

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

**Commissioners Present:**

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

**Planning Board Members Present:**

Dean Lutz, Chairman  
Louis McConnell  
John Pagel  
Darrell Harkey  
Ken Hovis  
Terry Whitener  
Clyde Brown  
Harold Howard, Jr.

**Others Present:**

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

**Call to Order:** Stan Kiser, County Manager, called the December 6, 2004 meeting of the Lincoln County Board of Commissioners to order.

**Invocation:** Pastor Andrew Weaver of Maiden Wesleyan Church gave the Invocation.

**INDUCT BOARD OF COMMISSION MEMBERS**

**by Fred Hatley**  
**Thomas R. Anderson, PE**  
**L. Marie Moore**  
**Alex E. Patton**

Fred Hatley, Clerk of Court, administered the Oath of Office to the newly elected members, Thomas R. Anderson, PE, L. Marie Moore, and Alex E. Patton.

**STATE OF NORTH CAROLINA**  
**COUNTY OF LINCOLN**

**I, Alex E. Patton**, do solemnly swear (or affirm) that I will support the Constitution of the United States, so help me, God.

**I, Alex E. Patton**, do further solemnly and sincerely swear (or affirm) that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability; so help me, God.

**I, Alex E. Patton**, do further swear (or affirm) that I will well and truly execute the duties as a member of the Lincoln County Board of Commissioners, according to the best of my skill and ability, according to law; so help me, God.

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**Alex E. Patton**

Subscribed and sworn to before me this 6<sup>th</sup> day of December, 2004, as witness my hand.

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Fred Hatley, Clerk of Court

STATE OF NORTH CAROLINA  
COUNTY OF LINCOLN

**I, Thomas R. Anderson**, do solemnly swear (or affirm) that I will support the Constitution of the United States, so help me, God.

**I, Thomas R. Anderson**, do further solemnly and sincerely swear (or affirm) that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability; so help me, God.

**I, Thomas R. Anderson**, do further swear (or affirm) that I will well and truly execute the duties as a member of the Lincoln County Board of Commissioners, according to the best of my skill and ability, according to law; so help me, God.

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**Thomas R. Anderson**

Subscribed and sworn to before me this 6<sup>th</sup> day of December, 2004, as witness my hand.

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Fred Hatley, Clerk of Court

STATE OF NORTH CAROLINA  
COUNTY OF LINCOLN

**I, L. Marie Moore**, do solemnly swear (or affirm) that I will support the Constitution of the United States, so help me, God.

**I, L. Marie Moore**, do further solemnly and sincerely swear (or affirm) that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability; so help me, God.

**I, L. Marie Moore**, do further swear (or affirm) that I will well and truly execute the duties as a member of the Lincoln County Board of Commissioners, according to the best of my skill and ability, according to law; so help me, God.

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**L. Marie Moore**

Subscribed and sworn to before me this 6<sup>th</sup> day of December, 2004, as witness my hand.

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Fred Hatley, Clerk of Court

**Election of Chairman:** Stan Kiser, County Manager, convened the new Board of Commissioners and opened the floor to nominations for Chairman.

Commissioner Mitchem nominated Commissioner Tom Anderson as Chairman.

Commissioner Funderburk motioned that the nominations be closed and Commissioner Anderson be elected as Chairman

Vote: Unanimously approved.

Chairman Anderson welcomed everyone present and stated that he was honored to be chosen as Chairman.

**Election of Vice Chairman:** Chairman Anderson conducted the election of vice chairman.

Commissioner Patton nominated Commissioner Carrol Mitchem for Vice Chair.

Commissioner Funderburk motioned that the nominations be closed and Commissioner Mitchem be elected as Vice Chairman.

Vote: Unanimously approved.

**Appointment of County Manager:** Commissioner Funderburk motioned to appoint Stan Kiser as County Manager.

VOTE: Unanimously approved.

**Appointment of Clerk to the Board/Assistant Clerk to the Board:** Commissioner Funderburk motioned to appoint Amy Long as Clerk to the Board and Sherri Barber as Assistant Clerk to the Board.

VOTE: Unanimously approved.

**Appointment of County Attorney:** Commissioner Mitchem motioned to continue using the law services of Pendleton and Pendleton until June 30, 2005.

VOTE: Unanimously approved.

**Recognition of Commissioner Service:** Chairman Anderson presented plaques to outgoing Commissioners Jerry Cochrane and Larry Craig.

Chairman Anderson called for a recess and announced that the meeting would resume in the Commissioner's Room on the third floor at 7:20 p.m.

Chairman Anderson called the December 6, 2004 meeting back to order.

