

MINUTES
LINCOLN COUNTY BOARD OF COMMISSIONERS
MONDAY, NOVEMBER 3, 2008

The Lincoln County Board of County Commissioners met on November 3, 2008, at the Citizens Center, Commissioners Room, 115 West Main Street, Lincolnton, North Carolina, the regular place of meeting at 6:30 PM.

Commissioners Present:

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

Planning Board Members Present:

Jerry Geymont, Chairman
Louis McConnell, Vice-Chairman
George Arena
Tom Campbell
Karl Dearnley
Gary Garlow
Keith Johnson
James Mauney

Others Present:

George Wood, County Manager
Jeffrey A. Taylor, County Attorney
Amy S. Atkins, Clerk to the Board
Mike Futrell, Fire Marshal
Jeff Lynn, Airport Manager
David Lowe, Chairman, Airport Authority
Kelly Atkins, Director of Building and Land Development
Randy Hawkins, Zoning Administrator
Randy Williams, Principal Planner
Rob Carson, Associate Planner
Netta Anderson, Customer Service Rep – Listing
Ron Rombs, Director of Emergency Medical Services
Susan McCracken, Director of Social Services
Steve Gilbert, Director of Public Works
Leon Harmon, Director of Finance

Call to Order: Chairman Anderson called the November 3, 2008, meeting of the Lincoln County Board of Commissioners to order.

Invocation: Commissioner Patton gave the Invocation and led in the Pledge of Allegiance.

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

UPON MOTION by Commissioner Klein, the Board voted unanimously to adopt the agenda adding Item 20 Closed Session.

AGENDA

LINCOLN COUNTY BOARD OF COMMISSIONERS

NOVEMBER 3, 2008

| | | |
|----|---------|--|
| | 6:30 PM | Call to Order |
| | 6:31 PM | Invocation – Commissioner Patton |
| | 6:32 PM | Pledge of Allegiance |
| 1. | 6:33 PM | Adoption of Agenda |
| 2. | 6:34 PM | Consent Agenda <ul style="list-style-type: none">- Approval of Minutes- Tax Requests for Releases – More than \$100<ul style="list-style-type: none">- September 16 – October 15, 2008- Waived Fees<ul style="list-style-type: none">- City of Lincolnton- Piedmont Council – Boy Scouts of America- Sponsored Group Status<ul style="list-style-type: none">- YMCA Prayer Breakfast- Resolution #2008-22: Resolution Approving Robert Carson as Review Officer |
| 3. | 6:36 PM | Recognition of Emergency Service Agencies in Rescue Operation Mike Futrell |
| 4. | 6:45 PM | Motion to Approve a Request from the Lincolnton-Lincoln County Airport Authority for an Additional \$40,000 Budget Appropriation for the Airport Terminal Project – David Lowe and Jeff Lynn |
| 5. | 6:55 PM | Report from the Planning Board – Jerry Geymont |
| 6. | 7:00 PM | Public Hearing – Zoning Cases – Randy Hawkins |

ZTA #567 Lincoln County, applicant A proposal to amend the Lincoln County Zoning Ordinance and the Lincoln County Subdivision Ordinance by replacing them with a Unified Development Ordinance. The proposed ordinance would combine zoning, subdivision, watershed and floodplain regulations under one ordinance, and include new regulations regarding development standards, landscaping, highway overlay districts, access management, signs and other issues.

7. 8:00 PM Public Hearing – Private Road Name – Clay Rhine Lane – Netta Anderson
8. 8:10 PM Request for Ambulance Purchase Under Piggyback Bid – Ron Rombs
9. 8:20 PM Motion to amend the Work First Family Assistance County Plan 2010-2011 to include more detailed goals – Susan McCracken
10. 8:30 PM Public Comments
11. 8:45 PM Motion to approve a request from the Lincoln County Concert Association for a \$5,000 contribution toward a free outdoor concert by the Western Piedmont Symphony of Hickory – George Wood
12. 8:50 PM Motion to adopt Resolution #2008-19: A Resolution Naming the Animal Control Advisory Board – George Wood
13. 8:55 PM Motion to adopt Resolution #2008-20: A Resolution Naming the Animal Control Appeals Board – George Wood
14. 9:00 PM Motion to adopt Resolution 2008-21: A Resolution Amending the Personnel Policies and Procedures Manual Regarding Flexible Spending Accounts – George Wood
15. 9:05 PM Illegal Immigration Discussion Items – Commissioner Klein
16. 9:15 PM Drought Update – Steve Gilbert
17. 9:20 PM Odor Control Update – Steve Gilbert
18. 9:25 PM Update on Sewer Plant – Steve Gilbert
19. 9:30 PM Other Business

