

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, OCTOBER 20, 2008

The Lincoln County Board of County Commissioners met in regular session on October 20, 2008 at the Citizens Center, Commissioners Room, 115 W. Main Street, Lincolnton, North Carolina, the regular place of meeting, at 6:30 P.M.

Commissioners Present:

Thomas R. Anderson, PE, Chairman
Alex E. Patton, Vice Chairman
Bruce Carlton
James A. Klein
Marie Moore

Others Present:

George A. Wood, County Manager
Jeffrey A. Taylor, County Attorney
Amy S. Atkins, Clerk to the Board
Netta Anderson, GIS
Eric Robinson, Director of Veterans Administration
Ron Rombs, Emergency Medical Services Director
Steve Gilbert, Public Works Director
Barry McKinnon, Sr. Utility Engineer
Leon Harmon, Finance Director

Call to Order: Chairman Anderson called the October 20, 2008 meeting of the Lincoln County Board of Commissioners to order.

Invocation: Reverend J. V. Allen, First Wesleyan Church, gave the Invocation. Chairman Anderson led in the Pledge of Allegiance.

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

UPON MOTION by Commissioner Patton, the Board voted unanimously to adopt the agenda as modified.

AGENDA

LINCOLN COUNTY BOARD OF COMMISSIONERS

OCTOBER 20, 2008

6:30 PM Call to Order

6:31 PM Invocation – Rev. J.V. Allen, Boger City Wesleyan Church

6:32 PM Pledge of Allegiance

1. 6:33 PM Adoption of Agenda

2. 6:34 PM Consent Agenda

- Tax Requests for Refunds – More than \$100
 - September 15 – 28, 2008
- Waived Fees
 - The Nutcracker (Fundraiser for Lincoln Cultural Center)
- Approval of Minutes

3. 6:35 PM Public Comments

4. ~~6:50 PM Lake Norman Rural Planning Organization Planning Work Program and Service Agreement Confirmation – Andrew Bryant~~

5. 7:00 PM Approval of Work First Plan for 2010 – 2011 – Candy Wilcox, Work First Supervisor

6. 7:10 PM Road Name Public Hearing – Trinity Farms Trail – Netta Anderson

7. 7:20 PM Public Hearing and Consideration of Resolution (Resolution #2008-21) Related to (QZAB) Qualified Zone Academy Bonds for School Improvement Projects – Leon Harmon

8. 7:30 PM Honor Air Program – Eric Robinson

9. 7:45 PM Veterans Day Proclamation – Eric Robinson

10. 7:50 PM Children's Advocacy Network – Ron Kinsey

11. 8:00 PM Transportation Lincoln County Lease with Mohican Mills – Ron Rombs

11a. Voluntary Benefits Recommendation – George Wood

12. 8:10 PM Resolution #2008-13: A Resolution Imposing a Gross Receipts Tax on Heavy Equipment in Lieu of Property Tax

13. ~~8:20 PM Resolution #2008-19: Resolution Naming the Current Animal Control Advisory Board – George Wood~~

14. 8:30 PM ~~Resolution #2008-20: Resolution Naming the Animal Control Appeals Board~~ ~~George Wood~~

15. 8:40 PM 20-Year Capital Improvement Plan – Olver, Inc. – Steve Gilbert

16. 8:50 PM Water Conservation Results – Steve Gilbert

17. 8:55 PM Update on WWTP - Steve Gilbert

18. 9:00 PM Capital Project Report – Steve Gilbert

19. 9:05 PM Odor Control Update – Steve Gilbert

20. 9:10 PM Finance Officer's Report

21. 9:15 PM County Manager's Report

22. 9:20 PM County Commissioners' Report

23. 9:25 PM County Attorney's Report

24. 9:30 PM Vacancies/Appointments

25. 9:35 PM Calendar

26. 9:40 PM Other Business

Adjourn

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

- Tax Requests for Refunds – More than \$100
- September 15 – 28, 2008

LINCOLN COUNTY TAX DEPARTMENT
MOTOR VEHICLES

REQUEST FOR REFUNDS

PERIOD COVERED (SEPTEMBER 15, 2008-SEPTEMBER 28, 2008)

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

NAME	YEAR	DIST	A/C#	AMOUNT
Honda Lease Trust	2008	ELFD	0159601	108.33
Wheels LT	2007	CITY	0164429	126.57
			TOTAL	\$234.90

- Waived Fees

- The Nutcracker (Fundraiser for Lincoln Cultural Center)
- Approval of Minutes
- September 8, 2008

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

Rudy Bauer stated that the Board was told in September that the soil erosion was being inspected by the state and the county and they found nothing (Burton Creek Subdivision). He presented pictures to the Board of his cove. He stated that he has yet to see anyone come to his cove to measure. He stated that the stink stations still stink.