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

**UPON MOTION** by Commissioner Funderburk, the Board voted unanimously to adopt the agenda as presented.

**AGENDA**  
**LINCOLN COUNTY BOARD OF COMMISSIONERS**  
**DECEMBER 6, 2004**

6:30 PM      Call to Order – County Manager

Invocation – Pastor Andrew Weaver  
Maiden Wesleyan Church

Pledge of Allegiance

Induct Board of Commission Members  
By Fred Hatley, Clerk of Court  
Thomas R. Anderson, PE  
L. Marie Moore  
Alex E. Patton

Seating of Board

Election of Chair

Election of Vice-Chair

Appointment of County Manager

Appointment of Clerk to the Board/Assistant Clerk to the Board

Appointment of County Attorney

Recognition of Commissioner Service

Public Congratulations – The Board will recess for the public congratulations and reconvene in the Commissioner's Room on the Third Floor.

1.      7:20 PM      Adoption of Agenda
2.      7:25 PM      Adoption of Rules of Procedure
3.      7:30 PM      Approval of Minutes  
-      November 15, 2004

4. 7:35 PM Consent Agenda

- Sponsored Group Status
  - Grace Temple Holiness Church of God
  - The Gideons International
- Tax Requests for Refunds – November 16 – 28, 2004
- Tax Requests for Releases – October 16 – November 15, 2004
- Letter of Credit No. 38 – Waterside Crossing Phase IX
- Budget Adjustment No. 37

5. 7:40 PM New Business/Advertised Public Hearings

SOA #23 Lincoln County, applicant. A proposal to amend Section 304.1 of the Lincoln County Subdivision Ordinance to require plats with 20-50 lots to be submitted to the Planning Board for review and for public comments.

CUP #254 Eddie Mincey, applicant (Parcel ID# 77274) A request for a conditional use permit to allow a private residential quarters (an accessory dwelling) to be located in the Residential Single-Family (R-SF) district. The 5.6-acre parcel is located on the west side of Blossom Hill Road about 600 feet north of Hwy. 27 in Howards Creek Township.

PCUR #80A MAG Land Development LLC, applicant (Parcel ID# 81020, 53001) A request to amend a conditional use district that was approved on Aug. 20, 2001, permitting the development of a Planned Residential (P-R) District with 550 single-family homes and 160 multi-family units. The main change proposed is to increase the number of single-family homes to 685 and eliminate plans for any multi-family units. The 246-acre tract is located on the north side of Optimist Club Road about a half mile west of Hwy. 16 in Catawba Springs Township.

6. 8:15 PM Contracts for Regional Photography Project - Madge Huffman

7. 8:25 PM Parks and Recreation Trust Fund Grant Application for West Lincoln Park and Beattys Ford Access Area – Erma Deen Hoyle

8. 8:35 PM 2005 Meeting Schedule

9. 8:45 PM Same-Day Customer Service Policy for Public Works – Steve Gilbert

10. 8:55 PM Surplus Property Resolution – Leon Harmon

11. 9:05 PM Other Business

Adjourn

**Adoption of Rules of Procedure:** Chairman Anderson presented the following Rules of Procedure.

## **RULES OF PROCEDURE**

### **LINCOLN COUNTY**

### **BOARD OF COMMISSIONERS**

#### **I. Applicability**

**Rule 1. Applicability of Rules.** These rules apply to all meetings of the Board of Commissioners of Lincoln County at which the board is empowered to exercise any of the executive, quasi-judicial, administrative, or legislative powers conferred on it by law.

#### **II. Open Meetings**

**Rule 2. Meetings to Be Open.**

(a) The public policy of North Carolina and of Lincoln County is that the hearings, deliberations, and actions of this board and its committees be conducted openly.

(b) Except as otherwise provided in these rules and in accordance with applicable law, each official meeting of the Lincoln County Board of Commissioners shall be open to the public, and any person may attend.

(c) For the purposes of the provisions of these rules concerning open meetings, an official meeting of the board is defined as any gathering together at any time or place or the simultaneous communication by conference telephone or other electronic means of a majority of board members for the purpose of conducting hearings, participating in deliberations, or voting upon or otherwise transacting public business within the jurisdiction, real or apparent, of the board.

**Rule 3. Closed Sessions.**

(a) Notwithstanding the provisions of Rule 2, the board may hold a closed session and exclude the public, but only under the following circumstances:

1. To prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes.
2. To prevent the premature disclosure of an honorary degree, scholarship, prize, or similar award.
3. To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. General policy matters may not be discussed in a closed session and nothing herein shall be construed to permit a public body to close a meeting that otherwise would be open merely because an attorney employed or retained by the public body is a participant. The public

body may consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, mediation, arbitration, or administrative procedure. If the public body has approved or considered a settlement, other than a malpractice settlement by or on behalf of a hospital, in closed session, the terms of that settlement shall be reported to the public body and entered into its minutes as soon as possible within a reasonable time after the settlement is concluded.

4. To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations. The action approving the signing of an economic development contract or commitment, or the action authorizing the payment of economic development expenditures, shall be taken in an open session.
5. To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; or (ii) the amount of compensation and other material terms of an employment contract or proposed employment contract.
6. To consider the qualifications, competence, performance, character, fitness, conditions or appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. General personnel policy issues may not be considered in a closed session. A public body may not consider the qualifications, competence, performance, character, fitness, appointment, or removal of a member of the public body or another body and may not consider or fill a vacancy among its own membership except in an open meeting. Final action making an appointment or discharge or removal by a public body having final authority for the appointment or discharge or removal shall be taken in an open meeting.
7. To plan, conduct, or hear reports concerning investigations of alleged criminal misconduct.