Adjourn

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

- Approval of Minutes
 - September 15, 2008
 - October 20, 2008
- Tax Requests for Releases – More than \$100
 - September 16 – October 15, 2008

| NAME | YEAR | A/C NO | AMOUNT |
|---------------------------|------|--------------|-------------------|
| Baxter, Ray Guy | 2008 | 0070065 | \$263.00 |
| Benfield, Harold Lewis II | 2008 | 0196305 | \$100.48 |
| Brandano, John Joseph | 2008 | 0190967 | \$114.00 |
| Burr, Timothy Adam | 2008 | 0212622 | \$161.11 |
| Chupp, Tangela Abernathy | 2008 | 0213307 | \$427.40 |
| Crisler, Adora Lee | 2007 | 0211417 | \$103.31 |
| Crow, Alda K | 2007 | 39623 | \$123.01 |
| Daniel O Carson DDS PC | 2008 | 0196393 | \$134.73 |
| Futch, Jo Ann | 2008 | 0214149 | \$167.90 |
| Hawkins, Jonathan Ray | 2007 | 0184079 | \$230.61 |
| Heithold, Leah Michelle | 2008 | 0214113 | \$229.32 |
| Herlihy, Thomas A | 2008 | 0190971 | \$145.58 |
| Hunter, David Hardie | 2008 | 0169310 | \$115.01 |
| Robinson, Trent Houser | 2007 | 0203866 | \$151.41 |
| Sigmon, Janie Sue | 2008 | 0213591 | \$142.10 |
| Voncannon, Michael Aaron | 2008 | 0212593 | \$105.30 |
| | | TOTAL | \$2,714.27 |

| NAME | YEAR | A/C NO | AMOUNT |
|-----------------------------------|-----------|---------|------------|
| A Sani-Can Services Inc. | 2007 | 25978 | \$577.87 |
| American Auto Parts Inc. | 2008 | 26383 | \$187.95 |
| Crown Castle South LLC | 2003-2008 | 0165997 | \$2,651.65 |
| Doug Herbert Performance Parts | 2008 | 0158380 | \$570.00 |
| Huffstetler, Harold J | 2008 | 07728 | \$2,507.78 |
| Irrigation Wizard | 2008 | 0177954 | \$150.52 |
| Jones, Henry Alexander (Heirs of) | 2001-2008 | 0064993 | \$832.71 |
| Lambert Hubert Devon | 2008 | 0067768 | \$108.58 |
| Lawing Ken Builders Inc. | 2008 | 25387 | \$103.08 |
| Leatherman, Eddie Ray | 2008 | 0067834 | \$1,550.47 |
| Means-Jenkins Motorsports Inc. | 2008 | 0193459 | \$1,837.28 |
| Miller, Nikki Ray | 2008 | 0213784 | \$311.53 |
| Mosteller, Lillian A | 2008 | 0150459 | \$2,016.27 |
| Prather, Troit | 2008 | 0177697 | \$122.38 |

| | | | |
|---------------------|------|--------------|--------------------|
| Warren, Michael Lee | 2008 | 0161408 | \$130.79 |
| | | TOTAL | \$13,658.86 |

- Waived Fees
 - City of Lincolnton
 - Piedmont Council – Boy Scouts of America
- Sponsored Group Status
 - YMCA Prayer Breakfast
- Resolution #2008-22: Resolution Approving Robert Carson as Review Officer

NORTH CAROLINA
LINCOLN COUNTY

RESOLUTION

That WHEREAS, the 1997 General Assembly enacted General Statute 47-30.2 requiring the Board of Commissioners of each county, by resolution, to designate by name one or more persons experienced in mapping of land records management as a Review Officer to review each map and plat required to be submitted for review before the map or plat is presented to the Register of Deeds for recording, and