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

Approval of Work First Plan for 2010 – 2011 – Candy Wilcox, Work First Supervisor: Candy Wilcox, Work First Supervisor, stated that the Board has been given a copy of the 2010 – 2011 plan.

Commissioner Carlton asked on page 24, 2nd sentence it says caseloads have declined, but four lines from the bottom it says there is an increase in the caseload. She stated that statewide, they have declined, but locally they have increased. She stated that these cases will continue to rise with the economy as it is.

Commissioner Carlton asked about paying translators for illegal immigrants with children who are citizens (page 21). Ms. Wilcox stated that they do have translators and it is mandated by the state.

Commissioner Klein stated that whoever developed the goals has a pretty good sense of the kinds of data available to see how we're doing. He stated that it does not have any measurable accomplishments there. He said the objective of the work first plan should be to work. He asked to move up the expectations before moving forward.

Ms. Wilcox stated that the only goal set by the state was participation. The other goals are set by the county.

Commissioner Klein stated that for this expenditure, there should be measurable outcomes.

Mr. Wood stated that as a compromise, a statement could be put in each one of the goals that says that our performance measure for this goal is to equal or exceed the average of the percentage of the last three years. He asked Ms. Wilcox to make a note to have the numbers available in the next plan.

A MOTION by Commissioner Carlton to approve the Work First Plan for 2010 – 2011 subject to DSS returning the information requested.

VOTE: 3 – 2

AYES: Carlton, Patton, Anderson

NOES: Moore, Klein

Road Name Public Hearing – Trinity Farms Trail – Netta Anderson: Netta Anderson from the Addressing Department, presented the road name Trinity Farms Trail. She stated that the petition was properly advertised and posted. The petition obtained the required signatures of the property owners, but after the process, one of the owners contacted her and withdrew his name. This reduced the number of property owners signing the petition to only 50% and they need 67% for the petition to be completed. Ms. Anderson asked the Board for approval to proceed with the road renaming.

Chairman Anderson opened the public hearing concerning the road naming of Trinity Farms Trail.

Steve Johnson, 4335 Hwy 73, stated that he withdrew his name from the petition because he didn't like the name that was chosen.

UPON MOTION by Commissioner Klein, the Board voted unanimously to approve the road naming of Trinity Farms Trail.

Public Hearing and Consideration of Resolution (Resolution #2008-21) Related to (QZAB) Qualified Zone Academy Bonds for School Improvement Projects – Leon

Harmon: The Chairman announced that this was the hour and day fixed by the Board of Commissioners for the public hearing upon the proposed financing, pursuant to an installment financing agreement, to be dated as of November 1, 2008 or such other date as the parties thereto shall mutually agree upon (the "Installment Financing Agreement"), between the County of Lincoln, North Carolina (the "County") and Farmers Savings Bank (the "Bank") for the purpose of financing the renovation, refurbishing and improving of school facilities in the County, including the acquisition of equipment and land therefore (the "Project"), and that the Board of Commissioners would hear anyone who may wish to be heard with respect to the Installment Financing Agreement.

As a matter of information, the Finance Director of the County described the nature of the Project, including the maximum amount of funds to be advanced pursuant to the Installment Financing Agreement (\$1,281,354), and the installment payments to be made by the County under the Installment Financing Agreement for such purposes, and that the installment payments to be made by the County pursuant to the Installment Financing Agreement will be designated Qualified Zone Academy Bonds pursuant to Section 1397E of the Internal Revenue Code of 1986, as amended.

No one appeared, either in person or by attorney, to be heard with respect to the Installment Financing Agreement and the Clerk to the Board of Commissioners announced that no written statement relating to said matter had been received.