**(b)** Repealed by Session Laws 1991, c. 694, s. 4.

**(c)** Calling a Closed Session – A public body may hold a closed session only upon a motion duly made and adopted at an open meeting. Every motion to close a meeting shall cite one or more of the permissible purposes listed in subsection (a) of this section. A motion based on subdivision (a)(1) of this section shall also state the name or citation of the law that renders the information to be discussed privileged or confidential. A motion based on subdivision (a)(3) of this section shall identify the parties in each existing lawsuit concerning which the public body expects to receive advice during the closed session.

**(d)** Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 560, s. 2.

### **III. Organization of the Board**

**Rule 4. Organizational Meeting.** On the first Monday in December following a general election in which county officers are elected, the board shall meet at the regular meeting time and place. The County Manager or the clerk to the board of commissioners shall call the meeting to order December 6, 2004

and shall preside until a chair is elected. If they have not already been sworn and inducted into office, the newly elected members of the board shall take and subscribe the oath of office as the first order of business. As the second order, the board shall elect a chair and vice-chair from its members. As the third order, the board shall approve the bonds of the register of deeds, and the sheriff, and induct them and any other newly elected county officials into office.

**Rule 5. Election of the Chair.** The chair of the board shall be elected annually for a term of one year and shall not be removed from the office of chair unless he or she becomes disqualified to serve as a board member.

#### **IV. Regular and Special Meetings**

**Rule 6. Regular and Special Meetings.**

**(a) Regular Meetings.** The board shall hold a regular meeting on the [first] and [third] [Monday] of each month. If a regular meeting day is a holiday on which county offices are closed, the meeting shall be held on the next business day or such succeeding day as may be specified in the motion adjourning the immediately preceding regular meeting. Regular meetings shall be held at the Board of County Commissioners Meeting Room on the Third Floor of the Citizens Center and shall begin at [time]. The board may change the place or time of a particular regular meeting or of all regular meetings within a specified period by resolution adopted, posted, and noticed at least seven days before the change takes effect. Such a resolution shall be filed with the clerk to the board and posted at or near the regular meeting place, and copies shall be sent to all persons who have requested notice of special meetings of the board.

**(b) Special Meetings.** The chair or a majority of board members may at any time call a special meeting of the board by signing a notice stating the time and place of the meeting and subjects to be considered. The person or persons calling the meeting shall cause the notice to be posted on the principal bulletin boards of the county and delivered to the chair and all other board members or left at the usual dwelling place of each member at least forty-eight hours before the meeting. In addition, the notice shall be mailed or delivered to individual persons and news organizations having requested such notice as provided in subsection (e), below. Only items of business specified in the notice may be transacted at a special meeting, unless all members are present or those not present have signed waivers.

**(c) Emergency Meetings.** If a special meeting is called to deal with an unexpected circumstance requiring immediate consideration, the notice requirements of this rule do not apply. However, the person or persons calling an emergency meeting shall take reasonable action to inform the other members and the public of the meeting. Local news organizations having requested notice of special meetings as provided in subsection (e), below, shall be notified of such emergency meetings by the same method used to notify board members. Only business connected with the emergency may be discussed at the meeting.

**(d) Work Sessions and Committee Meetings.** The board may schedule work sessions, committee meetings, or other informal meetings of the board or of a majority of its members at such times and concerning such subjects as may be established by resolution or order of the board. A schedule of any such meetings held regularly shall be filed in the same place and manner as the schedule of regular meetings. Work sessions and other informal official meetings not held regularly are subject to the same notice requirements as special board meetings.

**(e) Sunshine List.** Any individual and any newspaper, wire service, radio station, and television station may file a written request with the clerk to the board of commissioners for notice of all special meetings of the board. Requests by individuals {must be renewed by the last day of each calendar ~~quarter year~~ and} are subject to a \$20.00 non-refundable annual fee; requests by news organizations {must be renewed annually by July 1 and} are not subject to any fee.

**Rule 7. All Meetings Within the County.** All meetings shall be held within the boundaries of Lincoln County except as otherwise provided herein.

- (1) A joint meeting with the governing board of any other political subdivision of this or any other state may be held within the boundaries of either subdivision as may be specified in the call of the meeting. At any such joint meeting, this board reserves the right to vote separately on all matters coming before the joint meeting.
- (2) A special meeting called for considering and acting on an order or resolution requesting members of the General Assembly representing all or any portion of this county to support or oppose any bill pending in the General Assembly or proposed for introduction therein may be held in Raleigh or other such place as stated in the call of the meeting.

**Rule 8. Broadcasting and Recording of Meetings.**

(a) Except as provided in this rule, any radio or television station may broadcast all or any part of an official board meeting required to be open to the public. Any person may photograph, film, tape-record, or otherwise reproduce any part of a meeting required to be open.