WHEREAS, the Lincoln County Board of Commissioners believes and so finds that Robert Carson is a person experienced in mapping of land records management in the spirit of the aforesaid statute, and

WHEREAS, to comply with General Statute 47-30.2, the Lincoln County Board of Commissioners enacts this Resolution:

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED, by the Lincoln County Board of Commissioners and its November 3, 2008 regular meeting as follows:

1. That Robert Carson be and is hereby appointed as a REVIEW OFFICER to review each map and plat required to be submitted for review before the map or plat is presented to the Register of Deeds for recording.
2. That the REVIEW OFFICER shall review expeditiously each map or plat required to be submitted to the officer before the map or plat is presented to the Register of Deeds for recording.
3. The REVIEW OFFICER shall certify the map or plat if it complies with all statutory requirements for recording, and affix his certification to the map.
4. This Resolution designating the aforesaid REVIEW OFFICER be recorded in the Office of the Register of Deeds for Lincoln County and indexed on the Grantor Index in the name of the REVIEW OFFICER.

The foregoing Resolution was unanimously passed by the Lincoln County Board of Commissioners and its regular November 3, 2008 meeting.

LINCOLN COUNTY

By: _____
Thomas Anderson, P.E., Chairman

ATTEST:

Clerk to the Board
North Carolina
Lincoln County

I, _____, Clerk to the Board of Lincoln County Board of County Commissioners do hereby certify that the foregoing Resolution is a true and accurate copy of the original Resolution duly passed by the Board of Commissioners at its regular July 17, 2006 meeting, and the original of said Resolution is duly recorded in the minute book for Lincoln County.

This 17th day of July, 2006.

Amy Atkins, Clerk to the Board

Sworn to and subscribed before me,
this 17th day of July, 2006

Notary Public

My Commission Expires _____

Recognition of Emergency Service Agencies in Rescue Operation – Mike Futrell:

Mike Futrell stated that on the evening of October 7, a call was received that a car had gone into a pond, and three agencies did an outstanding job on the rescues. North 321 Fire Department, Lincoln County Lifesaving Crew, and Lincoln County EMS worked together on this rescue.

Commissioner Patton presented recognition certificates to Lincoln County EMS, Lincoln County Lifesaving Crew, North 321 Fire Department, Michael Hendershot, Eddie Gilbert, Kevin Bailey, Jim Jenkins, David Hartzoge, David Ballard, and Tommy Walker.

Motion to Approve a Request from the Lincolnton-Lincoln County Airport Authority for an Additional \$40,000 Budget Appropriation for the Airport Terminal Project – David Lowe and Jeff Lynn: Jeff Lynn and David Lowe presented plans for the airport terminal project. He stated that a contract has been awarded, but they lacked three bid alternates of being to complete the building as it needed to be. He stated that they need \$80,000 more, \$40,000 from the City and \$40,000 from the County, to keep the designed garage/storage area, the breezeway connector between the existing terminal building and the new one, and a decorative canopy treatment on the existing terminal building to make it blend architecturally with the rest of the building.

Mr. Lynn told the Board of cuts that were made, \$84,000, that really will not affect the building. This money is the contingency fund since there was not one.

Commissioner Klein asked where the money would come from.

Mr. Wood stated that he had originally said fund balance, but later in the agenda tonight, we are saving about \$56,000 on the ambulance purchases out of the Capital Improvements Program, which could be moved to cover this.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the motion for approval of a request from the LLC Airport Authority for an additional \$40,000 budget appropriation for the airport terminal project.

Report from the Planning Board: Jerry Geymont gave the report from the Planning Board. He reported that the Planning Board has been working very hard with staff to get the UDO here tonight.

Public Hearing – Zoning Cases – Randy Hawkins:

NOTICE OF PUBLIC HEARINGS

Chairman Anderson announced that this was the date, Monday, November 3, 2008, and the time, 6:30 PM, which was advertised in the *Lincoln Times-News* on October 24 and October 31, 2008.