Thereupon the Chairman introduced the following resolution, a copy of which had been provided to each Commissioner, which was read by title and summarized by the County Manager:

RESOLUTION MAKING CERTAIN FINDINGS RELATING TO THE FINANCING OF SCHOOL IMPROVEMENTS PURSUANT TO AN INSTALLMENT FINANCING AGREEMENT AND RATIFYING THE FILING BY THE FINANCE DIRECTOR OF AN APPLICATION FOR APPROVAL THEREOF BY THE LOCAL GOVERNMENT COMMISSION
BE IT RESOLVED by the Board of Commissioners for the County of Lincoln, North Carolina

(the "County"):

Section 1. The Board of Commissioners does hereby find, determine and declare as follows:

(a) The County proposes to finance the renovation, refurbishing and improving of school facilities within the County, including the acquisition and equipment of land therefor (the "Project"), pursuant to an installment financing agreement, to be dated as of November 1, 2008 or such other date as the parties thereto shall mutually agree upon (the "Installment Financing Agreement"), between the County and Farmers Savings Bank (the "Bank") and the County will make Installment Payments (as defined in the Installment Financing Agreement) in amounts sufficient to repay advances to be made by the Bank to finance the Project in the amount of \$1,281,354.

(b) The Project is necessary in order to provide improvements to public school facilities essential to the public health, safety and welfare of the citizens of the County.

(c) the installment payments to be made by the County pursuant to the Installment Financing Agreement will be designated Qualified Zone Academy Bonds pursuant to Section 1397E of the Internal Revenue Code of 1986, as amended. Accordingly, no sums comprising interest are to be due under the Installment Financing Agreement and the sums to fall due under the Installment Financing Agreement are not excessive for its stated purposes; moreover, the estimated cost of the Project is not excessive.

(d) Counsel to the County has rendered an opinion that the proposed undertakings are authorized by law and are purposes for which public funds may be expended pursuant to the Constitution and laws of the State of North Carolina.

(e) No interest is to accrue on advances to be made by the Bank pursuant to the Installment Financing Agreement. Accordingly, the Installment Financing Agreement, under the circumstances presently obtaining, is preferable to a general obligation bond issue for this purpose.

(f) The estimated cost of financing the Project pursuant to the Installment Financing Agreement is less than an estimate of similar cost for general obligation bond financing therefor.

(g) The debt management policies of the County have been carried out in strict compliance with law, including the filing of all required audits and reports with the Local Government Commission (the "LGC"), and the County is within its statutory debt limit and is not in default with respect to any of its outstanding indebtedness.

(h) The County estimates that no increase in the property tax rate will be required to raise sums to pay the estimated debt service to fall due under the Installment Financing Agreement for all of its stated purposes.

(i) The County has made timely payment of all sums owed by it with respect to the payment of principal of and interest on all of its outstanding debt obligations and has received no notice from the LGC or any holder concerning the County's failure to make any required payment of debt service.

Section 2. The LGC is hereby requested to approve the proposed Installment Financing Agreement pursuant to the provisions of Article 8 of Chapter 159 of the General Statutes of North Carolina, the filing by the Finance Director of the County of an application for approval of the Installment Financing

Agreement is hereby ratified, and the Finance Director of the County is directed to complete all applications and execute all documents required in connection with obtaining such approval.

Section 3. The LGC is hereby requested to approve the selection of the following professionals who comprise the financing team, and such other professionals as may be required or useful and acceptable to the LGC, to assist the County in connection with such financing:

Special Counsel Sidley Austin LLP

North by Northwest Capital

Placement Agent

North by Northwest Capital

Section 4. All actions heretofore taken by the Finance Director in connection with the Installment Financing Agreement, including filing the application with the LGC, retaining Special Counsel and selecting a placement agent, are hereby ratified and confirmed.

Section 5. This resolution shall take effect immediately upon its passage.

Upon motion of Commissioner Carlton, the foregoing resolution entitled: "RESOLUTION
MAKING CERTAIN FINDINGS RELATING TO THE FINANCING OF SCHOOL IMPROVEMENTS
PURSUANT TO AN INSTALLMENT FINANCING AGREEMENT AND RATIFYING THE FILING
BY THE FINANCE DIRECTOR OF AN APPLICATION FOR APPROVAL THEREOF BY THE
LOCAL GOVERNMENT COMMISSION" was passed by the following vote:

Ayes: Commissioners Anderson, Patton, Carlton, Klein and Moore.

Noes: none.