(b) Any radio or television station wishing to broadcast any portion of an official board meeting shall so notify the county manager no later than forty-eight hours before the meeting. If the number of requests or the quantity and size of the necessary equipment is such that the meeting cannot be accommodated in the designated meeting room and no suitable alternative site in the Citizens Center is available, the county manager may require the news media to either pool equipment and personnel or to secure and pay the costs of an alternative meeting site mutually agreeable to the board and the media representatives.

## **V. Agenda**

**Rule 9. Agenda.**

(a) The clerk to the board shall prepare the agenda for each regular, special, and emergency meeting. A request to have an item of business placed on the agenda for a regular meeting must be received at least **five four** working days before the meeting. Any board member may, by a timely request, have an item placed on the agenda.

(b) The agenda packet shall include the agenda document, any proposed ordinances or amendments to ordinances, and supporting documentation and background information relevant to items on the agenda. A copy of the agenda packet shall be delivered to each board member at least twenty-four hours before the meeting. Documents in the agenda packet, if not previously available for public inspection, shall become so when packets have been delivered to each board member or left at his or her usual dwelling.

(c) The board may, by majority vote, add an item not on the agenda.

(d) Notwithstanding the foregoing provisions of this rule, any item involving an expenditure in excess of \$1,000 shall not be considered at a meeting unless it is placed on the printed agenda in advance of the meeting, except in the following instances: (1) emergencies that make advance notice impossible or impractical; (2) impending deadlines or other factors which would result in increased cost to the county or delays in a project if not addressed immediately; (3) legal or other deadlines which make a response necessary prior to the date of the next scheduled meeting; or (4) issues on which

the Board may need to give directions in closed session as provided in N. C. G. S. 143-318.11 and Rule 3 of these rules.

Any deviation from this rule shall require a motion to suspend this rule pursuant to Rule 20(b)4.

**Rule 10. Informal Public Comments.** The clerk to the board shall include on the agenda of each regular meeting at least fifteen minutes for comments or questions from the public in attendance. The chair will first recognize individuals or groups having made appointments to be heard, and then may recognize others, subject to available time. The chair may specify the time allotted to each speaker. When the time set aside for informal public comments has expired, the chair will recognize further speakers only upon motion duly made and adopted.

**Rule 11. Order of Business.** At regular meetings, the board shall proceed to business in the following order:

1. Approval of the minutes of the previous meeting.
2. Scheduled public hearings.
3. Action items.
4. Informal public comments.
5. Administrative reports.
6. Committee reports.
7. Unfinished business.
8. Introduction of ordinances, resolutions and orders.
9. Other new business.

Without objection, the chair may call items in any order most convenient for the dispatch of business.

## **VI. Conduct of Debate**

**Rule 12. Powers of the Chair.** The chair shall preside at all board meetings. To address the board, a member must be recognized by the chair. The chair shall have the following powers:

1. To rule on points of parliamentary procedure, including the right to rule out of order any motion offered for patently obstructive or dilatory purposes;
2. To determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks and to entertain and rule on objections from other members on this ground;
3. To call a brief recess at any time;
4. To adjourn in an emergency.

**Rule 13. Presiding Officer When the Chair Is Active in Debate.** If the chair wishes to debate a proposal actively, he or she shall designate another board member to preside. The chair shall resume the duty to preside as soon as action on the matter is concluded.

**Rule 14. Action by the Board.** The board shall proceed by motion. Any member, including the chair, may make a motion.

**Rule 15. Second Not Required.** A motion shall not require a second.

**Rule 16. One Motion at a Time.** A member may make only one motion at a time.

**Rule 17. Substantive Motion.** A substantive motion is out of order while another substantive motion is pending.

**Rule 18. Adoption by Majority Vote.** A motion shall be adopted if approved by a majority of the votes cast, unless otherwise required by these rules or North Carolina laws.

**Rule 19. Debate.** The chair shall state the motion and then open the floor to debate, presiding according to these general principles:

- (1) The member making the motion or introducing the ordinance, resolution, or order may speak first.
- (2) A member who has not spoken on the issue shall be recognized before someone who has already spoken.
- (3) If possible, the debate shall alternate between opponents and proponents of the measure.

**Rule 20. Procedural Motions.**

**(a)** In addition to substantive proposals, the procedural motions listed in subsection (b) of this rule, and no others, shall be in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority vote for adoption.

**(b)** In order of priority (if applicable), the procedural motions are:

1. *To Adjourn.* The motion may be made only at the conclusion of action on a pending matter; it may not interrupt deliberation of a pending matter.
2. *To Recess.*
3. *To Call to Follow the Agenda.* The motion must be made at the first reasonable opportunity or it is waived.
4. *To Suspend the Rules.* The motion requires a vote equal to a quorum.
5. *To Divide a Complex Motion and Consider It by Paragraph.*
6. *To Defer Consideration.* A substantive motion whose consideration has been deferred expires one hundred days thereafter, unless a motion to revive consideration is adopted.
7. *To Call the Previous Question.* The motion is not in order until there has been at least twenty minutes of debate and every member has had one opportunity to speak.