NOTICE OF PUBLIC HEARINGS

The Lincoln County Board of Commissioners and Planning Board will hold a joint meeting and public hearing on Monday, November 3, 2008, at 6:30 p.m. to consider the following matter:

ZTA #567 Lincoln County, applicant A proposal to amend the Lincoln County Zoning Ordinance and the Lincoln County Subdivision Ordinance by replacing them with a Unified Development Ordinance. The proposed ordinance would combine zoning, subdivision, watershed and floodplain regulations under one ordinance, and include new regulations regarding development standards, landscaping, highway overlay districts, access management, signs and other issues.

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.

Zoning Text Amendment No. 567 – Lincoln County, applicant: Randy Hawkins presented the following:

This is a proposal to amend the Lincoln County Zoning Ordinance and the Lincoln County Subdivision Ordinance by replacing them with a Unified Development Ordinance. The proposed ordinance would combine zoning, subdivision, watershed and floodplain regulations under one ordinance, and include new regulations regarding development standards, landscaping, highway overlay districts, access management, signs and other issues.

Meg Nealon, from LandDesign, introduced Richard Grice and Jim Duncan who worked on the UDO project.

Richard Grice presented a Powerpoint presentation on the process of developing the UDO.

Chairman Anderson opened the public hearing concerning ZTA No. 567 – Lincoln County, applicant.

John Anderson, on behalf of the Denver Area Businss Association, stated that DABA believes Lincoln County needs a Unified Development Ordinance. DABA believes a well written UDO not only establishes a baseline for how Lincoln County will be developed in the future; it also provides guidelines in a user friendly document that everyone can understand. DABA appreciates the many months of hard work by everyone involved. It was evident at the October 15, 2008 joint Commissioners and Planning Board workshop that serious thought went into creating the 400 page document. It was also evident by the lengthy discussions and amendments made at the October 15 workshop that the current proposed UDO is not a perfect document and will need further adjustments as undiscovered issues arise. However, it was obvious that many of the major issues of concern have been addressed and the County Commissioners, staff and Planning Board are willing to continue working with the business community and citizens in making necessary adjustments to the UDO. Therefore, based on the statements made at the October 15 workshop, that further improvements and adjustments will be made in the future, the DABA does not oppose the passage of the proposed UDO, provided an implementation date be set for no earlier than March 31, 2009 as urged by the County Building and Land Development Department.

Cheryl Burgess, stated that she is presenting on behalf of the Lincoln County Land Use Development Board, a group that was formed this year with representatives from Lincoln County Home Builders Association, Lincoln County Board of Realtors and Lincolnton Lincoln County Chamber of Commerce. She stated that they are by no means opposing the UDO but rather want the Board to fully understand their concerns as they offer their support. She stated that as a group and speaking for their respective associations, they

support the idea of a UDO for Lincoln County but only if it is designed to meet the needs, both present and future for our County. She stated that they understand that the purpose of the UDO is to compile all of the building and land development ordinances for Lincoln County into a single document. The mere convenience for the end user is a positive for having this type of document, but a UDO that contains higher than necessary expectations can create even more problems for our growing County. It is our desire to prevent this from happening. She said that in their collective opinions, much of the original material that Duncan & Associates included in the study modules was not designed to fit the needs of our county. Without taking unnecessary time to list specific sections of the document, general they were most disturbed by the landscaping requirements for residential development. Based on remarks received from the North Carolina Association of Realtors who employ staff trained to review this type of document, there were a number of other areas that raised significant red flags. They were able to address each of those concerns with Staff who also reviewed them with Duncan & Associates. This resulted in many changes and some eliminations within the document. She stated that they are very thankful to staff for the opportunity to have had such open dialogue with them throughout this process and specifically the meeting held on October 8. It was originally felt by their group would be too stringent to attract and entice residential, commercial and industrial growth to our county. Staff has indicated to them that the model used to write this particular UDO was actually our very own unique needs in conjunction with our existing ordinances. The County seeks to prevent redundancy and conflict between various ordinances and to amend and update outdated regulations to ensure that we experience quality development. Though a noble idea they feel that this will also create potential for an adverse impact on the cost of development, housing affordability and private property rights. Staff has assured them that there will be continued review and possible text amendments prior to its proposed implementation date to assure these types of concerns are addressed. She asked for the Board to support Staff's request to delay implementation until March 2009 to allow for continued review and education.