Honor Air Program – Eric Robinson: Eric Robinson presented information regarding the Honor Air Program. He stated that there are 15 veterans from Lincoln County going on the trip to Washington to visit the WWII Monument on November 1. There are 5 guardians going on the trip as well. The Rotary is very involved with the trip. The group will leave Asheville at around 8:30 that morning and will return that evening.

Chairman Anderson stated that former Senator Bob Dole was very active in getting the monument and has met many of these groups at the memorial site.

Veterans Day Proclamation: Commissioner Patton read the following Proclamation:
NORTH CAROLINA

LINCOLN COUNTY

WHEREAS, America was founded on the principles of liberty, opportunity and justice for all; and

WHEREAS, America has called on her men and women in uniform to protect our national security, to advance our national interests and to preserve our rights and freedoms; and

WHEREAS, on Veterans Day we recognize the men and women of our Armed Forces who have valiantly defended these values throughout our Nation's history; and

WHEREAS, on Veterans Day we also remember and pay tribute to the millions of patriots whose courage and sacrifice have secured our freedom-from those who suffered through the harsh winter at Valley Forge to those who have kept the peace and defended our values around the globe; and

WHEREAS, Lincoln County currently has over 7,500 veterans living within its boundary.

NOW, THEREFORE, BE IT RESOLVED that the Lincoln County Board of Commissioners does hereby proclaim November 11, 2008 as

VETERANS DAY IN LINCOLN COUNTY.

NOW, THEREFORE BE IT FURTHER RESOLVED that the Lincoln County Board of Commissioners calls upon our citizens to observe this day with appropriate ceremonies in honor of our veterans, both living and deceased, who have served this country so willingly to preserve the principles of justice, freedom and democracy; to fly the flag; and let our veterans know we appreciate their great sacrifice.

This the 20th day of October, 2008.

Thomas R. Anderson, PE, Chairman
Lincoln County Board of Commissioners

Attest:

Amy S. Atkins
Clerk to the Board

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the Veterans Day Proclamation.

Dale Punch stated that there will be a Veteran's Day Ceremony on the west side of the Courthouse and Dr. Jeffrey Cook, Administrator of the new Hickory clinic will be the guest speaker.

Children's Advocacy Network: Matt Murphy and Lamont Jeffries introduced the Children's Advocacy Network to the Board. Mr. Murphy stated that they are an agency that works with children that have mental health, behavioral health issues, and developmental delays. He stated that their office is at 1244 North Flint Street and is staffed full time.

Transportation Lincoln County Lease with Mohican Mills – Ron Rombs: Ted Mankowski, spoke on behalf of Ron Rombs, EMS Director. He stated that the North Carolina Department of Transportation has recommended that Lincoln County find a suitable location to house the County's Transportation operation for approximately a year and a half. The facility is needed to house and secure the apparatus as well as the administration and operational components of the program.

The facility in Lincolnton is owned by Mohican Mills and meets all the NCDOT requirements.

Funding for this facility has been approved by NCDOT (90%) and Lincoln County (10%) for this fiscal year budget.

Mr. Mankowski requested that the County Manager be authorized to execute the contract with Mohican Mills for the initial term of three years. The initial monthly rate shall be \$1,650.00.

UPON MOTION by Commissioner Moore, the Board voted unanimously to approve the Transportation Lincoln County Lease with Mohican Mills.

Voluntary Benefits Recommendation – George Wood: Mr. Wood stated that the Board hired Mark III to review all of our benefit structures. They have made recommendations on flexible spending accounts, cancer coverage, short term disability, accident coverage, and voluntary term life. Mr. Wood recommended approving Mark III's recommendations as follows:

Flexible Spending Accounts – Gilsbar
Cancer Coverage – Assurity
Short Term Disability – Standard Life and Accident
Accident Coverage – AFLAC
Voluntary Term Life – Standard Life

Mr. Wood stated that if the employees are satisfied with the current provider, they can stay with them. The only difference is there will not be payroll deductions if they stay with this provider.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the Voluntary Benefits Recommendation by the County Manager.

Resolution #2008-13: A Resolution Imposing a Gross Receipts Tax on Heavy Equipment in Lieu of Property Tax: Commissioner Carlton asked if the tax is only paid if the property is rented out. Ms. Huffman stated that it is based on gross receipts.