8. *To Postpone to a Certain Time or Day.*
9. *To Refer to Committee.* Sixty days after a motion has been referred to committee, the introducer may compel consideration of the measure by the entire board, regardless of whether the committee has reported the matter back to the board.
10. *To Amend.* An amendment to a motion must be germane to the subject of the motion, but it may not achieve the opposite effect of the motion. There may be an amendment to the motion and an amendment to an amendment, but no further amendments. Any amendment to a proposed ordinance shall be reduced to writing.
11. *To Revive Consideration.* The motion is in order at any time within one hundred days of a vote deferring consideration. A substantive motion on which consideration has been deferred expires one hundred days after the deferral, unless a motion to revive consideration is adopted.
12. *To Reconsider.* The motion must be made at the same meeting where the original vote was taken, and by a member who voted with the prevailing side. It cannot interrupt deliberation on a pending matter but is in order any time before adjournment.
13. *To Prevent Reconsideration for Six Months.* The motion shall be in order only immediately following the defeat of a substantive motion. It requires a vote equal to a quorum and is valid for six months or until the next regular election of county commissioners, whichever occurs first.

**Rule 21. Renewal of Motion.** A defeated motion may not be renewed at the same meeting.

**Rule 22. Withdrawal of Motion.** A motion may be withdrawn by the introducer at any time before the chair puts the motion to a vote.

**Rule 23. Duty to Vote.** It is the duty of each member to vote unless excused by a majority vote according to law. The board may excuse members from voting on matters involving their own financial interest or official conduct. A member wishing to be excused from voting shall so inform the chair, who shall take a vote of the remaining members. A member who fails to vote, not having been excused, shall be recorded as voting in the affirmative. In the event of the failure of a member to express a vote, the Chairman shall specify for the record any member who failed to express a vote and that such failure shall be recorded as an affirmative vote. The Chairman's action in such event shall be conclusive unless the non-voting member immediately expresses an objection in order to record a negative vote. The Chairman in his discretion may demand a roll-call vote.

**Rule 24. Prohibition of Secret Voting.** No vote may be taken by secret ballot. If the board decides to vote by written ballot, each member shall sign his or her ballot and the minutes shall record the vote of each member. These ballots shall be retained and made available for public inspection until the minutes of that meeting have been approved, when they may be destroyed.

**Rule 25. Action by Reference.** The board shall not deliberate, vote, or otherwise act on any matter by reference to an agenda or document number unless copies of the agenda or documents being referenced are available for public inspection at the meeting and are so worded that people at the meeting can understand what is being discussed or acted on.

**Rule 26. Introduction of Ordinances, Resolutions, and Orders.** A proposed ordinance shall be deemed introduced at the first meeting where it is on the agenda, regardless of whether it is actually considered by the board, and its introduction shall be recorded in the minutes.

**Rule 27. Adoption, Amendment, or Repeal of Ordinances.** To be adopted at the meeting where it is first introduced, an ordinance or an action with the effect of an ordinance, or any ordinance amending or repealing an existing ordinance (except the budget ordinance, a bond order, or another ordinance requiring a public hearing before adoption) must be approved by all members of the board of commissioners. If the proposed measure is approved by a majority but not by all the members of the board, or if the measure is not voted on at that meeting, it shall be considered at the next regular meeting of the board. If it then or at any time thereafter within one hundred days of its introduction receives a majority of the votes cast, the measure is adopted.

**Rule 28. Quorum.** A majority of the board membership shall constitute a quorum. The number required for a quorum is not affected by vacancies. If a member has withdrawn from a meeting without being excused by majority vote of the remaining members, he or she shall be counted as present for the purposes of determining whether a quorum is present. The board may compel the attendance of an absent member by ordering the sheriff to take the member into custody.

**Rule 29. Public Hearings.** Public hearings required by law or deemed advisable by the board shall be organized by a special order, adopted by a majority vote, setting forth the subject, date, place, and time of the hearing as well as any rules regarding the length of time allotted to each speaker and designating representatives to speak for large groups. At the appointed time, the chair shall call the hearing to order and preside over it. When the allotted time expires, the chair shall declare the hearing ended and the board shall resume the regular order of business.

**Rule 30. Quorum at Public Hearings.** A quorum of the board must be present at all public hearings required by law.

**Rule 31. Minutes.** To the extent required by N. C. G. S. Sections 153A-42 and 143-318.10(e) and applicable case law, the Clerk shall keep full and accurate minutes of the proceedings of the Board of Commissioners to record actions taken, including the results of each vote, and evidence that such actions were taken according to proper procedures. Upon the request of any member, the ayes and noes upon any question shall be taken and recorded. The minutes shall not become the official record of the Board's actions until they are adopted by the Board. The minutes shall be available for public inspection.

If the Board becomes aware of an error in minutes that have been previously adopted, the Board may correct the minutes. The Clerk shall note any such correction in the minutes of the meeting at which the correction is made and shall place an appropriate notation and cross reference at the place in the minutes where the provision being corrected appears.