John Dancoff spoke on behalf of the Lincolnton-Lincoln County Chamber of Commerce Board of Directors. He stated that a Resolution was presented in September asking that the Board of Commissioners delay their vote on the UDO. He stated that from this recommendation, they felt like there was a sense of urgency that was brought forth, which opened lines of communication they had not seen in the past. He stated that through this Resolution, Kelly Atkins and his staff have gone beyond the call of duty to meet with each group and to communicate and address concerns. He stated that changes and compromises were made and most involved were satisfied with the results. Mr. Dancoff stated that as the Chamber Board, they had to go back to the groups that they originally talked about with the resolution. There were two groups that still had some concerns so the resolution was not rescinded. He asked that the Board consider staff's recommendation for implementation of March 31 if this is approved. Mr. Dancoff also asked for the positive lines of communication and the teamwork continue.

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

Chairman Anderson stated that a letter from LEDA is in the Board packet saying they are in favor of the UDO.

The Planning Board recessed to the 2nd floor balcony.

Chairman Anderson called for a five minute recess and called the meeting back to order.

Public Hearing – Private Road Name – Clay Rhine Lane – Netta Anderson: Netta Anderson stated that the petition was completed, turned in and advertised. She asked the Board to approve the road name Clay Rhine Lane.

Chairman Anderson opened the public hearing.

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

UPON MOTION by Commissioner Carlton, the Board voted unanimously to approve the road name of Clay Rhine Lane.

Request for Ambulance Purchase Under Piggyback Bid – Ron Rombs: Ron Rombs stated that the Lincoln County Board of Commissioners has approved money (\$420,000) in the capital improvement account of the purchase of three Type II GMC Cutaway Chassis for the FY 2008-2009.

This purchase shall be a piggyback on the formal bid contract of Monroe County, TN.

Mr. Rombs requested that a purchase order be issued to Northwestern Emergency Vehicles for the purchase of three new American Emergency Vehicle ambulances at \$121,336 each. The total purchase is \$364,008.00.

UPON MOTION by Commissioner Moore, the Board voted unanimously to approve the request for an ambulance purchase under a piggyback bid.

Motion to amend the Work First Family Assistance County Plan 2010-2011 to include more detailed goals – Susan McCracken: Susan McCracken presented additional information on translators and goals for the Work First Family Assistance Plan.

UPON MOTION by Commissioner Patton, the Board voted unanimously to approve the motion to amend the Work First Family Assistance County Plan 2010-2011 to include more detailed goals.

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.

John Anderson stated that given the serious economic crises facing our country, state, local government and especially small business, the Denver Area Business Association

opposes any new or increased county government spending including regulations that will increase the cost of doing business or increases taxes, unless it is absolutely necessary. He stated that DABA believes a well written UDO is absolutely necessary for the future growth of our county. He stated that if there is or will be in the future an effort by the Lincoln County Board of commissioners and its State Association of County Governments to address the issue of unfunded state mandates, the Denver Area Business Association will be most happy to support the County in that fight. He said that DABA believes the issue of unfunded state mandates is one of the most burdensome and costly issues facing local governments and all of those costs are passed onto the taxpayers including DABA's 150 small business members. He said that when unfunded state mandates occur, local governments have two options, cur services or increase taxes. By cost shifting state mandates to local governments the state budget is not impacted and Legislators are not held accountable for the lost services or increased taxes at the local level.

Chairman Anderson declared the public comments section closed.

Motion to approve a request from the Lincoln County Concert Association for a \$5,000 contribution toward a free outdoor concert by the Western Piedmont Symphony of Hickory – George Wood: Mr. Wood presented a request from Robert Cantwell for a \$5,000 contribution toward a free outdoor concert by the Western Piedmont Symphony of Hickory. In the past, the event was funded through recreation for the past few years. Mr. Cantwell is requesting an equal amount from the county and the city.

Commissioner Patton stated that in the past, this was a well attended event.

Commissioner Carlton asked if this would be a yearly event. Mr. Wood stated that it was in the past until the fees went up for the North Carolina Symphony.