Commissioner Klein asked about Turbyfill Hardware. Ms. Huffman stated that Lowes is the only vendor currently listed, but Turbyfill Hardware may have some.

STATE OF NORTH CAROLINA
COUNTY OF LINCOLN

RESOLUTION IMPOSING A GROSS RECEIPTS TAX ON HEAVY EQUIPMENT IN LIEU OF
PROPERTY TAX

Pursuant to North Carolina General Statutes 105-275 (42a) and S. L. 2008-144, the Lincoln County Board of Commissioners does hereby adopt the following resolution:

THAT WHEREAS, North Carolina General Statute 105-275 (42a) designates Heavy Equipment on which a gross receipts tax may be imposed under 153A-156.1 and 160A-215.2 as a special class of property which is exempted from property taxation and shall not be listed, appraised, assessed, or taxed after January 1, 2009 and

WHEREAS, in lieu thereof, North Carolina General Statute 153A-156.1 authorizes a County by resolution to impose a tax at the rate of one and two-tenths percent (1.2%) on the gross receipts from the short term lease or rental of heavy equipment by a person whose principal business is the short-term or rental of heavy equipment at retail; and

WHEREAS, this tax provides an alternative to a property tax on the equipment;

NOW THEREFORE, IT IS HEREBY RESOLVED that a tax of one and two-tenths percent (1.2%) on the gross receipt from the short-term lease or rental of heavy equipment by a person whose principal business is the short-term lease or rental of heavy equipment at retail is imposed pursuant to 153A-156.1 in lieu of the personal property tax. This resolution shall be effective January 1, 2009.

Adopted this the 6th day of October, 2008.

Thomas R. Anderson

ATTEST:

Amy S. Atkins
Clerk to the Board.

A MOTION by Commissioner Carlton to approve Resolution #2008-13: A Resolution Imposing a Gross Receipts Tax on Heavy Equipment in Lieu of Property Tax.

VOTE: AYES: Anderson, Patton
NOES: Carlton, Klein, Moore

Water Conservation Results – Steve Gilbert: Steve Gilbert presented the Water Conservation Results.

Update on WWTP – Steve Gilbert: Steve Gilbert gave an update on the waste water treatment plant.

Capital Project Reports – Steve Gilbert: Steve Gilbert presented the Capital Project Report.

Odor Control Update – Steve Gilbert: Steve Gilbert gave an odor control update, saying the sixty day trial on the Seneco system ended and it was determined that they were not operating sufficiently. The Siemens Drip system has been installed and apparently is working as advertised.

Finance Officer's Report: Leon Harmon presented the Finance Officer's Report.

County Manager's Report: George Wood presented the County Manager's Report. He stated that there were five layoffs this past week. He stated that we are trying to place these employees and Audrey Setzer is trying to set up meetings with them.

Mr. Wood stated that the bond sale is scheduled for tomorrow morning. He stated that they have talked to the LGC and they have indicated that there are six institutions that are interested in the 2/3 bonds and nine that are interested in the school bonds. He stated that these will be at 11 and a decision needs to be made by noon. He said he will touch base with the Chairman short after 11 to discuss this.

Mr. Wood stated that we have received a bond rating upgrade, to a AA- and Moodys remained at A2. He commended Leon Harmon and the Finance Department for this upgrade.

County Commissioners' Report:

County Attorney's Report: Jeff Taylor presented the County Attorney's Report. He stated that there is a civil term of district court in November and it's possible that the dog cases may be heard then. He stated that one thing that will be heard is our petition under the Animal Welfare Act to collect the cost of caring for the animals in the Noah's Ark case.

Mr. Taylor updated the Board on the Union County APFO case. It is a broadly-worded, broad based decision which is a good thing due to the potential for precedence in appeal.

Vacancies/Appointments: **UPON MOTION** by Commissioner Klein, the Board voted unanimously to approve the appointment of Mike Baker to the ABC Board.

20-Year Capital Improvement Plan – Olver, Inc. – Steve Gilbert: Ron Singleton with Olver, presented the 20-Year Capital Improvement Plan from Olver, Inc. for water and sewer. He gave a Power Point Presentation.

This plan will be put in final form and adopted by the Board.

Calendar: Chairman Anderson presented the November 2008 calendar.

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

Amy S. Atkins, Clerk
Board of Commissioners

Thomas R. Anderson, PE, Chairman
Board of Commissioners