With respect to closed sessions of the Board of Commissioners, the Clerk shall keep full and accurate minutes to the extent required by N. C. G. S. 143-318.10(e) and applicable case law and shall keep a general account of the closed session so that a person not in attendance would have a reasonable understanding of what transpired. Such minutes and accounts shall be public records within the meaning of the Public Records Law, N. C. G. S. 132-1 et seq.; provided, however, that minutes or an account of a closed session conducted in compliance with N. C. G. S. 143-318.11 may be withheld from public inspection so long as public inspection would frustrate the purpose of the closed session.

**Rule 32. Appointments.** The board shall use the following procedure to make appointments to fill vacancies in the board itself or in other boards and public offices over which the board has power of appointment.

The chair shall open the floor to nominations, whereupon the members shall put forward and debate names of possible appointees. After the debate, the chair shall call the roll of the members, and each member shall vote. The votes shall not be tallied until each member has voted.

Each vote shall be decided by a majority of the valid ballots cast (a majority is determined by dividing the number of valid ballots cast by two and taking the next highest whole

number). It is the duty of each member to vote for as many appointees as there are appointments to be made, but failure to do so does not invalidate that member's ballot.

**Rule 33. Reference to *Robert's Rule of Order*.** To the extent not provided for in, and not conflicting with the spirit of, these rules, the chair shall refer to *RRO* to resolve procedural questions.

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**UPON MOTION** by Commissioner Patton, the Board voted unanimously to adopt the Rules of Procedure.

There was a discussion concerning seconds to motions.

**Approval of Minutes – November 15, 2004:** Chairman Anderson presented the minutes of the November 15, 2004 meeting for approval.

**UPON MOTION** by Commissioner Funderburk, the Board voted unanimously to approve the November 15, 2004 minutes as presented.

**New Business: Advertised Public Hearings:** Chairman Anderson announced that this was the date, Monday, December 6, 2004 and the time, 6:30 PM, which was advertised in the *Lincoln Times-News* on November 26 and December 3, 2004.

#### NOTICE OF PUBLIC HEARINGS

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

**SOA #23 Lincoln County, applicant.** A proposal to amend Section 304.1 of the Lincoln County Subdivision Ordinance to require plats with 20-50 lots to be submitted to the Planning Board for review and for public comments.

**CUP #254 Eddie Mincey, applicant** (Parcel ID# 77274) A request for a conditional use permit to allow a private residential quarters (an accessory dwelling) to be located in the Residential Single-Family (R-SF) district. The 5.6-acre parcel is located on the west side of Blossom Hill Road about 600 feet north of Hwy. 27 in Howards Creek Township.

**PCUR #80A MAG Land Development LLC, applicant** (Parcel ID# 81020, 53001) A request to amend a conditional use district that was approved on Aug. 20, 2001, permitting the development of a Planned Residential (P-R) District with 550 single-family homes and 160 multi-family units. The main change proposed is to increase the number of single-family homes to 685 and eliminate plans for any multi-family units. The 246-acre tract is located on the north side of Optimist Club Road about a half mile west of Hwy. 16 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 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.

2T: Nov. 26, Dec. 3, 2004

**Subdivision Ordinance Text Amendment No. 23:** Brad Dyer presented the following information concerning Subdivision Ordinance Text Amendment No. 23.

This is a proposal to amend Section 304.1 of the Lincoln County Subdivision Ordinance to require developers to submit plats which contain 20-50 lots to the Planning Board for review, and public comment.

The intention of this proposal is to give the public knowledge of development that may affect them and to give the public an opportunity to speak out on the issue in the forum of a public hearing. The Planning Board would have to go through four “findings of fact” to determine compliance with the Subdivision Ordinance. The Planning Board will have the ability to approve the plat, disapprove the plat, or approve the plat with conditions.

Chairman Anderson opened the public hearing concerning Subdivision Ordinance Text Amendment No. 23.

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

**Conditional Use Permit No. 254 – Eddie Mincey, 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. 254 – Eddie Mincey, applicant.

The applicant is requesting a Conditional Use Permit to allow a “private residential quarters” to be located in the Residential Single-Family (R-SF) district. A private residential quarters is an accessory dwelling in the form of a guest house or garage apartment, not rented or occupied for gain. It cannot exceed one-half the heated floor area of the main dwelling or 1,000 square feet, whichever is less.

The 5.6-acre parcel is located on the west side of Blossom Hill Road about 600 feet north of Hwy. 27 in Howards Creek Township. It is adjoined on the front and sides by property zoned Residential Single-Family and on the rear by property zoned Neighborhood Business (B-N).

Chairman Anderson opened the Public Hearing on Conditional Use Permit No. 254 – Eddie Mincey, applicant.

**Eddie Mincey** stated that he bought the property with the intent to build a home there later. He built a garage on the property and put an apartment upstairs to live in until his house is built. He stated that he did not know he was doing anything wrong and is trying to correct the situation.

Being no additional speakers, Chairman Anderson declared the Public Hearing on Conditional Use Permit No. 254 – Eddie Mincey, applicant, closed.