Commissioner Moore stated that there will be people from the east and west also asking for their \$5,000. She stated that what we do for one, we should do for all. She said she is opposed to the request.

Commissioner Klein expressed his concerns with the tough economic times and that he does not feel we should be spending \$5,000 for a three or four hour concert. He said he is not a big fan of county government supported fireworks either and he doesn't believe county government should be in this business.

Chairman Anderson stated that he does not see the necessity to get involved with an east, west, and central discussion. He stated that he is concerned in a year when we have found it necessary to reduce staff in a very important department and potentially are going to be asking department heads to reduce their budgets even further. He stated that even though this is a relatively insignificant amount in a budget this size, he thinks it may be that this year it would be a bad signal to send. He stated that he also has some concerns that in a year that has been filled with depressing news, a concert may be

needed. He said what sways him is the fact that the county has found it necessary to reduce staff.

UPON MOTION by Commissioner Carlton, the Board voted unanimously to forego the concert in lieu of the economic times.

Motion to adopt Resolution #2008-19: A Resolution Naming the Animal Control Advisory Board – George Wood: **UPON MOTION** by Commissioner Klein, the Board voted unanimously to approve the motion to adopt Resolution #2008-19.

Resolution #2008-19
Resolution Naming the Animal Control Advisory Board

WHEREAS, on October 6, 2008, the Lincoln County Board of Commissioners adopted Ordinance #2008-04: An Ordinance Amending the Animal Control Ordinance of Lincoln County, North Carolina, and

WHEREAS, Section XVI created the Lincoln County Animal Services Advisory Board to advise the Board of Commissioners, County Manager, and Animal Services Supervisor on animal-related matters in Lincoln County; and

WHEREAS, the Advisory Board is composed of seven (7) members appointed by the Board of Commissioners, all residents at all times in Lincoln County, with membership from the following categories:

- (1) Rural Area Member (must live in an unincorporated area)
- (1) Veterinarian
- (1) Public Health Board Member or employee recommended by such Board
- (1) Hunter
- (1) Law Enforcement Officer
- (1) Urban Area Member (must live in an incorporated municipality)
- (1) Member at Large

NOW THEREFORE BE IT RESOLVED by the Lincoln County Board of Commissioners that the Animal Services Advisory Board will be comprised of:

- (1) Doug Murray
- (2) Kristine Blankenship, DVM
- (3) Hope Smith
- (4) Steve Smith
- (5) Billy Warren
- (6) Dianne Leatherman
- (7) Debbie Roach, and

BE IT FURTHER RESOLVED that Doug Murray, Kristine Blankenship and Hope Smith are appointed for one-year terms, and Steve Smith, Billy Warren, Dianne Leatherman, and Debbie Roach are appointed to two-year terms.

Passed and adopted this the 3rd day of November, 2008.

Thomas R. Anderson, PE
Chairman

ATTEST:

Amy S. Atkins
Clerk to the Board

Motion to adopt Resolution #2008-20: A Resolution Naming the Animal Control Appeals Board – George Wood: UPON MOTION by Commissioner Patton, the Board voted unanimously to approve the motion to adopt Resolution #2008-20.

RESOLUTION #2008-20: A RESOLUTION NAMING THE LINCOLN COUNTY BOARD OF ANIMAL APPEALS

THAT WHEREAS, on October 6, 2008, the Lincoln County Board of Commissioners adopted Ordinance #2008-04: An Ordinance Amending the Animal Control Ordinance of Lincoln County, North Carolina; and

WHEREAS, Section VII.(5)(e) created the Lincoln County Board of Animal Appeals; and

WHEREAS, the Board of Commissioners wishes to fill the five seats on this board, so that they may conduct the required business;

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners of Lincoln County, North Carolina as follows:

Section 1. That the following individuals are hereby named as members of the Lincoln County Animal Appeals Board, serving the length of term noted herein:

- 1) Kristine Blankenship, DVM, filling the seat for someone who works with animals on a regular basis for a one-year term
- 2) Doug Murray filling the seat for someone who is active in animal welfare issues for a one-year term
- 3) Billy Warren filling the seat for a law enforcement officer for a two-year term
- 4) Steve Smith filling a seat for a citizen at large for a two-year term
- 5) Diane Leatherman filling a seat for a citizen at large for a two-year term

Section 2. That this resolution shall become effective upon its adoption.