**Parallel Conditional Use Rezoning No. 80A – MAG Land Development Co.,**

**applicant:** Having been sworn by the Clerk, the following individuals presented information.

Randy Hawkins, Zoning Administrator, presented information concerning Parallel Conditional Use Rezoning No. 80A – MAG Land Development Co., applicant.

The applicant is requesting to amend a conditional use district that was approved on Aug. 20, 2001, permitting the development of a Planned Residential (P-R) District with 550 single-family homes and 160 multi-family units. The main change proposed is to increase the number of single-family homes to 685 and eliminate plans for any multi-family units. The proposal also includes revisions in the layout of the development.

About 45 acres, or 18% of the total acreage, would be set aside as common open space, including amenity areas. The approved plan called for about 55 acres of common open space, or 22% of the total acreage. The Planned Residential district regulations require that a minimum of 10% of the acreage be set aside as common open space.

The revised plan calls for a large amenity area including a Junior Olympic pool. The approved plan called for a small pool in the townhome section and a larger pool for the single-family areas.

The approved plan had anticipated that construction would begin in the fall of 2001 and be carried out in seven phases, with build-out in the fall of 2008. The revised plan forecasts construction starting in the spring of 2005 and continuing in four phases, with completion in 2011.

The 246-acre tract is located on the north side of Optimist Club Road about a half mile west of Hwy. 16 in Catawba Springs Township. It is adjoined by property zoned R-T, R-S, R-SF, and I-G. A railroad borders the property on the west side, and a Duke Power right-of-way runs along the east side. County water and sewer are available in this area.

The approval of the original plan included the following conditions that would remain in effect if the amended plan is approved:

The developer will be responsible for road improvements identified as “by developer” in the traffic impact analysis:

Optimist Club Road and Woods Lane (site access) – Left turn lane on Optimist Club Road, left and right turn exit lanes on Woods Lane.

Hwy. 16 and Old Post Road (possible secondary access) – Left turn lane on Hwy. 16, left turn lane on Old Post Road.

Hwy. 16 and North Triangle Circle – Left and right turn lanes on North Triangle Circle. In addition, the developer will be responsible for certain improvements identified as improvements by others” in the traffic study:

Hwy. 16 and South Triangle Circle – Left turn lane on Hwy. 16 (to be provided at the time of development of the second phase, or prior to the issuance of the 126<sup>th</sup> building permit).

Little Egypt Road/St. James Church Road and Optimist Club Road – Right turn lane on Little Egypt Road, left turn lane on St. James Church Road and right-turn lane on Optimist Club Road (provided that no other development plan of 125 lots or more has been presented to the county prior to the final phase of development of The Villages of Denver. This provision applies to any development of 125 lots or more in the area of Triangle Circle, Optimist Club Road, Little Egypt Road, Saint James Church Road, or Kidville Road.

The approved plan also called for the construction of a new street from the rear of the development to an adjacent subdivision street prior to the final phase of development. The revised plan includes this same commitment, which would provide another access and a direct connection to Hwy. 16.

Chairman Anderson asked staff about having a new traffic impact study done.

Randy Hawkins stated that the developer has committed more than the traffic impact study recommended.

Chairman Anderson opened the Public Hearing on Parallel Conditional Use Rezoning No. 80A – MAG Land Development, LLC, applicant.

**Steve Bailey** stated that the developer would like to do all homes and no townhomes, due to the fact that the market for townhomes has gone down. He stated that they will honor all previously promised road improvements. He stated that the homes will range from \$140,000 to \$250,000. Build-out will be in 2011.

Being no additional speakers, Chairman Anderson declared the Public Hearing on Parallel Conditional Use Rezoning No. 80A – MAG Land Development, applicant, closed.

Chairman Anderson announced that at this time the Planning Board would retire to the 2<sup>nd</sup> floor balcony.

**Contracts for Regional Photography Project:** Madge Huffman, Tax Administrator, presented contracts for the Regional Photography Project which was budgeted for 2004/2005. Twelve surrounding counties have joined together on this project, which produced substantial savings of \$50,000 to \$60,000.

**UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to authorize the signing of the contract presented for the Regional Photography Project.

**Parks and Recreation Trust Fund Grant Application for West Lincoln Park and Beattys Ford Access Area:** Erma Deen Hoyle presented the following information.

The Lincoln County Recreation Commission requests approval to apply for funding for these park projects through the Parks & Recreation Trust Fund Grant (PARTF). This grant is a 50-50 matching grant, and the local government requesting funds must certify the availability of the local match. This match can be spread throughout the grant cycle (3 years), however, please note that it is a reimbursement-type grant, with the local entity paying for the project and applying for quarterly (or less frequent) reimbursement from the State.

The maximum amount for the application is \$500,000 per project. Each application must be for a single site. Each application's score is calculated using number of recreation elements provided, community involvement, environmental impact, and other factors. The deadline for applications is January 31, 2005.

Community meetings have been held in each of these areas to gather input from area residents and display draft designs for the parks.

Erma Deen Hoyle stated that the county can up-front the money and apply for a portion of the money back from the State.

The Board discussed how much money was currently in the budget for these projects and how much would be needed in future budgets. They also discussed that if the money was not there, they could turn down the grants at a later time.

Sylvia Holmes, Recreation Commission member, asked the Board to apply for the maximum amount due to the fact that it may not be fully funded. She stated that she has been heavily involved in fundraising and a lot of projects are only partially funded.

**A MOTION** by Commissioner Mitchem to ask for \$500,000 total, or \$250,000 for each the West Lincoln Park and Beattys Ford Access Park.

Commissioner Mitchem withdrew his motion.

**UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to authorize Erma Deen Hoyle to make application to PARTF for \$500,000 for the West Lincoln Park and \$500,000 for the Beattys Ford Access Park, granting matching funds upon receiving the grant.

**2005 Meeting Schedule:** **UPON MOTION** by Commissioner Funderburk, the Board voted unanimously to approve the 2005 Meeting Schedule.

**NOTICE**  
**LINCOLN COUNTY**  
**BOARD OF COMMISSIONERS**  
**2005 MEETING SCHEDULE**

Monday, January 3, 2005

- 6:30 P.M.                    Public Hearings – Zoning

Monday, January 24, 2005

- 6:30 P.M. Regular Meeting

Monday, February 7, 2005

- 6:30 P.M. Public Hearings – Zoning

Monday, February 21, 2005

- 6:30 P.M. Regular Meeting

Monday, March 7, 2005

- 6:30 P.M. Public Hearings – Zoning

Monday, March 21, 2005

- 6:30 P.M. East Lincoln County Water and Sewer District
- 7:00 P.M. Regular Meeting

Monday, April 4, 2005

- 6:30 P.M. Public Hearings – Zoning

Monday, April 18, 2005

- 6:30 P.M. Regular Meeting

Monday, May 2, 2005

- 6:30 P.M. Public Hearings – Zoning

Monday, May 16, 2005

- 6:30 P.M. Regular Meeting

Monday, June 6, 2005

- 6:30 P.M. Public Hearings – Zoning

Monday, June 20, 2005

- 6:30 P.M. East Lincoln County Water & Sewer District
- 7:00 P.M. Regular Meeting

Monday, July 18, 2005

- 6:30 P.M. Regular Meeting

Monday, August 1, 2005

- 6:30 P.M. Public Hearings – Zoning

Monday, August 15, 2005

- 6:30 P.M. Regular Meeting

Monday, September 12, 2005

- 6:30 P.M. Public Hearings – Zoning

Monday, September 19, 2005

- 6:30 P.M. East Lincoln County Water & Sewer District
- 7:00 P.M. Regular Meeting

Monday, October 3, 2005

- 6:30 P.M. Public Hearings – Zoning

Monday, October 17, 2005

- 6:30 P.M. Regular Meeting

Monday, November 7, 2005

- 6:30 P.M. Public Hearings – Zoning

Monday, November 21, 2005

- 6:30 P.M. Regular Meeting

Monday, December 5, 2005

- 6:30 P.M. Public Hearings – Zoning

Monday, December 19, 2005

- 6:30 P.M. East Lincoln County Water & Sewer District
- 7:00 P.M. Regular Meeting

**Same-Day Customer Service Policy for Public Works:** Steve Gilbert presented the following information.

In an attempt to accommodate customer services requests in a more timely manner, the Public Works Department proposes to allow service requests to be performed on the same day that the request is received. Customer service requests are defined as requests made by customers to have water turned on or off, for an account to be made active or inactive, or for an account to be transferred from an existing customer to a new customer. These requests are normally taken during any business day, and they are scheduled to be performed the next business day. Each morning, the field service person compiles the list

of requests received the day before and accomplishes them during the course of his day's work.

Frequently, urgent requests come in. To accommodate these requests, Public Works is proposing to allow this work to be done the same day it is received, with a \$25.00 fee collected for getting it done same day. As long as the request is received during normal business hours (8:00 to 5:00) the work would be done as soon as the field personnel could fit it into his schedule. The fee would be added to the customer's account.

**UPON MOTION** by Commissioner Funderburk, the Board voted unanimously to adopt the Same-Day Customer Service Policy.

**Surplus Property Resolution:** Leon Harmon, Finance Director, stated that when the current jail was constructed, as part of the kitchen equipment, food carts were purchased to move prepared meals from the kitchen to different sections of the jail. Currently, the food preparation is contracted with an outside firm who uses their own insulated food carts therefore the carts are no longer needed.

Cleveland County would like to acquire these carts to use at their jail. N.C. General Statute 160A-274 allows the transfer of property between local governments after a resolution is approved by the Board.

Commissioner Mitchem stated that those food carts are pretty expensive and that they should be sold on-line instead of given away.

**UPON MOTION** by Commissioner Mitchem, the Board voted unanimously to not approve the Resolution and sell the food carts on-line.

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

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Amy S. Long, Clerk  
Board of Commissioners

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Thomas R. Anderson, PE, Chairman  
Board of Commissioners