Adopted this 3rd day of November, 2008.

Thomas R. Anderson, PE
Chairman, Board of Commissioners

Attested by: Amy S. Atkins
Clerk to the Board

Motion to adopt Resolution #2008-21: A Resolution Amending the Personnel Policies and Procedures Manual Regarding Flexible Spending Accounts – George

Wood: Mr. Wood stated that our current policy is that those employees who are in their first year of employment can payroll deduct only \$1,500 into their Flexible Spending Account for medical expenses, those in years 2-4 are limited to \$2,500; and those starting their 5th year and thereafter can deduct \$5,500. This has been done in an abundance of caution. Employees can spend the amount they designate for the full year even before the payroll deductions are made bi-weekly. Consequently, if an employee left employment and had spent more than he had paid in up to that point, the County's medical insurance fund would take the hit.

The reverse is also true. If an employee designates that he will have a set amount deducted for the year, and does not spend it all, then that remaining money is forfeited to the plan as well. So, some of these under-utilizations can offset any usage above the actual amount paid in by someone that leaves our employment.

Our consultants, Mark III, are recommending that we change this policy to say that you cannot use the benefit for six months (the probationary period when a new hire can be terminated for any reason), but after that, the full benefit (\$5,000) would be available to the employee. Apparently, their experience with other governmental clients mirrors my own. Mr. Wood recommended approving the Resolution Amending the Personnel Policies and Procedures to include this provision.

UPON MOTION by Commissioner Patton, the Board voted unanimously to approve the motion to adopt Resolution #2008-21.

**RESOLUTION #2008-21: A RESOLUTION AMENDING THE
PERSONNEL POLICIES AND PROCEDURES MANUAL
REGARDING FLEXIBLE SPENDING ACCOUNTS**

THAT WHEREAS, the Board of Commissioners previously has adopted a Personnel Policies and Procedures Manual that spells out the rules, regulations, holidays, employee benefits and other matters relating to the human resources function of Lincoln County government; and

WHEREAS, the County Manager and the County's benefits consultant have recommended a change in the Flexible Spending Account policies of the County, and further have recommended that they be added to the Personnel Policies and Procedures Manual; and

WHEREAS, the Board of Commissioners have reviewed that recommendation, and wish to act upon it;

NOW THEREFORE BE IT RESOLVED by the Board of Commissioners of Lincoln County, North Carolina as follows:

Section 1. That the following language is hereby inserted in the Personnel Policies and Procedures Manual previously adopted by the Board of Commissioners on July 18, 2005, as a new Section 16 under Article VII:

“Section 16. Flexible Spending Account Plan

The County has an established Flexible Spending Account Plan that allows employees the opportunity to tax shelter, or pay “pre-tax” that portion of their income paid for health, accident, sickness, disability, cancer, and intensive care premiums, in addition to medical reimbursement, insurance reimbursement and dependent care expenses through payroll deduction. There are two plans, one for medical expenses and the other for dependent care expenses. An employee can elect to participate in either one or both.

New employees become eligible to participate in the Flexible Spending Account Plan once they have completed their probationary period with the County. The Flexible Spending Account Plan year is from January 1 through December 31 with an annual “open enrollment” period. The IRS established limits for the medical and dependent care expenses are \$5,000 for each annually. Those are the limits set for the two plans.”

Section 2. That any resolution or administrative policy, written or oral, that is in conflict with this resolution is hereby repealed to the extent of such conflict.

Section 3. That this resolution shall become effective upon its adoption.

Adopted this 3rd day of November, 2008.

Thomas R. Anderson, PE
Chairman, Board of Commissioners

Attested by: Amy S. Atkins
Clerk to the Board

Illegal Immigration Discussion Items – Commissioner Klein: Commissioner Klein presented the following Resolutions:

ILLEGAL RESIDENT DIRECTIVE:

WHEREAS, Lincoln County government is committed to complying with federal and state law with regard to unauthorized aliens; and

WHEREAS, Lincoln County has demonstrated continued resolve to restrict unauthorized aliens’ access to public benefits in compliance with federal and state law; and

WHEREAS, upon motion of Commissioner Bruce Carlton, the Lincoln County Board of Commissioners unanimously adopted a resolution entitled “RESOLUTION TO ADOPT POLICIES AND PROVIDE STAFF DIRECTION RELATING TO ILLEGAL RESIDENTS IN LONCOLN COUNTY” on June 18, 2007, a copy of which is attached hereto as Exhibit A and incorporated herein by reference;

WHEREAS, the Lincoln County Board of Commissioners recognizes the statutory authority of the Lincoln County Board of Health and the Lincoln County Department of Social Services;

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED that the Lincoln County Board of Commissioners directs that the County Manager shall, within **X** days, provide the board with a report describing the results of the policies approved via the

aforementioned resolution. Specifically, his report should reference the programs identified and resulting expenditures forgone:

1. As a result of those locally funded programs "...to the extent that they serve illegal residents." (re: Policy #1)
2. As a result of those "...federally funded and state-funded non-mandated programs to the extent that they serve illegal residents." (re: Policy #2)
3. As a result of those "...local and out-of-county business employing or using identifiable illegal residents where county taxes dollars are being expended." (re: Policy #3)
4. As a result of those "...discretionary services provided to illegal aliens." (re: Policy #6)

This ____ day of _____, 2008.

LINCOLN COUNTY

By: _____
Thomas R. Anderson, P. E.,
Chairman
Board of Commissioners

ATTEST:

Amy S. Atkins, Clerk to the
Board of Commissioners

ILLEGAL IMMIGRATION RESOLUTION –

**TO DISCUSS VOLUNTARY PARTICIPATION BY THE LINCOLN COUNTY
BUSINESS COMMUNITY IN PROGRAM(S) (*E-Verify*) AIMED AT
RESTRICTING ILLEGAL RESIDENTS' EMPLOYMENT.**

WHEREAS, Lincoln County government is committed to complying with federal and state law with regard to unauthorized aliens; and

WHEREAS, Lincoln County has demonstrated continued resolve to restrict unauthorized alien access to public benefits in compliance with federal and state law; and

WHEREAS, Lincoln County supports the passage and purpose of the Immigration Reform and Control Act (IRCA) of 1986 resulting in the development of the Systematic Alien Verification for Entitlements (SAVE) Program; and,

WHEREAS, Lincoln County further supports the passage of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996; and

WHEREAS, Lincoln County further supports the passage and purpose of the Personal Responsibility and Work Opportunity Act (PRWORA) of 1996 providing regulations and guidance for verification of immigration status of persons applying for non-exempt federal, state or local public benefits; and

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED that the Lincoln County Board of Commissioners authorizes its chairperson, or his designee(s), discuss with the Lincolnton-Lincoln County Chamber of Commerce (LLCCC), Denver Area Business Association (DABA), Home Builders Association (HBA), Industrial Management Association (IMA), Lincoln Economic Development Association (LEDA) and other recognized business organizations the merits, or lack thereof, for voluntary participation in *E-Verify*, which is designed to aid employers in determining employment eligibility of new hires and the validity of social security numbers.

This ____ day of _____, 2008.

LINCOLN COUNTY

By: _____

Thomas R. Anderson, P. E.,

Chairman

Board of Commissioners

ATTEST:

Amy S. Atkins, Clerk to the
Board of Commissioners

Commissioner Klein stated that he will put this on the next agenda for a vote.

Drought Update – Steve Gilbert: Steve Gilbert gave a drought update.

Odor Control Update – Steve Gilbert: Steve Gilbert gave the odor control update saying the odor control devices are working as advertised. He said they have received no complaints.

Update on Sewer Plant – Steve Gilbert: Steve Gilbert stated that the revised plans have been received in Raleigh.

Mr. Wood stated that he received a call from Raleigh last week and was told that turnaround was about two weeks.

Closed session: Closed Session: UPON MOTION by Commissioner Klein, the Board voted unanimously to enter closed session pursuant to N.C.G.S 143-318.11

- (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; and
- (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

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

Amy S. Atkins, Clerk
Board of Commissioners

Thomas R. Anderson, PE, Chairman
Board of Commissioners